

Subdivision and Development Appeal Board Clerk Report to
Public Hearing Meeting of Council
2017 October 09

ISC: UNRESTRICTED
C2018-1159

Subdivision and Development Appeal Board Bylaw Amendments

EXECUTIVE SUMMARY

Amendments to the Subdivision and Development Appeal Board (SDAB) Bylaw are recommended to improve the agility and flexibility of the SDAB to schedule appeals and members in response to fluctuations in its caseload.

ADMINISTRATION RECOMMENDATION:

That Council give three readings to proposed Bylaw 43M2018, to amend Bylaw 25P95, the Subdivision and Development Appeal Board Bylaw.

PREVIOUS COUNCIL DIRECTION / POLICY

At its 2013 July 29 Regular Meeting, Council gave three readings to Bylaw 37M2013, which amended Bylaw 25P95 to continue quorum for all matters as five members, and establish a Schedule "A" for the Bylaw, which lists matters for which the quorum is three members. Bylaw 37M2013 also established the quorum as three members for procedural and jurisdictional matters relating to any appeal.

BACKGROUND

Based on variations in quorum, the SDAB hearing schedule is divided into 'large panel' and 'small panel' days, which currently requires careful management of appeal processing and scheduling, to ensure that appeals are scheduled to hearing days with appropriate numbers of members assigned, so that quorum is met.

Section 628(2)(b) of the *Municipal Government Act* (MGA) indicates that if a subdivision and development appeal board wishes to conduct simultaneous meetings, its bylaw may authorize it to do so. Currently, the Calgary SDAB Bylaw does not authorize panels of the SDAB to meet simultaneously to hear appeals.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

The purpose of the Bylaw amendments proposed by this report is to implement the following changes in the SDAB Bylaw:

Reduce quorum

The proposed bylaw would amend the SDAB Bylaw to establish quorum for all matters as three members, except for procedural and jurisdictional matters, for which quorum would be established as one.

Smaller, uniform quorum requirements would ease the time commitment burden on SDAB members and improve cost efficiency of SDAB hearings, while also allowing the Chair with the flexibility necessary to assign more members to hear complex cases which might benefit from a broader diversity of subject-matter expertise and/or perspectives.

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This change would also reduce the administrative complexity and rigidity imposed by the current practice of scheduling 'large' and 'small' panel items in off-setting weeks, allowing the Board to make the best possible use of all of its meeting time to address its caseload.

Simultaneous meetings

The *Municipal Government Act* empowers Council to, by bylaw, enable SDAB panels to meet at the same time. Allowing for simultaneous meetings of the SDAB creates the possibility of more flexible and agile options for scheduling appeals and members.

This would allow the SDAB to take advantage of higher board member availability on regularly scheduled (Thursdays) or overflow (Tuesdays) meeting days, and allow the possibility, administrative resourcing permitting, of implementing accelerated hearing schedules in response to surges in appeal volumes.

Stakeholder Engagement, Research and Communication

The amendments to the Calgary SDAB Bylaw proposed in this report would create new tools and flexibility for the SDAB to schedule appeals.

The Chair of the Subdivision and Development Appeal Board has been consulted respecting the proposed changes to the SDAB Bylaw and supports the amendments.

Changes to established hearing schedules or scheduling practices will require direction from the SDAB through its Chair, and engagement and communication between the SDAB Administration (City Clerk's Office), Development Authority representatives, parties to appeals and/or other stakeholders.

Strategic Alignment

The recommendations in this report align with Council's priority relating to a Well-Run City.

Social, Environmental, Economic (External)

The changes proposed in this report would equip the SDAB with options for scheduling appeals and members with flexibility and agility, so that it can move quickly to address sudden fluctuations in its caseload, such as are now being experienced with cannabis retail appeals.

Financial Capacity

Current and Future Operating Budget:

Savings in member remuneration costs are anticipated from the reduction of quorum from five to three members to hear some matters. Cost savings may vary from case to case, depending on the size of panels that are assigned to hear them.

Current and Future Capital Budget:

Not applicable.

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Risk Assessment

Smaller quorum requirements introduce the possibility that a smaller number of SDAB members assigned to hear an appeal will not have the same depth and breadth of subject-matter experience and perspectives as may be the case under larger quorum requirements currently established. Mitigations for this risk include the continuation of the Chair's authority to schedule the number of members (up to the maximum of seven) that the Chair feels is necessary to address the depth and breadth of subject matter presented in an appeal.

REASON(S) FOR RECOMMENDATION(S):

The foregoing changes to the SDAB Bylaw are recommended to provide the SDAB with new tools and flexibility to schedule appeals in response to fluctuations in its caseload, such as are currently being experienced with cannabis-retail appeals.

ATTACHMENT(S)

1. Proposed Bylaw 43M2018, to Amend Bylaw 25P95, the Subdivision and Development Appeal Board Bylaw