Agenda - Council - March 23, 2005

Report - Executive Policy Committee - March 9, 2005

Item No. 5 Amendments to Board of Adjustment By-law No. 5894/92
File GK-12

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 9, 2005, the Executive Policy Committee concurred in the administrative recommendation and submits the following to Council:

1. That the Board of Adjustment By-law No. 5894/92 be amended as outlined in Appendix A.

2. That the City Solicitor/Manager of Legal Services be directed to prepare the necessary amending By-law in accordance with the foregoing for submission to Council.

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 - March 9, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 9, 2005, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

Report

Re: Proposed Amendments to Board of Adjustment By-law No. 5894/92

For Submission To: **Executive Policy Committee**

Original Report Signed By: **R. Kachur, City Clerk**

Report date: **December 6, 2004**

Recommendation(s):

1. That the Board of Adjustment By-law No. 5894/92 be amended, as outlined in Appendix A.

2. That the City Solicitor/Manager of Legal Services be directed to prepare the necessary amending By-law in accordance with the foregoing for submission to Council.

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

Report Summary

Key Issues:

- Practices and procedures of the Board of Adjustment are specified by By-law.

- Changes to the these practices and procedures are required to allow for changes in technology in the area of recording hearings, and to allow greater flexibility in where and when hearings are held.

Implications of the Recommendation(s):

General Implications

X None

☐ For the organization overall and/or for other departments

☐ For the community and/or organizations external to the City of Winnipeg

☐ Involves a multi-year contract
Comment:

Policy Implications

X No

☐ Yes

Comment:

Environmental Implications

X No

☐ Yes

Comment:

Human Resource Implications

X No

☐ Yes

Comment:

Financial Implications

X Within approved current and/or capital budget

☐ Budget adjustment required

Report

Reason for the report:

The practices and procedures of the Board of Adjustment are laid out in By-law 5894/92. Many of the practices and procedures specified are very prescriptive, including detailing the date, time and locations at which meetings are to be held. In the interest of efficiency and the continuous need to review and improve processes and procedures, a list of proposed changes to the practices and procedures of the Board of Adjustment is being recommended, including the ability for the Board to set meeting locations and dates as is appropriately dictated by the issue at hand.

History & Discussion:

With the passage of Bill 35 (2nd Session, 35th Legislature), the City was required to pass procedural By-laws governing land use regulation procedures, including a By-law to provide for the appointment of members and the functions of the Board of Adjustment, which would convene public hearings on Conditional Use and Variance applications Accordingly, Council passed The Board of Adjustment By-law No. 5894/92 on March 4, 1992.

When the City of Winnipeg Charter came into effect on January 1, 2003, it allowed the City to create a planning commission, which would undertake the duties of the Board of Adjustment. While the review and development of a planning commission continues, implementation is not considered imminent.

Since April 9, 1992, the Board of Adjustment has been conducting public hearings once a week during the evening at 300 Assiniboine Avenue, and to-date has convened 616 meetings and considered more than 7,000 Variance and Conditional Use applications. However, since 1999, the Board of Adjustment has seen a steady decline in the amount of Conditional Uses and Variances applications it considers.

The Board has gone from hearing an all time high average of 14.8 applications per meeting in 1999, to an average of 7.8 applications per meeting in 2004. Consequently, it would be prudent to review the Board of Adjustment By-law and recommend appropriate amendments to improve the efficiency of the approval processes and service provided by the Board. Suggested changes are detailed below.

Schedule and Location of Meetings

Section 12 of The Board of Adjustment By-law states that:

"12. The board shall conduct public hearings on applications **in the community offices, 300 Assiniboine Avenue, once a week during the evening** or at such other locations and times as the chairperson of the board determines from time to time."

The decrease in amount of applications heard by the Board has translated into a reduction of the length of meetings. In 2004 the average meeting time has been less than 1 hour and 15 minutes. As opposed to 2 hours and 40 minutes in 1999.

The Board members are paid a set remuneration for the first four hours of each meeting with an hourly stipend for each additional hour. If the Board were to meet bi-weekly there would be an approximate savings of $8,700 in salaries. Furthermore, with a bi-weekly meeting schedule a Planner would be present at all Board meetings as opposed to every second meeting, as is the current practice. This will reduce the amount of adjournments, as many adjournments are a result of the Board requiring additional information or clarification of the application, which could be provided by the Planner.

The requirement that the Board conduct public hearings at 300 Assiniboine Avenue in the evenings does not adequately provide for flexibility for future meetings. Notably, the Council Building may provide more suitable facilities, vis-à-vis transportation of equipment, access to computers and the Decision Making information System, supplies as well as cost savings on maintenance and security.

It is therefore recommended that Section 12 of the Board of Adjustment By-law be amended to allow the Board to conduct public hearings, at such locations and times as provided for by the City Clerk.

Recording of Public Hearings

Section 11 of The Board of Adjustment By-law requires that Board of Adjustment hearings be recorded by “audio tape” so as to provide a record of comments and decisions made at a particular hearing.

“11.(1) The secretary of the board with such support staff as is provided by the city clerk shall maintain the records of the board, carry out correspondence, attend, record by **audio tape** and process hearings and decisions of the board, prepare and issue orders setting out decisions of the board and perform generally all administrative functions required in the operation of the board.

11.(2) The **audio tape** referred to in (1) shall be retained by the Secretary of the Board until such time as the period in which to appeal the Order of the Board has expired, or until the matter has been considered and resolved by the Appeal Committee.”

The City Clerks Department is currently in the process of updating its entire audio and visual media to digital format. The reference to “audio tape” in Section 11. (1) and (2) limits the type of audio recording that may be utilized. It is therefore recommended that Section 11. (1) and (2) be amended by deleting the reference to “audio tape.”

IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH:
Planning and Land Use Branch
Legal Services Division
Zoning and Permits Branch

THIS REPORT SUBMITTED BY:
The City Clerk’s Department

Financial Impact Statement:

Project Name:

Date: 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: There are no budgetary implications associated with this report

Marc Lemoine

Department Controller

Appendix 1

Proposed Amendments to Board of Adjustment By-law No. 5894/92

1. Amend Section 11. (1) by deleting the words “record by audio tape” and substituting them with the words “create an audio recording of”.

2. Amend Section 11. (2) by deleting the word “audio tape” and substituting it with the word “recording”.

3. Repeal Section 12. in its entirety and substitute with the following:
“12. The Board shall conduct public hearings on applications at such locations and times as may be scheduled by the City Clerk.”

Appendix 1

Proposed Amendments to Board of Adjustment By-law No. 5894/92