

# Village of Hines Creek Council Request for Decision (RFD)

Meeting:	Regular Council Meeting
Meeting Date:	March 12, 2019
Originated By:	Karen Young, Executive Assistant
Title:	New Business: Regional Subdivision and Development Appeal Board
File:	0701

## BACKGROUND/PROPOSAL:

The Mackenzie Municipal Subdivision Authority held a joint meeting February 28, 2019 to discuss the draft agreement to establish a inter municipal subdivision and development appeal board in accordance with Section 627 (1) of the Municipal Government Act.

## ATTACHEMENT:

Draft Agreement

Notes from the joint meeting held February 28, 2019.

## RECOMMENDED ACTION

Initials show support- Reviewed by:	Manager: <i>KY</i>	C.A.O. <i>lew</i>
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AN AGREEMENT DATED THIS ☉ DAY OF ☉, 2019

BETWEEN:

☉ (*municipality*)  
☉ (*address*)  
("☉")

- and -

☉ (*municipality*)  
☉ (*address*)  
("☉")

- and -

☉ (*municipality*)  
☉ (*address*)  
("☉")

(hereinafter collectively referred to as "the Municipalities")

### **PEACE REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

WHEREAS the Municipalities have agreed to the establishment of an intermunicipal subdivision and development appeal board in accordance with Section 627(1) of the *Municipal Government Act*, RSA 2000, c. M-26;

NOW THEREFORE, in consideration of the premises and mutual terms, conditions and covenants to be observed and performed by each of the parties hereto, the Municipalities agree as follows:

#### **1. DEFINITIONS**

- (a) "Act" means the *Municipal Government Act*, RSA 2000, c. M-26, as amended from time to time.
- (b) "Agency" means the Mackenzie Municipal Services Agency.
- (c) "Administrative Assistant" means the body assigned the function of providing administrative assistance to the Board as set out in this agreement.
- (d) "Board" means the Peace Regional Subdivision and Development Appeal Board established pursuant to this agreement.

- (e) "Clerk" means a designated officer appointed as a clerk under Section 627.1 of the Act.
- (f) "Council" means the council of any of the Municipalities.
- (g) "Development Authority" means a development authority established pursuant to Section 624 of the Act.
- (h) "Hearing" means the public hearing held to hear an appeal of a decision of a Development Authority or Subdivision Authority filed in accordance with the Act.
- (i) "Meeting" means a meeting held and attended by the Members, and does not include a Hearing.
- (j) "Member" means a member of the Board.
- (k) "Municipality(ies)" means the municipalities that are parties to this agreement, individually or collectively as the context requires.
- (l) "Panel" means those Members selected to hear an appeal.
- (m) "Regulation" means the Subdivision and Development Appeal Board Regulation, Alberta Regulation 195/2017.
- (n) "Subdivision Authority" means a subdivision authority established pursuant to Section 623 of the Act.
- (o) All other terms used in this Agreement shall have the meaning assigned to them in the Act, as amended from time to time.

## 2. FUNCTIONS AND DUTIES

The Municipalities hereby establish the Board as an intermunicipal subdivision and development appeal board under the Act to hear appeals from decisions of the Development Authorities or Subdivision Authorities of the Municipalities.

## 3. MEMBERSHIP

- (a) The Board shall consist of two (2) Members from each Municipality, only one of whom may be a member of Council.
- (b) Members shall not be employees of the Municipalities, the Subdivision Authority or Development Authority.

4. **APPOINTMENT**

- (a) Members shall be appointed by the Councils of the Municipalities. (Need clarification from legal)
- (b) The appointment of a Member shall continue from year to year until the Member's term expires, the Member resigns or the Member otherwise ceases to be a Member, whichever occurs first.
- (c) Appointments to the Board are for a term of three (3) years, however, the first appointments shall be for staggered terms of one (1), two (2) and three (3) years **[Note: need to figure out which members get appointed for which length of term?]**.
- (d) A Municipality may rescind the appointment of its Member at any time.

5. **TRAINING**

- (a) Members must comply with all training requirements set out in the Regulation.
- (b) Each Municipality shall be responsible for the cost of training as required under the Regulation for its Members.

6. **VACANCIES**

- (a) When a Member's term ceases prior to its expiry, the Municipality that the Member represents shall put forward another person for appointment as a Member for the balance of the term within forty-five (45) days of the vacancy arising.
- (b) The appointment of the replacement Member shall be made by the Councils of the Municipalities as soon as reasonably possible. **(need clarification from legal)**

7. **CHAIR OF THE BOARD**

- (a) The Board shall appoint one (1) Member to hold the position of Chair and one (1) Member to hold the position of Vice-Chair.
- (b) The Vice-Chair will assume the duties of the Chair in the event that the Chair is not available.

- (c) The appointment of the Chairs shall continue until the Chairs' terms expire, the Chairs resign, or the Chairs otherwise ceases to be Members, whichever occurs first.
- (d) The Board may rescind the appointment of the Chairs at any time.

**8. CLERK**

- (a) The Municipalities shall appoint one or more Clerks in compliance with the requirements of Section 627.1 of the Act to perform the duties set out in Schedule "A" hereto.
- (b) The Municipalities will endeavour to have a minimum of five (5) Clerks appointed at all times.
- (c) Clerks must comply with all training requirements set out in the Regulation.
- (d) The Municipalities shall be responsible for an equal share of the cost of training for the Clerks as required under the Regulation.
- (e) The Municipalities may rescind the appointment of a Clerk at any time.

**9. ADMINISTRATIVE ASSISTANT TO THE BOARD**

- (a) The Municipalities appoint the Agency to act as Administrative Assistant to the Board.
- (b) The function of the Administrative Assistant to the Board includes the following:
  - (i) arrange and provide notice of Meetings, including date, time and location;
  - (ii) arrange for a record of the proceedings of Meetings;
  - (iii) ensure that all Members and Clerks are in compliance with this agreement, the Act and the Regulations;
  - (iv) keep a detailed set of records/files regarding appeals filed with the Board and associated costs;
  - (v) provide administrative assistance to the Clerk(s) as may be required;
  - (vi) develop a rotation system taking into account location and availability to assign Clerks to Hearings, for approval by the Board;

- (vii) develop a rotation system taking into account location and availability to assign Members to sit on Hearings, for approval by the Board;
- (viii) arrange for Clerks for Hearings upon receipt of a Notice of Appeal;
- (ix) arrange for Members (including alternate Members) to sit on Hearings upon receipt of a Notice of Appeal;
- (x) on behalf of the Municipalities, submit to Alberta Municipal Affairs on an annual basis, the reports required under Section 3 of the Regulation.

## 10. REMUNERATION

- (a) Members shall be entitled to such remuneration as may be fixed from time to time by the Municipalities as set out in Schedule "B" hereto. A Municipality shall pay the remuneration of its Members for attending Meetings. The Municipality from which the appeal originated shall pay the Members' remuneration for attending a Hearing.
- (b) The cost of the Clerk to fulfil his/her duties shall be paid by the Municipality from which the appeal originated and will be based on an amount determined by the Municipalities as set out in Schedule "B" hereto.
- (c) Remuneration to the Agency for carrying out the function of the Administrative Assistant shall be in the amount of an annual fee of One Hundred (\$100.00) Dollars payable to the Agency by each Municipality as follows:
  - (i) One Hundred (\$100.00) Dollars at the time of the initial signing of the agreement.
  - (ii) One Hundred (\$100.00) Dollars annually thereafter.

## 11. COST OF HEARINGS

- (a) All costs for the holding of a Hearing, including, without limitation, Members' remuneration, Clerk costs, advertising and notification costs, facility costs and legal costs, shall be paid by the Municipality from which the appeal originated.
- (b) Should a Hearing deal with appeals from more than one Municipality, the costs shall be paid equally by each Municipality from which the appeals originated.

- (c) Each Municipality shall provide adequate facilities for the Board to hold Hearings of appeals originating from that Municipality.

## 12. HEARINGS

- (a) The Board shall hold Hearings at a date and time to be determined by the Board in accordance with the requirements of the Act.
- (b) Hearings shall be held in the Municipality from which the appeal originated.
- (c) Notwithstanding Section 12(b) of this Agreement, if a Hearing deals with appeals from more than one Municipality, the location of the Hearing shall be determined by the Board.
- (d) A Hearing may be held before a Panel. A Panel has any or all the powers, duties and responsibilities of the Board. A decision of a Panel is a decision of the Board.
- (e) A quorum for a Panel is three (3) Members and must not have more than one (1) member of Council.
- (f) If the Chair or Vice-Chair is not part of a Panel for a Hearing, then the Members of the Panel shall select one of the Members of the Panel to assume the duties of the Chair for the Hearing.

## 13. OFFICIAL ADDRESS

The official address of the Board shall be:

P.O. Box 450, Berwyn, Alberta, T0H 0E0  
5109 - 51 Street, Berwyn, Alberta  
Phone: 780-338-3861  
Fax: 780-338-3811  
Email: info@mmsa.ca

## 14. WITHDRAWAL FROM AGREEMENT

A Municipality may withdraw from this Agreement by giving three (3) months' written notice to each Municipality and the Agency.

15. GENERAL

- (a) Appeal fees shall be in accordance with a schedule of fees set out in Schedule "B" hereto. Each Municipality shall adopt this Schedule of Fees by bylaw.
- (b) The Policies and Procedures to govern Meetings and Hearings are set out in Schedule "A" hereto. The Board may review and amend the Policies and Procedures from time to time.

IN WITNESS WHEREOF, the Municipalities have executed this Agreement as evidenced as by the duly authorized signatures below:

⊙ (municipality)

Per: \_\_\_\_\_  
Mayor ⊙

Per: \_\_\_\_\_  
⊙, CAO

⊙ (municipality)

Per: \_\_\_\_\_  
Mayor ⊙

Per: \_\_\_\_\_  
⊙, CAO

⊙ (municipality)

Per: \_\_\_\_\_  
Mayor ⊙

Per: \_\_\_\_\_  
⊙, CAO



## SCHEDULE A

### POLICIES AND PROCEDURES

#### 1. DEFINITIONS

Unless otherwise specified herein, all terms shall have the meaning assigned to them in the Agreement or, where not specified in the Agreement, in the Act.

#### 2. APPLICATION

- (a) These Policies and Procedures shall apply to all Meetings and Hearings.
- (b) Any matter of meeting procedure which is not herein provided for, shall be determined according to the most current edition of Robert's Rules of Order.
- (c) Decisions regarding procedure shall be made by the by the Chair or the Vice-Chair in the absence of the Chair.
- (d) In the event of a conflict between the provisions of these Policies and Procedures and Robert's Rules of Order, the provisions of these Policies and Procedures shall prevail.

#### 3. ORGANIZATIONAL MEETING

- (a) An organizational Meeting of the Board shall be held within two (2) months of Members being appointed and annually thereafter.
- (b) The Administrative Assistant shall fix the time and place for the organizational Meeting with the business of the Meeting being limited to the following.
  - (i) Selection of Chair;
  - (ii) Selection of Vice-chair;
  - (iii) Review, and if required, amendment of Policies and Procedures;
  - (iv) Review and approval of the system to assign Clerks to Hearings and Members to sit on Hearings.
- (c) The Administrative Assistant shall prepare the agenda and notify all Members in advance of the time and location of the Meeting.
- (d) Any costs associated with the organizational Meeting will be shared equally among the Municipalities.

- (e) The quorum for the organizational Meeting and any other Meetings shall be two-thirds (2/3) of the total Members. Decisions shall be made by a majority of the Members in attendance at the Meeting.

4. **SIGNING AUTHORITY**

- (a) An order, decision, approval or other things, made, given or issued by the Board may be signed on its behalf by the Chair or a Member authorized by the Board to sign on its behalf.
- (b) Subject to Section 4(a), a Member of a Panel selected to act as Chair for a Hearing is authorized to sign on the Board's behalf for matters regarding that Hearing.

5. **CLERK (ROLES AND RESPONSIBILITIES)**

- (a) The Clerk shall perform such functions as may be necessary to ensure that the Board is in full compliance with its duties respecting an appeal under the *Municipal Government Act*.
- (b) The Clerk shall attend the Hearings.
- (c) The Clerk shall keep the following records:
  - (i) notices of appeal;
  - (ii) notices of hearings and records of persons to whom they were sent;
  - (iii) copies of all written submissions to the Board;
  - (iv) a list of the names and addresses of those making submissions at a Hearing;
  - (v) Hearing minutes;
  - (vi) decision(s) of the Board;
  - (vii) reasons for the decision of the Board;
  - (viii) notices of decision and records of persons to whom they were sent;
  - (ix) all notices, decisions and orders made on appeal from the decisions of the Board; and
  - (x) such other matters as the Board may direct or the Clerk may determine.

## 6. NOTICE OF APPEAL

- (a) Notices of Appeal must be filed with the Board in writing within the time limits set out in the Act. A Notice of Appeal will be deemed to be filed with the Board if it is filed at the office of the Municipality in which the appeal originates and addressed to the Chief Administrative Office of the Municipality.
- (b) Within twenty-four (24) hours of receipt of a Notice of Appeal, a Municipality shall submit the Notice of Appeal to the Board and the Administrative Assistant. The Administrative Assistant shall be responsible for arranging for a Clerk to attend the Hearing and Members (including alternate Members) to sit on the Hearing in accordance with the Board approved rotation system.

## 7. HEARINGS

- (a) Upon receipt of a Notice of Appeal, the Board may convene a special Meeting to consider what persons are affected by the appeal and should be notified of the Hearing.
- (b) The Board shall endeavour to have all Hearings heard and decided by an odd number of Members.
- (c) The Administrative Assistant shall endeavour to have at least one alternate Member attend the Hearing. In the event that a Member assigned to the Hearing is disqualified from hearing the appeal, the alternate Member shall replace that Member on the Panel. The alternate Member shall not otherwise take part in the Hearing or deliberations.
- (d) Hearings shall be held in public, but the Board may deliberate and make its decision in a meeting closed to the public in accordance with Section 197 of the Act.
- (e) A request for adjournment of a Hearing may be granted at the discretion of the Board, but any adjournment must be to a specific time and date.
- (f) The Board may adjourn to a specific time and date upon its own volition to request technical information, legal opinions or other information desired by the Board.
- (g) Procedural matters not otherwise addressed in these Policies and Procedures shall be in the discretion of the Chair for that Hearing.

8. **DECISIONS**

The decision of the majority of the Members at a Hearing is deemed to be the decision of the Board.

## SCHEDULE B

### SCHEDULE OF FEES

1. Each Municipality shall adopt this Schedule of Fees by bylaw.
2. Table 1: Remuneration for Members attending a Meeting or Hearing:

	Daily Rate (Full)	Daily Rate (1/2 day)
Member	\$200.00	\$125.00

3. Table 2: Remuneration for Clerk assigned to a Hearing (this includes pre-hearing and post-hearing functions):

	Per Appeal
Clerk	\$750.00

6. Table 3: Fee for filing appeal (payable to Municipality):

Type of Appeal	
Subdivision	\$150.00
Development	\$150.00

7. Table 4: Travel Expense Allowance:

Mileage	Breakfast	Lunch	Dinner
\$0.51/km	\$9.20	\$11.60	\$20.75

MMSA Meeting February 28, 2019

Purpose of the Meeting:

To discuss the proposed agreement to form a Regional Subdivision and Development Appeal Board

Present:

Clear Hills County

Town of Manning

MD of Northern Lights

Northern Sunrise County

Town of Grimshaw

Town of Falher

MD of Smokey

Village of Berwyn

Village of Hines Creek

Village of McLennan

Town of Fairview

MD of Peace

MD of Fairview

MMSA received a grant in June to form a Regional Subdivision and Development Appeal Board.

The proposed agreement has been legally reviewed.

MMSA's role in RSDAB will be limited-they are only the administrative assistant-must remain at arms length and cannot make decisions.

### **NUMBER OF MEMBERS**

Consensus of group is that Number of Members provided by each municipality was too many as it's hard enough to find people and that's why we are considering forming a RSDAB, not all members would get a hearing and get tired of retraining for something they never use, the likelihood of needing that many members for SDAB Hearings within the region is low.

MMSA will change to read: Each municipality shall provide a minimum of 1 member to a maximum of 2 and if only 1 member is appointed that member cannot be a councilor.

### **MEMBERSHIP**

MMSA will seek legal advice with regard to:

3(b) Members shall not be employees of the Municipalities, the Subdivision Authority or Development Authority.

The question was raised should an employee of one municipality be a member on another municipality's SDAB Hearing Panel. Discussion ensued regarding the cons of employees being members on any SDAB panel.

Consensus at this time is to leave the agreement as is and revisit if needed.

## **APPOINTMENT**

4(c) discussed reducing the term –still staggering, encourage members to be reappointed at term

Initial term appointment of approved RSDAB board members may be done by lottery to determine the length of the term being 1, 2 or 3 years.

## **TRAINING**

MMSA will be able to provide member /clerk training instead of municipalities incurring travel costs. Also Town of Falher says training is offered online at no cost however isn't offered all the time.

Round table discussion with regard to municipalities sharing an equal cost in training members on the RSDAB. Consensus was to leave the agreement as is: each municipality pays for the cost of training their own member.

CLERKS It was suggested to remove the terms for clerks, as there are not a lot of SDAB hearings throughout the proposed region, just keep clerks appointed doing refresher course rather than retraining.

REMOVE 8(a)

*8 (a)The municipalities shall appoint one or more Clerks in compliance with the requirements of Section 627.1 of the Act to perform the duties set out in Schedule "A" hereto.*

As some municipalities can't supply a clerk.

## **ADMINISTRATIVE:**

MMSA is the Administrative Assistant and has to stay at arms length. If the Village of Hines Creek were to receive an appeal we would notify MMSA and they pick members/clerk from the pool.

## **REMUNERATION:**

There was no objections to the agencies remuneration fee of \$100.00 on initial signing and \$100.00 annually thereafter.

Consensus of all present was that travel expenses were to low and it was suggested to change the schedule to Federal Government Rates of .58/km travel, 17.00 each for breakfast, lunch and dinner. If the schedule in the agreement reads that expenses will be in accordance with Federal Rates it will not have to be amended in the future.

Clerk Remuneration is \$750.00/appeal- The clerks cost will be invoiced from the municipality that he/she is employed with and payable by the municipality in which the hearing resides. If the municipality has there own trained clerk they can use him/her and avoid this cost.

Quorum for the RSDAB is 3 members with the fourth member as alternate. Which means remuneration will be for three and possibly a fourth-may be something municipalities wish to budget for

Changes to the SCHEDULE OF FEES after discussions:

2. Table 1: Remuneration for Members attending a ~~Meeting~~-or Hearing

Daily Rate (1/2 day) 4 hrs or less

**CLOSING DISCUSSIONS:**

1. What about adding new members to the agreement? MMSA will look into having provisions in the agreement to allow adding new members to the agreement without having to scrap the bylaw.
2. Will MMSA come up with a standardized bylaw to rescind the current SDAB bylaw? Yes
3. Is it legal to have agreements without terms? MMSA will refer to Municipal Affairs for answer.