

To: Warden and Members of County Council

From: Director of Community Planning

Amendment to the Procedural By-law for the Oxford County Land Division Committee

RECOMMENDATIONS

That Oxford County Council receive Report No. CP 2021-245 and adopt the attached By-law amending Schedule A to By-law 4789-2007, as amended, which prescribes procedures for governing the proceedings of the Oxford County Land Division Committee.

REPORT HIGHLIGHTS

- The purpose of the proposed amendment to By-law 4789-2007 is to update the procedural by-law for the County of Oxford Land Division Committee (LDC), specifically as it relates to voting procedures.

Implementation Points

The proposed amendments to the LDC Procedural By-law will be implemented in accordance with the relevant corporate and/or provincial policies and legislation.







Financial Impact

The adoption of the recommendation contained in this report will have no financial impact on the Corporation.

Communications

The proposed amendment to the LDC Procedural By-law does not require public notification. Any change to the By-law will be communicated to the County Clerk, and Council's decision (and amended By-law) will be provided to the members of the LDC, as well as any affected County staff. The amendment will also be posted on the County website for information purposes and the proposed changes will be communicated to the development community.

Strategic Plan (2020-2022)

					
WORKS WELL TOGETHER	WELL CONNECTED	SHAPES THE FUTURE	INFORMS & ENGAGES	PERFORMS & DELIVERS	POSITIVE IMPACT
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DISCUSSION

Background

The procedures for governing the proceedings of the County Land Division Committee (LDC) are set out in By-law No. 4789-2007, as approved by County Council in January 2007, and subsequently amended by By-law No 4825-2007 in April 2007. Specifically, the latter by-law amended the voting provisions contained in the 'original' by-law approved by Council in January 2007.

The voting provisions contained in the above-noted 'original' By-law No. 4789-2007 were as follows:

Section 9

- (a) *With respect to applications before the Committee, when a question is put and a member who is present and not otherwise prevented by Statute from voting does not vote, his vote shall be recorded in the negative.*
- (b) *All voting shall be by a show of hands.*
- (c) *A tie vote shall be deemed to be in the negative.*
- (d) *Committee members concurring in the decision of the Committee shall sign the Notice of Decision at the meeting.*

Subsequent to the approval of the original procedure by-law, there was discussion by the LDC with respect to the voting provisions and in particular, whether subsection (c) was an appropriate method by which to make a final decision regarding an application (tie vote = defeated motion). Committee requested staff to review the voting provisions contained in the newly adopted procedures and a legal opinion was obtained by staff with respect to the voting provisions in general.

Regarding the above noted subsection (c), the legal opinion obtained indicated that the voting procedure (in which a tie vote was recorded in the negative) was valid and that the LDC is not required by any other statute or regulation to persevere until a clear majority emerges.

The opinion further noted that the LDC is committed to follow the procedure as set out in the by-law and properly consider the relevant factors as contained in the Planning Act. If the resulting vote is a tie and the procedure by-law clearly stipulates that a tie is deemed to be in the negative, this is a legally valid outcome.

The LDC received this opinion on March 1, 2007 and after further discussion, resolved to ask Council to amend Section 9 of the procedure by-law regarding the tie vote provision. The matter was subsequently presented to County Council on April 25, 2007 and Council approved By-law No. 4825-2007, which specifically amended Section 9 by deleting the provisions noted above and replacing them with the following:

Section 9

- (a) All voting shall be by a show of hands. All members of the Committee are entitled to vote and each member shall have one vote.*
- (b) A vote shall be taken at the direction of the Chair on each motion duly moved and seconded. Voting shall continue on each motion put forward by Committee members until a clear and deliberate decision is made by a majority vote on a motion.*
- (c) With respect to applications before the Committee, when a question is put and a member who is present and not otherwise prevented by Statute from voting does not vote, his vote shall be recorded in the negative.*
- (d) A decision shall not be made as a result of a tie vote.*
- (e) Committee members concurring in the decision of the Committee shall sign the Notice of Decision at the meeting.*

Comments

The currently appointed LDC has expressed concern with the current voting provisions, particularly with subsection (d), and to a lesser extent, subsection (b). While these provisions were implemented at the request of the LDC in 2007, the current LDC is concerned that tie votes that do not result in a decision regarding an application creates a situation requiring a member that has previously voted one way, to retract that vote in order for a matter before the Committee to be resolved. In the context of a single meeting, this change of vote may need to occur without any additional, compelling information.

The LDC received a briefing note prepared by Community Planning staff in May 2021 that contains much of the information contained in this report. Committee considered several options regarding the voting provisions in the procedural by-law and ultimately decided to request that Council amend the current provisions whereby a tie vote on a motion to approve or deny an application would be recorded in the negative and that the said motion would fail. This approach would be in-keeping with procedure followed by County Council.

Conclusions

The proposed amending by-law required to implement the procedural change requested by the LDC is attached to this report for Council's consideration.

SIGNATURES

Report Author:

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Director of Community Planning

Approved for submission:

Michael Duben, B.A., LL.B.
Chief Administrative Officer

ATTACHMENTS

Attachment 1: Draft Amendment to LDC Procedural By-law No. 4789-2007