

**RESOLUTION NO. RS2019- 1832**

**A resolution seeking the recall of Mr. Tom Lawless from the Metropolitan Board of Zoning Appeals, pursuant to Section 11.109 of the Metropolitan Charter and Rule 45 of the Metropolitan Council Rules of Procedure.**

WHEREAS, on April 23, 2019, the office of Mayor David Briley submitted a letter addressed to Vice Mayor Jim Shulman and delivered to the Metropolitan Clerk's office which appointed Mr. Tom Lawless to the Metropolitan Board of Zoning Appeals (the BZA), subject to the Council's confirmation. (See, April 23, 2019 letter, attached as Exhibit A); and

WHEREAS, the appointment of Mr. Lawless was intended to fill the term of Mr. David Harper, whose term on the BZA expired February 26, 2019; and

WHEREAS, the Metropolitan Charter, at section 11.101.1, provides a 60-day period following expiration of a board or commission member's term within which the mayor may appoint a successor; and

WHEREAS, on May 9, 2019, the Mayor's appointment letter was delivered to Council members by the Metropolitan Clerk's office which combined the letter with other appointment letters into one delivery for the Council's convenience. (See, May 9, 2019 email, with attachment, attached as Exhibit B); and

WHEREAS, on May 21, 2019, Mr. Lawless appeared before the Rules, Confirmations, and Public Elections Committee for consideration of his appointment, whereupon the Committee deferred consideration of Mr. Lawless' appointment and the confirmation was then deferred by the full Council for two (2) meetings; and

WHEREAS, on June 18, 2019, the Rules, Confirmations, and Public Elections Committee again deferred consideration of Mr. Lawless's appointment for one (1) meeting until July 2, 2019; and

WHEREAS, section 11.101.1 of the Metropolitan Charter provides in relevant part:

Should the mayor or other appointing authority appoint a successor or reappoint the member prior to or within sixty (60) days of the expiration of the term, and the metropolitan council fail[s] to act on the appointment within sixty (60) days of receipt of the letter of appointment from the mayor or other appointing authority, the appointment shall be conclusively presumed approved by the council. (Emphasis added.)

WHEREAS, the Metropolitan Council office is advised that the Mayor's office and Metro Legal Department conclude that Mr. Lawless's appointment was conclusively presumed approved as of June 22, 2019 by virtue of the passage of 60 days following the appointment letter of April 23, 2019;

WHEREAS, however, the plain language of section 11.101.1 of the Metropolitan Charter provides that the Council is entitled to 60 days following "receipt of the letter of appointment from the mayor" within which to act on the appointment. Because the Council's receipt of the letter of appointment occurred May 9, 2019, the Council was entitled to consideration at least through July 8, 2019 and should have been afforded this opportunity at its regularly scheduled meeting of July 2, 2019; and

WHEREAS, as a result of these procedural inequities, the Metropolitan Council is obliged to exercise a recall and removal of the mayoral presumptive appointee.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

SECTION 1. That Mr. Tom Lawless is hereby recalled from the Metropolitan Board of Zoning Appeals, in

accordance with Section 11.109 of the Charter of the Metropolitan Government of Nashville and Davidson County and in accordance with Rule 45 of the Metropolitan Council Rules of Procedure. The reasons and grounds for such removal consist of the untimely and improper exercise of presumptive appointment processes under Section 11.101.1 of the Metropolitan Charter.

SECTION 2. That this Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

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Tanaka Vercher  
Member of Council

**Electronic Signature Page**

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in black ink that reads "Tanaka Vercher". The signature is written in a cursive style with a large initial 'T' and 'V'.

Tanaka Vercher  
Councilmember, District 28