

# Governance Review – Other Bodies – Appeal Boards

## ISSUE

The Appeal Boards are bodies established by City Council pursuant to *The Cities Act* and *The Planning and Development Act, 2007*. They are bodies subject to review by the Leadership Team Governance Subcommittee (“Governance Subcommittee”) as part of the governance review of the City’s Advisory Committees, Controlled Corporations, Business Improvement Districts (“BIDs”) and other bodies established by the City.

The Board of Revision (“BOR”) has already been reviewed and reported on. This report focuses on the remaining City Appeal Boards. What changes are required to improve the governance and operation of the Appeal Boards?

## BACKGROUND

### 2.1 History

At the [February 13, 2017](#) meeting of the Governance and Priorities Committee (“GPC”), GPC resolved:

That the project parameters for the review of governance structures, models, practices and procedures of Advisory Committees, Controlled Corporations, Business Improvement Districts (“BID”) and any other agency, board or commission established by the City of Saskatoon be approved.

Extensive reporting has already occurred for the Advisory Committees, Controlled Corporations, BIDs, as well as the BOR. That work remains ongoing.

At its [Regular Business Meeting on June 29, 2020](#), City Council considered a report from the Governance Subcommittee entitled “Governance Review – Other Bodies Established by Council” and resolved:

1. That the Leadership Team Governance Subcommittee review the following other agencies, boards and commissions established by City Council:
  - a. Albert Community Centre Management Board;
  - b. Marr Residence Management Board;
  - c. Social Services Subcommittee;
  - d. Municipal Planning Commission; and
  - e. All of the Appeal Boards identified in this report and appendices; and

2. That the Leadership Team Governance Subcommittee report further on:
  - a. Recommended changes to the Terms of Reference, including mandates and composition of the other agencies, boards and committees; and
  - b. Bylaw and policy amendments required to implement any changes.

At its [Regular Business Meeting on February 28, 2022](#), City Council considered a report from the Governance Subcommittee entitled “Governance Review – Advisory Committees – Review of Terms of Reference” and resolved, in part:

- ...
2. That a recruitment committee be established, including representatives of the City Clerk’s Office and members of City Council to review applications for civic boards and committees and make appointment recommendations to the Governance and Priorities Committee; ...

At its [Regular Business Meeting on July 25, 2022](#), City Council considered draft Terms of Reference for the newly established City Agency Recruitment and Evaluation Committee ("CARE") and resolved:

That the revised Terms of Reference for the new City Agency Recruitment and Evaluation Committee be approved.

The revision to the Terms of Reference was to increase the composition of City Council members sitting on CARE from the recommended two, to two to three.

The focus of this report is the Appeal Boards. Separate reporting will occur for the Albert Community Centre Management Committee, Marr Residence Management Board, Social Services Subcommittee, Municipal Planning Commission and Development Appeals Board.

## 2.2 Current Status

The City of Saskatoon has eight Appeal Boards established in accordance with provincial legislation:

- City Mortgage Appeal Board;
- Access Transit Appeal Board;

- Property Maintenance Appeal Board;
- Fire Appeal Board;
- Saskatoon Private Swimming Pools Appeal Board;
- Environmental Management Appeal Board;
- Saskatoon Licence Appeal Board; and
- Development Appeals Board.

The City Mortgage Appeal Board, created to adjudicate requests for forgiveness to City mortgages arising from the City's *Lot Allocation Policy* and the Access Transit Appeal Board, created to hear appeals from persons denied Access Transit service are established pursuant to section 55 of *The Cities Act*.

The Property Maintenance Appeal Board, Fire Appeal Board, Saskatoon Private Swimming Pools Appeal Board and Environmental Management Appeal Board are likewise established under section 55 of *The Cities Act*. Their purpose is to hear appeals from persons aggrieved by order to remedy contraventions ("Orders") issued by municipal inspectors under City bylaws. Orders issued under section 329 of *The Cities Act* direct owners or occupants of land, buildings or structures to which the contravention relates to remedy the contravention. Such Orders must provide for an appeal process unless all costs and expenses of actions taken by the City to remedy the contravention are borne by the City [subsection 330(3.1)]. Appeals are carried out in accordance with section 329 of *The Cities Act*.

Appeals of Orders issued under:

- Bylaw No. 8175, *The Property Maintenance & Nuisance Abatement Bylaw, 2003* and Bylaw No. 8995, *The Underground Encroachments and Sidewalk Safety Bylaw, 2012* are heard by the Property Maintenance Appeal Board;
- Bylaw No. 7990, *The Fire and Protective Services Bylaw, 2001* are heard by the Fire Appeal Board;
- Bylaw No. 7981, *The Private Swimming Pools Bylaw, 2000* are heard by the Saskatoon Private Swimming Pools Appeal Board; and
- Bylaw No. 9772, *The Drainage Bylaw, 2021*, Bylaw No. 9466, *The Sewer Use Bylaw, 2017* and Bylaw No. 9844, *The Waste Bylaw, 2022* are heard by the Environmental Management Appeal Board.

The Saskatoon Licence Appeal Board is established by bylaw in accordance with section 8 of *The Cities Act*. Clause 8(1)(h) grants the City a general power to pass bylaws related to businesses, business activities and persons engaged in business. In relation to its authority to, among other things, regulate business, create a system of licences and impose licence terms and conditions, clause 8(3)(e) of *The Cities Act*

provides the City with authority to pass bylaws to provide for an appeal, the body that is to decide the appeal and related matters. The Saskatoon Licence Appeal Board is established under Bylaw No. 9036, *The Saskatoon Licence Appeal Board Bylaw, 2012* and hears appeals from the refusal, suspension or cancellation of any business licence issued under:

- Bylaw No. 9011, *The Adult Services Licensing Bylaw, 2012*;
- Bylaw No. 9525, *The Cannabis Business Licence Bylaw, 2018*;
- Bylaw No. 9746, *The Business Licence Bylaw, 2021*; and
- Bylaw No. 9651, *The Vehicles for Hire Bylaw, 2019*.

The Development Appeals Board is established pursuant to sections 49 and 213-214 of *The Planning and Development Act, 2007*.

In addition to the qualifications established in the individual Terms of Reference for each Appeal Board, Policy No. C01-003, *Appointment to Civic Boards, Commissions, Authorities and Committees* (“C01-003”) contains a list of criteria for appointments, which includes the following requirement:

- 2.4 d) No individual, excluding members of City Council, should serve on more than one Civic Board, Commission, Authority or Committee at the same time, except where it is considered to be essential and in the public good.

Term length and limits for Appeal Board members are reflected in their respective Terms of Reference and at section 2.9 of C01-003. Appointments are made for two-year terms for a maximum of six years. As per C01-003, City Council may, at its discretion, exceed the six-year maximum term for members of quasi-judicial boards.

## 2.3 Public Engagement

This report will be shared with the Appeal Boards once it becomes public. In accordance with established practice, this report will be tabled and members of the Appeal Boards will be invited to provide feedback for consideration by GPC in advance of the report being debated.

## 2.4 City of Saskatoon’s Current Approach

The Development Appeals Board is mandated by *The Planning and Development Act, 2007*. The structure and jurisdiction of the Development Appeals Board is dictated by that Act. Subject to the provisions of that Act, rules of procedure to be followed in carrying out its functions may be adopted by the board. The remaining Appeal Boards

have been established by City Council under various sections of *The Cities Act* at the discretion of City Council.

For ease of comparison, attached at Appendices 1 through 4 are details of the mandate, composition, qualifications, and number of appeals heard over the past few years for each Appeal Board. As identified in the Appendices, there is a significant overlap of membership between the Appeal Boards. All of the section 329 Appeal Boards share the same membership. The City Mortgage Appeal Board and the Access Transit Appeal Board share the same membership. The BOR and the Saskatoon Licence Appeal Board are comprised of the same members, which also overlaps with the current membership of the Development Appeals Board.

Likewise, many of the qualifications are substantially similar. Compensation in all cases is either non-existent or minimal and has not been the subject of review for many years. Saskatoon pays \$25 for each hearing date attended and an additional \$25 for writing a decision. This is among the lowest of all jurisdictions reviewed.

Currently, vacancies for the City's boards, commissions, and committees, including the Appeal Boards, are advertised through a number of agencies, including the Star Phoenix, Law Society of Saskatchewan, University of Saskatchewan Student Employment, STC (Saskatoon Tribal Council), JS Graduate School of Public Policy, SIIT, Sask Poly Tech Student Employment, and the Chamber (via Communications).

Vacancies are also advertised on the City's social media forums and on its website. Interim vacancies are currently advertised via digital poster.

Online application forms are available through the City's website. All applications are to include a fully completed application form, resume and two letters of reference. All appointments to City Agencies, which includes the Appeal Boards are made in accordance with the process established in the CARE Terms of Reference, attached at Appendix 5.

The number of appeals each Appeal Board hears ranges from nominal to significant. The Development Appeals Board and the Property Maintenance Appeal Board hear the most appeals.

Despite the existing overlap of membership between the Appeal Boards, the City Clerk's Office continues to struggle to recruit enough members of the public to serve on these Boards. The number of applications received is low in comparison to the number of vacancies available. As the composition of Appeal Boards currently stands, membership is offside the criteria for appointments contained in C01-003 as individuals sit on more than one board at the same time. Similarly, despite the intention to permit

only a six-year maximum term, many existing members have been sitting for significantly longer.

The Saskatoon Licence Appeal Board is currently made up of the same membership as the BOR. This was implemented in 2012 when the Saskatoon Licence Appeal Board was established to address recruitment concerns. Populating the new Appeal Board with individuals who already had experience in conducting hearings and writing decisions was a key consideration. However, as established in previous reporting, the BOR is a highly specialized board whose membership requires unique and specific skills not applicable to Saskatoon Licence Appeal Board members. Further, the BOR is already tasked with addressing a substantial number of appeals, especially in revaluation years. Moreover, given the function of the BOR and their potential to significantly affect the City's tax base, City Council has already directed changes to the recruitment and evaluation processes for the BOR to closely monitor their performance. There is nothing in that process that recognizes any special requirements for the Saskatoon Licence Appeal Board. It no longer makes sense to maintain the overlap between the BOR and Saskatoon Licence Appeal Board membership.

## 2.5 Approaches in Other Jurisdictions

The Governance Subcommittee reviewed details of the appeal boards in other Canadian jurisdictions, namely: Regina, Winnipeg, Calgary, Edmonton, Vancouver, Victoria, Toronto and Halifax. Appendix 6 contains detailed information gathered from this jurisdictional scan.

Some important observations from the jurisdictional scan reveal:

- Saskatoon has the most Appeal Boards:
  - Halifax and Victoria each have one;
  - Regina, Winnipeg, Edmonton and Vancouver each have two;
  - Calgary has four; and
  - Toronto has five.
- Most of the jurisdictions reviewed have an appeal board whose mandate is dedicated to zoning-type issues.
- Most of the jurisdictions reviewed have an appeal board whose mandate is dedicated to licence appeals.
- Most of the jurisdictions have an appeal board dedicated to property maintenance and community related issues. Sometimes, this is combined with the mandate of the appeal board hearing licence appeals.
- The range in size of membership is from three to 30 members. The average appears to be about five members. Those with larger membership numbers hear the appeals by rotating panels of smaller

groups. Most of Saskatoon's Appeal Boards have five members, the exception being the Saskatoon Licence Appeal Board that has 12 members. This is because of the shared membership with the BOR that is currently comprised of 12 members.

- The qualifications required in other jurisdictions are similar to the current qualifications required by Saskatoon.
- Those jurisdictions that publicize their compensation/remuneration rates to members all provide higher rates of compensation than Saskatoon.

## OPTIONS

This section of the provides several options for consideration for the sub-issues addressed in this report. First, it analyzes various options on the governance structure of the Appeal Boards. Second, it analyzes various options to address compensation rates for Appeal Board appointees.

### (a) **Structure and Organization of Appeal Boards**

The following are various options for consideration regarding the overall organization and structure of the Appeal Boards. In all cases, the options contemplate maintaining the Development Appeals Board as a separate entity.

#### **Option 1: Status Quo**

This option proposes to make no changes to the current number of Appeal Boards or their mandates, membership, meeting schedule or the qualifications required to serve. There are no financial or legal implications, and this option does not present any implementation challenges.

#### **Advantages:**

- No changes to the current structure would be required.
- No bylaw or policy amendments would be required.

#### **Disadvantages:**

- Does not accord with common practice in other jurisdictions.
- Continued difficulty in recruiting enough members.
- Saskatoon Licence Appeal Board members continue to be the same as members of the BOR.

#### **Option 2: Combine All Appeal Boards Established Under *The Cities Act* into One Appeal Board and Maintain the Development Appeals Board as a Separate Appeal Board**

This option proposes to combine the Appeal Boards established under the various sections of *The Cities Act* into one Appeal Board of seven members (increased from five) and maintain the Development Appeals Board as a separate entity. As noted in Appendix 6, this option conforms to the approaches used in other Canadian jurisdictions. There are no financial implications to this

option. However, this option would result in amendments to several bylaws and policies.

**Advantages:**

- Accords with common practice in other jurisdictions.
- Reduces number of members required for recruitment and appointment.
- The new Appeal Board would have different membership than the BOR.
- Still compliant with the requirements of *The Cities Act* and *The Planning and Development Act, 2007*.

**Disadvantages:**

- The mandate for *The Cities Act* Appeal Board would be quite large.
- *The Cities Act* Appeal Board would be busier and may need to meet more often, with the possibility of longer meetings being required.
- Various bylaw and policy amendments would be required.

**Option 3: Combine All Section 329 Appeal Boards into One Appeal Board, Combine the City Mortgage and Access Transit Appeal Boards and Maintain the Saskatoon Licence Appeal Board and the Development Appeals Board as Separate Appeal Boards but Appoint Different Members to the Saskatoon Licence Appeal Board**

This option proposes to combine the section 329 Appeal Boards: the Property Maintenance Appeal Board, the Saskatoon Private Swimming Pools Appeal Board, the Environmental Management Appeal Board, and the Fire Appeal Board, into one single Appeal Board and combine the Access Transit Appeal Board with the City Mortgage Appeal Board but maintain the Saskatoon Licence Appeal Board and the Development Appeals Board as separate Appeal Boards. This option also proposes that the membership of the Saskatoon Licence Appeal Board no longer be the same as the BOR, while maintaining the same mandate, meeting schedule and qualifications. Choosing this option would require a number of bylaw and policy amendments.

**Advantages:**

- Very little change would occur. All of the section 329 Appeal Boards currently have the same membership so the only change would be to the mandate.
- Saskatoon Licence Appeal Board would have different membership than the BOR.
- Still compliant with the requirements of *The Cities Act* and *The Planning and Development Act, 2007*.
- The City Mortgage Appeal Board, Access Transit Appeal Board and Saskatoon Licence Appeal Board would be distinguished from the section 329 Appeal Boards. Distinguishing factors include the difference in mandates (one group deals with Orders issued under bylaws and the others deal with confidential medical issues and the livelihood of appellants) and there is no right of appeal like the section 329 Appeal Boards.

**Disadvantages:**

- Does not accord with common practice in other jurisdictions. Most other jurisdictions surveyed have two Appeal Boards other than Calgary which has four and Toronto which has five. This would leave Saskatoon with four Appeal Boards.
- Increases the number of members required for recruitment and appointment.
- Various bylaw and policy amendments would be required.

**Option 4: Combine the Section 329 Appeal Boards with the City Mortgage and Access Transit Appeal Boards, Maintain the Saskatoon Licence Appeal Board and the Development Appeals Board as Separate Appeal Boards but Appoint Different Members to the Saskatoon Licence Appeal Board**

This option proposes to combine the section 329 Appeal Boards: the Property Maintenance Appeal Board, the Saskatoon Private Swimming Pools Appeal Board, the Environmental Management Appeal Board, the Fire Appeal Board with the Access Transit Appeal Board and the City Mortgage Appeal Board into one single Appeal Board and maintain the Saskatoon Licence Appeal Board and the Development Appeals Board as separate Appeal Boards. This option also proposes that the membership of the Saskatoon Licence Appeal Board no longer be the same as the BOR. Choosing this option would result in a number of bylaw and policy amendments.

**Advantages:**

- Accords more closely with common practice in other jurisdictions. Choosing this option would mean that the City would have three Appeal Boards.
- The new Appeal Board for *The Cities Act* items would have different membership than the BOR.
- Still compliant with the requirements of *The Cities Act* and *The Planning and Development Act, 2007*.

**Disadvantages:**

- Increases or maintains the number of members required for recruitment and appointment.
- Various bylaw and policy amendments would be required.

**(b) Compensation**

**Option 1: Status Quo**

This option proposes to make no changes to the current compensation provided to Appeal Board members. There are no financial implications, and this option does not present any implementation challenges. Regardless of whether there is an increase to compensation, Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999* requires amendment to reflect the correct

compliment of Appeal Boards. This option is not being recommended for a variety of reasons.

**Advantages:**

- No budgetary changes resulting from an increase.

**Disadvantages:**

- Appeal Board members will continue to receive no compensation or inadequate compensation, lower than other comparable jurisdictions.
- May result in lack of interest by qualified candidates

**Option 2: Increase the Compensation Provided to Appeal Board Members and Provide on a Per Meeting Basis**

This option proposes to increase the compensation payable to Appeal Board members, providing payment on a per meeting basis with no additional payment for time spent on hearing preparation. Rather than the current \$25 per hearing and additional \$25 per decision paid to the writer, compensation payable to Appeal Board members is proposed as follows:

- Chair                    \$150 for up to and including 4 hours per day  
                                  \$25 per hour for each additional hour per day, as required
- Member                \$100 for up to and including 4 hours per day  
                                  \$25 per hour for each additional hour per day, as required
- Additional \$50 for member responsible to write the decision

Financial implications would result from any increase. Assuming 24 meetings per year (twice per month) for the four-hour time slot (1:00 pm to 5:00 pm) and the participation of the maximum of five members per hearing day, it is anticipated that annual costs would be \$13,200 plus the cost of decision writing. Assuming 20 hearings per year (based on the history of the number of appeals heard annually), the total annual cost would be \$14,200:

- Chair                    \$3,600 annually
  - (24 x \$150)
- Member                \$2,400 annually per member or \$9,600 total annually
  - (24 x \$100 x 4 members)
- Decisions              \$1,000
  - (20 x \$50)

Legal implications include amendments to Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999*. No implementation challenges would result.

**Advantages:**

- Compensation to Appeal Board members would be more reflective of the time and effort required to participate.

- Accords more closely with common practice in other jurisdictions.
- May result in increased interest to participate as an Appeal Board member.

**Disadvantages:**

- Proposed increase results in reallocation of budget from other needs.

**Option 3: Increase the Compensation Provided to Appeal Board Members and Provide on a Per Hearing Basis**

This option proposes to increase the compensation payable to Appeal Board members, providing payment on a per hearing basis with no additional payment for time spent on hearing preparation. Rather than the current \$25 per hearing and additional \$25 per decision paid to the writer, compensation payable to Appeal Board members is proposed as follows:

- Chair \$125 per hearing
- Member \$75 per hearing
- Additional \$50 for member responsible to write the decision

Financial implications would result from any increase. Assuming 20 hearings per year (based on the history of the number of appeals heard annually), it is anticipated that annual costs would be \$9,500:

- Chair \$2,500 annually
  - (20 x \$125)
- Member \$1,500 annually per member or \$6,000 total annually
  - (20 x \$75 x 4 members)
- Decisions \$1,000
  - (20 x \$50)

Legal implications include amendments to Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999*. No implementation challenges would result.

**Advantages:**

- Compensation to Appeal Board members would be more reflective of the time and effort required to participate.
- Accords more closely with common practice in other jurisdictions.
- May result in increased interest to participate as an Appeal Board member.

**Disadvantages:**

- Proposed increase results in reallocation of budget from other needs or a marginal increase in budgetary expenditures relative to the status quo.

**Option 4: Increase the Compensation Provided to Appeal Board Members and Provide on an Either a Per Meeting or Per Hearing Basis and Pay a Monthly Retainer to the Chair**

This option proposes to increase the compensation payable to Appeal Board Members. It provides payment on either a per meeting or per hearing basis as described in option 3 but reduces the amount payable to the Chair per meeting or per hearing by \$25 and replacing it with a monthly fee of \$100. As with the other options, no additional payment for time spent on hearing preparation is proposed. Compensation payable to Appeal Board members under this option would result in the following approximate costs:

**(a) Per Meeting**

- Chair  $\$3,000 + \$1,200 = \$4,200$  annually
  - $((24 \times \$125) + (\$100 \times 12))$
- Member  $\$2,400$  annually per member or  $\$9,600$  total annually
  - $(24 \times \$100 \times 4 \text{ members})$
- Additional amount for decision writing dependent on number of appeals
- $\$13,800$  total annually

**(b) Per Hearing**

- Chair  $\$2,000 + \$1,200$  annually =  $\$3,200$  annually
  - $((20 \times \$100) + (\$100 \times 12))$
- Member  $\$1,500$  annually per member or  $\$6,000$  total annually
  - $(20 \times \$75 \times 4 \text{ members})$
- Decisions  $\$1,000$ 
  - $(20 \times \$50)$
- $\$10,200$  total annually

Legal implications include amendments to Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999*. No implementation challenges would result.

**Advantages:**

- Compensation to Appeal Board members would be more reflective of the time and effort required to participate.
- Accords more closely with common practice in other jurisdictions.
- May result in increased interest to participate as an Appeal Board member.

**Disadvantages:**

- Proposed increase results in reallocation of budget from other needs or a marginal increase in budgetary expenditures relative to the status quo.
- May result in payments to the Chair even where there is little or no participation in meetings or hearings.

**RECOMMENDATION**

That the Governance and Priorities Committee recommend to City Council that:

1. The Property Maintenance Appeal Board, Saskatoon Private Swimming Pools Appeal Board, Environmental Management Appeal Board, Fire Appeal Board, Saskatoon License Appeal Board, Access Transit Appeal Board and City Mortgage Appeal Board be combined into one Appeal Board, with the membership being different than the Board of Revision and maintain the Development Appeals Board as a separate entity (Option 2: Combine All Appeal Boards Established under *The Cities Act* into One Appeal Board and Maintain the Development Appeals Board as a Separate Appeal Board);
2. The Administration report back to City Council through the Governance and Priorities Committee with Terms of Reference for the new Appeal Board that includes seven members and qualifications outlined in this report;
3. The compensation provided to members of the new Appeal Board be increased and provided to Appeal Board members on a per meeting basis upon approval of the new Terms of Reference (Option 2: Increase the Compensation Provided to Appeal Board Members and Provide on a Per Meeting Basis);
4. The current recruitment strategy remain unchanged;
5. The City Solicitor bring forward any required bylaw amendments to implement the new Appeal Board structure;
6. The Administration amend all policies as required to implement the new Appeal Board Structure; and
7. The Governance Subcommittee be instructed to amend Policy No. C01-003, *Appointment to Civic Boards, Commissions, Authorities and Committees* to add flexibility to the prohibition against a member participating on more than one board at a time.

## **RATIONALE**

Several of the City of Saskatoon's Appeal Boards have undergone minor reforms since their creation and many were established several years ago to address procedural fairness in the delivery of various programs. As this report and its supporting appendices show, Saskatoon has the highest number of Appeal Boards relative to other jurisdictions and its compensation levels are well below the common approaches used in many Canadian cities.

## **Structure and Organization**

The Governance Subcommittee recommends that all of the Appeal Boards established under *The Cities Act*, with the exception of the BOR, be combined into one Appeal Board and that the Development Appeals Board remain a stand-alone Appeal Board. Combining all of these Appeal Boards and leaving the Development Appeals Board as a separate entity reduces the number of members that are required for recruitment and

the number of appointments City Council must make. This will help to solve the issue raised by the City Clerk's Office that there are not enough applicants to fill all available vacancies on the Appeal Boards. Increasing membership of the new Appeal Board to seven and maintaining a composition of five members on the Development Appeals Board will result in the City recruiting for 12, rather than 15 positions.

Further, the number of Appeal Boards will be reduced by six. *The Planning and Development Act, 2007* mandates that the City have a Development Appeals Board and this would remain the same. The City would remain compliant with the provisions of *The Cities Act* and of *The Planning and Development Act, 2007*. The Governance Subcommittee proposes to review the Development Appeals Board and bring back any recommendations specific to that Appeal Board alongside future reporting related to the Municipal Review Commission; the other body that is established under *The Planning and Development Act, 2007*.

The new Appeal Board will be busier. It is anticipated that two afternoons per month (1:00 pm to 5:00 pm) will be allocated for the hearing of appeals. Members who are appointed will be utilized more often but it is anticipated that the number of appeals being heard will remain manageable. The increase to the number of appeals heard is intended to be mitigated by increasing membership on the Appeal Board from five to seven and maintaining a quorum at a minimum of three members. It is recommended that the three-member minimum remain and that of the seven members, a maximum of five would be permitted to participate on any appeal panel. This will slightly increase the pool of members available to sit while still achieving a reduction of three required positions to address the recruitment concerns raised by the City Clerk's Office. Collapsing the number of Appeal Boards and reducing the number of required appointees may also help to reduce the number of members participating on a board far longer than the intended six-year maximum.

Increasing the membership number to seven will also provide more flexibility to recruit individuals with different skills, experience, and expertise to address the larger mandate of the new Appeal Board, which inevitably will be responsible to hear appeals relating to a larger number of matters in different areas. The qualifications of members of the new Appeal Board are proposed to allow for participation by individuals with different skill sets and expertise by inviting experience in one or more areas rather than all areas. These qualifications will match the larger mandate of the new Appeal Board, which will need to cover the smaller mandates of the existing Appeal Boards. The Governance Subcommittee recommends the following list of qualifications for inclusion in the Terms of Reference of the new Appeal Board:

- Experience hearing appeals or working knowledge of quasi-jurisprudence, administrative law or adjudicative processes.
- Knowledge and understanding of City of Saskatoon Bylaws and Policies, including:
  - Bylaw No. 9746, *The Business Licence Bylaw, 2021*;
  - Bylaw No. 9651, *The Vehicles for Hire Bylaw, 2019*;
  - Bylaw No. 9525, *The Cannabis Business License Bylaw, 2018*;

- Bylaw No. 9011, *The Adult Services Licensing Bylaw, 2012*;
  - Bylaw No. 8175, *The Property Maintenance & Nuisance Abatement Bylaw, 2003*;
  - Bylaw No. 8995, *The Underground Encroachment and Sidewalk Safety Bylaw, 2012*;
  - Bylaw No. 7981, *The Private Swimming Pools Bylaw, 2000*;
  - Bylaw No. 9466, *The Sewer Use Bylaw, 2017*;
  - Bylaw No. 9844, *The Waste Bylaw, 2022*;
  - Bylaw No. 9772, *The Drainage Bylaw, 2021*;
  - Bylaw No. 7990, *The Fire and Protective Services Bylaw, 2001*;
  - Bylaw No. 9036, *The Saskatoon Business Licence Bylaw, 2012*; and
  - Policy C09-006, *Residential Lot Sales – General Policy*.
- Knowledge and understanding of construction standards, fire code standards or public health standards or barriers to accessibility for disabled and elderly persons or standards regarding the collection, handling, and disposal of waste or recyclable materials.
  - Ability to read, understand, interpret, and apply City of Saskatoon Bylaws and Policies, standards and codes, laws, regulations and case law.
  - Excellent listening skills and ability to analyze complex information and provide rational, objective, and reasoned decisions/solutions.
  - Sound judgment, tact, fairness, and decorum.
  - Ability to write clearly and concisely with reference to testimony heard, analysis and a summary of the board's reasons for decision.
  - Ability to commit time required.

This list is comprised of required qualifications from the existing Appeal Boards, with reference to a review of qualifications identified in board terms of reference in other jurisdictions.

The collapsed structure being proposed is more similar to the practice in other Canadian jurisdictions. Cities with much higher populations than Saskatoon function well with less Appeal Boards. It is anticipated that it will be more efficient to function with less in this case rather than more. It is intended that mandates of future appeal boards established under *The Cities Act* would be included in the jurisdiction for determining appeals under this newly established Appeal Board.

Despite the different mandates and right of appeal of the City Mortgage Appeal Board, Access Transit Appeal Board and the Saskatoon Licence Appeal Board as compared to the section 329 Appeal Boards, the Governance Subcommittee remains of the opinion that these Appeal Boards should be combined. The number of appeals heard by the City Mortgage, Access Transit and section 8 Appeal Boards is minimal and does not warrant a separate entity. To maintain those Appeal Boards as separate entities undermines the goal of reducing the number of people required for recruitment and appointment. Further, any special skills or experience required to hear and determine city mortgage, access transit or licence appeals can be recognized in the qualifications sought. Currently, recruitment for the BOR does not include any special skills required for the determination of licence appeals.

Members of the BOR will no longer be responsible for hearing licence appeals. The new Appeal Board responsible for hearing licence appeals will be different than the members of the BOR, recognizing the BOR as a highly specialized, independent appeal body with requirements and qualifications over and above those required to serve on the City's other Appeal Boards.

No changes are being recommended to the CARE Terms of Reference as the appointment process established therein is relatively new and appears to be working successfully and as intended.

Given the existing overlap of Appeal Board membership and the possibility that some overlap may still occur despite the recommended restructuring, it is suggested that C01-003 be amended to provide more flexibility to allow members to participate on more than one board at a time. The intention would be to avoid exercising such discretion, where possible, but building in the flexibility prevents appointments off-side the Policy, where necessary. Such overlap is an issue that could be considered by CARE in its review of applications and making recommendations. Once all entities have been reviewed and the rules for each determined as part of the governance review process, the Governance Subcommittee will bring forward comprehensive amendments to C01-003 for City Council approval. This amendment, if approved, will be brought forward at that time.

### **Compensation**

Compensation for Appeal Board members is established by Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999*, which sets the compensation for members of the Development Appeals Board and the Property Maintenance Appeal Board at:

- (a) \$25 for each meeting attended; and
- (b) an additional \$25 for each decision written by the member.

Bylaw No. 7804, after coming into force on January 1, 1999, appears never to have been amended to either increase the compensation payable or recognize the establishment of new Appeal Boards as they have been created. Despite never having

been amended to include newly created Appeal Boards, members, with the exception of the City Mortgage Appeal Board and the Access Transit Appeal Board, have been paid in accordance with the requirements of Bylaw No. 7804. This has resulted in the payment of remuneration in the following amounts:

- 2020 = \$1,350
- 2021 = \$2,450
- 2022 = \$1,925

When conducting the cross-jurisdictional scan, it was discovered that the compensation the City of Saskatoon provides its members is the lowest among those jurisdictions that readily publicized the amount of compensation provided. Increasing the compensation provided will likely provide additional incentive to individuals to want to serve on the City's Appeal Boards and potentially further mitigate recruitment challenges.

Any increase to the compensation payable will be included in the City Clerk's Office budget. In consideration of this, the City Clerk's Office has considered the circumstances and option 2, which involves a per meeting payment with no additional payment for preparation time is being recommended. The financial costs associated with option 2 are based on past experience in terms of time commitment and number of appeals and are considered a reasonable estimate. While options 1 and 2 are similar in terms of associated cost, option 2 will be easier to track and administer given the flat rate for a four-hour block of time rather than calculating a per hearing entitlement. Averaging the amounts paid to Appeal Board members in 2020, 2021 and 2022 and subtracting that amount from the compensation payable based on the recommendation (\$14,200), the proposed increase results in a difference of \$12,300 as between the current and proposed compensation schemes.

Option 2 also allows for flexibility in hearing length without advantage or disadvantage to Appeal Board members participating in the meeting. The rates are based on participation of four hours. If hearings extend beyond the four-hour anticipated block of time, an additional payment is permitted. This structure ensures that Appeal Board members are fairly compensated for their time without overpayment by the City for hearings that may be shorter in duration and complexity depending on the type of appeal being heard.

All options include a separate payment for decision writing, which is intended to provide an incentive for efficient and timely decision writing. By compensating Appeal Board members for each decision made, the City encourages decision writers to prioritize and complete the decision writing process promptly, leading to the quicker resolution of appeals. It is assumed that decisions would take approximately two hours to write.

Option 2 is preferable to option 4 which could potentially result in payment to the Chair on a monthly basis regardless of any meeting or hearing participation that month either because of unavailability or a lack of scheduled appeals. Option 2 on the other hand would result in payment for participation only. It might offer some sort of windfall where

a minimal number of appeals or simple appeals may be concluded in under four hours, but this provides some incentive for participation.

Overall, option 2 offers a balanced approach to compensation, considering both the workload and the organization's financial constraints. It provides a reasonable payment structure based on meeting frequency and ensures a certain time commitment from participating Appeal Board members. Finally, it incentivises efficient decision writing. The proposed increase can be managed within the current budget allocation to the City Clerk's Office.

### **ADDITIONAL IMPLICATIONS/CONSIDERATIONS**

If City Council adopts a change to the structure of the Appeal Boards as recommended in this report, a number of bylaws and policies will require amendment.

Amendments to the following bylaws will be considered:

- Bylaw No. 9746, *The Business License Bylaw, 2021*
- Bylaw No. 9651, *The Vehicles for Hire Bylaw, 2019*
- Bylaw No. 9525, *The Cannabis Business License Bylaw, 2018*
- Bylaw No. 9011, *The Adult Services Licensing Bylaw, 2012*
- Bylaw No. 8175, *The Property Maintenance & Nuisance Abatement Bylaw, 2003*
- Bylaw No. 8995, *The Underground Encroachment and Sidewalk Safety Bylaw, 2012*
- Bylaw No. 7981, *The Private Swimming Pools Bylaw, 2000*
- Bylaw No. 9466, *The Sewer Use Bylaw, 2017*
- Bylaw No. 9844, *The Waste Bylaw, 2022*
- Bylaw No. 9772, *The Drainage Bylaw, 2021*
- Bylaw No. 7990, *The Fire and Protective Services Bylaw, 2001*

The repeal and replacement of the following bylaws will be considered:

- Bylaw No. 9036, *The Saskatoon Licence Appeal Board Bylaw, 2012*
- Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999*

Amendments to the following policies will be considered:

- Policy C09-006, *Residential Lot Sales – General Policy*
- Policy C01-003, *Appointments to Civic Boards, Commissions, Authorities, and Committees*

All recommendations to collapse the Appeal Boards support the continued existence of the Development Appeals Board. It is the only Appeal Board subject to this review that is established under *The Planning and Development Act, 2007*. City Council is mandated to maintain a Development Appeals Board. Potential improvements to enhance efficiency and function of the Development Appeals Board within the legislated mandate will be considered and any suggestions brought forward in future reporting alongside considerations for the Municipal Planning Commission, which body is also

required by *The Planning and Development Act, 2007*. Recommendations regarding increased compensation for members of the Development Appeals Board will be included in the future reporting, but it is anticipated that a compensation scheme similar to the Appeal Board compensation recommended in this report will be proposed for members of the Development Appeals Board.

### **COMMUNICATION ACTIVITIES**

If adopted, communication will be required surrounding implementation of the new Appeal Board structure. The City Clerk's Office will coordinate any such communications.

### **PUBLIC NOTICE**

Public Notice pursuant to section 101 of *The Cities Act* is required. Subsection 101(2) provides that a council shall ensure that public notice is given before initially considering any report respecting a matter listed in, among other clauses, clause 101(1)(o). Clause 101(1)(o) states:

No council shall delegate:

- (o) its power to set remuneration for members of council and for members of council committees and other bodies established by the council pursuant to section 55;

Public Notice will be provided in accordance with Council Policy No. C01-021, *Public Notice Policy*, in advance of first consideration of this report at the September 13, 2023 meeting of GPC.

**APPENDICES**

1. Appeal Boards – Section 55 of *The Cities Act*
2. Appeal Boards - Section 329 of *The Cities Act*
3. Appeal Boards - Section 8 of *The Cities Act*
4. Appeal Boards - *The Planning & Development Act, 2007*
5. City Agency Recruitment and Evaluation Committee Terms of Reference
6. Appeal Boards – Jurisdictional Scan

**Report Approval**

Written by: Christine G. Bogad, Director of Legal Services  
Shellie Bryant, Deputy City Clerk  
Candice Leuschen, Executive Assistant to the City Solicitor

Reviewed by: Adam Tittmore, City Clerk  
Mike Jordan, Chief Public Policy and Government Relations Officer

Approved by: Cindy Yelland, City Solicitor

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