



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council
From: Director of Corporate Services
Subject: Council Procedure Bylaw – Proposed Amendments

File No.: 3900 – 2730, 2013
Date: November 21, 2022

PURPOSE:

To propose amendments to the Council Procedure Bylaw No. 2730, 2013.

POLICY ANALYSIS:

The *Community Charter* requires Council to establish a bylaw identifying general procedures to be followed by Council and Council Committees.

Community Charter:

Procedure Bylaws

- 124** (1) *A council must, by bylaw, establish the general procedures to be followed by council and council committees in conducting their business.*
- (2) *Without limiting the matters that may be dealt with under this section, a council must, by bylaw, do the following:*
- (a) *establish rules of procedure for council meetings, including the manner in which resolutions may be passed and the manner by which bylaws may be adopted in accordance with Division 3 [Bylaw Procedures] of this Part;*
 - (b) *establish rules of procedure for meetings of council committees;*
 - (c) *provide for the taking on minutes of council meetings and council committee meetings, including requiring certification of those minutes;*
 - (d) *provide for advance public notice respecting the time and date and, if applicable, the place of council committee meetings and establish the procedures for giving that notice;*
 - (e) *identify places that are to be public notice posting places for the purposes of section 94 [publish notice];*
 - (f) *establish the procedure for designating a person under section 130 [designation of member to act in place of the mayor];*
 - (g) *establish the first regular council meeting dates referred to in section 125(1) [council meetings] as a day in the first 10 days of November following a general local election.*
- (3) *A bylaw under this section must not be amended, or repealed and substituted, unless the council first gives notice in accordance with section 94 [public notice] describing the proposed changes in general terms.*

Further, recent amendments to the *Community Charter* now authorize meetings to be conducted electronically.

Electronic regular Council meetings

- 128** (1) *If authorized by a procedure bylaw and the requirements of subsection (2) are met, regular council meetings may be conducted by means of electronic or other communication facilities.*
- (2) *The following requirements apply in relation to a regular council meeting referred to in subsection (1):*
- (a) *the meeting must be conducted in accordance with the applicable procedure bylaw;*
 - (b) *in the procedure bylaw, a council must*
 - i. *provide for advance public notice of the following:*
 - A. *the way in which the meeting is to be conducted by means of electronic or other communication facilities;*
 - B. *the place where the public may attend to hear, or watch and hear, the proceedings that are open to the public, and*
 - ii. *establish the procedures for giving that notice;*
 - (c) *the facilities must*
 - i. *enable the meeting's participants to hear, or watch and hear, the meeting,*
 - ii. *except for any part of the meeting that is closed to the public, enable the public to hear, or watch and hear, the meeting, and*
 - iii. *except for any part of the meeting that is closed to the public, enable the public to hear, or watch and hear, the meeting at the specified place, and a designated municipal officer must be in attendance at the specified place.*
- (3) *Members of council who are participating in a meeting conducted in accordance with this section are deemed to be present at the meeting.*

CAO RECOMMENDATIONS:

THAT Council direct staff to bring forward a bylaw to amend the Council Procedure Bylaw No. 2730, 2013 as follows:

1. Set the standard meeting type as hybrid (in person and electronic) and permit electronic participation in all meetings in accordance with the Community Charter.
2. Delegate to the City Manager the authority to change the meeting type from hybrid to electronic in circumstances that pose a risk to the meeting participants.
3. Change the process for setting the annual council meeting schedule, requiring an annual meeting schedule to be adopted by Council prior to the December 31st of the preceding year.
4. Update the meeting location section and permit meetings at the CVRD administrivia building and Courtenay City Hall, and alternative locations within City boundaries.
5. Authorize the Corporate Officer, in consultation with the Mayor and City Manager to amend the start time of a Regular Council meeting to accommodate the closed portion of the meeting prior

- to the open portion of the meeting, and cancel or establish a different day, time or place for the meeting without council resolution.
6. Remove the prescribed order of the agenda to accommodate any items of interest to Council in consultation with the Mayor and City Manager.
 7. Update the public notice posting place to reflect current meeting locations.
 8. Amend gendered language to be inclusive and non-binary.
 9. Add a section identifying a procedure for notices of motion where notice is provided in writing and read aloud at a preceding meeting for consideration at the next regular meeting unless council resolves to consider the motion without notice.
 10. Identify ineligible delegations.
 11. Change the adjournment time from 12:00 a.m. to 9 p.m.
 12. Update language generally to clarify procedures without changing the procedure or its intent.



Geoff Garbutt, M.PL., MCIP, RPP
Chief Administrative Officer

BACKGROUND:

Council Procedure Bylaw No. 2730, 2013 outlines the ways in which Council and its committees conduct their business. The foundational principles of a procedure bylaw are integrity, accountability, respect, and leadership and collaboration. They are one tool used to set shared expectations for process, procedure and conduct at council and committee meetings including rules for:

- how meetings are conducted
- how decisions are made and recorded
- how schedules and notice requirements are handled

Procedures encourage a collaborative approach that fosters respectful and responsible conduct. Responsible conduct is the expectation that each member of Council conducts themselves according to the principles of honesty and integrity, in a way that furthers local government’s ability to provide good governance to their community.

During the Covid-19 pandemic and through the authority granted by Ministerial Order, means by which local governments conducted business was adjusted to facilitate the continuation of essential democratic processes, through the expansion of participation options. Through newly permitted electronic participation options, and to protect the health of Courtenay residents, members of council and staff and in accordance with the Provincial Health Officer’s Orders, the City transitioned from in-person meetings to electronic meetings. Electronic meetings included virtual participation by members of Council, delegations, staff, and the public via online meeting platform and YouTube web broadcasting.

On June 1, 2021, the *Municipal Affairs Statutes Amendments Act (Bill 10)* was passed and amending the *Community Charter* to provide permanent authority for municipal governments to choose, by bylaw, whether to conduct regular and committee meetings electronically and or permit electronic participation.

Electronic meetings, if authorized by bylaw, are meetings where all members of a council or board may participate electronically (e.g., videoconference, audioconference or telephone).

Electronic participation, if authorized by bylaw, allows for a **hybrid meeting** where some members of a council or board can attend in person, and other members attend by electronic means.

These new rules came into effect on September 29, 2021 and in anticipation of the new legislation, Council passed the following resolution on September 7, 2021 pending a more in-depth amendment of the Council Procedure Bylaw:

THAT based on the September 7th, 2021 staff report "Council Meetings, Committee Meetings, and Public Hearings - Meeting Models", Council approve OPTION 1 and support the following meeting models until such time as Council Procedure Bylaw No. 2730 is amended to address in more detail electronic participation in public meetings under the newly granted authorities of Bill 10-2021:

- *Council and Committee Meetings to be conducted using a "hybrid" model with spectators, delegates, and members of Council having the option of virtual or in-person participation/attendance.*
- *Public Hearings to be conducted "electronically" with participants having the option to participate via telephone, web conferencing or written submission, and members of Council having the option to participate electronically or in-person.*

With direction from Council, staff have reviewed the Council Procedure Bylaw and the expanded meeting options authorized through amendments to the Community Charter for the purposes of recommending procedural changes intended to decrease barriers to participation, provide clarity of procedure and increase transparency of government decision making processes.

DISCUSSION:

Electronic Meetings & Electronic Participation

Courtenay Council has been conducting meetings in a hybrid (virtual and in person) format since September 1, 2021. Hybrid meetings have enabled electronic participation of members of Council, delegations, presenters and staff. Throughout the Covid-19 pandemic, the Ministry of Municipal Affairs received feedback from local governments outlining the advantages and enhanced transparency and accessibility that electronic meetings offer their residents¹. Electronic meetings permitted residents to view Council meetings online (e.g. via YouTube) and participate through a virtual meeting platform or via phone.

Although originally intended to protect the health and safety of participants, hybrid meetings decrease barriers to engagement as participants have the option to view or participate in the meeting from the comfort of their home. Electronic participation provides enhanced engagement opportunities to all participants (members of council, staff, residents etc.) as travel to the meeting is not required. Electronic participation, most notably decreases barriers to participation for individuals who work during the day, have

¹ Ministry of Municipal Affairs, "Guidance for Adapting to the New Electronic Meetings Framework", as accessed on September 15, 2022, at https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/local-governments/governance-powers/electronic_meetings_guidance.pdf

child and elder care responsibilities, are impacted by limited mobility or other physical and or health challenges (e.g. able to participate in a meeting at home with access to aids). The provision of a meeting via hybrid meeting allows participants greater choice about how they participate.

Staff recommendation – Meeting Style: That hybrid meetings be selected as the standard meeting type, with the option of electronic meetings in the event of a Special meeting and or in circumstances that may pose a significant risk to the participants as identified by the City Manager.

Staff recommendation – Participation: That Council, staff and any meeting participate be permitted to participate electronically.

Council Meeting Schedule, Meeting Location, & Public Notice Board

Currently, the Council Procedure Bylaw requires Council meetings to occur on specific days of the week, sets Courtenay City Hall as the meeting location, and dictates the start time of each meeting. Due to the prescriptive language in the bylaw, to amend any of the aforementioned logistics Council is required to pass a resolution. In recent years, Council has amended via resolution meeting dates to accommodate conferences, events of significance (e.g. provincial election, passing of the Queen etc.), the location of the meeting (from Courtenay City Hall to the Civic Room at the CVRD Offices), and the meeting start time to consider the closed portion of the meeting prior to the open portion at 4:00 p.m.

Building in flexibility of the location, time and meeting dates will facilitate a comprehensive meeting schedule that anticipates needs while decreasing amendments to meeting details throughout the year increasing the reliability of the annual schedule. Through delegation to the Corporate Officer, based on agenda items, the meeting time could be adjusted to permit the holding of the closed portion of a meeting prior to the open while maintaining a consistent 4:00 p.m. start time for the open portion of the meeting.

Staff recommendation: That the annual meeting schedule be considered by Council prior to the end of the proceeding year. That the location of Council meetings be amended to include both the City Room at the CVRD Administrative Building and Courtenay City Hall, and permit Council to hold a meeting at any place other than City Hall within the boundaries of the City subject to notice requirements. Lastly, delegate authority to the Corporate Officer, who may in consultation with the Mayor and City Manager cancel, postpone, or reschedule a Regular Council meeting and establish a difference day, time or place for the meeting.

Order of Business

The Council Procedure Bylaw currently prescribes the order of business (what order items on the agenda are to appear). This inflexible approach necessitates an amendment to the agenda whenever the order of businesses would benefit from adjustment. Typically, the order of business is amended to respect an individual's/groups time to participate (e.g. delegation, presenter etc.) or to permit Council to raise an item earlier in the meeting (e.g. award, announcement etc.). Although it can be anticipated that the order of business will be generally consistent with historical practices, permitting adjustments without resolution to improve meeting efficiency and in some cases decrease barriers to participation.

Staff recommendation: That the agendas be structured to accommodate any items of interest to Council, in consultation with the Mayor and City Manager.

Public Notice Posting Place

The Council procedure bylaw currently defines the Notice Board as the “notice board located at City Hall, 830 Cliffe Avenue, Courtenay, BC”. Historically, Courtenay Council meetings have taken place at in person at Courtenay City Hall. With the relocation of Council meetings from Courtenay City Hall to the CVRD Civic room and new hybrid meeting format, the definition of “notice board” should be amended to reflect the new location and digital access.

Staff recommendation: That the Public Notice Posting Place be identified as the City of Courtenay Website and at a posting board in close proximity to the actual meeting location (e.g. CVRD posting board, City Hall when appropriate etc.), and that any revisions to the annual meeting schedule be posted on the Public Notice Posting Place.

Language

The Council Procedure Bylaw currently uses gender binary language “she/her, he/him”. The use of gender binary language is not inclusive of the spectrum of gender identity and therefore is not representative of all people.

Staff recommendation: That all gender binary language be amended to they, them, their, or position title where appropriate.

Notice of Motion

The Council Procedure Bylaw is silent on the procedures for providing and considering a notice of motion from a member of Council. In the absence of a specific reference, the procedure for a motion presented by a member of Council have been governed by the requirements of Section 12(1) – Additional Agenda Items. Based on this section, Council must consider any item on the agenda or via majority vote approve any items that are not on the agenda. The purpose of providing Council and the public with notice of a motion is to ensure transparency of decision making through public notice and providing time for appropriate consideration of the matter prior to debate and decision. By providing a notice of motion at a meeting and then considering the motion at the subsequent meeting, the public is aware of the decision before Council well in advance of its consideration. Additionally, members of Council have time to review the motion, and reflect on their perspective prior to voting on the matter.

Staff recommendation: That the procedure for providing a notice of motion be added to the bylaw, with the requirement that the motion must be introduced by reading aloud at a Council meeting, Subsequent to providing the Notice of Motion, the member of Council shall provide a written copy to the Corporate Officer for inclusion on the next regularly scheduled Council meeting for Council’s consideration by a set date and time in alignment with agenda procedures.

Delegations

The Council Procedure Bylaw identifies the processes for appearing as a delegation before Council, however it does not identify appropriate or inappropriate delegations (aside from not Council’s jurisdiction), does not require delegations to provide important information regarding the purpose and topic of the delegation, and does not outline the way in which Council may provide direction to staff in response to requests for action by the delegation.

a) Restrictions

Delegations are not appropriate under the following conditions and the bylaw is currently silent on the matter leaving room for ambiguity of eligibility:

- Addressing a bylaw after the public hearing and before final adoption
- Issue that will be imminently or is before the courts or on which Council has authorized legal action
- A matter in respect of which a City-led public consultation is planned or in progress – direct feedback through designed and designated means
- To promote commercial projects and services (benefit business)
- Promote a political party or candidate
- Publicly tendered contracts or proposals calls for the provision of goods or services at certain times during the proposal phase
- A delegation that has appeared on the same topic in the past 12 months (to ensure delegation spaces for other individuals or organizations)

Staff recommendation: That the bylaw be amended to identify ineligible delegations.

b) Delegation Outcomes

Having heard from a delegation, Council will often ask clarifying questions and move into discussion on possible action responding to a request made during the presentation. However, the Council Procedure Bylaw does not permit the passing of a resolution at the same meeting at which a delegation has appeared, and further does not prescribe the procedure for bringing forward a resolution at a future meeting. In the absence of procedure, the practice has been inconsistent with either a reliance on a member of Council to identify the request under the “unfinished business” section of a subsequent agenda, the Mayor requesting the addition of the item to the agenda, or no action taken with the delegation unclear as to the decision of Council.

Staff recommendation: That the bylaw be amended to require motions arising from delegations follow the notice of motion procedure and clarify that the time for discussion and debate is at the point at which Council considers the motion. Council may ask questions and seek clarification of information from the delegation at the point of presentation, however debate will be limited to debate on a motion.

Adjournment

Council meetings must adjourn at 12:00 a.m. (midnight) unless two-thirds of Council resolve to extend the meeting. This late mandatory adjournment time is unique as many City’s have chosen to end their meetings at a time when public transit is still in operation to ensure any member of the public that wishes to attend the meeting in person can access public transit to and from the meeting. According to the BC transit schedule, the last bus in proximity to the location of Council meetings is 9:05 p.m. Reflecting on 2020 and 2021 Council meeting end times, the Open portion of Council meetings complete by 9 p.m. the vast majority of the time.

Staff recommendation: That the bylaw be amended to change the adjournment time from 12:00 a.m. to 9:00 p.m. unless an extension is supported by a two-third vote of Council members present.

FINANCIAL IMPLICATIONS:

Legal costs to draft the amending bylaw are estimated at \$800, and the cost of statutory notices would be approximately \$500.

ADMINISTRATIVE IMPLICATIONS:

This work is part of the core functions of the Legislative Services Division.

ASSET MANAGEMENT IMPLICATIONS:

None.

STRATEGIC PRIORITIES REFERENCE:

We focus on organizational & governance excellence

- Support and encourage initiatives to improve efficiencies
- Communicate appropriately with our community in all decisions we make

We Continually invest in our key relationships

- ▲ Support improving accessibility to all City services

● **AREA OF CONTROL:** The policy, works and programming matters that fall within Council's jurisdictional authority to act

▲ **AREA OF INFLUENCE:** Matters that fall within shared or agreed jurisdiction between Council and another government or party

■ **AREA OF CONCERN:** Matters of interest that are outside Council's jurisdictional authority to act

OFFICIAL COMMUNITY PLAN REFERENCE:

CP3 The City will apply appropriate engagement tools and techniques to provide a consistent approach to public engagement efforts across a range of community decisions based on the impact of the decision or change.

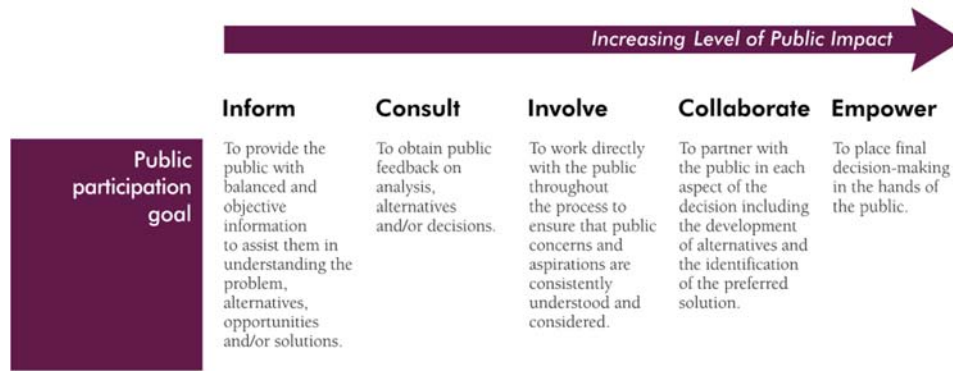
REGIONAL GROWTH STRATEGY REFERENCE:

None.

CITIZEN/PUBLIC ENGAGEMENT:

In accordance with the *Community Charter*, s.94 [public notice] and s. 124(3) [procedure bylaws] the City must provide notice of the proposed bylaw amendments, describing the proposed changes in general terms.

Staff would inform the public based on the IAP2 Spectrum of Public Participation:



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OPTIONS:

Option 1: THAT Council direct staff to bring forward a bylaw to amend the Council Procedure Bylaw No. 2730, 2013 as follows:

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4. Update the meeting location section and permit meetings at the CVRD administrivia building and Courtenay City Hall, and alternative locations within City boundaries.
5. Authorize the Corporate Officer, in consultation with the Mayor and City Manager to amend the start time of a Regular Council meeting to accommodate the closed portion of the meeting prior to the open portion of the meeting, and cancel or establish a different day, time or place for the meeting without council resolution.
6. Remove the prescribed order of the agenda to accommodate any items of interest to Council in consultation with the Mayor and City Manager.
7. Update the public notice posting place to reflect current meeting locations.
8. Amend gendered language to be inclusive and non-binary.
9. Add a section identifying a procedure for notices of motion where notice is provided in writing and read aloud at a preceding meeting for consideration at the next regular meeting unless council resolves to consider the motion without notice.
10. Identify ineligible delegations.
11. Change the adjournment time from 12:00 a.m. to 9 p.m.
12. Update language generally to clarify procedures without changing the procedure or its intent. **(Recommended)**

- Option 2: THAT Council direct staff to bring forward a bylaw to amend the Council Procedure Bylaw No. 2730, 2013 as follows:
- Council to select the sections for amendment
- Option 3: THAT Council refer the report back to staff with direction on proposed amendments or other considerations.

Prepared by,



Kate O'Connell, MPP
Director of Corporate Services

Reviewed by:



Adriana Proton
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Concurrence by,



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City Manager (CAO)