Agenda – Council – July 21, 2022

Report – Executive Policy Committee – July 13, 2022

Item No. 5 Board of Revision – Implementation of Audit Recommendations

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 13, 2022, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That, in accordance with the Board of Revision Audit Recommendation 4, the Board of Revision Practices and Procedures Manual be updated to include the Board Order template included in this report as Attachment B.

2. That, in accordance with the Board of Revision Audit Recommendations 13 and 15, the City Solicitor/Director of Legal Services submit directly to Council a by-law to amend the Remuneration of the Members of the Board of Revision By-law No. 7026/97, to reflect the intent of the following:

    A. The Chair of the Board of Revision to receive a monthly stipend in the amount of $2,000 for administrative work performed related to the duties of the position, as outlined in section 2.8 of the Board of Revision Practices and Procedures Manual. The Chair to also be paid at the same rate as other board members when participating in a hearing as of 2022.

    B. The Deputy Chair of the Board of Revision to receive a monthly stipend in the amount of $1,200 for administrative work performed related to the duties of the position, as outlined in section 2.9 of the Board of Revision Practices and Procedures Manual. The Deputy Chair to also be paid at the same rate as other board members when participating in a hearing as of 2022.

    C. The panel hearing Chairs to be paid $60.00 per hour of a hearing or meeting attended as of 2022.

    D. The members of the Board of Revision, who are not the Chair, to be paid $40.00 per hour of a hearing or meeting attended as of 2022.

    E. That renumeration for Board of Revision Members be reviewed every two years and adjusted according to the Canadian rate of inflation, to a maximum of 3%.

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

Report – Executive Policy Committee – July 13, 2022

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 13, 2022, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: Board of Revision – Implementation of Audit Recommendations

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
V. Hutter	M. Lemoine	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

The Board of Revision Audit (Attachment A), submitted to Council on September 29, 2021, contained 17 recommendations to better support Council oversight of the Board, clarify key roles and responsibilities, and enhance performance management and communication.

Recommendation 7, which was to appoint a Deputy Chair, was implemented by Council on May 27, 2021. On March 24, 2022, Council approved amendments to the Board of Revision Practices and Procedures Manual, to address recommendations 1 to 6, and 14 of the of the Audit.

This report is addressing the implementation of the remaining nine recommendations under the purview of the Board of Revision, regarding the evaluation of the Board's performance, decision making process, resources, support and level of remuneration.

RECOMMENDATIONS

1. That, in accordance with the Board of Revision Audit Recommendation 4, the Board of Revision Practices and Procedures Manual be updated to include the Board Order template included in this report as Attachment B.

2. That, in accordance with the Board of Revision Audit Recommendations 13 and 15, the City Solicitor/Director of Legal Services submit directly to Council a by-law to amend the Remuneration of the Members of the Board of Revision By-law No. 7026/97, to reflect the intent of the following:

    A. The Chair of the Board of Revision to receive a monthly stipend in the amount of $2,000 for administrative work performed related to the duties of the position, as outlined in section 2.8 of the Board of Revision Practices and Procedures Manual. The Chair to also be paid at the same rate as other board members when participating in a hearing as of 2022.

B. The Deputy Chair of the Board of Revision to receive a monthly stipend in the amount of $1,200 for administrative work performed related to the duties of the position, as outlined in section 2.9 of the Board of Revision Practices and Procedures Manual. The Deputy Chair to also be paid at the same rate as other board members when participating in a hearing as of 2022.

C. The panel hearing Chairs to be paid $60.00 per hour of a hearing or meeting attended as of 2022.

D. The members of the Board of Revision, who are not the Chair, to be paid $40.00 per hour of a hearing or meeting attended as of 2022.

E. That renumeration for Board of Revision Members be reviewed every two years and adjusted according to the Canadian rate of inflation, to a maximum of 3%.

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

REASON FOR THE REPORT

On September 29, 2021, Council received as information the Board of Revision Audit which contained recommendations to amend the Board of Revision Practices and Procedures Manual to improve the Board of Revision processes, and to increase the level of remuneration provided to Board members.

Amendments to both the Board of Revision Practices and Procedures Manual as well as the Remuneration of the Members of the Board of Revision By-law No. 7026/97 require Council approval.

IMPLICATIONS OF THE RECOMMENDATIONS

The Board of Revision Practices and Procedures Manual will be updated in accordance with the recommendations contained in the Board of Revision Audit submitted to Council on September 29, 2021.

The Remuneration of the Members of the Board of Revision By-law No. 7026/97 will be amended to increase the remuneration for the Chair, Deputy Chair and Board members for the first time in 25 years. Associated costs will be funded through existing appeal fee revenue due to an increase in amount of fees collected related to the number of hearings held; appeal fees will not increase.

HISTORY/DISCUSSION

The Municipal Assessment Act of Manitoba requires Council to appoint a Board of Revision to hear applications for revision (appeals) of property and business assessments. In a typical general reassessment year, which typically occurs every two years, the Board of Revision will hear over 5,000 appeals in a period of approximately six months, representing an approximate total assessed value in excess of $16 billion.

The Municipal Assessment Act further provides that:

> "A board may determine the rules of practice and procedure to govern the conduct of business before the board or a panel of the board, but the rules do not come into force until approved by the council of the municipality."

On July 19, 2017, Council adopted the Board of Revision Practices and Procedures Manual which formalized key processes, procedures, roles and responsibilities and performance management functions for the Board of Revision. Council further directed that a review of the Manual be undertaken five years after its adoption.

The 2019 - 2020 Strategic and Audit Plan submitted to Council on April 25, 2019, indicated that a performance audit of the Board of Revision would be undertaken in 2019 to review the property assessment appeal process by evaluating the quality of information and support provided to the Board, adherence to governing authorities, and communication and consistency of rendered decisions. The findings of the Audit submitted to Council on September 29, 2021, contained 17 recommendations for improvements to the Board of Revision practices and procedures, and one recommendation for the Assessment and Taxation Department to enhance its communication to residents with respect to Assessment Notices.

On March 24, 2022, Council approved amendments to the Board of Revision Practices and Procedures Manual, to address recommendations 1 to 6 and 14 of the of the Audit. Recommendation 7, to appoint a Deputy Chair, was approved by Council on May 27, 2021.

This report is addressing the implementation of the remaining 9 recommendations under the purview of the Board of Revision, including the evaluation of the Board's performance, decision making process, resources, support and level of remuneration. The Board of Revision Audit is attached as Attachment A.

The following is a summary of the remaining Audit Recommendations and the actions being taken to affect their implementation.

Recommendation 8:

We recommend the Appeals Manager and the Chair of the Board develop a process to utilize and analyze the data in AACS (Appeals Application Control System) *to assist with the monitoring of hearings and the evaluation of Board performance. The data in AACS should also be assessed and the Chair of the Board should utilize, at a minimum, the following performance information for targeting the monitoring of board member performance and the performance of the Board:*

- *Board panel Chairs who preside the majority of the hearings;*
- *Decisions made by the Board that have been appealed to the Municipal Board;*
- *Properties that have appealed their assessed value over a number of years.*

Implementation:

Although the AACS does not contain a record of each board members' decision, the Panel members for each hearing are identified in the data. A process will be implemented by the end of the first quarter in 2023 to use the information in AACS as well as the criteria identified in the three bullets above, to assist with the evaluation of Board member performance, including the overall performance of the Board.

Recommendation 9:

We recommend City Clerk's enhance the existing information publicly available to appellants by providing additional information on the Board of Revision's website. The website should include at a minimum, guidance on how to prepare for a hearing with examples of evidence to present, a template to guide appellants with their appeal and information on the opportunity to first contact the Assessment and Taxation Department to discuss the assessed value and resolve through a Revision by Agreement.

Implementation:

The City Clerks Department is continually striving to heighten the level of service provided to citizens, including increasing access to information. The last general reassessment in 2019 saw the introduction of a number of innovations including: the ability to file appeals online, live streaming all hearings and posting all meeting agendas, decisions and videos on the Decision Making Information System (DMIS).

The Board of Revision website has been updated to include instructions on how to prepare for a hearing (Attachment C), as well as a brochure (Attachment D) which outlines the assessment process, including information regarding the opportunity to contact the Assessment and Taxation Department to discuss the assessed value, and potentially revise the assessment, prior to a hearing at the Board of Revision.

Recommendation 11:

We recommend City Clerk's and the Chair of the Board revise the Board Order to include a more detailed reason for the Board's decision. The Board Order should identify, at a minimum, the issue with the assessment, the key information presented by the assessor and the appellant, the information relied on in the decision making process including how the Board panel made their decision and what information they considered or did not consider.

The City Clerk update the Board of Revision Practices and Procedures Manual with the additional information and a Board Order template and recommend the Board Manual update to Council for approval.

Implementation:

The Board of Revision Order previously contained most of the information indicated above but has been updated to include a section for the hearing panel to include a more detailed reason for their decision. The Order template (Attachment B) will be added to the Board of Revision Practices and Procedures Manual. Board members will receive training in order to complete the order in accordance with the recommendation going forward.

Recommendation 12:

We recommend City Clerk's identify preferred qualifications, experience or knowledge in property or business assessment, property appraisal, real estate or law as part of the Boards and Commissions annual recruitment process for the Board of Revision.

Implementation*:*

Appointments to the Board of Revision are made annually through the Boards and Commissions application process. Each board being advertised for appointments includes a webpage which provides a brief description of their role, composition, jurisdiction and qualifications for appointments.

The webpage for appointments to the Board of Revision, as well as the Board of Revision webpage, have been updated to indicate the preferred qualifications for board members includes experience or knowledge in property or business assessment, property appraisal, real estate or law (Attachment E).

Recommendations 13:

We recommend City Clerk's review and recommend an increase to the remuneration of the Board Chair and Board members. The recommended remuneration should align with the requested qualifications and experience for Board members as well as the roles and responsibilities as described in the Boards Practices and Procedures Manual. City Clerk's should review and consider the remuneration rates in other jurisdictions for comparison.

Implementation:

The remuneration for Board members has remained unchanged for 25 years, with the remuneration by-law last being adjusted in 1997. As per the Bank of Canada, inflation since 1997 is approximately 67%. As the by-law becomes older and inflation increases, it becomes more and more difficult to attract and retain board members who have the skills and aptitudes to adjudicate appeal hearings as required by legislation and in the appropriate manner. Failure to attract and retain board members to make appropriate decisions opens the City both to legal challenges and potential significant fiscal impacts due to incorrect decisions affecting the assessment and tax rolls.

The Board of Revision conducts approximately 380 hearings annually, with the average time of each hearing being about three hours, and pay being equivalent to four hours. Each hearing consists of a panel of three members which includes the Chair and two other Board members. Panel hearing chairs receive $75.00 for every two hours of a hearing attended, while other Board members receive $50.00. The average total salary cost for a board panel per hearing is $350.

The results of the cross jurisdictional scan, conducted as part of the audit (Attachment F), indicates that the rates of compensation differ greatly. Some pay their assessment appeal boards an annual salary while others pay by the day or half day of work. As previously mentioned, Board of Revision members are currently paid for every two hours worked. In order to provide a better comparison, the Audit broke down the rate of pay to an estimated hourly rate. The results show that, *"the Chair of the Board as well as the board members in Winnipeg have the lowest remuneration rates."* The remuneration of other assessment appeal hearing boards ranges from $40.00 to $61.46 per hour. The low end of the range, at $40 per hour, is still 60% more than the rate paid by the City of Winnipeg. Accordingly, in order to bring the rate of pay for Board of Revision members in line with other jurisdictions and make it directly reflective of time worked, this report is recommending that that the remuneration for Board members be amended as follows:

- Chairperson of a panel hearing $60.00 for every hour of a hearing or meeting attended.

- Members of the Board of Revision $40.00 for every hour of a hearing or meeting attended.

The change in the rate of pay will increase the cost of an average 3 hour hearing by $70.00, going from $350.00 to $420.00. This equates to an annual increase of approximately $26,600.

This change does not require a budget increase, as it can be funded directly through existing budgets and assessment appeal fees. The number of appeals received is directly related to amounts required for remuneration.

In order to keep the rate of pay for the Board current, this report is also recommending that renumeration for Board of Revision Members be reviewed every two years and adjusted according to the Canadian rate of inflation, to a maximum of 3%. Any future increases would also be funded through existing budgets and assessment appeal fees.

Recommendations 15:

We recommend City Clerk's seek Council approval for the monthly stipends paid to the Chair and the Deputy Chair and recommend the appropriate revisions to the By-law to Council for approval.

Implementation:

In addition to participating in hearings, both the Chair and Deputy Chair of the Board of Revision perform administrative duties including providing training, evaluation and ongoing support of other Board members, monitoring hearings and reporting annually to Council on the Board's performance. As a result, a stipend was established in 2016 for the positions, for the performance of these duties, with the Chair receiving $16,000 and the Deputy Chair receiving $10,000 annually. In addition, both the Chair and Deputy Chair are also paid at the same rate as other board members, when participating in hearings.

As previously stated, the cross jurisdictional scan conducted as part of the audit, (Attachment F), shows that the rate of compensation for Chairs of similar assessment appeal hearing boards varies greatly. This is likely attributable to some boards hearing appeals on a part time basis, while others are full time. In an effort to attempt to provide more equitable comparison of rates of pay, the audit breaks down the compensation paid to Chairs to an hourly basis. The results show that the rate of pay ranges from $53.13 to $104.17 per hour, as opposed to the $8.33 currently paid to the Board of Revision Chair in Winnipeg.

Similarly, although seemingly not a prevalent position in other jurisdictions, the rate of pay for Deputy Chairs ranges from $59.38 to $74.48 per hour as opposed to the $5.23 currently paid to the Board of Revision Deputy Chair.

Accordingly, this report recommends that the remuneration for Board Chair and Deputy Chair be established as follows:

- Chair of the Board of Revision will receive a monthly stipend in the amount of $2,000 for administrative work performed related to the duties of the position, as outlined in section 2.8 of the Board of Revision Practices and Procedures Manual. The Chair to also be paid at the same rate as other board members when participating in a hearing as of 2022.

- Deputy Chair of the Board of Revision will receive a monthly stipend in the amount of $1,200 for administrative work performed related to the duties of the position, as outlined in section 2.9 of the Board of Revision Practices and Procedures Manual. The Deputy Chair to also be paid at the same rate as other board members when participating in a hearing as of 2022.

The proposed increase to the monthly stipend may be viewed as minimal, however, both positions will receive additional compensation when participating in hearings.

The increase in the monthly stipend to the Chair and Deputy Chair will result in a combined increase of $12,400 annually. This change does not require a budget increase, as it can be funded directly through assessment appeal fees.

In order to keep the rate of pay for the Board current, this report is also recommending that these stipends be reviewed every two years and adjusted according to the Canadian rate of inflation, to a maximum of 3%. Any future increases would also be funded through existing budgets and assessment appeal fees.

Recommendation 16:

We recommend the Appeals Manager enhance the existing Board Clerks training material to include the role of the Board of Revision, the Board of Revision appeal process and the Board Clerks' role and responsibilities.

Implementation:

The Board Clerks training materials were updated in April of 2022 to include descriptors of the role of the Board of Revision, the Board of Revision appeal process and the Board Clerks' role and responsibilities.

Recommendation 17:

We recommend the Appeals Manager conduct formal performance evaluations of, at a minimum, the Board Clerk Bs.

Implementation:

Formal evaluations of the Board Clerks will be conducted annually at the conclusion of each assessment appeal cycle.

Recommendation 18:

We recommend City Clerk's review and evaluate the role of the Board Clerk sitting in during the hearings and consult with the Chair of the Board on the role of the Board Clerks in the hearing to ensure these resources are used effectively and efficiently.

The City Clerk report to Council on the decision made to continue or to revise the practice of the Board Clerks attending the hearings.

Implementation:

The City Clerk's Department has reviewed the recommendation and determined that Board Clerks are required to enable the process and procedure of hearings.

The Board Clerk B's have a thorough knowledge of the assessment appeal hearing process. Before a hearing commences, the Board Clerks are required to swear in both the appellants and members of the Winnipeg Public Service. During hearings,

the Clerks are responsible for distributing rebuttal evidence to individuals participating in person and / or remotely.

In addition to their role relating to compliance with the Legislation and the Rules and Procedures Manual, the Board Clerk is exclusively responsible for the audio / visual requirements during hearings. This includes facilitating the live streaming of hearings on YouTube and managing the remote participation of panel members, appellants and members of the Winnipeg Public Service, through Zoom and in person.

Outside of the hearing process, the Board Clerk Bs prepare and distribute the agenda, complete Orders (decisions) rendered by the Panel, maintain files in the AACS system, collect and compile evidence packages for distribution to the hearing participants at the hearing and answer questions from the appellants.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 22, 2022

Project Name:

Board of Revision – Implementation of Audit Recommendations

First Year of Program **2022**

	2022	2023	2024	2025	2026
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	$ 19,500	$ 39,000	$ 44,940	$ 44,940	$ 51,058
Less: Incremental Revenue/Recovery	19,500	39,000	44,940	44,940	51,058
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

Direct costs represent the increase to the remuneration of the Board Chair, Deputy Chair and members beginning in July 2022, as outlined in the report. The costs will be funded through existing appeal fee revenue due to an increase in amount of fees collected related to the number of hearings held, appeal fees will not increase as a result of these recommendations. An adjustment to the Board of Revision operating budget will be required to reflect additional revenue and expenditures.

Costs have been adjusted to include a 3% rate of inflation increase in 2024 and 2026.

Jocelyn Peters - June 22, 2022

Jocelyn Peters, CPA, CGA
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with:

- Chair and Deputy Chair of the Board of Revision

OURWINNIPEG POLICY ALIGNMENT

The recommendations contained in this report align with OurWinnipeg Goal to provide Leadership and Good Governance.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

N/A

SUBMITTED BY

Department: City Clerk's Department
Division: Board of Revision
Prepared by: V. Hutter, Appeals Manager
Date: June 23, 2022
File No: N/A

Attachments:

ATTACHMENT A: -Board of Revision – Board of Revision Audit

ATTACHMENT B: Board of Revision Order template

ATTACHMENT C: Online instructions on how to prepare for a hearing

ATTACHMENT D: Assessment and taxation Brochure outlining the assessment process

ATTACHMENT E: Preferred Qualifications for Members

ATTACHMENT F: Cross Jurisdictional Review of Board Members Remuneration (Extract of Audit Report Page 80)