

MIDDLETOWN

Challenge falls short for now

Three residents have until May 29 to decide whether to challenge an appointment based on alleged Sunshine Law violations.

By JENNA PORTNOY STAFF WRITER

Three Republican Middletown residents have until the end of the month to challenge the appointment of a Democrat to the township supervisors board after an initial attempt sputtered to a halt Monday.

The residents' attorney, former Republican Congressman Mike Fitzpatrick, said several violations of the Sunshine Act took place during an April 29 meeting of the vacancy board.

During the meeting, Democrat Kathy Heuer was appointed to fill a seat vacated by Lisa Pflaumer, a Republican who often voted with Democrats.

A round of public comment was held after the vote — instead of before the vote as the law requires. Fitzpatrick said there might have been other missteps but declined to go into specifics.

"There are several alleged violations of the Sunshine Act, which if sufficiently serious, may result in additional litigation," he said.

The vote essentially gave Democrats the majority on the five-member board.

When asked if the legal maneuvering is politically motivated, Fitzpatrick would only say, "The petitioners are interested in seeing that the Sunshine Act is complied with."

The petitioners are Thomas Gallagher, Elizabeth Schieber and her husband, Phil Schieber, who is a Republican committeeman.

Supervisors Chairman Robert McMonagle, a Democrat, said the April 29 public comment snafu was "the equivalent of a typographical error."

"It's completely politically motivated," he said, referring to the petition.

A week after the meeting, however, two Republican supervisors, Jasper Caro and George Leonhauser, asked the township manager to ask vacancy board chairman William Cosen to schedule a second vacancy board meeting.

Although Cosen testified Monday he thought nothing went awry at the first meeting, he called for a second meeting because "enough people raised enough concerns that I was trying to remove any appearance of impropriety."

His attempts backfired, however, when the residents decided to challenge the legality of the second meeting, set for last Friday, because they said notice of the meeting was not posted at the township building. That meeting was never held because Judge Robert Mellon issued an injunction Friday based on the petition filed by the Republicans.

Phil Schieber testified that Fitzpatrick's firm, Begley Carlin & Mandio, asked him to check the township building for postings and he did so four times in less than 15 hours.

After Cosen and Schieber testified Monday, Fitzpatrick withdrew his clients' petition and it was decided no second vacancy board meeting was necessary because Heuer was already appointed on April 29.

They have until May 29 to decide whether to challenge that initial appointment based on alleged Sunshine Law violations.