

STAFF REPORT TO COUNCIL

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DATE: March 31, 2020

TO: MAYOR AND COUNCIL

NAME AND TITLE: WALTER BABICZ, GENERAL MANAGER OF ADMINISTRATIVE SERVICES

SUBJECT: Council Procedures during COVID-19

ATTACHMENTS: None

RECOMMENDATION:

That Council APPROVES the “Recommended COVID-19 City Council Process Changes” set out in the report from the General Manager of Administrative Services dated March 31, 2020, titled “Council Procedures during COVID-19”.

PURPOSE:

The purpose of this report is to provide information to Council regarding Ministerial Order No. M083 and make recommendations regarding Council meeting processes during the COVID-19 pandemic.

BACKGROUND:

COVID-19 and Ministerial Order No. M083

On March 16, 2020, the Provincial Health Officer issued an order prohibiting the gathering of more than 50 people. On March 18, 2020, the Province declared a provincial state of emergency.

On March 26, 2020, Ministerial Order No. M083 (the “Ministerial Order”) was issued under the *Emergency Program Act*. This Ministerial order addresses some of the City Council meeting procedural issues arising out of the Provincial Health Officer’s order. However, the Ministerial order does not squarely address the question of how to handle public hearings in these circumstances.

Staff have reviewed the Ministerial Order together with relevant City bylaws with a view to recommending temporary Council meeting procedural changes that would allow some Council business to proceed, while always strictly complying with the Provincial Health Officer’s orders and restrictions on physical distancing.

1. Council Members attending Council Meetings by Telephone

The Ministerial Order enables a municipal council to conduct meetings by electronic means, even if its procedure bylaw does not contemplate that process.

The main effect of this Ministerial Order on Prince George City Council is that more than four members of Council may now attend Council meetings by telephone for as long as the Ministerial Order is in effect.

2. Public Attendance at Meetings not Required

The Ministerial Order states that municipal councils are not required to allow the public to attend open Council meetings.

Staff's recommendation regarding public attendance at open Council meetings is set out below.

3. Public Hearings

The Ministerial Order speaks to Council meeting procedures, but does not address public hearings. A public hearing is not a municipal Council meeting; separate procedural fairness rules and requirements under both the *Local Government Act* and common law apply to public hearings.

Our public hearings within Council meeting agendas include "Informal Hearings" and "Formal Public Hearings". Informal Hearings consist mainly of Development Variance Permit applications and Temporary Use Permit applications. Formal Public Hearings consist mainly of Rezoning Amendment Applications and Official Community Plan (OCP) Amendment Applications.

A recent common law decision has clarified that there is no obligation on municipal Councils in BC to provide a public hearing on Development Variance Permit and Temporary Use Permit applications. It is sufficient for the municipality to publish and mail notices as required by the legislation and provide an opportunity for the public to submit only written comments to Council on the application.

In regard to Rezoning Amendment Applications, the *Local Government Act* provides that a public hearing may be waived by Council if the proposed rezoning is consistent with the Official Community Plan.

Public hearings for OCP Amendment Applications may **not** be waived by Council.

Staff's recommendations regarding public hearings during the COVID-19 pandemic are set out below.

4. Timing Requirement for Passing Bylaws

The Ministerial Order provides that a Council may adopt certain bylaws on the same day that a bylaw has been given third reading, rather than requiring multiple Council meetings to adopt a bylaw.

Staff's recommendations on passing bylaws during the COVID-19 pandemic are set out below.

Recommended COVID-19 City Council Process Changes

During the period that Ministerial Order No. M083 applies, Staff recommends the following process changes to enable City Council to conduct business in accordance with the orders and guidelines from the Provincial Health Officer, and to reduce the threat of COVID-19 on the health and safety of elected officials, employees and members of the public:

1. Staff will facilitate all members of Council to be able to attend Council meetings by telephone if they wish to do so.
2. Staff will discontinue informal hearings for Development Variance Permit applications, Temporary Use Permit applications and other applications where such hearings are not legally required to be held. Written submissions received from the public in connection with such applications will continue to be placed on the Council meeting agenda for Council's consideration, but not within a public hearing process.
3. Staff will include a recommendation in Staff Reports to Council that introduce a rezoning bylaw for first and second readings regarding whether the public hearing should be waived for that application. The criteria that must be met in order for Staff to recommend that Council waive a public hearing include:
 - a. the rezoning application is consistent with the Official Community Plan;
 - b. approval of the rezoning application is supported by Staff; and
 - c. a public hearing on the application is not expected to generate significant public input.

Council will be asked to pass a resolution to waive a public hearing for each application, on a case- by-case basis. Public notice will still need to be published and sent to property owners within the distance prescribed by bylaw. Members of the public may provide a written submission that would be included on the Council meeting agenda for Council's consideration, but not within a public hearing process.

4. If a public hearing is not eligible to be waived or is not waived by Council, Staff will postpone the public hearing to the extent practicable, without unduly disrupting essential decisions necessary for the community.
5. If a public hearing proceeds, Staff will develop and follow a careful strategy to comply with any applicable Provincial Health Officer orders and guidelines regarding the size of gatherings and physical distancing, while maintaining procedural fairness requirements.
6. Staff will prepare Council meeting agendas utilizing the Ministerial Order authority for Council to give bylaws three readings and adoption at the same meeting where appropriate.
7. Staff will discontinue "in person" delegation presentations within Council meeting agendas, but will provide opportunities for written submissions from delegations.
8. Staff will only allow public attendance at Council meetings that have a public hearing scheduled. Importantly, Council meetings will continue to be live-streamed on the City's website, recorded, and will remain available online for viewing in the usual manner.
9. Council authorizes the Mayor to vary the start time of regular Council meetings scheduled to commence at 6:00 p.m. to reflect the amount of Council business, or to cancel such meetings entirely.

SUMMARY AND CONCLUSION:

This report summarizes Ministerial Order No. M083 and makes recommendations regarding Council meeting processes during the COVID-19 pandemic, with a view to enhancing transparency and public participation to the extent possible while continuing to operate under the Provincial Health Officer's orders and guidelines. Staff will monitor the situation and bring additional recommendations forward to Council for consideration if the need arises.

RESPECTFULLY SUBMITTED:

Walter Babicz, General Manager of Administrative Services

APPROVED:

Kathleen Soltis, City Manager
Meeting Date: 2020/04/06