



City Clerk's Report to  
The Personnel and Accountability Committee  
2009 July 14

REVISED  
CONFIDENTIAL  
PAC2009-21  
Page 1 of 2

**AMENDMENTS TO THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW**

**SUMMARY/ISSUE**

Council approval is required to amend the Subdivision and Development Appeal Board (SDAB) Bylaw and change the SDAB membership appointment process.

**PREVIOUS COUNCIL DIRECTION/POLICY**  
None.

**ADMINISTRATION RECOMMENDATIONS:**

That the Personnel and Accountability Committee recommends that Council:

1. Remove appointment of Subdivision and Development Appeal Board (SDAB) members from the annual Organizational Meeting;
2. Change the membership appointment process of SDAB so that members are appointed to terms coinciding with the calendar year, with unlimited potential annual reappointments;
3. Consolidate the expiry of current SDAB members' terms, being 2009 October 31 and 2010 October 31, to all expire 2009 December 31;
4. Direct that potential SDAB members be screened for relevant qualifications by an interview panel named by the incumbent SDAB Chairman. The panel will consist of the incumbent Chairman of the SDAB plus at least two SDAB members;
5. That the Report and its attachments remain confidential under sections 24 (1) (d) (e) of the *Freedom of Information and Privacy Act* until Council rises and reports and gives three readings to the **proposed bylaw to amend** Bylaw 25P95; and

6. Give three readings to the proposed bylaw to amend Bylaw 25P95, the Subdivision and Development Appeal Board Bylaw as amended.

**RECOMMENDATIONS OF THE PERSONNEL AND ACCOUNTABILITY COMMITTEE, DATED 2009 JULY 14:**

1. That the Administration Recommendations contained in Report PAC2009-21 be approved; and
2. That the Report and its attachments remain confidential under sections 24 (1) (d) (e) of the *Freedom of Information and Protection of Privacy Act* until Council rises and reports and gives three readings to the **Proposed Bylaw 35P2009**.

Opposition to Recommendations:

Opposed: Alderman McIver

**INVESTIGATION**

The appeals that the Subdivision and Development Appeal Board (SDAB) hears are increasing in complexity and number. Appeals deal with multi-million dollar projects where legal counsel is retained more frequently than ever before. Mandating specific qualifications for membership on the Board will enhance the decision-making abilities of the Board and help ensure that the members deliberating a decision have sufficient related background knowledge. Quasi-judicial board and Land Use Bylaw training are provided after appointment to the Board. No professional or technical qualifications are currently required of prospective members.

Board members are paid an honourarium for their participation in hearings and having the

## AMENDMENTS TO THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW

best possible candidates sit on the Board represents improved value for money. A screening process will also allow applicants to become more familiar with SDAB processes and the required time commitment.

See Attachment 1 for a proposed qualifications document. See Attachment 2 for example qualifications from the City of Edmonton, City of Toronto, and The City's Assessment Review Board.

Included in the qualifications is the requirement that a prospective board member have been a resident of the City of Calgary for at least six consecutive months immediately prior to appointment.

A screening panel including the incumbent SDAB Chairman plus at least two incumbent members would interview all qualified candidates and present a list of recommended members to the Personnel and Accountability Committee. PAC would then make recommendation to Council for adoption by resolution. This process has proven effective with Assessment Review Board (ARB) appointments and will help ensure the best possible candidates are named to the SDAB.

Removing term limits while mandating that all members serve one-calendar-year terms will help improve Board stability when the Board is functioning effectively and efficiently. It allows continuity and the preservation of knowledge and experience gained through previous Board experience. Edmonton uses one-year terms, though they have placed a six-consecutive-year limit on membership. ARB has had great success appointing members to one-year renewable terms as well. This process still allows enough flexibility that the membership can be altered annually if required. This is a step towards having all of the City's quasi-judicial board membership

appointed outside the annual Organizational Meeting of Council and being screened for appropriate qualifications.

The Chairman of the Board has been consulted as part of the preparation of this report and is in support of all recommendations.

Research is currently underway in order to prepare a report detailing additional changes to the SDAB bylaw and operations that will be presented to PAC in 2009 September.

### **BUSINESS PLAN/BUDGET IMPLICATIONS**

None.

### **RISKS**

The high volume of SDAB appeals will lead the recruitment panel to recommend individuals who are able to meet the expected time commitment and have the desired skills and experience. Not appointing qualified members could lead to the efficiency and effectiveness of the Board's adjudication activities being reduced.

### **ATTACHMENTS**

1. City of Calgary Subdivision and Development Appeal Board Membership Qualifications
2. Comparison Qualifications from Existing Boards
3. Proposed Bylaw 35P2009

### City of Calgary Subdivision and Development Appeal Board Membership Qualifications

In accordance with the *Municipal Government Act* a member of the Subdivision and Development Appeal Board must not be:

- An employee of the City of Calgary;
- A member of a municipal planning commission, or;
- A person who carries out subdivision or development powers, duties, and functions on behalf of the City of Calgary.

In accordance with Council direction a member of the Subdivision and Development Appeal Board must have:

- Been a resident of the City of Calgary for at least six consecutive months immediately prior to his/her appointment;
- A strong interest in the complexities and challenges of development in the City of Calgary.
- Experience in one or more of the following areas:
  - the operation of quasi-judicial boards or administrative tribunals;
  - community representation or knowledge of community issues;
  - architecture;
  - law;
  - engineering/construction, or;
  - urban planning/development;
- Agreed to commit the required time.

A member of the Subdivision and Development Appeal Board should have:

- An understanding of the diverse neighbourhoods and communities that exist across the city.
- Regard to the interests of property owners, developers, the general public, and other parties affected by the outcome of an appeal;
- A personal history of acting ethically and with integrity;
- An understanding of the principles of administrative law and natural justice;
- The ability to write in plain language;
- Excellent analytical and reasoning skills;
- The ability to speak in public and communicate effectively with parties to the appeal, and;
- Demonstrable ability to read, understand and apply:
  - complex plans, the Municipal Government Act and other pertinent Acts, statutory plans such as the Municipal Development Plan and Area Structure Plans, the Land Use Bylaw; and case law.

**Comparison Qualifications from Existing Boards**

**Comparison Qualifications from Existing Boards**

Toronto - Committee of Adjustment	Edmonton - SDAB	Existing City of Calgary SDAB Qualifications	Existing City of Calgary ARB Qualifications
<ul style="list-style-type: none"> <li>• demonstrate a strong interest in the complexities and challenges of city building;</li> <li>• bring an understanding of the diverse neighbourhoods and communities across the city;</li> <li>• have knowledge in one or more areas of:                             <ul style="list-style-type: none"> <li>o law,</li> <li>o planning,</li> <li>o architecture,</li> <li>o government,</li> <li>o economic development,</li> <li>o community development,</li> <li>o land development,</li> <li>o citizen advocacy,</li> </ul> </li> <li>• but not act as an agent for applicants before the Committee of Adjustment;</li> <li>• demonstrate decision-making, communication, and mediation skills to facilitate an open and fair hearing process; and</li> <li>• each panel should have at least 2 members with adjudication experience and administrative public speaking and organizational skills to be able to chair public hearings and maintain order in conflict situations.</li> </ul>	<ul style="list-style-type: none"> <li>• A keen interest in development within the City of Edmonton.</li> <li>• Concerns for the interest of property owners, the developer and other parties affected by the development.</li> <li>• Expertise in one of the following areas and/or have served on other quasi-judicial boards:                             <ul style="list-style-type: none"> <li>o community representation or knowledge of community standards;</li> <li>o architecture;</li> <li>o legal;</li> <li>o engineering/construction;</li> <li>o urban planning;</li> <li>o management/administration.</li> </ul> </li> <li>• An understanding of quasi-judicial function and role of members of a tribunal;</li> <li>• An understanding of principles of administrative law and natural justice;</li> <li>• The ability to commit the required time on a year round basis;</li> <li>• Excellent analytical and reasoning skills;</li> <li>• The ability to write, in plain language, the decision and reasons for the decision;</li> <li>• The ability to speak in public and communicate effectively with parties to the appeal;</li> <li>• Proven ability to:                             <ul style="list-style-type: none"> <li>o act with integrity; and</li> <li>o organize, read, understand and apply;</li> <li>o complex plans;</li> <li>o Municipal Government Act and other pertinent Acts; statutory plans such as the Municipal Development Plan and Area Structure Plan;</li> <li>o Zoning Bylaw; and</li> <li>o case law;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Currently, the only requirements of SDAB members are that they not be excluded from serving by stipulations in the Municipal Government Act.</li> <li>• In accordance with the Municipal Government Act a member of the Subdivision and Development Appeal Board must not be:                             <ul style="list-style-type: none"> <li>a) An employee of the City of Calgary;</li> <li>b) A member of a municipal planning commission, or;</li> <li>c) A person who carries out subdivision or development powers, duties and functions on behalf of the City of Calgary.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Must be 18 years or older, is a Canadian citizen who has resided in Alberta for six consecutive months prior to date of application and is currently a resident of Calgary.</li> <li>• Preference given to those with any of the following:                             <ul style="list-style-type: none"> <li>o Real estate sales – residential and commercial</li> <li>o Appraisal background (residential and/or commercial)</li> <li>o Property management</li> <li>o Assessment background (although if previously with City of Calgary Assessment, must have a considerable timeframe lapse – 2 years. Must also have no ties to Assessment (i.e. spouse).</li> <li>o Property development background</li> <li>o Real estate financing background</li> <li>o Legal background combined with some form of real estate experience.</li> </ul> </li> <li>• Must not have any outstanding conflicts with City of Calgary - i.e. tax disputes, etc.</li> <li>• Must be completely available to attend hearings a minimum of 3 weeks in a row and during normal working hours.</li> <li>• Must not be a member of any other City Board/Commission/Committee or have other conflicting interests.</li> <li>• Decision making capability</li> <li>• Group participation ability</li> <li>• Communication skills</li> <li>• Writing skills</li> </ul>

**BYLAW NUMBER 35P2009**

**BEING A BYLAW OF THE CITY OF CALGARY  
TO AMEND BYLAW 25P95, THE SUBDIVISION  
AND DEVELOPMENT APPEAL BOARD BYLAW**

\*\*\*\*\*

**WHEREAS** Council established the Subdivision and Development Appeal Board and provided for its procedure and conduct pursuant to Bylaw 25P95;

**AND WHEREAS** Council has decided to amend Bylaw 25P95 to implement certain recommendations contained in Report number PAC2009-21;

**NOW THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS  
FOLLOWS:**

1. The Subdivision and Development Appeal Board Bylaw, being Bylaw 25P95, as amended, is hereby further amended as follows:
  - (1) Delete Subsection 4(4) in its entirety and replace with the following:
    - “(4) (a) Council shall appoint members of the Board by resolution;
    - (b) Members of the Board shall be appointed for one-year January 1 to December 31 terms, with an unlimited number of potential consecutive reappointments.”
  - (2) Delete Subsection 4(5) in its entirety.
  - (3) Delete Subsection 4(6) in its entirety.
  - (4) Delete Subsection 4.1(d) in its entirety.
  - (5) Delete Section 11 in its entirety and replace with the following:
    - “11. Notwithstanding Subsection 4(4), all persons who are members of the Subdivision and Development Appeal Board at the coming into force of Bylaw 25P2009 shall have their current terms terminated 31 October 2009 and are hereby appointed to terms commencing 2009 November 1 and expiring 2009 December 31.”

**BYLAW NUMBER 35P2009**

2. This Bylaw comes into force on the date it is passed.

READ A FIRST TIME THIS \_\_\_ DAY OF \_\_\_\_\_, 2009.

READ A SECOND TIME THIS \_\_\_ DAY OF \_\_\_\_\_, 2009.

READ A THIRD TIME THIS \_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
MAYOR  
SIGNED THIS \_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
CITY CLERK  
SIGNED THIS \_\_\_ DAY OF \_\_\_\_\_, 2009