Minute No. 449
Report – Secretariat Committee – June 15, 2009

Item No. 1 **Amendment to Procedure By-law No. 50/2007 and Development Procedures By-law No. 5893/92 - Quorum for Appeals Committee eFiles GK-4 and EP-1**

COUNCIL DECISION:

Council concurred in the recommendation of the Secretariat Committee and adopted the following:

1. That Procedure By-law No. 50/2007 and Development Procedures By-law No. 5893/92 be amended in regards to appeals hearings so that in cases where one of the members of the committee is disqualified from hearing the appeal due to participation in the original hearing or conflict of interest, that a majority of the other members of the Committee, if not fewer than two, shall constitute a quorum.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Secretariat Committee – June 15, 2009

DECISION MAKING HISTORY:

Moved by Councillor Lazarenko,
That the recommendation of the Secretariat Committee be adopted by consent.

Carried

SECRETARIAT COMMITTEE RECOMMENDATION:

On June 15, 2009, the Secretariat Committee recommended that Procedure By-law No. 50/2007 and Development Procedures By-law No. 5893/92 be amended in regards to appeals hearings so that in cases where one of the members of the committee is disqualified from hearing the appeal due to participation in the original hearing or conflict of interest, that a majority of the other members of the Committee, if not fewer than two, shall constitute a quorum, and submitted the matter to Council.

ADMINISTRATIVE REPORT

ISSUE: Quorum at Appeals

Critical Path: **Council Secretariat**
Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Lemoine	R. Kachur	N/A	N/A

RECOMMENDATIONS

That Procedure By-law No. 50/2007 and Development Procedures By-law No. 5893/92 be amended in regards to appeals hearings so that in cases where one of the members of the committee is disqualified from hearing the appeal due to participation in the original hearing or conflict of interest, that a majority of the other members of the Committee, if not fewer than two, shall constitute a quorum.

IMPLICATIONS OF THE RECOMMENDATIONS

- For committees of Council, quorum is based on the majority of members of the committee. If a vacancy exists on the committee, quorum is based on the majority of the remaining members of the committee.
- Currently when a member of a committee hearing an appeal is disqualified from being part of the process due to participation in the original hearing or a conflict of interest, quorum for the appeal committee becomes the total number of remaining members, and not the majority of the total number of remaining members

- Changing quorum rules for appeal hearings to match those of all other committees will result in far fewer appeals having to be postponed / decisions delayed with no loss of oversight

HISTORY

- The Procedure By-law No. 50/2007 and the Development Procedures By-law No. 5893/92, specify quorum requirements for all committees, including where a committee undertakes an appeal hearing.
- When a member of the committee undertaking an appeal has participated in the original hearing or has a conflict of interest in regards to appeal, they are ineligible to participate as a member of the appeal committee.
- The current legislation states that for all committees, quorum shall be based on a majority of the committee membership and if a vacancy exists on the committee, then quorum shall be based on a majority of the remaining members.
- For committees hearing an appeal however, a member being ineligible does not count as a vacancy. Quorum in this case is not based on the majority of remaining members, but rather is the total number of members remaining on the committee.
- Recently, this has resulted in appeals being delayed, where one member was ineligible and one other member of the committee was unable to attend the appeal hearing due to other commitments or illness.
- At the Appeal Committee meeting of May 21, 2009, Councillor O'Shaughnessy requested that Council Secretariat examine amending the applicable By-laws to allow for quorum for appeal hearings to be based on the majority of the Committee members eligible to hear the appeal.
- Changing quorum rules for appeal hearings to match those of other committees will result in fewer appeals having to be postponed / decisions delayed.
- This will translate into more transparent government and ensure that final decisions are made in real time and not delayed for months due to one committee member's absence.
- Change will standardize quorum rules for all committees, while ensuring that proper oversight continues for appeal committees in terms of quorum.

FINANCIAL IMPACT

Financial Impact Statement

Date:

Project Name:

First Year of Program

	0	1	2	3	4
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

original signed by
Department Controller

CONSULTATION

In preparing this Report there was consultation with:

Legal Services

SUBMITTED BY

City Clerk's Department

Prepared by: M. Lemoine
Date: June 12, 2009
File No.

J:\LIBRARY\REPORTS\090612 - Quorom at Appeal Cmte.doc