



MINUTES

PROPERTY STANDARDS COMMITTEE BUSINESS MEETING

THE CORPORATION OF THE CITY OF MISSISSAUGA

MONDAY, OCTOBER 29, 2012 – 9 A.M.

COMMITTEE ROOM A

SECOND FLOOR, CIVIC CENTRE

300 CITY CENTRE DRIVE, MISSISSAUGA, ONTARIO, L5B 3C1

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MEMBERS PRESENT: Tony Jasinski, Citizen Member (CHAIR)
Steve Nanan, Citizen Member (VICE CHAIR)
Debbie Willchuk, Citizen Member (arrived at 9:12 a.m.)
Merle Zoerb, Citizen Member

MEMBERS ABSENT: George Shalamay, Citizen Member

STAFF PRESENT: Mary Ellen Bench, City Solicitor
Steve Dickson, Legal Counsel
Michael Foley, Supervisor, Compliance and Licensing Enforcement
Crystal Greer, Director of Legislative Services and City Clerk
Ian Masini, Supervisor, Compliance and Licensing Enforcement
Charlene Perrotta, Manager, Prosecutions
Diana Rusnov, Manager of Legislative Services and Deputy Clerk
Karen Spencer, Advisor, City Strategy and Innovations, City
Manager's Office

CONTACT PERSON: Julie Lavertu, Committee Secretary, Property Standards Committee
Office of the City Clerk, Telephone: 905-615-3200, ext. 5471; Fax: 905-615-4181

Julie.Lavertu@mississauga.ca

**NOTE: The Committee changed the order of the Agenda during the meeting.
These Minutes reflect the order of the meeting.**

CALL TO ORDER – 9:10 a.m.

DECLARATIONS OF DIRECT (OR INDIRECT) PECUNIARY INTEREST

APPROVAL OF AGENDA

MATTERS CONSIDERED

1. Approval of Minutes of Previous Business Meeting

Minutes of the meeting held on February 3, 2012.

Carried (M. Zoerb)

2. Approval of Minutes of Previous Business Meeting

Minutes of the meeting held on July 30, 2012.

Carried (S. Nanan)

PRESENTATIONS/ DEPUTATIONS

- A. Item 3 Karen Spencer, Advisor, City Strategy and Innovations, City Manager's Office, with respect to the City Committees of Council Structure Review.

Ms. Spencer discussed the background, goals, and timelines of the Review. She said that 23 Committees are being reviewed at the same time, that she is working closely with the Office of the City Clerk, that all facets of Committee operations are being reviewed (e.g., budgets, subcommittees, administrative processes, mandates, connection with the City's Strategic Plan and overall priorities, membership, terms of reference, etc), and that the Review is expected to take 6-8 months and would report to the Governance Committee with its recommendations in March or April 2013. She added that public input is being done by canvassing current Citizen Members via an 10-minute online survey and encouraged Citizen Members to share their comments and ideas. Ms. Spencer noted that three Citizen Members are also on the Committee of Revision and welcomed any feedback regarding their experiences with the latter and/or the City's other Committees.

Ms. Willchuk arrived at 9:12 a.m.

The Committee dealt with Item 3 at this time.

3. City Committees of Council Structure Review

Overview from Karen Spencer, Advisor, City Strategy and Innovations, City Manager's Office, with respect to the City Committees of Council Structure Review.

In response to the Chair, Ms. Spencer said that the Review's recommendations regarding the City's various Standing and Advisory Committees would be considered by the Governance Committee in March or April 2013 and implemented in November 2014 for the next term of Council. She added that the Review's Steering Committee is discussing how to advise Citizen Members about the above-noted recommendations so that they are aware about the Review's outcomes and next steps and can remain informed.

Motion

That the overview from Karen Spencer, Advisor, City Strategy and Innovations, City Manager's Office, with respect to the City Committees of Council Structure Review be received.

Carried (M. Zoerb)

4. Proposed Revisions to the Property Standards Committee's Rules of Practice and Procedure

Committee members and staff discussed the Property Standards Committee's Rules of Practice and Procedure and proposed revisions and the meaning of particular Rules:

Rule 1: Application and Definitions

The Chair suggested that the list of definitions, including "Committee," be organized in alphabetical order for clarity and quick reference purposes.

Rule 2: Committee Meetings and Chair

The Chair requested clarification regarding Rule 2.2 (2) and, specifically, the rationale for including the reference to the Chair and/or Vice Chair's absences as being due to "illness or otherwise." He suggested that the reasons for their absences should be removed from this section. Ms. Greer said that the above-noted wording is consistent for all of the City's Committees and covers situations where the Chair and/or Vice Chair cannot attend meetings and perform their usual responsibilities due to various reasons, including illness.

Rule 3: Notice Requesting An Appeal

The Chair asked that “fax number” be replaced with “email address” in Rule 3.1 (2c), noting that fax machines are now seldom used. He also discussed Rule 3.1 (2d) and asked for clarification regarding why the appeal fee is non-refundable, noting that the City could wrongfully issue Property Standards Orders (PSOs), that the lack of refunds is unfair to appellants, especially those with limited financial means and without legal representation, and that appellants who win their appeals with the Committee would likely have to appeal to the Ontario Court of Justice to obtain a refund. The Chair suggested that a process be established to permit refunds in circumstances where the City acted wrongly.

Ms. Greer discussed the non-refundable appeal fee and said that the City operates on a cost recovery model and that the fee is intended to cover Hearing-related costs. Ms. Bench said that Council’s decision regarding the fee-based appeal process is consistent and standard procedure for municipalities and tribunals. Ms. Greer and Ms. Bench said that individuals seeking refunds for their appeals could make a deputation to Council.

Ms. Rusnov asked about the number of appellants who have requested refunds in the past due to errors by City staff in issuing PSOs and whether this matter needs to be reviewed. The Chair said that this situation has not yet arisen, but that it could be prohibitive for residents to launch appeals in the first place. Ms. Greer and Mr. Masini said that the City has charged appeal fees for at least six years and that these fees have steadily increased.

Rule 4: Notice of Hearing

Mr. Zoerb discussed Rule 4.4 (1) and asked if parties had ever not attended their own Hearings as per this Rule. Mr. Dickson responded that this matter is consistent with the *Statutory Powers Procedures Act (SPPA)* which the Committee’s Rules are drawn from.

The Chair suggested that a definition of “person” be added to Rule 1.1 for clarity and quick reference purposes.

Rule 5: Serving and Filing Documents

The Chair suggested that Rule 5.2 (2c) be revised to include “email transmissions.”

In response to the Chair, Ms. Greer discussed Rule 5.2 (3) and the reference that “documents delivered after 4 p.m. shall be deemed to have been delivered on the next day that is not a holiday.” Ms. Bench said that 4 p.m., rather than hours of service, is a good definitive guideline, as the latter may change from time to time due to various reasons.

Rule 6: Time, Rule 7: Motions, Rule 8: Adjournments, and Rule 9: Disclosure

Committee members and staff had no comments or changes regarding the above Rules.

Rule 10: Witnesses

Ms. Perrotta discussed the oath and solemn affirmation that are most commonly used at the Ontario Court of Justice which Ms. Lavertu had emailed to Committee members. The Chair asked that Rule 10.1 be amended to state that the Committee Secretary administers oaths or affirmations for the purpose of any of the Committee's proceedings and said that the Committee would use the oath and solemn affirmation provided by Ms. Perrotta.

The Chair discussed Rule 10.3 (2) and requested clarification regarding its meaning and context. Ms. Greer said that it may be necessary for the Committee to go into Closed Session to receive legal advice and/or to discuss personal information and that Hearings could be closed to the public in certain circumstances. Ms. Bench discussed Rule 10.3 (2) and circumstances where it would be applied (e.g., when an individual is intimidated by a person present at the Hearing and does not want them to be present when they are giving evidence). In response to the Chair, she also discussed the differences between Rule 10.3 (2) and recesses and Closed Sessions which can also be used by the Committee.

Ms. Greer advised that the Committee Secretary should ensure that Hearing Rooms do not contain any recording devices (e.g., BlackBerries, cell phones, etc.) when persons are asked to leave Hearings or a portion thereof that is closed to the public.

The Chair requested clarification regarding Rule 10.4 (3) and, specifically, why the summons shall be signed by the Committee's Chair. Ms. Perrotta explained the latter and said that, in this situation, the Chair has the same role as a Judge or Justice of the Peace because the Chair represents the Committee which is an adjudicative body.

Mr. Zoerb requested clarification regarding Rule 10.4 (11). Ms. Perrotta discussed the latter and its connection with Rule 10.4 (10) and noted that she had never seen it occur.

Rule 11: Evidence

The Chair requested clarification regarding Rule 11.1 (2a). Mr. Dickson explained that the latter states that nothing will be allowed as evidence in Hearings that would not be allowed as evidence in Court. Ms. Bench discussed situations where Rule 11.1 (2a) would apply, such as those involving landlords and tenants and the inadmissibility of evidence.

Rule 12: Hearings

Mr. Zoerb requested clarification regarding Rule 12.1 (1a). Mr. Dickson discussed the latter and said that the Committee's Rules are as broad as the *SPPA* and may not apply in all circumstances. In response to Mr. Zoerb, Ms. Greer discussed matters involving public security (e.g., the location of properties with chemical grow-ups or toxic materials) and public safety (e.g., the Committee Secretary will request that security staff be present during particular Hearings due to specific circumstances) issues.

The Chair discussed Rule 12.2 and suggested that “Party” be defined in the definitions in Rule 1.1 for clarity and quick reference purposes.

The Chair requested clarification regarding Rule 12.6 (2) (3) and asked why qualified verbatim reporters are allowed to record all testimony and submissions during Hearings. Ms. Bench discussed the latter and said that qualified verbatim reporters are seldom used at Hearings, as they are very costly, but that this provision is drawn from the *SPPA*. Ms. Perrotta noted that verbatim reporters must be qualified so that the recording quality is protected. Ms. Greer discussed the purpose of Rule 12.6 and the need for the City to include procedures regarding the recording of Hearings in the Committee’s Rules as per the *SPPA*. The Chair requested that the Committee Secretary provide the Committee with the *SPPA* for reference purposes. Ms. Lavertu said that she would email the *SPPA* to Citizen Members and Ms. Spencer, as per their request, following the Business Meeting.

Rule 13: Hearing Procedures

The Chair requested that Rule 13.1 (1) be amended from “the Chair reads an opening statement ...” to “the Chair provides an opening statement ...”

The Chair requested clarification from Ms. Lavertu regarding Rule 13.1 (2). Ms. Lavertu discussed the latter and said that this information is included in the Hearing’s agenda.

The Chair and Vice Chair requested clarification regarding Rule 13.5 and said that it is helpful for the Committee to know who is present at Hearings and that appellants may have objections to certain persons being present. Ms. Bench discussed the latter and its applicability to the Committee’s Hearings. She noted that the Committee has no legal ability under the *Municipal Act* or the *Municipal Freedom of Information and Protection of Privacy Act* to ask individuals present at Hearings to identify themselves, as Hearings are public meetings and everyone has a right to attend. Ms. Bench added that individuals that are not parties to appeals who are asked by the Committee to identify themselves could appeal this matter or complain to Council and jeopardize the City’s processes. She added that the Committee Secretary can contact security staff during Hearings if there are concerns from Citizen Members, staff, or others in attendance regarding public safety.

The Chair requested clarification regarding Rule 13.6, noting that the City has usually presented its appeals first, followed by appellants. Ms. Bench discussed the latter, stating that the City would generally present its case first, followed by appellants. Ms. Perrotta discussed Rule 13.6 vis-à-vis a court decision in Hamilton where it was suggested that, in some situations, appellants should present their evidence first, followed by municipalities.

The Chair discussed Rules 13.6, 13.7, 13.8, and 13.9 and suggested that the Committee should question staff, appellants, and associated witnesses last. He also discussed the overall advantages and disadvantages of the current and proposed presentation of appeals.

The Chair and Mr. Zoerb requested clarification regarding Rule 13.10 (1) and the reasons why the Committee would solicit representations from others. Ms. Bench said that this scenario rarely occurs and that the Committee should not solicit or invite individuals to make representations unless individuals come forward themselves requesting to make representations before the Committee pertaining to the matter.

Mr. Zoerb requested clarification regarding Rule 13.12 (1) and the Committee's option to reserve its decision. Ms. Perrotta discussed the latter and its meaning.

The Chair discussed Rule 13.12 and noted that there is no provision in the Committee's Rules for dissenting decisions from Citizen Members. He suggested that the Rules should outline a provision for dissenting decisions to provide Citizen Members with this option when they feel particularly strongly regarding a matter. Ms. Bench noted that dissenting reasons from Citizen Members could be included in the Committee's decision. Ms. Greer said that Rule 13.12 (1) would be revised to state the following: "A Committee Member may request that their dissent with reasons be included in the decision."

The Chair discussed Rule 13.13 (1) vis-à-vis the identification of persons that are parties to appeals. Ms. Bench noted that only those who are notified of Hearings and/or appear before the Committee receive the decision, but that the decision is also available online.

Rule 14

Committee members and staff had no comments or changes regarding the above Rule.

5. Proposed Best Practices for the Property Standards Committee

Committee members and staff discussed proposed Best Practices for the Property Standards Committee. The Chair gave an overview of the proposed Best Practices and said that they are guidelines for Citizen Members, staff, and Committee operations.

Recent Photographs of Properties Considered at Hearings

Ms. Bench discussed the above-noted Best Practice and emphasized that City staff have no right or ability to take recent photographs of properties that will be considered at Hearings, aside from seeking a warrant, but that staff will make best efforts to obtain photographs, one week or less prior to Hearings, as requested by the Committee. She added that the issuance date on the PSO is the date of violation and that the photographs taken on this date relate to the Notice of Appeal and should be the Committee's focus.

The Chair discussed the challenge of evaluating PSOs with stale photographs and the need for the Committee to be provided with recent photographs, where possible, to ascertain the current state of properties. The Vice Chair noted that appellants could

supply the Committee with recent photographs to demonstrate compliance with PSOs.

Ms. Perrotta discussed the matter and emphasized the need for the Committee to focus on the photographs taken when PSOs are issued. She noted that appellants are responsible for demonstrating to the Committee, via photographs and/or other means, that they have improved their properties since PSOs were issued and that most appellants will readily take and bring photographs to Hearings for the Committee's information and review.

Hearings Regarding Time Extensions

The Chair discussed past Hearings where appellants have requested time extensions and the possibility of fast-tracking such requests outside of Hearings so that the Committee would not need to convene. He added that such an approach would reduce the workloads and time of Committee members and staff, be more efficient overall, and enable the Committee to "rubber stamp" decisions once the consent of both parties is obtained. Mr. Zoerb said that, within such an approach, Hearings could still be scheduled if and when appellants do not comply with PSOs by the agreed-upon time extension.

Ms. Perrotta discussed the *SPPA* and Rule 12.5 vis-à-vis the Chair's concern. She noted that there is no option in place for time extensions to be handled without the Committee convening Hearings, that Hearings are costly when only time extensions are being sought, and that she would review this matter to determine if an alternative approach is possible. Ms. Greer said that Rule 12.5 regarding the disposition of proceedings without a Hearing could be amended to outline a process where both parties would consent to a 30-day time extension which would then form the basis of the Committee's decision. She said that staff would draft an amended Rule 12.5 and email it to the Committee for their review.

Notice of Appeal Filings by Occupants

At this point, the Chair asked that staff ensure that occupants, including adult children, who file appeals on behalf of property owners are authorized to do so. Mr. Dickson said that he is working with the Committee Secretary to develop a form to address this matter.

Motion

1. That the Property Standards Committee's Rules of Practice and Procedure be approved as amended during the Committee's Business Meeting on October 29, 2012; and
2. That the Property Standards Committee's Best Practices be approved as presented during the Committee's Business Meeting on October 29, 2012.

Carried (S. Nanan)

6. 2013 Property Standards Committee Hearing Dates

Memorandum dated October 22, 2012 from Julie Lavertu, Committee Secretary, Property Standards Committee, with respect to 2013 Property Standards Committee hearing dates.

Motion

That the Memorandum dated October 22, 2012 from Julie Lavertu, Committee Secretary, Property Standards Committee, with respect to 2013 Property Standards Committee

hearing dates be received.

Carried (D. Willchuk)

7. Resignation Letter from Stephanie M. Thomson, Property Standards Committee Citizen Member

Resignation letter dated May 21, 2012 from Stephanie M. Thomson, Property Standards Committee Citizen Member, advising the City of Mississauga and Members of Council of her resignation from the Property Standards Committee, effective June 15, 2012.

Motion

That the resignation letter dated May 21, 2012 from Stephanie M. Thomson, Property Standards Committee Citizen Member, advising the City of Mississauga and Members of Council of her resignation from the Property Standards Committee, effective June 15, 2012, be received.

Carried (M. Zoerb)

At this point, the Chair requested clarification from Ms. Lavertu regarding why Mr. Dickson had reviewed the Committee's minutes from its Business Meeting on February 3, 2012. Ms. Lavertu responded that she had shared the minutes with Mr. Dickson for his information and context, as he is the Committee's new Legal Counsel, replacing Darshana Sachania, the former Legal Counsel, and had not attended this meeting.

OTHER BUSINESS – Nil

DATE OF NEXT MEETING

ADJOURNMENT – 11 a.m.