



INFORMATION ONLY COUNCIL REPORT

To: Paul Gipps, CAO

Date: April 20, 2021

From: Meg Jacks, Development Technician

Subject: **Post Public Hearing Procedural Options**

EXECUTIVE SUMMARY

This report provides information for consideration on post public hearing procedural options. Staff were directed to explore current Council procedures in various municipalities with respect to this topic and to bring forward a report with their findings for Council's information. The options provided to Council are for zoning related bylaws and are intended to represent typical post public hearing procedures for non-controversial items.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity (Strategic Plan Priorities 2020-2022)

BACKGROUND

A public hearing under section 465 of the *Local Government Act* must be held after first reading of the bylaw and before third reading.

The Development Applications Procedures Bylaw 0260 Section 3.14 (*Attachment 1*) outlines the amending bylaw may be given first and/or second reading prior to public hearing. This is consistent with the *Local Government Act*. Section 3.14.1 also outlines that Council may consider waiving a zoning bylaw amendment public hearing if the proposed bylaw is consistent with the Official Community Plan.

Section 470 of the *Local Government Act* outlines that once the public hearing has been closed, Council may do one of the following:

- A. Adopt or defeat the bylaw; or
- B. Alter and then adopt the bylaw (as long as changes do not alter use or increase density or decrease density without the consent of landowner).

This is consistent with Section 3.15. (*Attachment 1*) of the Development Applications Procedures Bylaw which outlines once the public hearing has closed, Council may

proceed with third reading. Once conditions have been identified and addressed, adoption can be considered.

Any change from the current process may require an amendment to the Development Applications Procedure Bylaw No. 0260, or the implementation of a new Council Policy on the topic.

DISCUSSION:

The following information is a summary of post public hearing procedures of various municipalities:

City of Kelowna

- First reading given at a regular Council meeting. Then forwarded to public hearing.
- Following the public hearing, the bylaws are considered for second and third readings at a regular Council meeting on the same evening.
- If there are no conditions the bylaw is also adopted at this same meeting.

City of Penticton

- Trialing a new process over the last couple of months.
- First reading occurs on Tuesday afternoons at a regular Council meeting. The file is then forwarded to public hearing.
- Public Hearing occurs the following Monday evening.
- Second, third and adoption occur on the following Tuesday evening.
- Adoption occurs at the same meeting as second and third if there are no conditions.

City of Vernon

- First and second reading occur at the same regular Council meeting.
- Public hearing held approximately one month later.
- Third reading is granted the same evening as the public hearing after the public hearing has closed.
- Adoption is scheduled after conditions have been met at the next council meeting.

District of Lake Country

- First and second reading occur at the same Council meeting.
- Public hearing held separately.
- Third and adopt at a separate Council meeting.

Fraser Valley Regional District

- First reading given at a regular Board meeting. Then forwarded to public hearing.
- Public hearing held on a separate day.
- Second, third and adopt happen subsequently at regular Board meeting on a separate day to the public hearing.

OPTIONS:

After exploring the listed municipalities post public hearing procedures, the following options are outlined for Council's consideration for non-controversial items.

Option 1 (Current Process):

	Meeting #
First and Second reading (support in principle) <ul style="list-style-type: none">• First and second readings typically occur at the same Council meeting.• Forward to a public hearing.	1 – Council Meeting
Public hearing held on a separate date to all readings. <ul style="list-style-type: none">• Council does not make any decisions during or immediately post public hearing.• Council gives direction to staff after second and before third time asking for any public comments (New process)• Public hearing closes.	2 – Public Hearing
Third reading <ul style="list-style-type: none">• Council reviews information received and bylaw is considered.• Where conditions apply, adoption is scheduled at a later meeting. Third reading and Adoption <ul style="list-style-type: none">• Third reading and adoption scheduled at subsequent meeting(s).• This may happen concurrently if there are no conditions.	3 – Council Meeting
Minimum # Council meetings	3

Pros:

- This option provides additional time after the public hearing, before third reading and adoption of the bylaws are scheduled.
- This option allows Council to consider all submissions received up until the close of the public hearing, prior to giving third reading.
- This option provides additional time for Council to consider the proceedings of the public hearing.
- This option requires a minimum of 3 scheduled dates for Council to consider the bylaw in full.

Cons:

- Council is not provided early opportunity to discuss the public hearing.

Option 2: Council considers additional readings at the next Council meeting

	Meeting #
First reading and Second reading (support in principle) <ul style="list-style-type: none">• First and second readings typically occur at the same Council meeting.• Forward to a public hearing.	1 – Council Meeting
Public hearing held on a separate date to first and second readings. <ul style="list-style-type: none">• Council gives direction to staff after second and before third time asking for any public comments.• Public hearing closes.	2 - Public Hearing
<ul style="list-style-type: none">• Regular Council Meeting starts. <p>Options presented for consideration at the Council meeting directly after the public hearing has closed.</p> <ul style="list-style-type: none">• Option 2A:<ul style="list-style-type: none">◦ Give third reading and adopt (providing no conditions).• Option 2B:<ul style="list-style-type: none">◦ Give third reading only (where conditions apply).◦ Should Council give third reading, staff will prepare the bylaws for consideration of adoption once conditions met at future Council Meeting (#3).• Option 2C:<ul style="list-style-type: none">◦ Defer / postpone consideration of third reading to a future Council meeting – to allow staff to respond or clarify items raised at the public hearing, or for Council to further consider the proceedings of the hearing.• Option 2D:<ul style="list-style-type: none">◦ Deny application, and rescind first and second readings.	2 – Council Meeting
Minimum # Council meetings	2

Pros:

- This option defers Public input until after second reading and allows Council the opportunity to discuss the bylaw immediately after the public hearing has closed and provide additional readings on the file.
- Requires a minimum of 2 scheduled dates for Council to consider the bylaw in full.

Cons:

- Any submissions received after the late agenda items become part of the public record. Currently, Council does not consider these submissions until they are received the following day. Additional review of this process would be required to ensure late items were considered prior to further readings by Council.
- Should additional conditions or requirements be identified, reconsideration of third reading may be required.

Option 3: Early public feedback and Council considers additional readings at the next Council meeting

	Meeting #
First reading (introduction to Council) at regular Council Meeting. <ul style="list-style-type: none"> • Forward to a public hearing. 	1 – Council Meeting
Public hearing held on separate date to first reading. <ul style="list-style-type: none"> • Council gives direction to staff after second and before third time asking for any public comments. • Public hearing closes. 	2 – Public Hearing
<ul style="list-style-type: none"> • Regular Council Meeting starts. Additional readings with options given at the Council meeting directly after public hearing has closed. <ul style="list-style-type: none"> • Option 3A: <ul style="list-style-type: none"> ○ Give second reading ○ Give third reading; and, ○ Adopt (providing no conditions). • Option 3B: <ul style="list-style-type: none"> ○ Give second reading only (where conditions apply). ○ Should Council give second reading, staff will prepare the bylaws for third reading once conditions met at future Council Meeting (#3). • Option 3C: <ul style="list-style-type: none"> ○ Defer / postpone consideration of second reading to a future Council meeting – should Council postpone consideration of the proposed amendment bylaws, further direction to staff on how to proceed is required. • Option 3D: <ul style="list-style-type: none"> ○ Deny application, and rescind first and second readings. 	2 – Council Meeting
Minimum # Council meetings	2

Pros

- This option allows early opportunity for Public feedback in the process.
- Council has the opportunity to discuss the bylaw after the public hearing has closed and impose additional conditions resulting from the public hearing.
- Giving second reading after the public hearing allows staff the opportunity to bring back any necessary requirements at a subsequent meeting when third reading is considered.
- Requires a minimum of 2 scheduled dates for Council to consider the bylaw in full.

Cons

- Once the public hearing has closed, no new information can be introduced to Council. If new information is required, first reading would be rescinded and a new public hearing would need to be scheduled.
- Council would not consider any submissions received after the late agenda items and up until the close of the public hearing until the following day.

FINANCIAL IMPLICATIONS

No financial plan implications are anticipated.

REVIEWED BY

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Development Applications Procedures Bylaw 0260 excerpt – Section 3.11 to 3.16