

**Subject: Subdivision and Development Appeal Board - Special Panel Member Appointments****APPROVALS:****Annette Antoniak**\_\_\_\_\_  
Director\_\_\_\_\_  
Chief Administrative Officer**Recommended Motion:**

THAT Mark Young, Kathy Cherniawsky, Gwen Harris, Lyall Pratt, Elaine Solez and Brian Gibson (alternate) be appointed as members of the Subdivision and Development Appeal Board Special Panel for the purpose of hearing appeals related to files SDAB 2018-001 and SDAB 2018-002, with the term of appointment expiring when all matters related to files SDAB 2018-001 and SDAB 2018-002 conclude;

THAT remuneration rates for the SDAB Special Panel Board Members be set in accordance with Attachment 2 (excerpt from City of Edmonton Bylaw No. 18307); and

THAT travel expenses incurred in relation to activities of the Special Panel be reimbursed in accordance with municipal policy for employees of the Regional Municipality of Wood Buffalo.

**Summary and Background:**

Under the authority of the *Municipal Government Act*, Council has enacted a Subdivision and Development Appeal Board Bylaw that establishes the Subdivision and Development Appeal Board to hear appeals regarding decisions made by the Regional Municipality of Wood Buffalo subdivision and development authorities.

At a Subdivision and Development Appeal Board ("Board") appeal hearing held on Thursday, April 19, 2018, upon opening the hearings an allegation of bias was put forward against all the members of the Board present that evening. On that basis, the hearing was adjourned to enable the Board to review and consider the allegations and to render a decision.

As a result, the members of the Board that were present at that hearing decided to recuse themselves for the two appeals in question in order to protect the integrity of the hearing process. The members of the Board have indicated that they do not feel there

is actual bias on their part and that they could conduct the hearings fairly and equitably; however, the Board also recognizes that the parties to the appeal must be confident in the impartiality of the Board and that a reasonable person could perceive that a bias exists.

The decision of the Board to step aside necessitates the establishment of a special panel to hear the aforementioned appeals. Because of the specialized nature of the appeals, the City of Edmonton was approached to recommend suitably qualified members from their Board that would be willing to hear the two appeals (biographies attached).

Section 3.6 of Bylaw 93/033 - Subdivision and Development Appeal Board Bylaw states that *“Extraordinary circumstances as in the case of conflict shall permit Council, by resolution, to appoint a board for the purpose of hearing an appeal”*.

After careful analysis of each of the suggested City of Edmonton Board members, it is recommended that Mark Young, Kathy Cherniawsky, Gwen Harris, Lyall Pratt, Elaine Solez and be appointed to the Special Panel, and Brian Gibson as an alternate member who would serve if either of the special panel members are unavailable.

As the City of Edmonton Board members are compensated for their time serving on the City of Edmonton's Subdivision and Development Appeal Board, it is requested that remuneration be paid in accordance with the rates set out in the City of Edmonton's Bylaw (Attachment 2). These rates would apply to time spent in hearings, deliberating, preparing the Board decision, and any required travel

#### **Budget/Financial Implications:**

It is anticipated that the net cost of hearing this appeal will be \$12,000-\$15,000, inclusive of all travel and remuneration. This amount can be absorbed within the existing budget allocation for administrative tribunals, as there has been an overall reduction in the number of appeals received to date in 2018.

#### **Rationale for Recommendation:**

Administration is recommending the appointment of the members from City of Edmonton for the sole purpose of hearing files SDAB 2018-001 and SDAB 2018-002. The members have confirmed their interest and availability. Appointment of these members will ensure that the Regional Municipality of Wood Buffalo is able to proceed with scheduling the appeal hearings for SDAB 2018-001 and SDAB 2018-002 in accordance with legislation.

#### **Strategic Priorities:**

Responsible Government

**Attachments:**

**1. Edmonton SDAB Board Member Biographies**

**2. Remuneration**