

Governance Review – Other Bodies – Development Appeals Board and Municipal Planning Commission

ISSUE

The Development Appeals Board (“DAB”) and the Municipal Planning Commission (“MPC”) are bodies established by City Council pursuant to *The Planning and Development Act, 2007* (“P&D Act”). They are bodies subject to review by the Administrative Leadership Team Governance Committee, formerly the Leadership Team Governance Subcommittee (“Governance Committee”) 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.

What changes are required to improve the governance and operation of the DAB and the MPC?

BACKGROUND

2.1 History

At the [February 13, 2017](#) meeting of the Governance and Priorities Committee (“GPC”), the Committee 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, Board of Revision, as well as the BIDs, the Appeal Boards and the Albert Community Centre Management Committee and the Marr Management Board. 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 the following:

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 September 27, 2023](#), City Council considered a report from the Governance Subcommittee entitled “Governance Review – Other Bodies – Appeal Boards” and resolved, in part:

1. That the Property Maintenance Appeal Board, Saskatoon Private Swimming Pool 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 (Option2: Combine All Appeal Board Established under The Cities Act into One Appeal Board and Maintain the Development Appeals Board as a Separate Appeal Board); ...

This report reviews the DAB and the MPC. Separate reporting will occur regarding the Social Services Subcommittee.

2.2 Current Status

Development Appeals Board

A development appeals board is a quasi-judicial board appointed by a Council whose function is to hear and determine appeals on certain development related issues in a forum that is independent from the Council. The establishment of development appeals boards are guided by principles of administrative law, the duty of fairness and rules of evidence.

The establishment of the DAB is mandated by the P&D Act. Subsection 214(2) requires the establishment of a development appeals board within 90 days of a zoning bylaw coming into effect. Section 49 requires a zoning bylaw to contain provisions, including “(j) establishing a board to be the Development Appeals Board for the municipality pursuant to section 214”. The structure and jurisdiction of the DAB is dictated by Division 1, Part XI of the P&D Act, unless the approving authority (here, the City) passes a bylaw.

Pursuant to section 26, the City has authority to pass a bylaw setting out:

- (a) The eligibility, number and term of office of persons appointed as members of the DAB;
- (b) Procedures to be followed by the DAB in carrying out appeals; and
- (c) Prescribing any other matter necessary for the operation of the DAB.

Where a bylaw addressing these items is passed, subsection 214(1) and sections 215 through 217 do not apply to the DAB to the extent that those matters are addressed in the bylaw.

Subsection 214(1) requires the appointment of not less than three persons to constitute the board. Restrictions on board membership are set out in section 215 and prohibit members of City Council, members of a planning commission and City employees from sitting. Pursuant to section 216, City Council shall determine the term of office of each member, the way vacancies are to be filled and the remuneration and expenses, if any, payable to board members. Similarly, City Council is responsible to appoint a secretary of the board and prescribe their term of office, remuneration and duties.

Subsection 216(5) permits the board to adopt rules of procedure to be followed in carrying out its functions. In addition, a board shall comply with any rules of procedure prescribed by the Lieutenant Governor in Council. Meetings and hearings of the board are at the call of the secretary, in consultation with the chairperson of the board (subsection 217(1)).

The mandate of the board to hear appeals and the procedures for doing so, including the filing and conduct of appeals are provided in the P&D Act. The function of the DAB is to hear appeals related to certain development related decisions made by a municipality. For example, an appeal to the DAB may be made for allegations including:

- The improper refusal of a development permit;
- The misapplication of a zoning bylaw;
- The approval, refusal or revocation of a minor variance application;
- The justification in special circumstances of a variance to the standards required by a zoning bylaw; and
- Matters related to a subdivision or the terms of a servicing agreement or development levy agreement.

The City of Saskatoon Zoning Bylaw (“Bylaw No. 8770”), at section 4.4.1, establishes the DAB and provides for the appointment of five members. The mandate of the DAB, as provided in Bylaw No. 8770 is “to hear and determine appeals in accordance with Section 49, and Sections 213 to 227 inclusive of *The Planning and Development Act, 2007*”. All decisions of the DAB can be appealed to the Saskatchewan Municipal Board Planning Appeals Committee (“SMB”). Persons affected by an order, decision or determination of the SMB may further appeal to the Saskatchewan Court of Appeal on a question of law or jurisdiction of the SMB.

No member of a board may hear or vote on any decision that relates to a matter with respect to which the member has a conflict of interest or financial interest (section 218, P&D Act). “Conflict of interest” has the meaning prescribed in *The Cities Act*.

Remuneration of DAB members is currently prescribed in Bylaw No. 7804, *The Remuneration of Members of Appeal Boards Bylaw, 1999* and provides that each member of the DAB shall receive payment of \$25 for each meeting attended by the member and a further \$25 for each decision written by the member.

The Ministry of Government Relations has prepared a Development Appeals Guide (“Guide”) to provide advice to municipalities, planning districts and appellants on:

- The role and principles of a development appeals board;
- How to establish a development appeals board;
- Opportunities for appeal under the P&D Act; and
- Suggested procedural practices.

Templates to assist the DAB in the appeal application, hearing and decision-making processes are included in the Guide.

The City Clerk’s Office has also developed a Policy and Procedures Manual (“Manual”) that provides background to members about the board, the roles and responsibilities of board members, board member conduct and the hearing process.

Municipal Planning Commission

Unlike the DAB, the P&D Act permits establishment of the MPC but does not mandate it. The MPC may “investigate, study, advise and assist the council with respect to community planning and development, including any matter that, in the opinion of the commission, is related to the physical, social or economic circumstances of the municipality and affects or may affect the development of the municipality” (subsection 95(3), P&D Act). A Council wishing to establish a municipal planning commission must pass a bylaw addressing the following matters as per subsection 95(2) of the P&D Act:

- (a) The eligibility, number and term of office of persons appointed as members to the commission;
- (b) The powers, duties and procedures of the commission;
- (c) The provision for the appointment of advisers and consultants to the commission;
- (d) The authorization of a budget for the establishment and operation of the commission;
- (e) Any other matter that the council considers necessary for the operation of the commission.

Bylaw No. 3670, *A bylaw of the City of Saskatoon providing for a Municipal Planning Commission* came into force on April 14, 1958, and sets the eligibility, number and terms of office of members appointed to the commission. The Bylaw empowers the MPC to adopt general rules and rules of procedure to be adopted in carrying out its functions and requires the MPC to prepare and submit a budget to City Council each year before December 31, including an estimate of the money that may be required during the year for consideration and approval by City Council.

2.3 Public Engagement

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

The Governance Committee did engage with members of the Administration routinely engaging with the DAB and MPC to seek their feedback. Their comments largely focused on the DAB and can be summarized as follows:

- Would benefit from the development of further educational resources, including annual training to address DAB objectives, purpose and values with a focus on mandate, enabling legislation and board process, including member conduct.
- The implementation of a time limit for speakers.
- Encouraging the use of independent legal counsel to ensure acting within the scope of legislative authority and understanding the result of appealed decisions.
- The implementation of conflict of interest declarations as a standing agenda item.
- Reconsideration of the notice provided by the City Clerk's Office to provide adequate information as to the subject matter.
- To include in qualifications a requirement for applicants to have past committee/board experience or familiarity with basic board meeting formalities and structure.
- Review of the remuneration provided.

Comments related to the MPC were more limited but did note the strong engagement of the Committee. A suggestion for considering compensation for the chair was raised.

2.4 City of Saskatoon's Current Approach

Development Appeals Board

The DAB is an independent body established pursuant to the P&D Act and Bylaw No. 8770.

The DAB is comprised of five members of the public all appointed by City Council, through the City Agency Recruitment and Evaluation Committee ("CARE Committee"). There is currently one vacancy on the DAB. The members are appointed for two-year terms, to a maximum term of six years. Of the current complement of four members, one has served six years, two have served approximately three and a half years and the newest member was appointed as of January of this year. Currently, there is an overlap of one member between the DAB and the Board of Revision ("BOR").

Members of City Council, employees of a planning commission and City employees are ineligible for appointment to the DAB. The CARE Committee reviews all applications, including for reappointment, however there is no formal review of DAB members completed. Representatives appearing before the DAB may voice concerns or comment on their experience by appealing decisions, making formal complaints under the *City of Saskatoon Code of Conduct for Members of Civic Boards, Commissions, Authorities and Committees*, or addressing appointments or structure concerns to City Council through GPC.

If a member's performance or conduct is found to be unbecoming, or in breach of any of the City's applicable policies or other legislation, DAB members may, subject to appropriate procedural fairness safeguards, be removed. City Council may always choose not to reappoint an existing member upon expiry of their term.

Preferred qualifications for members include:

- Ability to assess information and make objective decisions;
- Ability to deal with complex situations;
- Ability to provide rational solutions to complex problems;
- Have a general knowledge of the City;
- Understand the City's Zoning Bylaw and *The Planning and Development Act*, and
- Have a working knowledge of quasi-jurisprudence or administrative law.

Remuneration is prescribed in Bylaw No. 7804. The DAB meets biweekly on average depending upon the number of appeals received and the City Clerk's Office provides meeting support.

No formal training is provided to new DAB members; rather new members are mentored by the chair and vice-chair. The specifics of any mentorship are not formalized. The Guide is not provided to or officially used by the DAB, but the Manual is provided to members.

Further details as to the DAB's mandate and governance structure can be found at Appendix 1.

Municipal Planning Commission

The MPC is a body established pursuant to the P&D Act and Bylaw No. 3670. The Bylaw provides for the composition and mandate of the body, but it does not provide for compensation to the public members serving on the MPC.

In accordance with the Bylaw, the MPC is comprised of 13 members appointed by City Council:

- One representative of City Council;
- One representative of the Public School Board;
- One representative of St. Paul's Roman Catholic Separate School Division, No. 20; and
- 10 residents who are not employees of the City.

In addition to City employees, realtors are also not eligible for appointment. Members of the public are appointed through the CARE Committee. Appointments are made for three-year terms to a maximum term of six years.

The mandate of the MPC is to advise and assist City Council with respect to all matters pertaining to community planning and development within the City. The MPC reports to City Council through the Standing Policy Committee on Planning, Development and Community Services (“PDCS”). Meetings are scheduled for the last Tuesday of every month, with meeting support provided by the City Clerk’s Office. Quorum is met by the attendance of a majority of voting members (seven).

Applicants willing to commit time to attend meetings on a regular basis are eligible to sit on the MPC, although preference is given to applicants who do not currently represent a special interest group. Bylaw No. 9170, *The Procedures and Committees Bylaw, 2014* is generally used for the conduct of meetings. To the knowledge of the Administration, no other rules have been formally adopted by the MPC.

2.5 Approaches in Other Jurisdictions

Development Appeals Board

Attached to the September 27, 2023 Governance Review – Other Bodies - Appeal Boards report, Appendix 6 contained a summary of Appeal Boards operating in other jurisdictions across Canada. To summarize, most of the jurisdictions reviewed (Regina, Winnipeg, Calgary, Edmonton, Vancouver, Victoria, Toronto and Halifax) had an appeal board whose mandate is dedicated to zoning-type issues similar to Saskatoon’s DAB. There is a wide range in the number of members appointed to each similar appeal board in these other jurisdictions – between four and 30 members. However, generally, five members appears to be the popular choice.

The preferred qualifications in other jurisdictions have similar qualifications but generally have some extra focus on knowledge or experience with land use planning. The City of Edmonton requires that members participate in a professional development program.

For convenience, Appendix 2 is a reproduction of the information reported in September 2023 extracting the information related to only the zoning type appeal boards established in other jurisdictions.

Municipal Planning Commission

A summary of the details of the jurisdictional scan for municipal planning commissions is attached at Appendix 3. In general, the commission sizes are like Saskatoon, ranging from seven to 12 members. Almost all, except for Winnipeg and Edmonton, have at least one member of City Council that sits on the commission, and in many cases two to three members of City Council are appointed.

With respect to membership composition and qualifications, many of the commissions require some type of experience or knowledge of the development industry that might include knowledge or expertise in architecture, engineering, home building, real estate or urban planning and design.

The City of Camrose is unique in that its Municipal Planning Commission is comprised solely of members of City Council (seven).

Five of the six cities included in the jurisdictional scan offer no compensation to members of their respective municipal planning commissions. Members of Edmonton's Design Committee receive \$100/hour for up to five hours meeting time and \$200/hour for over five hours meeting time. The chair receives \$125/hour for up to five hours meeting time and \$250/hour for over five hours meeting time.

OPTIONS

Development Appeals Board

Option 1 Maintain the Status Quo

This option proposes no changes made to the mandate, composition, qualifications or compensation of DAB members. This option would result in no financial, legal or other implications.

Advantages:

- No financial, legal or other implications.
- No additional steps in the recruitment process or commitment required of members of City Council, DAB secretary or board chair.
- No additional resources required.

Disadvantages:

- No enhanced onboarding or training would be mandatory.
- Remuneration would be less than provided to Saskatoon Appeal Board members.
- There is no additional screening process to serve as additional due diligence to ensure individuals with the right skills, experience, values and attitude are appointed to the DAB.

- There would continue to be an overlap in membership between the DAB and the BOR.

Option 2 Amend Qualifications, Compensation, Require Training, Remove the Overlap in Membership between the DAB and BOR and Create a More Robust Recruitment and Performance Evaluation Process

This option proposes to make amendments to the qualifications and training required for DAB members and to increase the compensation offered. A requirement for more qualifications and increased compensation may expand the pool of potential applicants. A more robust recruitment process like that already in place for the BOR that includes an interview process is also recommended for this legislatively mandated board.

Also, like the BOR, this option proposes developing a more robust performance evaluation process. For example, DAB members would be required to fill out an annual evaluation and parties who appear before the DAB would be given the opportunity to provide comments on their experience appearing before the DAB. The process for sharing of this information would mirror the BOR process. All data would be collected and compiled by the board secretary and considered when appointments are deliberated. Actual comments received will accompany any summary reporting of results.

Generally, and in accordance with Policy No. C01-003, *Appointment to Civic Boards, Commissions, Authorities and Committees*, individuals, excluding members of City Council, shall not sit on more than once civic board, commission, authority or committee at the same time unless it is considered essential and in the public good. In recent Appeal Board reporting, Administration was directed to remove overlap in membership between the BOR and the Saskatoon Licence Appeal Board. It is likewise recommended that there be no overlap between the DAB and the BOR.

Implementation of this option would require resources from the City Clerk's Office and a potential budget adjustment to account for increased compensation payable to DAB members.

The legal implications of this option are the repeal of Bylaw No. 7804 and the inclusion instead of the compensation scheme in Bylaw No. 8770, which requires a bylaw amendment.

Advantages:

- Modernizes the approach to recruitment and updates preferred qualifications to attract a qualified and diverse group of candidates.
- Supports continuous improvement.
- Recognizes the need for qualified DAB members and provides members with resources and knowledge to perform their duties.

- DAB members and individuals who routinely appear before the DAB are provided the opportunity to identify required improvements and provide feedback to enhance the function of the DAB.
- City Council receives feedback to better inform the recruitment process and to implement any required initiatives to improve the function of the DAB.

Disadvantages:

- Increased costs associated with increased compensation and enhanced training offered to members.
- Potential difficulty in attracting members with preferred qualifications.
- Requires a bylaw amendment.

Option 3: Hybrid – Amend some of the Variables: Qualifications, Compensation and Training and Maintain Status Quo of Others

This option proposes to amend some of the variables discussed in this report to improve the functioning of the DAB and maintain others in their current form. There may be financial implications associated with this option depending on the variables to be amended as described under option 1. Similarly, any implementation issues would be managed by the City Clerk's Office in accordance with City Council's direction.

The advantages and disadvantages of this option are reflected in options 1 and 2 as described above and depend on the variables amended.

Municipal Planning Commission

Option 1 Disband the Municipal Planning Commission

This option would result in disbanding the MPC. Repeal of Bylaw No. 3670 would be required to effect this change. There would be no financial implications. City Council would no longer have the benefit of the advice of the MPC with respect to community planning and development issues.

Advantages:

- One less committee on which members of City Council would need to participate on.

Disadvantages:

- City Council would no longer reap the benefit of advice from the MPC.

Option 2: Maintain the Status Quo

This option would maintain the current composition, mandate and function of the existing MPC. Unless the MPC raises specific changes for consideration, no recommendations for change are being brought forward for this committee at this time. Engagement with the Administration supports the continuation of the MPC

in its current form and structure. There are no legal, financial or other implications.

Advantages:

- City Council will continue to receive the benefit of advice from the MPC.

Disadvantages:

- City Council members will continue to sit on MPC.

Option 3: Maintain the Municipal Planning Commission but Remove Member of City Council

This option would maintain the MPC with its current mandate and function but would change the composition to remove the City Council representative. There would be no financial or other implications. Bylaw No. 3670 would require amendment to remove the member of City Council from the composition of the MPC.

Advantages:

- One less committee on which members of City Council would need to participate on.

Disadvantages:

- Potentially disrupt a currently high functioning committee.
- Not consistent with common practice.
- Requires a bylaw amendment.

RECOMMENDATION

That the Governance and Priorities Committee recommend to City Council:

1. That changes to the Development Appeals Board be approved in accordance with Option 2, Amend Qualifications, Compensation, Require Training, Remove the Overlap in Membership between the DAB and BOR and Create a More Robust Recruitment and Performance Evaluation Process;
2. That no changes be made to the Municipal Planning Commission in accordance with Option 2, Maintain the Status Quo;
3. That preferred qualifications advertised for potential appointees to the Development Appeals Board be amended to include:
 - Knowledge of the local development process or land use planning and planning law;
 - An appreciation of the interest of property owners, developers and the public;
 - Previous experience on or with a quasi-judicial or administrative tribunal;
 - The ability to be fair, open-minded and impartial;
 - The ability to conduct themselves with integrity and consistency;

- The ability to interpret and apply relevant statutes and case law to complex situations;
- Knowledge and understanding of Bylaw No. 8770, *The Zoning Bylaw* and *The Planning and Development Act, 2007*; and
- The ability to absorb and analyze complex material information and write comprehensive, intelligible decisions;

4. That the compensation of members appointed to the Development Appeals Board be increased as of January 1, 2025 as outlined in this report;

5. That training for members of the Development Appeals Board be reviewed and applicable orientation/training be mandatory for 2025;

6. That recruitment and performance evaluation documents, including an interview guide specific to the Development Appeals Board be developed for use by the City Agency Recruitment and Evaluation Committee for 2025 appointments;

7. That the City Agency Recruitment and Evaluation Committee Terms of Reference be updated to reflect changes to the DAB recruitment process, including the requirement to interview DAB applicants;

8. That the Terms of Reference for the Development Appeals Board be updated as outlined in this report; and

9. That the City Solicitor's Office be instructed to bring forward any required bylaw or policy amendments.

RATIONALE

Development Appeals Board

The compensation, qualifications and resources available to the DAB have not been reviewed in many years. Considering this, good governance principles and the important legislated function of the DAB, maintaining the status quo with respect to its form and function is the least appealing approach.

Existence of the DAB is mandated, as is its jurisdiction to hear appeals. The P&D Act sets out the mandate of the DAB and contains a comprehensive set of rules governing appeals. Given the prescribed requirements of the legislation, the City has limited ability to affect the function of the board. The recommendations focus on those areas where City Council has authority, and which can serve to improve the governance and function of the board. It is important that members of the DAB receive adequate training and resources to conduct efficient and fair hearings. Further, it is imperative that DAB members have a clear understanding of their legislated mandate and role. Ensuring that DAB member qualifications correspond with this role is important.

The Governance Committee has reviewed the current qualifications as advertised by the City and considered them alongside the requirements in other jurisdictions and the suggested list of qualifications contained in the Guide. Changes are recommended to update and refresh the required qualifications. Amending the qualifications to attract candidates with backgrounds and skillsets suited to planning and development related appeals and familiarity with the quasi-judicial process is intended to ensure that quality decisions are rendered that respect the rules of procedural fairness, the rules of evidence and administrative law principles.

Historically, the level of interest for appointments to the DAB has been low. Making changes, including to DAB member compensation is prudent, with the goal of attracting interest from a qualified and diverse group.

An increase to the remuneration offered to members of the DAB is recommended in line with what City Council has already approved for members sitting on other appeal boards established by the City. As per City Council's direction from September 27, 2023, members of the new Saskatoon Appeal Board will receive the following remuneration:

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

Compensation for members would increase from \$25 for each hearing date attended and an additional \$25 to the member who writes the decision. Services and benefits in accordance with Policy No. C01-003, *Appointments to Civic Boards, Commissions, Authorities and Committees* would continue to be provided, including reimbursement of childcare expenses for scheduled meetings, parking permits and bus tickets and hearing and visual assistance.

The most notable change being recommended to the DAB is the review of orientation and annual training to ensure that new and continuing members have a sound understanding of DAB objectives, purpose and values, including their mandate, enabling legislation, board processes and expectations regarding member conduct. Sharing of the Guide, in addition to the existing Manual refresh, provides a further source of information for members.

Currently, the City imposes no mandatory training requirements; nor are any requirements prescribed in the P&D Act. DAB members have access to independent legal counsel who might be engaged to provide training, in addition to other more general programs offered and required by members of other boards currently serving

the City. It is recommended that the City Clerk's Office review opportunities and arrange for mandatory orientation and training in 2025.

Legal issues may arise during a hearing which require advice from a lawyer. Due to the independence of the appeal process, the City Solicitors Office is not able to provide advice to appeal boards; therefore, the DAB has access and budget for independent legal representation. Within orientation and training materials, this resource should be highlighted.

The overlap of appeal board membership was addressed most recently in the September 27, 2023 report considered by City Council. Therein, the Governance Committee recommended that the overlap between the BOR and Saskatoon Licence Appeal Board members be removed given the highly specialized nature of the BOR. The same reasoning applies as between the DAB and the BOR and the Governance Committee likewise recommends that any overlap in membership between boards and the BOR should be eliminated. Once all entities have been reviewed and the rules for each determined as part of the governance review process, the Governance Committee would bring forward comprehensive amendments to Policy No. C01-003 for City Council approval, which would include consideration of the requirements addressing individuals sitting on more than one committee. There will always remain some flexibility in making the decision to appoint the same individual to more than one civic board, committee, authority or commission, but it would be the intention that this be the exception rather than the rule. The CARE Committee, in its review of applications and making appointment recommendations, can consider overlap issues within the flexibility provided by City Council.

The current composition of five members appears satisfactory for the current function of the DAB and is in line, generally, with other jurisdictions. As there are no significant concerns with achieving quorum that would warrant reconsideration of the size of the membership, no change is being recommended.

In accordance with section 224 of the P&D Act, hearings must be open to the public and the board shall hear parties to the appeal, in addition to any other person affected by the appeal who wishes to be heard in favour of or against the appeal. Appeals before the DAB are quasi-judicial in nature and are premised on the rules of natural justice where parties, and those otherwise affected by the appeal, have a right to be heard. In consideration of the legislation and these principles, the Governance Committee is not recommending introducing a time limit for speakers as was raised as a suggestion by the Administration.

Municipal Planning Commission

The Governance Committee's recommendation is to make no changes to the existing MPC. While the MPC has been in existence for some time, the Administration has reported that there are no existing concerns, and the MPC appears to be functioning well. The MPC operates in an advisory capacity rather than as an appeal board.

Unless there are concerns raised by the MPC for consideration, the Governance Committee is not recommending any changes at this time.

ADDITIONAL IMPLICATIONS/CONSIDERATIONS

Upon City Council direction, the City Clerk’s Office would implement and administer the changes. Should additional human resourcing be required in the long-term, this, along with the financial implications will be identified by the City Clerk’s Office.

Currently, the jurisdiction of the DAB provided in the P&D Act allows the appeal of some City Council decisions to the DAB. For example, section 19 speaks to matters of safety with respect to traffic within and around a site in relation to vehicles and pedestrians. The provision allows for a Council to review the decision of a development appeals officer, with a further right of appeal from the decision of a Council to the DAB. Similar provisions exist in section 59 which address the instance when a Council can confirm the development standards or conditions imposed on discretionary use approval that has been delegated to a development officer, but the Council decision can then be further appealed to the DAB. Likewise, a Council decision refusing a request to remove a holding symbol can be appealed to the DAB (section 71, P&D Act). These provisions create a very unusual and arguably inappropriate circumstance, where the decision of elected officials can be overturned by a board rather than on judicial review to a court, which would typically be how decisions of a Council may be challenged.

City Council could consider whether it wishes to lobby the provincial government for amendments to the P&D Act to avoid these unique situations.

COMMUNICATION ACTIVITIES

DAB and MPC members will be engaged for feedback on this report. Any changes directed by City Council will be communicated to existing members, applicants and representatives appearing before the DAB by the City Clerk’s Office.

APPENDICES

1. Appendix 1 – Development Appeals Board
2. Appendix 2 – Jurisdictional Scan – Planning & Development Related Appeal Boards
3. Appendix 3 – Jurisdictional Scan – Municipal Planning Commissions

Report Approval

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