

Staff Report to Council

Administrative Services

FILE: 01-0340-50/20

REPORT DATE: July 06, 2020

MEETING DATE:

July 14, 2020

TO: Mayor and Council

FROM: Kate Barchard, Corporate Officer

SUBJECT: Amendments to Council Policy C041 – 'Public Hearing Process and Statement'

CHIEF ADMINISTRATIVE OFFICER REVIEW/APPROVAL:



RECOMMENDATION(S): THAT Council:

- A. Approve the amendments to Council Policy C041 'Public Hearing Process and Statement' as presented at the July 14, 2020 meeting of Council; OR
- B. Other.

PURPOSE

To present Council with proposed amendments to Council Policy C041 (Public Hearing Process and Statement) for their consideration and approval.

☐ Information Report

☒ Decision Report

☐ Direction Report

DISCUSSION

Background:

Council Policy C041 was flagged for review as part of the overall policy review process this past year. This particular policy establishes guidelines and recommended speaking notes for public hearings to ensure a fair and equitable process.

Relevant Policy, Bylaw or Legislation:

Public hearings are regulated by Division 3 [*Public Hearings on Planning and Land Use Bylaws*] of the Local Government Act.

Council Procedure Bylaw No. 2834, 2019 sets procedural rules for inappropriate conduct [see s. 19(i)], and affirms the Chair's role and responsibility to maintain decorum.

Analysis:

This policy was fully re-written to:

- update the format to the new Council Policy template;
- simplify and modernize the language;
- simplify and improve the layout of content to make it more reader-friendly;
- remove prescriptive language that limits the Chair's ability to modify procedural rules as required; and
- amend the Public Hearing Statement to include more inclusive, collaborative language.

The Local Government Act stipulates that the Chair of a public hearing may establish reasonable procedural rules for the conduct of the hearing [LGA s. 465(3)]. Language has been added to the Council Policy (see s. 13) to clarify that the Public Hearing Statement included in Appendix A is a sample only. It is within the Chair's purview to amend this statement and the procedural rules as they see fit, depending on the size and nature of the public hearing. For example, public hearings are currently being held electronically as a result of the COVID-19 pandemic. As a result, Mayor Dingwall used a modified public statement for our last public hearing to explain how the incorporation of the Zoom platform would work.

Removing prescriptive language and identifying Appendix A as a sample only allows for necessary adjustments to procedural rules without forcing Council to operate outside their policy.

There are no other substantive changes to the content or intent of the Policy.

COUNCIL STRATEGIC PLAN ALIGNMENT

- ☒ Principled Governance ☐ Balanced Economic Prosperity ☒ Corporate Excellence
☐ Community Spirit & Wellbeing ☐ Transportation & Infrastructure Initiatives
-

FINANCIAL IMPLICATIONS

- ☒ None ☐ Budget Previously Approved ☐ Referral to Business Planning
☐ Other
-

PUBLIC PARTICIPATION

☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☐ Empower

KATZIE FIRST NATION CONSIDERATIONS

Referral ☐ Yes ☒ No

SIGN-OFFS

Written by:

Kate Barchard, Corporate Officer

ATTACHMENT(S):

- A. DRAFT amendment – Council Policy C041 'Public Hearing Process & Statement'
- B. CURRENT Council Policy C041 'Public Hearing Process & Statement'

COUNCIL POLICY C041

01 - Administration

Public Hearing Process & Chair Introductory Statement

Effective Date: May 14, 2012
Revised Date: September 4, 2012
Revised Date: February 17, 2015
Revised Date: May 26, 2015
Revised Date: March 20, 2018
Revised Date: XX

Policy Statement

1. The Local Government Act requires councils to conduct public hearings before adopting or amending certain land use bylaws such as Official Community Plans and zoning bylaws. Public Hearings provide opportunity for affected citizens to share their views with their elected representatives before bylaws are adopted.

Purpose

2. The purpose of this policy is to establish a fair and equitable process for public hearings, ensuring that all persons who believe their interest in property to be affected are provided a reasonable opportunity to be heard.

Scope

3. This policy applies to all public hearings conducted by Pitt Meadows City Council.

Exclusions

4. Although procedural fairness is an important aspect to all quasi-judicial roles of Council, this policy does not specifically apply to other hearing processes such as those related to development permits or temporary use permits.

Definitions

5. In this policy,
 - (a) LGA means the Local Government Act.

Guidelines

6. All persons who believe their interest in property to be affected by a bylaw that is the subject of a public hearing:
 - (a) must be given an opportunity to be heard and to present their case, subject to reasonable procedural rules;
 - (b) have the right to witness the representations made by others; and
 - (c) have the right to see and comment on all material considered by Council pertaining to the proposed bylaw.
7. The Chair of the public hearing may establish procedural rules for the conduct of the hearing, as per s. 465 of the LGA. This may include the order of proceedings, how speakers will be called, and time limits.
8. Although everyone will be afforded a reasonable opportunity to be heard, the Chair will not tolerate obscene, abusive, vulgar or disrespectful behavior and may, in these instances, interrupt and cut off speakers. The Chair may order the person expelled from the meeting should the person choose to not adhere to the decisions of the Chair.
9. Members of the public may address Council in person, through representatives such as a lawyer, or through written submissions.
10. Members of Council must keep an open mind on the merits of proposed bylaws being considered at the public hearing, and any argument for or against those bylaws.
11. Although it is appropriate for Council members to ask questions of a speaker in order to clarify or expand upon that speaker's submissions, Council members should not engage in debate or argument with speakers at the public hearing.
12. In order to protect the integrity of the public hearing process, it is imperative that, after close of the public hearing, Council members not receive any further information regarding the proposed bylaw, or share with each other information which they may have received in their individual capacity. New information received following the close of a Public Hearing would require a new Public Hearing in order to allow for speakers' comments related to the new information.

Procedures

13. The Chair will read out loud a Public Hearing Statement at the beginning of the hearing that explains the procedural rules for the hearing. A sample is included in Appendix A. The Chair reserves the right to modify the procedural rules, including time limit per speaker and process for calling speakers, depending on size and location of the particular hearing.
14. City Staff will provide a brief description of the zoning application or the Official Community Plan amendment at the beginning of the hearing.
15. The Corporate Officer will provide a summary of any written correspondence or petitions received for the record.
16. When a large number of speakers is anticipated, the Chair may determine that a speakers list will be implemented. People who wish to speak will place their names on the speakers list provided, and will be called in the order that their names appear on the list.
17. As part of their representations to Council, members of the public will share their full name, street address or general neighbourhood, and city of residence, which will form part of the public record.
18. For public hearings with significant public participation, the hearing may be adjourned and reconvened at a later date without further notice if the time and place for the resumption of the hearing are stated to those present at the time the hearing is adjourned.

Related Policies and Bylaws

19. Council Procedure Bylaw No. 2834, 2019 – speaks to public engagement and role of Chair in maintaining decorum.

Appendix A

Public Hearing Statement

1 - OPEN MEETING

I now call the Public Hearing to order.

This Public Hearing is convened pursuant to Section 464 of the Local Government Act.

This evening, we are considering: *<Read bylaw Number(s) and Title(s)>*.

Council has given initial readings to this bylaw(s) and is now seeking input from the community.

We will begin with a staff presentation, after which I'll explain the process and rules for providing comment.

2 – STAFF PRESENTATION

3 – PROCEDURAL RULES

Thank you <staff name>. The floor will now be opened for comments. We will be using a speaker's list to call people to the podium. If you wish to speak, but haven't added your name to the list, please make your way to the table in the lobby to do so.

Everyone who deems their interest in property to be affected by this bylaw will be given the opportunity to be heard. No one will be, or should feel, discouraged, or prevented from sharing their views.

The main function of a public hearing is to create an opportunity for citizens to share their opinions with Council regarding proposed bylaws. Council's role is not to debate the merits of a proposed bylaw or to engage in question and comments. Therefore Council will be largely silent this evening, focusing on hearing your submissions and points of view.

We ask that everyone focus on sharing their own perspective and refrain from engaging in debate. As the Chair, my role is to moderate the hearing and ensure we stay on topic and engage in a respectful manner.

Each speaker will have up to five minutes to make their comments. Once all guests have had the opportunity to speak, you will be given a second opportunity to share further thoughts should you be interested.

Once this hearing has adjourned, Council cannot receive any additional information, written or verbal, regarding the proposed bylaw until such time as Council adopts, or defeats, the bylaw.

Madam Clerk, can you please summarize any written submissions received for the public hearing, and then explain for our guests how the speaker's list will work this evening before you begin the presentations.

4 – PUBLIC COMMENT

<Thank you, Mr. Mayor. We have received [#] written submissions for the public hearing this evening:

- [#] submissions were received before agenda production and are included in your agenda packages.*

- *[#] submissions were received after agenda production and have been emailed directly to Council, with copies provided on table as well.*
- *Altogether, we have received [give breakdown of for/against/concerned and any petitions].*
- *Copies of all written submissions are available on the table in the lobby for public inspection.*
- *If members of the public would like to submit further written comment, please do so by handing it to the staff member at the table in the lobby before the close of this public hearing. Copies will be made for both Council and members of the public. No further submissions will be accepted once the Chair has closed this hearing.*

I will now call the first speaker. Each person will have 5 minutes to share their views. Please start by stating your name and address, or general neighbourhood, for the record.

Please note that this meeting is being live streamed and will be available on the City's website as a recorded archive after tonight. Any information you share, including your name and address, will be available as part of the public record of this hearing.>

The Clerk will then moderate the speakers' list and announce each speaker.

<Mr. Mayor, there are no more speakers on the list.>

Thank you. I will now call speakers for the second and last time. If you would like to make further comment, or you haven't had a chance to speak yet, please make your way to the podium and form a line.

5 – ADJOURNMENT

Seeing there are no further speakers, I now declare this Public Hearing closed and thank each of you for taking the time to attend and for sharing your comments.

<if Council is considering this bylaw further in the agenda, you may want to tell the audience.>



COUNCIL POLICY C04I

01 - Administration

Public Hearing Process & Statement

Revised Date: May 14, 2012
Revised Date: September 4, 2012
Revised Date: February 17, 2015
Revised Date: May 26, 2015
Revised Date: March 20, 2018

Purpose:

The purpose of these guidelines is to provide the Chair of the Public Hearing with some general guidelines for the conduct of a Public Hearing and some general guidelines for all members of Council and introductory and closing statements for a public hearing when it is adjourned or completed.

Public Hearing Format and General Conduct Guidelines

Public Hearings are guided by the following process:

- The bylaw item will be read out from the Agenda, and if applicable the proponent name and property address.
- Chair will call Public Hearing To Order
- Chair reads "Public Hearing Statement" and follows process therein (Appendix A), which includes, but is not limited to
 - Announce the Bylaw Number and Name
 - Confirm with Corporate Officer that Bylaw has been appropriately advertised, proper notification has been made to adjacent property owners as required, and any correspondence received has been circulated to Council
 - Request that Development Services staff give an overview
 - Acknowledge Correspondence received and circulated
 - Call for representations from the Public - Remind people to give full name, street, neighbourhood, and city, and that names will form part of

the public record and that their representations are being recorded and will be posted to the City's website

- Call 3 times for representations
- After all representations are heard, and calling one last time for Speakers, if hearing none...
- Declare Public Hearing Closed or Adjourned as the case may be

Convening Of Public Hearings

Prior to commencing a Public Hearing Council should first constitute itself as a Regular meeting of Council, of which advance written notice has been given to members of Council and the public in accordance with the Local Government Act and Community Charter.

Statement by Chair of the Public Hearing

Refer to Appendix A

Closing Statement Options

Adjournment and Reconvening

If there is an adjournment of the public hearing, the following closing statement should be read by the chair:

“This public hearing will reconvene, and continue, beginning at (time) p.m. on the (day of week), (month), (date), (year), at (address).”

It is important that the chair clearly states the place, date and time of commencement of the reconvened public hearing, using the above closing statement. If the date and time have not been set, advise the public in open meeting at the Adjournment of the Public Hearing that the date, time and place for reconvening of the Public Hearing will be posted at City Hall and on the City's web site, and advertised if time permits.

Closing statement if public hearing is completed

When the public hearing has been completed the Chair will call for any final speakers and state:

“Seeing and hearing none, I declare this public hearing closed and thank everyone for their comments.”

General Guidelines for the Conduct of a Public Hearing

The following general rules regarding the conduct of a public hearing have been established by outcomes of case law and best practices:

- The chair of the public hearing may make reasonable procedural rules for the holding of the public hearing. That is the purpose of the rules set out in the Public Hearing Statement (Appendix A).
- Public hearings must be conducted so that everyone present is given a reasonable opportunity to be heard. It is the responsibility of the Chair to manage speakers and determine time limits as needed.
- In chairing the meeting the chair should err on the side of caution to allow everyone a reasonable opportunity to be heard, rather than risk preventing someone from being heard and then later finding out they did have an interest in property that was affected. While enforcement of speaking time limits is, for example, permissible, the chair should avoid interrupting or cutting off any speaker because, for example, the chair thinks the speaker is addressing irrelevant issues, unless the speaker is addressing concerns not related to the Public Hearing in which case the chair may clarify, or ask staff to clarify, the purpose of the Public Hearing and content of the Bylaw. The chair need not, however, tolerate obscene, abusive, vulgar or like behavior and may in these instances interrupt and cut off speakers.
- Among other things, the chair of the public hearing must not discourage submissions that appear to the chair to be repetitive but stemming from representations from separate individuals. The way to deal with this is through time limits on speaking opportunities.
- Members of the public may address Council in person or through lawyers or other representatives, or through written submissions.

Guidelines for All Members of Council

The following general guidelines for members of Council regarding the public hearings are supported by the case law in this area:

- Members of Council must keep an open mind on the merits of proposed bylaws being considered at the public hearing, and any argument for or against those bylaws.
- Members of Council should not engage in debate or argument with speakers at the public hearing. It is appropriate for Council members to ask questions of a speaker in order to clarify or expand upon that speaker's submissions.
- In order to protect the integrity of the Municipal public hearing process, it is imperative that, after close of the public hearing, Council members not share with each other information which they received in their individual capacity. New information received as a Council after the close of a Public Hearing would require a new Public Hearing in order to hear speakers' comments related to the new information.

APPENDIX A

PUBLIC HEARING STATEMENT:

Good evening.

This Public Hearing is being convened pursuant to Section 890 of the Local Government Act in order to consider the following Bylaw(s):

<Read bylaw Number(s)/Title(s)>

Council for the City of Pitt Meadows has given first and second readings to this/these bylaw(s) and directed that this Public Hearing be held.

<Ask Corporate Officer if the bylaw(s) have been appropriately advertised and proper notification has been sent to adjacent property owners where required and whether any correspondence has been received>

Staff from the City's Development Services Department will present a summary of the proposed bylaw.

The floor will then be opened to anyone in attendance that wishes to present his or her views on the proposed bylaw.

I stress to all of you that this is a Public Hearing, it is an opportunity for anyone who has a view on the proposed bylaw to make that view known to Council members who are here with an open mind and are here to listen to your input.

It is NOT a question and answer period. It is NOT an opportunity to debate the merits of the proposed bylaws with either Council

members, staff or those in the audience who may be opposed to your particular view.

I ask that you:

- State your full name, street, neighbourhood, and city – your name will be recorded and become part of the public record, which means recorded in the minutes and posted to the City’s web site. This Public Hearing is also being video-taped and will be posted on the City’s web site as part of the public record.
- Restrict your comments to the issues related specifically to the proposed bylaw
- Be as brief and concise as possible – we ask speakers to respect a five minute time limit in order that everyone who wishes to speak is able to do so.
- The Chair will call for Speakers three times. Speakers are permitted to speak more than once only if they are providing new or additional information and after others who have not yet spoken have had an opportunity to speak.
- I ask that the audience be respectful of each speaker and allow that speaker to make his or her point without interruption. Regardless of whether you favour or oppose any particular statement, we ask that you refrain from clapping, cheering or booing so that all speakers will feel comfortable making their views known.

As Chair of this hearing, I reserve the right to conclude any presentation that:

- does not relate to the bylaw
- becomes abusive; or
- becomes repetitive of views that the speaker has already made known to Council members.

Please note: if you wish to provide a written submission to be included in the record of the meeting you **MUST** hand in that submission to the staff **PRIOR** to

the adjournment of the related item on the agenda. Written submissions received before 3:00 pm today have been circulated and are available for public viewing. Written submissions received between 3:00 pm and the close of the public hearing will be included in the minutes and available for public viewing after this meeting.

Please also note: Council may not receive any additional information, written or verbal, after adjournment of the Public Hearing and prior to consideration of the next reading of the respective bylaws later on this agenda or at a future Council Meeting.

Following adjournment of the Public Hearing tonight, the Regular Council Meeting will continue and Council may give consideration to items from the Public Hearing. However, if during the Public Hearing or at third reading, Council requests further information related to an item, consideration of that item will be deferred pending receipt of the requested information.

< Call on Development Services staff to introduce the item >

I will now call for Speakers for the first time...

Are there speakers for a second time...

Are there speakers for a third and final time...

Seeing and hearing none, I declare the Public Hearing closed and thank everyone for their comments.