

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON JUNE 19, 2018
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT	APPOINTMENT OF HEARINGS OFFICERS TO CONDUCT HEARINGS UNDER VARIOUS CITY OF LONDON BY-LAWS

RECOMMENDATION

That, on the recommendation of the City Clerk, the following actions be taken with respect to appointment of Hearings Officers to conduct Hearings under various City of London By-laws:

- a) the attached proposed by-law (Appendix "A") BE INTRODUCED at the Municipal Council meeting to be held on June 26, 2018 to amend By-law No. A.-6653-121 being "A by-law to establish the positions of Hearings Officer" by removing the requirement that a Hearings Officer be a resident of London and by removing the term of appointment; and,
- b) subject to a) above, the attached proposed by-law (Appendix "B") BE INTRODUCED at the Municipal Council meeting to be held on June 26, 2018 to approve the appointment of Hearings Officers in accordance with By-law A.-6653-121, as amended, being "A by-law to establish the positions of Hearings Officer".

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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April 13, 2011, Finance and Administration Committee – Item #1

BACKGROUND

The Municipal Council, at its meeting held on April 11, 2011, enacted "A By-law to establish the positions of Hearings Officer" to hear appeals under various City by-laws and to approve the "Rules of Practice and Procedure for Hearings Before a Hearings Officer", pursuant to Section 23.1 of the *Municipal Act, 2001* and the *Statutory Powers Procedure Act*.

Two Hearings Officers were appointed by Municipal Council and delegated the authority to hear appeals under various City by-laws. A single officer conducts the hearings and issues a final decision with reasons. The Hearings Officers have been rotating the responsibilities for conducting hearings based on the availability of the individual. This has provided flexibility in setting hearing dates and has resulted in timely responses to appeals.

The current Hearings Officer By-law requires Hearings Officers to be Canadian citizens, a resident in the City of London and possess the following:

- knowledge and prior experience in administrative law;
- be of good character;
- ability to carry out a fair and impartial hearing;
- ability to write a clear and concise decision;
- ability to communicate effectively with the public;
- an understanding of *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22*; and,
- an understanding of the *Municipal Act, 2001, S.O. 2001, c. 25*.

Since 2012, the City of London’s Hearings Officers have dealt with 88 appeals under various City of London by-laws. The chart below summarizes the appeals that have been considered to date.

TYPE OF APPEAL	# of Appeals
Dog muzzle appeals	48
Sign and Canopy appeals	2
Vital Services By-law appeals	4
Tree Conservation By-law appeals	8
Residential Rental Units Licensing By-law appeals	8
Taxi Licensing By-law appeals	13
Business Licensing By-law appeals	5
Total	88

The current Hearings Officers have legal background which has been extremely helpful in carrying out their roles.

Subsequent to the appointment of the Hearings Officers in 2011, additional City of London by-laws have been added to the list of by-laws appealable to a Hearings Officer, resulting in an increase in workload. As a result, the Civic Administration is recommending that an additional Hearings Officer be appointed to assist with the number of appeals being received, so that the appeals can be dealt with in a timely manner.

The Civic Administration has approached Don Bryant, a retired, experienced lawyer to seek his interest in being appointed as a Hearings Officer. Mr. Bryant has indicated his willingness to have his name put forward for Municipal Council’s consideration for appointment as a Hearings Officer. A summary of his qualifications is attached as Appendix “C” to this report.

While Mr. Bryant does not live in London, he has practiced law in London for a number of years. Given that the purpose of a hearing is to provide a fair and impartial hearing conducted by a Hearings Officer who is independent of Municipal Council, and based on our hearings experience to-date, it no longer appears to be necessary that the individual be a resident of London, or that a term be applied to the appointment. In fact, the more experienced a Hearings Officer becomes, the more efficient and knowledgeable they become with the Hearings process.

Conclusion

It is therefore recommended that the By-law A.-6653-121, being a by-law to establish the positions of Hearings Officer be amended to remove the requirement that a Hearings Officer be a resident of London and that the term of appointment for a Hearings Officer be at the pleasure of Council.

With the above in mind, the Civic Administration is also recommending that the Municipal Council confirm the continued appointment of Sue Carlyle and Andrew Wright as Hearings Officers and that Don Bryant be appointed as a third Hearings Officer to assist with the appeals workload.

PREPARED AND RECOMMENDED BY:
CATHY SAUNDERS CITY CLERK

APPENDIX "A"

Bill No.
2018

By-law No.

A by-law to amend By-law A.-6653-121 being "A by-law to establish the positions of Hearings Officer" to remove the requirement that the Hearings Officer be a resident of London and to remove the term of appointment.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 23.2 of the *Municipal Act, 2001*, as amended permits a municipal Council to delegate its powers and duties to an individual who is an officer of the municipality;

AND WHEREAS the Council of The Corporation of the City of London enacted By-law No. A.-6653-121 being "A by-law to establish the positions of Hearings Officer" on April 18, 2011;

AND WHEREAS the Council of The Corporation of the City of London deems it appropriate to amend the "Hearings Officer By-law" to remove the requirement for a Hearings Officer to be a resident London and to remove the term of appointment;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

1. Section 3i) of By-law A.-6653-121 is hereby amended by deleting the words "resident in the City of London".

2. Section 5 of By-law A.-6653-121 is hereby amended by deleting section 5 in its entirety and by replacing it with the following new section 5:

"Each Hearings Officer shall shall hold office at the pleasure of the Municipal Council."

3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on June 26, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First reading – June 26, 2018
Second reading – June 26, 2018
Third reading – June 26, 2018

APPENDIX "B"

Bill No.
2018

By-law No.

A by-law to approve the appointments of Hearings Officers in accordance with By-law A.-6653-121 being "A by-law to establish the positions of Hearings Officer".

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 23.2 of the *Municipal Act, 2001*, as amended permits a municipal Council to delegate its powers and duties to an individual who is an officer of the municipality;

AND WHEREAS the Council of The Corporation of the City of London enacted By-law No. A.-6653-121 being "A by-law to establish the positions of Hearings Officer" on April 18, 2011;

AND WHEREAS the Council of The Corporation of the City of London wishes to appoint Andrew Wright, Susan Carlyle and Don Bryant as Hearings Officers in accordance with By-law A.-6653-121, as amended,¹ being "A by-law to establish the positions of Hearings Officer";

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Andrew Wright, Sue Carlyle and Don Bryant be hereby appointed as Hearings Officers in accordance with By-law A.-6653-121, as amended, being "A by-law to establish the positions of Hearings Officer".
2. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on June 26, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First reading - June 26, 2018
Second reading – June 26, 2018
Third reading – June 26, 2018

APPENDIX "C"

Donald S. Bryant

EMPLOYMENT

- President of D. S. Bryant Law Professional Corporation
- Partner (Retired) in the firm of McKenzie Lake, Lawyers LLP, 1800-140 Fullarton St., London, Ontario, 1998 to 2018
- Partner in the firm of McKenzie Nash Bryant, 1990 to 1998
- Partner in the firm of Shepherd, McKenzie, Plaxton, Little and Jenkins, 1983 to 1990

EDUCATION

- Called to the Bar in Ontario, 1978
- Bachelor of Laws, University of Western Ontario, 1976
- Bachelor of Arts, University of Western Ontario, 1973

PROFESSIONAL EXPERIENCE

- Represented St. Joseph's Health Care, London as general counsel
- Represented several major London land developers
- Represented the City of London in the redevelopment of Covent Garden Market
- Represented owner, contractor or lender in various Infrastructure Ontario Public Private Partnership projects
- Represented the City of London in preparation of the joint venture agreement between the City of London, Western University and Fanshawe College related to the Advanced Manufacturing Park.
- Represented the City of London in preparation of the joint venture agreement between the City of London and the YMCA/YWCA related to the North London Community Centre.
- Represented The Canada Life Assurance Company in providing in excess of \$100M in infrastructure loans in the Territory of Nunavut.
- Represented Tourism London to establish it as a separate entity from the City of London

BOARD EXPERIENCE

- Currently serve on the board of Tourism London
- Currently serve on the board of the Greater London International Airport Authority
- Past chair of the capital campaign cabinet for St. Joseph's Hospice of London
- Past President and Board member London Chamber of Commerce
- Chaired the 2010 Task Force on City Council compensation review
- Member of the 2009 Governance Task Force for the City of London
- Past President and Chair of Thames Valley Family Service

PROFESSIONAL MEMBERSHIPS

Law Society of Upper Canada
Middlesex Law Association
Canadian Bar Association
Ontario Bar Association