AGENDA
BIRCH HILLS COUNTY
SECIAL COUNCIL MEETING
TO BE HELD IN THE
WANHAM BIRCH HILLS COUNTY OFFICE
August 27, 2018

1. CALL THE MEETING TO ORDER

2. ADOPTION OF THE AGENDA

3. BYLAWS

a. Bylaw 2018-07 Subdivision and Development Appeal Board Bylaw (Page 3)

4. NEW BUSINESS

a. Appointment of SDAB Chair and Vice-Chair (Page 22)
b. Appointment of Alternate Members to SDAB (Page 24)
c. Appointment of Shelley Braun as Clerk to SDAB (Page 27)
d. Renumeration for Members of SDAB (Page 28)
e. Weed Control Budget (Page 33)

NEXT REGULAR COUNCIL MEETING DATE – September 13, 2018

August 23, 2018

WRITTEN NOTICE OF A SPECIAL MEETING OF COUNCIL CALLED UNDER AUTHORITY OF SECTION 194 OF THE MUNICIPAL GOVERNMENT ACT

TO: Reeve Gerald Manzulenko

Councillor Deanne Wendland

Councillor Paul Reum

Councillor Denise Joudrey

Councillor Terry Carbone

Reeve Manzulenko has requested that a special meeting of council be held in the council chambers of Birch Hills County on Monday, August 27, 2018, commencing at 8:30 a.m. for the purpose of discussing and acting upon the following item(s) of business:

1. Adoption of Agenda
2. Approval of Bylaw 2018-07, the "Subdivision and Development Appeal Board Bylaw"
3. Appoint Chairman and Vice-Chairman of the Subdivision and Development Appeal Board
4. Appointment of alternate members to the Subdivision and Development Appeal Board
5. Appointment of Shelley Braun as Clerk of the Subdivision and Development Appeal Board
6. Remuneration for members of SDAB
7. Weed Control Budget

Council is reminded that as per Section 194(5) of the Municipal Government Act, "No matter other than that stated in the notice calling the special council meeting may be transacted at the meeting unless the whole council is present at the meeting and the council agrees to deal with the matter in question."

Hermann Minderlein
Chief Administrative Officer,
Birch Hills County

Request for Decision (RFD)

Meeting:	Special	**Reviewed/ Approved For Submission**	
Meeting Date:	August 27, 2018	**CAO:**	
Originated By:	Shawna Schwerdt L.O./E.A.	**Manager:**	
Item Title:	Bylaw 2018-07 Subdivision and Development Appeal Board Bylaw	**Presenter:**	Hermann Minderlein

DESCRIPTION:

Council is being presented with the Bylaw 2018-07 the "Subdivision and Development Appeal Board Bylaw", a bylaw to repeal and replace By-law 09-00, the "Subdivision and Development Appeal Board By-law" that had been adopted on the 10th of August, 2000.

BACKGROUND:

Administration has been in contact with our neighbouring municipalities to determine if there were any trained Subdivision and Development Appeal Board (SDAB) members that had been appointed by those municipalities, and if there would be any interest by those members to fill in if required by Birch Hills County. We were able to determine that there would be an interest for some of those members to be appointed as alternates for the Birch Hills County Board, but upon reviewing our eighteen (18) year old bylaw, found that it did not permit for the appointment of alternates to the SDAB.

Administration's initial instinct was to prepare an amendment to our existing Bylaw, and began to review bylaws from other municipalities for appropriate wording and quickly discovered that there were other matters that were severely out of date or missing altogether from what Administration deemed necessary in a detailed bylaw. It was determined that a new Bylaw would be the best course of action, and began by reviewing existing bylaws from other municipalities and combining the best of each of those bylaws into our initial draft.

Following additional research, we discovered that one of our neighbours was also in the process of renewing their bylaw, and had just received their final draft from their lawyers and were willing to share the document as recommended by their lawyers. Although our draft did contain many of the sections and phrases in the recommended document, we did find that in some places there were better options available in the document and ended up going with a hybrid of both solutions, put the document together in a manner that was logical and easier to reference, reviewed and tweaked it several times, and are confident that it will better serve the needs of Birch Hills County for the future. Many of the sections and subsections of the Bylaw could also be easily adopted into an intermunicipal SDAB should that be a direction pursued in the future.

RELEVANT LEGISLATION (Cite):

Municipal Government Act Revised Statutes of Alberta 2000 Chapter M-26

ATTACHMENT(S):

Draft Bylaw 2018-07, the “Subdivision and Development Appeal Board Bylaw”.

By-law 09-00, the “Subdivision and Development Appeal Board By-law”.

OPTIONS:

This Bylaw does not require to be advertised, therefore the options available to Council are as follows:

1. provide 1st, 2nd, and 3rd reading to the bylaw provided that the unanimous consent of all Councillors present is provided prior to the 3rd reading;

2. provide 1st or 1st and 2nd reading to the bylaw at this meeting and direct Administration to bring back the bylaw for 2nd and 3rd, or 3rd reading at a future Meeting of Council;

3. provide 1st reading to the Bylaw, and make amendments to the bylaw before proceeding to 2nd reading;

4. receive this item for information and direct Administration to bring the bylaw back at a future Council meeting; or

5. Defeat Bylaw 2018-07 Subdivision and Development Appeal Board Bylaw, a bylaw to repeal and replace Bylaw 09-00, “Subdivision and Development Appeal Board Bylaw” on either 1st, 2nd, or 3rd reading at this meeting

RECOMMENDED ACTION:

As there are other matters that need to be dealt with that cannot be actioned under the current SDAB By-law, it is Administrations recommendation that Council

1. provide first reading to Birch Hills County Bylaw 2018-07, the “Subdivision and Development Appeal Board Bylaw”;

2. provide second reading Birch Hills County Bylaw 2018-07, the “Subdivision and Development Appeal Board Bylaw”;

3. provide unanimous approval to a resolution to present Birch Hills County Bylaw 2018-07, the “Subdivision and Development Appeal Board Bylaw” at this meeting; and if approved unanimously;

4. provide third and final reading to Birch Hills County Bylaw 2018-07, the “Subdivision and Development Appeal Board Bylaw”.

5. that Council direct Administration to update the County’s website with a copy of Bylaw 2018-07 the “Subdivision and Development Appeal Board Bylaw” and provide copies of the Bylaw to members of the County’s Subdivision and Development Appeal Board.

BYLAW NO. 2018-07

BEING A BYLAW OF BIRCH HILLS COUNTY IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE ESTABLISHMENT OF A SUBDIVISION AND DEVELOPMENT APPEAL BOARD

WHEREAS Section 145(b) of the Municipal Government Act, as amended, allows a Council to pass a bylaw in relation to the procedure and conduct of other bodies established by Council;

AND WHEREAS Section 627(1) of the Municipal Government Act requires Council to establish a Subdivision and Development Appeal Board;

AND WHEREAS Section 628(1) of the Municipal Government Act requires that a Subdivision and Development Appeal Board Bylaw prescribes the functions and duties of the Subdivision and Development Appeal Board;

NOW THEREFORE BE IT RESOLVED that the Council for Birch Hills County, duly assembled enacts as follows:

1. TITLE

a. This Bylaw will be cited as the “Subdivision and Development Appeal Board Bylaw”.

2. DEFINITIONS

a. **"Act"** means the Municipal Government Act, RSA 2000, c. M- 26 as amended from time to time.

b. **"Appellant"** means a person who, pursuant to the Act, has filed a notice of appeal with the Subdivision and Development Appeal Board.

c. **“Board”** means the Subdivision and Development Appeal Board (SDAB) established to hear and make decisions on appeals as established by this bylaw.

d. **“Chair”** means a member who is appointed to preside over a hearing in accordance with this bylaw.

e. **"Clerk"** means the person appointed by Council to act as Clerk for the SDAB.

f. **"Council"** means the Council of Birch Hills County.

g. **"County"** means Birch Hills County.

h. **"Hearing"** means a meeting on a contested matter or an opportunity whereby the applicant or agent representing the applicant is provided the opportunity to be heard by the SDAB, in addition to any other person with standing.

i. **"Land Use Bylaw"** means the County's Land Use Bylaw, as amended or repealed and replaced from time to time.

j. **"Member"** is a member of the Board duly appointed by Council pursuant to this bylaw.

k. **"Quorum"** means three (3) members of the SDAB to act at a hearing.

3. ESTABLISHMENT

a. The Subdivision and Development Appeal Board is hereby established to hear and decide subdivision and development appeals in accordance with the provisions of the Act and exercise any other powers, duties and functions given to it by the Land Use Bylaw and any other bylaws of Council.

b. The SDAB Procedures as set out in Schedule "A" are incorporated into and shall form part of this Bylaw.

4. FUNCTION AND DUTIES

a. The SDAB shall hear all subdivision and development appeals, as set out in Part 17, Division 10 of the Act, in accordance with the requirements of the Act and this Bylaw.

5. MEMBERSHIP

a. The Board shall consist of three (3) Members at large appointed by resolution of Council.

b. Up to three (3) Members may be appointed by resolution of Council as alternate Members to fill a vacancy on the Board caused by an absence, retirement or resignation of a Member at large, to allow the Board to continue to conduct business to ensure quorum requirements are fulfilled.

c. Council shall make reasonable efforts to attract candidates and appoint Members who are residents of the County. Notwithstanding the foregoing, Council may appoint a Member who is not a resident of the County if:

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i. The County does not receive a sufficient number of applications from suitable candidates who are residents of the County, or;

ii. In the opinion of Council, the Member has particular qualifications, skills or experience which will assist the Board in determining appeals before it.

d. No person who is a member of the Municipal Planning Commission or an employee of the County or a person who carries out subdivision or development powers or duties for the County shall be appointed to the Board.

e. Each member of the Board, appointed by Council, shall be for a term specified by a Resolution of Council, but in no case shall the appointment be more than one year.

f. Notwithstanding Section 5.e a person may be reappointed to the Board upon the expiration of that person's term.

g. In the event of a vacancy, Council may appoint by resolution a new member to serve for the remainder of the vacating member's term.

h. The Chairman and Vice-Chairman of the Board shall be appointed annually by resolution of Council.

i. Council may, by resolution, remove a Member from the SDAB at any time if:

i. In the majority opinion of Council or the majority opinion of the Board, a Member is not performing their duties satisfactorily in accordance with this Bylaw and the Act, or;

ii. A Member is absent for more than three (3) consecutive meetings of the Board without reasonable excuse.

j. In the event Council or the Board has determined the removal of a Member is being considered, Council must give the Member or the Member's representative a reasonable opportunity to be heard by Council and thereafter provide the Member with a decision in writing with reasons.

k. Council may, by resolution, appoint additional Members to the SDAB for a specific short period of time, as the Council sees fit, in order to ensure that the SDAB will have a quorum for a meeting and/or a hearing.

l. Members shall adhere to the Member Rules of Conduct as set out in Schedule "B" to this Bylaw.

m. Members are expected to participate in any training offered by the County or

the Province, to assist them in carrying out their duties as Members of the SDAB.

n. Any Member may resign from their position on the Board by sending written notice to the Chair of the Board and Council.

o. The Chair and Vice Chair may resign from their positions on the Board by sending written notice to Council.

6. SDAB CLERK

a. Council shall appoint by resolution a person or persons to serve as Clerk for the SDAB.

b. The responsibilities of the Clerk for the SDAB are as follows:

i. ensure all statutory requirements of the SDAB are met,

ii. inform all statutory parties of the appeal hearing in accordance with the Act;

iii. inform all affected parties of the appeal hearing in accordance with the Act;

iv. compile all necessary documentation for distribution to the Members;

v. attend all SDAB appeal hearings;

vi. provide services for the recording of the proceedings of the SDAB and for retention of exhibits, including all written submissions to the SDAB;

vii. prepare the minutes for the SDAB hearing, including the names and addresses of all parties making representations to the SDAB;

viii. communicate decisions of the SDAB to the affected parties in accordance with the Act; and

ix. such other matters as the SDAB may direct.

7. MEMBER REMUNERATION

a. Members shall be entitled to such remuneration, travelling and other expenses, as may be fixed from time to time by Council.

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8. ADMINISTRATION

a. The fee for an appeal will be the fee as set by the Council of the County from time to time. A refund of the appeal fee may be granted by the County if a withdrawal is received in writing and has been delivered to the Clerk prior to notifications of the appeal hearing being sent out.

b. SDAB Hearings will be held at the County Administration Building or other such location as determined by the County and advertised in accordance with the Act from time to time.

c. The County will provide the administrative resources for SDAB Hearings.

9. GENERAL

a. Headings in this Bylaw are for reference purposes only.

b. Words in the masculine gender will include the feminine gender whenever the context so required and vice versa.

c. Words in the singular shall include the plural or vice versa whenever the context so requires.

10. ENACTMENT

a. Bylaw No 09-00 is hereby repealed.

b. This Bylaw shall come into effect upon third and final reading.

READ a first time this 27th day of August, 2018.

READ a second time this 27th day of August, 2018.

READ a third and final time this 27th day of August, 2018.

SIGNED this 27th day of August, 2018.

_____	_____
Reeve	Chief Administrative Officer
Gerald Manzulenko	Hermann Minderlein

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SCHEDULE "A"

SUBDIVISION AND DEVELOPMENT APPEAL BOARD PROCEDURES

1. DEFINITIONS

Unless otherwise specified herein, all terms shall have the meaning assigned to them in the Bylaw or, where not specified in the Bylaw, in the ***Municipal Government Act,*** RSA. 2000, Chapter M-26, as amended (the "Act").

a. **"Appellant"** means a person who, pursuant to the Act, has filed a notice of appeal with the Municipal Subdivision and Development Appeal Board.

b. **"Board"** means the SDAB.

c. **"In Camera"** means a meeting of the Board which is closed to the public pursuant to s.197 of the Act.

d. **"Clerk"** means the person(s) appointed to act as Clerk for the SDAB.

e. **"Staff'** means an employee of the County.

2. APPLICATION

a. These procedures shall apply to all meetings of the Subdivision and Development Appeal Board.

3. TRAINING

a. All Members shall receive training as SDAB Members in accordance with the requirements of the Act.

b. The SDAB may retain legal counsel to provide training or advice before, during or after a hearing as the case may be.

4. PANEL AND CHAIR

a. When a hearing is required, the panel of Members to hear the appeal will be appointed by the Clerk of the SDAB based on Member availability and experience.

b. Annually at the Organizational Meeting, Council will appoint one Member to serve as Chair of the SDAB and one Member to serve as Vice Chair of the SDAB.

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c. The Chair shall be responsible for the conduct of the hearing and for ensuring the hearing is conducted in a fair and impartial manner, in accordance with the rules for such hearings as set out in the Act and the rules of natural justice.

d. In the event of absence or inability of the Chair to preside at a Board meeting, the Vice Chair shall preside, and in the event of the absence or inability of both the Chair and Vice Chair to preside at a meeting of the Board, the Members present in constituting a quorum shall elect one of its Members to act as Chairman for that meeting.

5. QUORUM

a. Three (3) Members shall constitute a quorum of the Board.

6. DECISIONS

a. Only Members present for the entire hearing shall participate in the making of a decision on any matter before the Board. The Clerk shall not participate in the making of a decision on any matter before the Board.

b. The decision of the majority of Members present at the meeting shall be deemed to be the decision of the whole Board. In the event of a tie vote, the appeal shall be denied.

c. The Board may make its decision with or without conditions in accordance with the Act.

d. If an appeal is recessed for any reason following the submission of evidence, the appeal hearing may be recessed to the next scheduled meeting or to a scheduled meeting. However, only those Members present at the original hearing shall render a decision of the matter.

e. An order, decision, approval, notice or other thing made, given or issued by the Board shall be signed by the Chair or Vice Chair or their designate.

7. APPEAL HEARINGS

a. The Board shall consider and decide all subdivision and development appeals and s. 645 Stop Order appeals which have been properly filed with the County in accordance with the Act.

b. The Board shall hold a public hearing respecting the appeal within thirty (30) days from the date of receipt of the written notice of appeal.

c. The Board shall give notice of the hearing in accordance with the Act.

d. The Board shall make available for public inspection prior to the hearing all relevant documents and materials respecting the appeal.

e. The Board shall hear from parties in accordance with the Act.

f. Letters previously submitted to a Municipality's subdivision or development authority will not be considered by the Board unless resubmitted for the appeal hearing. The author of the letter must be identified on the document.

g. The Board shall hear appeals in public, but it may at any time recess and deliberate ***in camera***.

h. If the Board desires at the hearing of the appeal, to request further technical information, legal opinions, or other assistance, it may recess the hearing pending receipt of such information.

i. Electronic or similar recording devices shall not be used during the hearing by anyone in attendance except the Clerk. The Board shall make and keep a written record of its proceedings which may be in the form of a summary of the evidence presented at the hearing.

j. The Board shall give a written decision together with the reasons for the decision in accordance with the Act.

8. HEARING PROCEDURE

a. The Chair for the meeting will call for a motion to go into public hearing and ask if appellant is present to speak to the appeal.

b. If the Appellant indicates his/her presence to speak to the appeal, then the Chair will outline the public hearing procedures.

c. The Clerk will confirm that the notice of appeal has been provided to all parties in accordance with the Act.

d. The Chair will ask if anyone objects to any Member hearing the appeal.

e. A member of Staff will introduce the appeal and present the administrative report outlining the background to the appeal.

f. The Chair shall call upon the Appellant to present his/her appeal submission.

g. After identifying him/herself, the Appellant will be requested to present his/her appeal within a reasonable time period.

h. The Chair shall then call upon any persons in attendance at the hearing who are entitled to be heard by the Board under the Act and who wish to speak in favour of the appeal.

i. After identifying themselves, persons or representatives of any group or persons in favour of the appeal may address the Board in turn. The Board reserves the right to abbreviate repetitious oral submissions.

j. The Chair shall then call upon any persons in attendance at the hearing who are entitled to be heard by the Board under the Act and who wish to speak in opposition to the appeal.

k. After identifying themselves, persons or representatives of any group or persons, in opposition of the appeal may address the Board in turn. The Board reserves the right to abbreviate repetitious oral submissions.

l. The Chair shall then call upon the appellant and those persons in attendance at the public hearing who spoke in favor of the appeal for any rebuttal to the points raised by those who spoke in opposition to the appeal. Rebuttal comments are restricted to addressing new points raised by those who spoke in opposition to the appeal.

m. After a presentation is concluded, any Member may ask the presenter relevant questions.

n. After all presentations from the public have been completed, any Member may ask Staff relevant questions.

o. Following the public presentation and Member questions, the Chair shall close the public portion of the hearing.

p. The Board may, at any time, modify or adjust the foregoing procedure as required to comply with the Act and the rules of natural justice.

9. PRESENTATION MATERIALS

a. The use of slides maps, videos, and Power Point presentations are permitted and these materials along with any written submissions become the property of the Board as exhibits to the public hearing.

b. Written submissions shall be received by the Clerk at least three (3) days in advance of the commencement of the hearings. Notwithstanding the foregoing,

the Board retains the discretion to accept late submission where deemed appropriate.

10. INTRODUCTION OF SPEAKERS

a. Persons addressing the Board shall give their name, location of residence, and indication as to whether they are speaking on their own behalf or for another person or for a group, and address the Chair when responding to questions or providing information.

b. A person who does not identify him/herself will not be given the opportunity to address the Board.

c. Following the close of the public portion of the hearing, the Board shall deliberate and make its decision. The Board may deliberate and make its decision in camera.

11. CONDUCT AT HEARINGS

a. Members of the public in attendance at a hearing:

   i. shall address the board through the Chair;

   ii. shall maintain order and quiet; and

   iii. shall not applaud or otherwise interrupt any speech or action of the Members or any other person addressing the Board.

b. The Chair may order a member of the public who disturbs or acts improperly at a hearing by words or actions be removed. The Chair may request assistance from a Peace Officer to remove the person.

12. MEMBER CONDUCT

a. A Member wishing to speak at a hearing shall obtain the approval of the Chair before speaking.

b. When a Member or member of the public is addressing the Chair, every other Member shall:

   i. remain quiet and seated;

   ii. not interrupt the speaker except on a Point of Order;

   iii. not carry on a private conversation; and

   iv. not cross between the speaker and the Chair.

SCHEDULE "B"

SDAB MEMBER RULES OF CONDUCT

1. No Member shall participate in the hearing of any matter before the Board in which that Member has a pecuniary interest.

2. For the purposes of determining whether a Member has a pecuniary interest in the matter before the Board, all provisions of s. 170 of the Act shall apply, substituting the term "Member" for the term "Councillor".

3. No Member shall participate in the hearing of any matter before the Board in which that Member has an actual or perceived bias for or against the Appellant or any parties that appear before the Board.

4. Where a Member has a pecuniary interest in the matter before the Board, or an actual or perceived bias for or against the appellant or any parties that appear before the Board, that Member shall disclose that interest or bias to the Board and Clerk as soon as possible and remove him/herself from participating as a Board Member in the hearing of the appeal.

5. Members shall:

   a. not discuss any matter under appeal with any party to that appeal, outside of the formal hearing process;

   b. keep ***in camera*** discussions of Board and legal advice provided to the Board confidential, except where required to disclose that information by law;

   c. attend all Board hearings to which he or she has been assigned unless prior written consent has been received from the Chair; and

   d. participate in the deliberation and decision-making process on all matters to which he or she has been assigned and has attended the public hearing for.

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BIRCH HILLS COUNTY

BY-LAW NO 09-00

A BY-LAW OF BIRCH HILLS COUNTY IN THE PROVINCE OF ALBERTA TO ESTABLISH THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD OF BIRCH HILLS COUNTY

WHEREAS Section 627 of the Municipal Government Act, S.A. 1994, as amended ("the Act") requires that a Municipal Council establish a Subdivision and Development Appeal Board by By-Law.

NOW THEREFORE the Council of Birch Hills County , duly assembled, enacts as follows:

1. Name

1.1. This By-Law may be cited as the "Subdivision and Development Appeal Board By-Law".

2. Definitions

The following words and phrases mean:

2.1. "Act" means the Municipal Government Act, S.A. 1994, as amended.

2.2. "Appellant" means a person who, pursuant to the Act, has served a notice of appeal on the Subdivision and Development Appeal Board.

2.3. "Council" means the Reeve and Councillors of Birch Hills County for the time being elected pursuant to the provisions of the Act, whose term is unexpired, who have not resigned and who continue to be eligible to hold office as such under the terms of the Act.

2.4. "Development Application" means an application made to the Development Authority in accordance with the Land Use By-Law for the purpose of obtaining a development permit.

2.5. "Development Authority" means the persons established under Section 3 of the Development Authority By-Law to perform the functions of a development authority under the Act.

2.6. "Development Permit" means a document authorizing a development issued in accordance with the Land Use By-Law of Birch Hills County .

2.7. "Land Use By-Law" means a By-Law adopted as a Land Use By-Law pursuant to the Act or the former Act.

2.8. "Subdivision Authority" means the persons established under Section 3 of the Subdivision Authority By-Law to perform the functions of a subdivision authority under the Act.

2.9. "Subdivision and Development Appeal Board" means the Board established to hear development and subdivision appeals, pursuant to Section 3 of this By-Law

2.10. "Subdivision and Development Appeal Board Secretary" means the person appointed to the position established under Section 7 of this By-Law.

3. Establishment and Membership

3.1. The Subdivision and Development Appeal Board of Birch Hills County is hereby established.

3.2. The Subdivision and Development Appeal Board shall consist of 3 members appointed annually by resolution of the Council. The members shall be appointed from the public-at-large. (Residents of Birch Hills County).

3.3. No person who is an employee of Birch Hills County , who is a Development Authority or a Subdivision Authority for Birch Hills County , or who is a member of a Municipal Planning Commission shall be appointed to the Subdivision and Development Appeal Board.

3.4. Any vacancies caused by the death, retirement or resignation of a member may be filled by resolution of the Council.

3.5. Council may remove a member from the Subdivision and Development Appeal Board by resolution at any time.

4. Term of Office

4.1. Subject to Section 3.5 of this By-Law, each member of the Subdivision and Development Appeal Board shall be appointed at the pleasure of the Council for a term of one year and may be reappointed upon the expiry of the term at the pleasure of the Council.

5. Chairman

5.1. At the first meeting of the Subdivision and Development Appeal Board following Council's Organizational Meeting each year a Chairman shall be elected by vote of the majority of the members.

5.2. A member may be re-elected to the position of the Chairman.

5.3. The Chairman shall preside at the meetings of the Subdivision and Development Appeal Board.

6. Vice-Chairman

6.1. A Vice-Chairman shall be elected at the same time and under the same rules as the Chairman

6.2. A member may be re-elected to the position of Vice-Chairman.

6.3. The Vice-Chairman shall preside at the meetings of the Subdivision and Development Appeal Board in place of the Chairman if the Chairman, for any reason, does not preside at the meeting.

6.4. In the absence of the Chairman and the Vice-Chairman, one of the other members

of the Subdivision and Development Appeal Board shall be elected to preside.

7. Secretary of the Subdivision and Development Appeal Board

7.1. The position of designated officer for the limited purpose of carrying out the function of the Secretary to the Subdivision and Development Appeal Board is established ("Subdivision and Development Appeal Board Secretary").

7.2. The County Manager and/or designate is appointed the Subdivision and Development Appeal Board Secretary and shall not be a member of the Subdivision and Development Appeal Board.

7.3. The Subdivision and Development Appeal Board Secretary shall have responsibilities and functions including the following:

7.3.1. Makes and keeps a record of the Subdivision and Development Appeal Board proceedings which may be in the form of a summary of the evidence presented at a hearing.

7.3.2. Ensures statutory notices and decisions of the Subdivision and Development Appeal Board are provided to such persons as the Act requires.

7.3.3. Compiles and provides Agenda and meeting packages to members and make available to the public.

7.3.4. Signs orders, decisions, approvals, notices, and other items given by the Subdivision and Development Board on its behalf.

8. Quorum and Meetings

8.1. A quorum of the Subdivision and Development Appeal Board shall be a majority of the members of the Subdivision and Development Appeal Board.

8.2. The Subdivision and Development Appeal Board shall meet at such intervals as are necessary to consider and decide appeals filed with it in accordance with the Act.

8.3. The Subdivision and Development Appeal Board may make rules as are necessary for the conduct of its meetings, its hearings and its business that are consistent with this By-Law, Birch Hills County Land Use By-Law, and the Act.

9. Fees and Expenses

9.1. The remuneration, traveling, living and other expenses of the members of the Subdivision and Development Appeal Board and the Subdivision and Development Appeal Board Secretary, shall be established by Council from time to time.

9.2. Subdivision and Development appeal fees and the setting of any other fees for any matter referred to the Board shall be established by resolution of Council.

10. Development Appeals

10.1. Subject to Sections 641(4) and 685(3) of the Act, the Subdivision and Development Appeal Board shall hear appeals where the Development Authority for Birch Hills County.

10.1.1. refuses or fails to issue a development permit to a person.

10.1.2. issues a development permit subject to conditions, or;

10.1.3. issues an order under Section 645 of the Act,

and appeals are launched within the time limitations and in the manner indicated in the Act.

10.2. Subject to Sections 641(4) and 685(3) of the Act, the Subdivision and Development Appeal Board shall hear appeals from any person affected by an order, decision or development permit issued by the Development Authority, who appeals within the time limitations and in the manner indicated in the Act.

10.3. The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any Development Appeal within 30 days of receipt of the notice of appeal.

10.4. The Subdivision and Development Appeal Board shall give at least 5 days notice in writing of the appeal hearing to:

10.4.1. the Appellant;

10.4.2. the Development Authority of Birch Hills County;

10.4.3. the owners required to be notified under the Land Use By-Law of Birch Hills County , and

10.4.4. any other person that the Subdivision and Development Appeal Board considers to be affected by the appeal and should be notified.

10.5. In determining an appeal, the Subdivision and Development Appeal Board:

10.5.1. shall comply with the Land Use Policies established pursuant to Section 622 of the Act;

10.5.2. shall comply with any statutory plan and, subject to subsection 10.5.5 of this By-Law, the Land Use By-Law of Birch Hills County ;

10.5.3. shall have regard to but not be bound to the Subdivision and Development Regulations established pursuant to Section 694 of the Act.

10.5.4. may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

10.5.5. may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the Land Use By-Law if, in its opinion,

10.5.5.1. the proposed development would not

10.5.5.1.1.unduly interfere with the amenities of the neighborhood, or

10.5.5.1.2.materially interfere with or affect the use, enjoyment or value of neighboring parcels of land, and;

10.5.5.2. the proposed development conforms with the use prescribed for that land or building in the Land Use By-Law.

10.6. The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within 15 days of the conclusion of the public hearing.

11. Subdivision Appeals

11.1. Subject to Section 678 of the Act, the Subdivision and Development Appeal Board shall hear appeals of decisions of the Subdivision Authority for Birch Hills County, provided an appeal is received within the time limitations and in the manner indicated in the Act.

11.2. The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any appeal within 30 days of receipt of the notice of appeal.

11.3. The Subdivision and Development Appeal Board shall give at least 5 days notice in writing of the appeal hearing to:

11.3.1. applicant for subdivision approval;

11.3.2. the Subdivision Authority of Birch Hills County;

11.3.3. any school authority to whom the application for subdivision approval was referred;

11.3.4. all adjacent land owners who were given notice of the application for subdivision approval pursuant to Section 653(4) of the Act;

11.3.5. every Government department that was given a copy of the application for subdivision approval pursuant to the Act; and

11.3.6. the adjacent municipality, if the land that is the subject of the application for subdivision approval is adjacent to the County boundaries.

11.4. In determining an appeal, the Subdivision and Development Appeal Board:

11.4.1. shall be consistent with the Land Use Policies established pursuant to Section 622 of the Act;

11.4.2. shall have regard to any statutory plan which is in effect;

11.4.3. shall conform with the uses of land referred to in the Land Use By- Law;

11.4.4. shall have regard to but not be bound to the Subdivision and Development Regulations established pursuant to Section 694 of the Act,

11.4.5. may confirm, revoke or vary the approval or decision or any condition imposed by the Subdivision Authority or make or substitute a decision or any condition of its own; and

11.4.6. may exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the Act or any Regulations or By-Laws adopted pursuant to the Act.

11.5. The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within 15 days of the conclusion of the public hearing.

12. This By-Law shall come into force upon final reading.

READ A FIRST TIME THIS 10TH DAY OF AUGUST, 2000

READ A SECOND TIME THIS 10TH DAY OF AUGUST, 2000

READ A THIRD TIME AND PASSED THIS 10TH DAY OF AUGUST, 2000

BEN BOETTCHER, REEVE

I. BASISTY, C.A.O.

Request for Decision (RFD)

Meeting:	Special	**Reviewed/ Approved For Submission**	
Meeting Date:	August 27, 2018	**CAO:**	
Originated By:		**Manager:**	
Item Title:	Appointment of SDAB Chair And Vice-Chair	**Presenter:**	

DESCRIPTION:

Council is being requested to appoint a Chair and a Vice-Chair for the Birch Hills County Subdivision and Development Appeal Board (SDAB).

BACKGROUND:

The members currently on the SDAB were appointed by Council at their October 26, 2017 Inaugural Meeting:

> "**RC17-372 Moved by Reeve Manzulenko** that Council reappoint Cindy Trudel, Steve McLaughlin and Dimitri Boychuk to sit as the Subdivision and Development Appeal Board."

Section 5.h of Bylaw 2018-07 requires that

> "The Chairman and Vice-Chairman of the Board shall be appointed annually by resolution of Council."

This section was not included in the previous By-law, and the appointments are now required.

Administration has reviewed the information related to the existing Board Members, and believes that it should be noted that Steve McLaughlin has acted as Chair of his most recent hearings, Cindy Trudel, although not having sat as the chair, has sat on appeal boards, and Dimitri Boychuk, although having been appointed to the Board for several years, there is no record of any proceedings on which he sat as a Board Member.

Administration has approached Steve McLaughlin, and he is willing to allow himself to be named as Chair, and Cindy Trudel, and she is willing to allow herself to be named as Vice-Chair.

RELEVANT LEGISLATION (Cite):

Bylaw 2018-07, Section 5.h

OPTIONS:

Council may choose to:

1. Appoint Steve McLaughlin as Chair, and Cindy Trudel as Vice-Chair, of the Birch Hills County Subdivision and Development Appeal Board;

2. Appoint a Chair and Vice-Chair for the Birch Hills County Subdivision and Development Appeal Board from the list of names provided.

RECOMMENDED ACTION:

It is Administration's recommendation that Council appoint Steve McLaughlin as Chair, and Cindy Trudel as Vice-Chair, of the Birch Hills County Subdivision and Development Appeal Board.

Request for Decision (RFD)

Meeting:	Special	**Reviewed/ Approved For Submission**	
Meeting Date:	August 27, 2018	**CAO:**	
Originated By:	CAO Minderlein	**Manager:**	
Item Title:	Appointment of SDAB Alternate Members	**Presenter:**	CAO Minderlein

DESCRIPTION:

Council is being requested to appoint Alternate Members for the Birch Hills County Subdivision and Development Appeal Board (SDAB).

BACKGROUND:

The members currently on the SDAB were appointed by Council at their October 26, 2017 Inaugural Meeting:

> "**RC17-372 Moved by Reeve Manzulenko** that Council reappoint Cindy Trudel, Steve McLaughlin and Dimitri Boychuk to sit as the Subdivision and Development Appeal Board."

Section 5.b of Bylaw 2018-07 reads as follows:

> "Up to three (3) Members may be appointed by resolution of Council as alternate Members to fill a vacancy on the Board caused by an absence, retirement or resignation of a Member at large, to allow the Board to continue to conduct business to ensure quorum requirements are fulfilled."

This section was not included in the previous By-law, and the appointments are now required, especially in light of the potential for appeal hearing which all of our members may not be available or able to hear. Administration has contacted our neighbouring municipalities and requested they contact their Board Members that are qualified as per Section 627.2 of the MGA and determine if any of them would be willing to assist Birch Hills County by allowing themselves to be appointed to our SDAB.

To date, we have received two (2) responses, and I have attached copies of emails requested from their expressing their interest and confirming their qualifications.

The first was from Ms. Karen Egge who serves on the Saddle Hills SDAB who's name Council may remember from discussions regarding the possibility for an Intermunicipal Subdivision and Development Appeal Board at the last G5 meeting.

The second was from Mr. Herb Pfau who I believe some of you have met previously.

Both of these candidates have completed the training recently added as a requirement for Board Members, and have received recommendation from the staff of their respective municipalities.

RELEVANT LEGISLATION (Cite):

Bylaw 2018-07, Section 5.b

OPTIONS:

Council may choose to:

1. Appoint Ms. Karen Egge and Mr. Herb Pfau as Alternate Members to the Birch Hills County Subdivision and Development Appeal Board; or

2. Not appoint Ms. Karen Egge and Mr. Herb Pfau as Alternate Members to the Birch Hills County Subdivision and Development Appeal Board; and

3. Direct Administration to continue the search to fill the vacant Alternate Member position(s) on the Birch Hills County Subdivision and Development Appeal Board.

RECOMMENDED ACTION:

It is Administration's recommendation that Council:

> "appoint Ms. Karen Egge and Mr. Herb Pfau as Alternate Members to the Birch Hills County Subdivision and Development Appeal Board and direct Administration to continue the search to fill the vacant Alternate Member position on the Birch Hills County Subdivision and Development Appeal Board."

From: Karen Egge <karenegge17@gmail.com>
Sent: Monday, August 20, 2018 3:09 PM
To: Hermann Minderlein <cao@birchhillscounty.com>
Subject: Fwd: Subdivision Development Appeal Board Hearing - BHC

Hello, my name is Karen Egge, phone 780-512-3572 and I would be available to sit on your panel. I am a trained public member at large living in the Westmark area of Saddle Hills County. I have also left a voice message for you on this matter.

Sent from my iPad

From: Herb Pfau <hdpfau@outlook.com>
Sent: Wednesday, August 22, 2018 8:58 PM
To: Hermann Minderlein <cao@birchhillscounty.com>
Subject: Re: SDAB

Thank you Mr. Minderlein
I have completed the SDAB training last month and I am a new member for the County of Grande Prairie SDAB. I retired 4 years ago from the County of Grande Prairie after working there for 40 years, the last 30 years in management as road Forman and Superintendent of Public Works for my final 12 years. I commented on hundreds of subdivisions and development permits and attended MPC and Council meetings for my last 12 years. Hope this is what you're looking for. Feel free to contact me by phone at 780 814 0447 if you need more.
Thank you
Herb Pfau

Sent from my iPad

Request for Decision (RFD)

Meeting:	Special	**Reviewed/ Approved For Submission**	
Meeting Date:	August 27, 2018	**CAO:**	
Originated By:	CAO Minderlein	**Manager:**	
Item Title:	SDAB Clerk Appointment	**Presenter:**	CAO Minderlein

DESCRIPTION:

Council is being requested to appoint Ms. Shelley Braun as a Clerk of the Birch Hills County Subdivision and Development Appeal Board (SDAB).

BACKGROUND:

Resolution RC18-275 was passed at the August 9, 2018 Regular Council Meeting and read as follows:

> *"that Council appoint Louise Gostick and Tracy Lapping as clerks of the Birch Hills County Subdivision and Development Appeal Board and authorizes Administration to reimburse time and expenses incurred to complete the duties of the SDAB Clerk."*

Administration believes that the County should have a clerk of the Subdivision and Development Appeal Board on staff if needed, and has scheduled Director of Corporate Services Shelley Braun to attend the SDAB Clerk training in Peace River on October 10, 2018.

We would continue to keep the other names listed as potential clerks, should their services be required in the future.

RELEVANT LEGISLATION (Cite):

Municipal Government Act Revised Statutes of Alberta 2000 Chapter M-26 Section 627.1(1)

Bylaw 2018-07, Section 6.a

OPTIONS:

Council may choose to:

1. Appoint Director of Corporate Services Shelley Braun as clerk of the Birch Hills County Subdivision and Development Appeal Board after her successful completion of the required training; or
2. Not appoint Director of Corporate Services Shelley Braun as clerk of the Birch Hills County Subdivision and Development Appeal Board.

RECOMMENDED ACTION:

It is Administration's recommendation that Council appoint Director of Corporate Services Shelley Braun as clerk of the Birch Hills County Subdivision and Development Appeal Board upon successful completion of the required training.

Request for Decision (RFD)

Meeting:	Special	**Reviewed/ Approved For Submission**	
Meeting Date:	August 27, 2018	**CAO:**	
Originated By:	CAO Minderlein	**Manager:**	
Item Title:	Remuneration for Members of the SDAB	**Presenter: CAO Minderlein**	

DESCRIPTION:

Council is being requested to provide Administration with direction regarding the payment of Honourarium to members of the Birch Hills County Subdivision and Development Appeal Board (SDAB).

BACKGROUND:

The members currently on the SDAB would have received the honorarium as per the rates prescribed in the "Payment of Honourarium" policy (copy attached) that was adopted by Council on **March 9, 2011** for any appeals heard in past (last appeal on record found was in 2012).

Recent events have required that the County approach other municipalities in order to bolster the number of members on the SDAB to meet current and anticipated requirements. In addition to this, the County may be entering into an agreement for an Intermunicipal SDAB to streamline the processes required and meet member and clerk training requirements included in the revision to the Municipal Government Act (MGA).

Under the current policy, members receive $100.00 per day to attend training and hearings. A member attending a meeting or hearing that lasts six and one-half hours and that is required to travel 45 minutes each way to the session would be receiving the equivalent of $12.50 per hour. Minimum wage in the Province of Alberta is currently $13.60 per hour, and slated to increase to $15.00 per hour on October 1, 2018.

Based on decisions that may be made earlier on this agenda, Birch Hills County may have members from municipalities that currently pay honourariums in the amounts of $225.00 and $277.01 per day to their SDAB members. It should be noted that the $277.01 is in excess of the Council daily honourarium paid for that specific municipality, and this is not completely unheard of for other similar board honourariums related board members required to be trained to Provincial standards.

I have spoken with both members, and although they would be okay with only $100 per day, both feel that this is low considering the training required for the position and the time that may be required to attend a hearing.

Administration believes that in addition to this instance, the Payment of Honourarium Policy is woefully in need of review and amendment, and that it should be brought back for discussion at a future Governance Meeting for discussion.

Additionally, should the County move ahead with an Intermunicipal Subdivision and Development Appeal Board (ISDAB), this issue will be dealt with in that document much as it is for the joint Assessment Review Board that we are currently a member of.

The last point that Administration would like to make, it could cause animosity or problems if a decision was made to pay varying rates for honouraria to SDAB members.

COST / SOURCE OF FUNDING:

Funding for this expense would be from GL Account

RELEVANT LEGISLATION (Cite):

Payment of Honourarium Policy (copy attached)

OPTIONS:

Council may choose to:

1. Authorize the Payment of Honouraria to Subdivision and Development Appeal Board (SDAB) members based on the following criteria:

    a. $100.00 for meetings or events requiring less than 4 hours (including the travel time required for the member travelling the greatest distance from their home to the event and home again); and

    b. $175.00 for meetings or events requiring more than 4 hours (including the travel time required for the member travelling the greatest distance from their home to the event and home again); or

2. Authorize the Payment of Honouraria to Subdivision and Development Appeal Board (SDAB) members based on the highest rate paid by a participating member's municipality; or

3. Authorize the Payment of Honouraria to Subdivision and Development Appeal Board (SDAB) members based on the Birch Hills County "Payment of Honourarium" policy; or

4. Authorize the Payment of Honouraria to Subdivision and Development Appeal Board (SDAB) members based on another methodology deemed appropriate by Council.

In addition, Administration recommends that Council direct Administration to bring the Payment of Honourarium Policy to a future Governance Meeting review and discussion.

RECOMMENDED ACTION:

It is Administration's recommendation that Council:

1. Authorize the Payment of Honourariums to Subdivision and Development Appeal Board (SDAB) members based on $100.00 for meetings or events requiring less than 4 hours (including the travel time required for the member travelling the greatest distance from their home to the event and home again) and $175.00 for meetings or events requiring more than 4 hours (including the travel time required for the member travelling the greatest distance from their home to the event and home again); and

2. Direct Administration to bring the Payment of Honourarium Policy to a future Governance Meeting review and discussion.

POLICY TITLE: **PAYMENT OF HONORARIUM**

Date Adopted by Council / Motion Number: March 09, 2011

POLICY:

Council, Board and Committee members when representing Birch Hills County at meetings, conferences and workshops shall receive the Honorarium Rates, as established within this policy.

HONARARIUM – ELECTED AND APPOINTED OFFICIALS

Reeve	$175.00 per day (regardless of length)
Deputy Reeve	$175.00 per day (regardless of length)
Councillors	$175.00 per day (regardless of length)

If a member of County Council attends two meetings in one day in different geographical locations, that member may claim a second honorarium for that day.

Public Member Appointments shall be paid $100.00 per day (regardless of length) excluding appointed members of the Birch Hills County Library Board.

The Birch Hills County Library Board shall be paid $1600.00 per year for Board Member Honorariums. The Board shall be responsible to disperse the payments accordingly.

ELECTED OFFICIALS – READING FEE

Elected Officials shall be paid a monthly reading fee in the amount of $500.00

OFFICIAL COUNTY MEETINGS

Official County Meetings shall include;

- Regular and Special Meetings of Council, Boards and Committees
- AAMDC Workshops, Zone Meetings and Conferences
- Other meetings, conferences and workshops approved by Council

With the exception of AAMD&C events, the Council, Board or Committee will normally appoint only one member as a delegate to a Conference or Workshop. The delegate shall be responsible for reporting back to the appropriate body. In the event that a timeline does not allow for Council to approve attendance, the CAO may use discretion in selecting an appropriate member of Council to attend an event.

When a meeting is scheduled to commence prior to 4:00 p.m. and travel to the meeting location is in excel of 4 hours, the representative may travel the day prior to the meeting and be entitled to all applicable honoraria and applicable expenses.

When a meeting ends after 2:00 p.m. and travel home will be in excess of 4 hours, the representative may choose to travel the day after the meeting and be entitled to all applicable honoraria and applicable expenses.

REEVE **C.A.O.**

Request for Decision (RFD)

Meeting:	Special Meeting	**Reviewed/ Approved For Submission**
Meeting Date:	August 27, 2018	**CAO:**
Originated By:	Amanda Ouellet, Director of Agricultural Services	**Manager:**
Item Title:	Weed Control Budget Increase	**Presenter:** Amanda Ouellet

DESCRIPTION:

Administration is coming to council to provide an update on the 2018 Roadside Spraying Program, while also requesting an increase of funds to the 2018 Chemical Budget to complete the work needing to be completed.

BACKGROUND:

The Summer of 2017 was to be the first year that the County was to spot spray ½ of the County after completing the 4th year of "Catch up Spraying Program" in 2016. At the time we were unsure what the exact cost would be to complete ½ of the County and budgeted an estimated amount. Due to unforeseen circumstances the spray program was not competed in 2017 as planned and therefore a true cost to chemical was not determined that summer. For the chemical budget of 2018 we continued with the estimated $50,000 and brought forward the $25,000 remaining from the 2017 budget to make $75,000 budgeted for 2018.

In 2012 there was also a 4 year "Catch up Brushing Program" this program cost was estimated at $750,000 in the 4 years along with an additional $75,000 over the last 3 years. The intent of this program once complete was to have the Agricultural Department controlling the brush using chemical control along with mowing to ensure regrowth would not become a drainage, and safety problem again in the future. In 2013 the $75,000 was spent on a contract sprayer to spray 1 season of brushing. In 2015 another $20,000 was spent for brush control as well. This was not finished due to bad weather.

This summer we started spraying ½ the County for the first time. 2018 is also the first year that the new properly calibrated/operating spray truck is being used. With the heavy moisture this spring and summer the Noxious weeds are Flourishing and we are needing to blanket spray more of the roads then we had expected. While we are controlling the weeds, we are spraying brush that has regrown so it can be mowed in the summer of 2019. The new spray truck was designed so that we could reach the brush that needs to be controlled and eliminate hiring a contract sprayer for this sole purpose.

While working on the 2018 budget it was unsure what should be allotted to the chemical budget due to all the unknow factors that we were going to be faced with. The fact that we are blanket spraying lots while also spraying brush we are spraying 30ft rather that the 15-18ft. So far, we have sprayed about 450km of ditch. ½ of the County would be an estimated 1300km. The $75,000 budgeted for chemical would have been close to enough for the weed control give or

take. The brush control chemical should have been a separate chemical budget item as it cost roughly $75,000 previously for brush spraying alone. This number wouldn't change much in future years as it will be the same areas being sprayed with regrowth coming back every couple years.

Yellow Toadflax has become very wide spread in the County this year and has become a serious matter that we are working on. This weed for other Counties is like how we feel about Chamomile when we see it. It is very difficult to kill once it has established itself in grass as there are very limited chemicals that are effective for controlling Toadflax. Next Canada Thistle is the next concern followed by White Cockle and Sow Thistle. These 4 weeds are regulated under the Alberta *Weed Control Act as Noxious Weeds*. Sweet Clover is being controlled for safety reasons as well allowing the roadside mowers to work more efficiently. During the Provincial Program audit a tour of the County showed how prevalent Toadflax and Canada Thistle is in Birch Hills County. During the tour it was shown to the auditor a non-controlled area and a controlled area that was sprayed this summer and he took pictures of both and will compile it into his report.

DISCUSSION / BENEFITS / DISADVANTAGES:

The weed problem this summer was definitely unpredicted and has increased our concerns. Additional funds towards chemical would allow us to complete the area planned to be completed this summer along with starting 2019 off with more of an idea of what needs to be budgeted for Chemical. Noxious weeds will be controlled in these areas keeping complaints to a minimum and brush will be controlled as intended when the brush program was developed. Disadvantages would be that the County would be in violation of the *Alberta Weed Control Act and Regulation.* "A person shall control a noxious weed that is on land the person owns or occupies." *The* brush would also be left to grow for another season putting the next seasons plans behind. Lots of the brush would be too tall to legally spray and another mechanical means would be needed prior to spraying.

COST / SOURCE OF FUNDING:

$75,000 added to the 2018 Operating Budget under ASB Weed Control Chemicals, Account # 2-63-70-20-531

RELEVANT LEGISLATION (Cite):

Weed Control Act Section 2 Part 1 (2)

RECOMMENDED ACTION:

It is Administration's recommendation

"that Council add $75,000 to the 2018 Operating Budget under ASB Weed Control Chemicals, Account # 2-63-70-20-531."