

With city attorney's OK, Marks casts his vote

By Joanne Maliszewski
staff writer

"Morality and ethics."

That's what Hillside Estates Condominium resident, Joan Lewandowski said was the issue when she asked Farmington Hills City Councilman Ben Marks to abstain from voting Monday on developer Mel Kaftan's request to rezone acreage to industrial-research office.

"I do not feel, nor have I felt, that I should be penalized and not vote," Marks said. "I don't think perception has anything to do with it."

Lewandowski was the only resident who asked Marks not to vote on Kaftan's request because of possible conflict of interest.

The developer served as co-chair-

man of a fund raising event for Marks' unsuccessful 1990 senatorial campaign and donated \$1,000. But the developer did not contribute money to Marks' 1989 city council campaign when he voted to introduce Kaftan's rezoning that July.

City attorney John Donohue agreed with Marks that the councilman has no conflict of interest. Marks has no financial interest in the Kaftan rezoning or proposed project.

"I find no conflict of interest under the charter," Donohue said.

MAYOR ALDO Vagnozzi said three options were available. Marks could voluntarily abstain, action would depend on the city attorney's

opinion, or the city council could vote on whether Marks should cast a ballot.

"I think this is one of those gray areas... where a council member should make his own decision," councilman Terry Sever said.

Brenda Kandi of Citizens Against IRO Zoning originally asked Marks in 1990 to abstain from voting on the rezoning request because of possible conflict of interest. Kandi, however, did not address the issue Monday.

The council let Marks make up his own mind. And he voted.

"I think we might rue the day," Marks said as he cast his minority vote in favor of Kaftan's rezoning. "I think we are being short-sighted. I think we got imbued in an argument

over toxic-hazardous materials concerns."

Marks said that those who believe IRO is not good for the city have "their heads in the sand." Taxes from such development would help build the city's infrastructure, he added.

Marks agreed with councilman Larry Lichtman who said he found it incredible that after changes in the IRO zoning ordinance that toxic-hazardous materials concerns remain.

"I don't find the IRO poses any greater threat with toxic-hazardous than any other zone in the city," Lichtman said.

LIHTMAN ALSO said that he believes if an office is developed on Kaftan's 145 acres, east of Drake

Road, north of Grand River, it will be "cut rate" with more intense development and more intense traffic than an IRO development. "I don't think residents on Drake Road will like that."

Despite Lichtman's and Marks' comments, the remaining five council members cast a vote of opposition to Kaftan's rezoning request.

"I am opposed to spot zoning around town," councilwoman Jean Fox said. She added that she continues to oppose an earlier decision that extended geographic boundaries for IRO development to the whole city.

Nancy Bates said that she is unhappy that the term buffering Hillside from the Kaftan property went up and nothing was done when it was

found to be on the wrong side of the property line.

"I just don't feel I can betray residents who researched the zoning and purchased homes based on OS-1 (the current small office zoning and designated use in the master plan for the Kaftan land)," Bates said.

Jonathan Grant said he believes the OS-1 zoning is "a reasonable use" for the Kaftan land. Grant acknowledged that in the 1989 city council election he promised he wouldn't support the IRO zoning.

Citizens Against IRO Zoning endorsed Grant, Bates and Mayor Aldo Vagnozzi for their stand against IRO in the 1989 council election.

"I think the die is cast," Vagnozzi said, as he cast the final ballot against Kaftan.

Hills council denies controversial rezoning request

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Residents from Independence Hills and Independence Commons subdivisions — off Drake Road near the Kaftan property — and residents from Hillside Estates Condominium, immediately north of the Kaftan property, spoke on both sides of the issue.

Most clearly divided were condominium residents, the majority of whom supported Kaftan. Many spoke of the agreement the condominium association just extended with Kaftan, which would protect a term for the condos that is illegally placed on his adjacent land.

"We believe Mr. Kaftan is an honorable man. And the agreement we hammered out is in the best interest of the Hillside residents and the city," condo association president Gerald Kennedy said.

Kaftan's architect Leonard Segal said, "I think there is general consensus this site is not the best office site in the city of Farmington Hills." He added that IRO could accommodate the term. "It's likely an office use cannot accommodate those terms."

THE AGREEMENT, which Kaftan's attorney, Jim Ginn of South-

field, told city officials could be used as a deed restriction that he would honor, would have ensured only 120,000 square feet of one-story buildings built into the slope of the land. The buildings also would have been air-conditioned so doors and windows would not be opened and provide noise for residents.

"I get very antsy when I see site plans during a rezoning," city planning consultant Claude Coates said after Kaftan's architect, Leonard Segal, displayed the developer's plan for the land.

Hillside residents whose condos

would face Kaftan's IRO development favored the rezoning. They said they preferred his IRO plan to the chance of having a two-story office building staring at them.

"It's my investment and my daily life. I believe what Mr. Kaftan offered is far better than an office building a couple stories high looking down into my residence," Hillside resident Donald Samuelson said.

A couple Hillside residents disagreed. "If any of you lived there would you want this outside your living room?" Pearl Burdorf asked the council.

SUBDIVISION residents, armed with "no to IRO" buttons, opposed the rezoning. Many argued that the potential hazards from IRO uses remain unknown. "I think there is a chance you could be recklessly indifferent to the concerns of residents," said Greg Halberstadt, president of Independence Hills Homeowners Association.

But Kaftan's attorney Ginn said, "at this point the city has built in effective safeguards with IRO."

Independence Commons resident Harry Brickner spoke of spot zoning. "I purchased my property knowing

what I was getting. To allow a change of this nature on one parcel would start a dangerous precedent."

Other residents spoke of how the Kaftan rezoning would allow continued encroachment of industrial uses into residential areas. Others asked why the land should be rezoned when there appears to be no hot demand now for IRO property.

"The city had the foresight to create a master (land-use) plan. It's a good master plan. Why in the world would you want to change it for one person?" said Susan Maas of Citizens Against IRO Zoning.

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