

# Report to Council



**Date:** July 27, 2020  
**To:** Council  
**From:** City Manager  
**Subject:** COVID-19 Pandemic Public Hearing & Tuesday Meeting Measures  
**Department:** Office of the City Clerk

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## **Recommendation:**

THAT Council receives, for information, the report from the Office of the City Clerk dated July 27, 2020 with respect to the COVID-19 pandemic public hearing and meeting measures.

## **Purpose:**

To provide information on the COVID-19-related changes to public hearing and Tuesday evening procedures and practices.

## **Background:**

The declaration of a state of emergency in British Columbia on March 18, 2020 resulted in Ministerial Orders and Public Health Orders that impacted the way Council receives public input on certain types of development applications, and on the holding of public hearings and Council meetings where these development applications are considered by Council.

In response to these Orders, changes were made to ensure a balance between being compliant with the Orders and ensuring public process and procedural fairness requirements were met as required for Official Community Plan, rezoning, development variance permit, and liquor licence applications.

Council directed staff to bring forward a report identifying these changes for Council's consideration of whether to make any changes.

## **Discussion:**

The changes introduced and implemented were to provide additional options for Council, public and applicant participation in the development application process, due to social distancing requirements and the restriction on the number of persons who may gather in any one place.

## Public Hearing & Tuesday Regular Meeting Measures

### *Waived Public Hearings*

On March 23, 2020, Council directed staff to recommend that the public hearing be waived for rezoning applications that are consistent with the Official Community Plan, have a recommendation of support from staff, and are not expected to generate significant public input based on correspondence received at the time of the report to Council. This expands on Council Policy No. 307, which refers to waiving the public hearing for commercial, industrial, institutional, and mixed use development that is not for a residential land use and is not abutting or adjacent to residential development. Sections 464 and 467 of the *Local Government Act* set out parameters for waiving public hearings and, to date, the Ministerial Orders have not changed these provisions.

Where a public hearing is waived, the public still has the opportunity to submit written correspondence to Council and public notification includes a newspaper ad, direct mailout to properties within 50 m, and a sign on the subject property. Staff are providing a supplemental report to Council with a summary of correspondence received and Council may choose to give the bylaw further readings, forward the application to a public hearing, or defeat the bylaw.

A total of 17 applications were directed to public hearings in May, June, and July, and the public hearing was waived for an additional 12 applications. Of these, correspondence was submitted on three items and one item was directed to public hearing after initially being waived. Council also directed one application to public hearing where the staff recommendation was to waive it.

### *Correspondence*

Written correspondence for public hearing and Tuesday regular meeting items is normally accepted until 4 pm the day before the meeting. To accommodate those who may not be able or may choose not to attend in person during the pandemic, both written and verbal correspondence is being accepted until 12 pm the day of the meeting. Staff are recording verbal correspondence verbatim in writing and all correspondence is provided to Council prior to the meeting.

### *Scheduling*

The normal start time for public hearings and Tuesday regular meetings is 6 pm, with all public hearing items followed by all regular meeting items, including the bylaws that were considered at the public hearing. Council first gave direction to hold public hearings and Tuesday regular meetings with items scheduled individually on April 20, 2020, followed by direction on June 1, 2020 to schedule meetings in this way and with start times as early as 4 pm until the Order of the Provincial Health Officer regarding Mass Gathering Events is lifted. Bylaws are also being considered immediately following the public hearing for that item.

Over the last few months, scheduling has been adjusted based on the experience with setting individual start times for applications. In June and July, items that were not expected to generate significant public attendance were scheduled at the same time to reduce time gaps between items and meetings have started at 4 pm or 6 pm depending on the number of applications on the agenda.

### *Other Measures*

Applicants are still required to complete neighbourhood notification and consultation in advance of Council's consideration in accordance with Council Policy No. 367. Council waived requirements for face-to-face interactions and in-person public information sessions and staff are encouraging applicants to use alternative methods (e.g., websites, online surveys) to interact with residents.

To support Council members who choose to participate remotely, staff and applicant presentations for development applications are now included in the agenda package. For the public, seats are blocked off to support physical distancing within Council Chambers. Hand sanitizer and wipes are available for the public, along with enhanced cleaning and signage at the entrances to Council Chambers.

### *Summary*

These measures better enable the City to comply with the Ministerial and Public Health Orders related to the COVID-19 pandemic and the provincial state of emergency while continuing to facilitate public input and involvement in the decision-making process on development applications. Specifically:

- Waiving public hearings reduces the number of people needing to attend public hearings and still provides for an opportunity for written submissions to Council;
- Expanding correspondence options increases opportunities for the public to submit their views on development applications, particularly those who may not want to or may not be able to attend in-person;
- Scheduling items individually increases the ability to maintain the maximum of 50 people in Council Chambers; and
- Physical distancing is supported by blocking off seats.

To date, these measures have not made use of Ministerial Order No. M192 provisions for electronic public hearings. Provisions are in place for Council members to participate remotely if they choose.

### Ministerial Order No. M192

On June 17, 2020, Ministerial Order No. M192 was issued, updating requirements around local government meetings and bylaw processes during the COVID-19 state of emergency. The Order requires local governments to use best efforts to allow the public to attend open meetings in a way that is consistent with public health requirements and recommendations. Since April, items that would normally be considered at an AM open meeting have been considered at a PM meeting due to the inability for the public to be present in the Knox Mountain Room and meet Provincial Health Orders. To reinstate AM open meetings and meet the various Orders, these meetings will now be held in Council Chambers with the option for the public to attend.

Additionally, the new Order made changes to provisions for bylaw adoption, limiting bylaws that can be adopted on the same day they are given third reading to those that are under specific sections of the *Community Charter* that relate to taxes and financial decisions.

### **Conclusion:**

In response to the COVID-19 pandemic and the various provincial orders and guidelines, Council gave direction to hold public hearings and Tuesday regular meetings in modified ways to support physical

distancing, reduce in-person interactions, and maintain the maximum of 50 people in Council Chambers. Public participation in the decision-making process is encouraged through different options for submitting correspondence and supporting physical distancing and enhanced cleaning for those who choose to attend in-person.

Council resolutions related to public hearing and Tuesday regular meeting measures are in place until the Order of the Provincial Health Officer regarding Mass Gathering Events is lifted. Council may choose to change or remove some or all of these measures in a way that still meets applicable orders.

**Considerations applicable to this report:**

***Legal/Statutory Authority:***

Ministerial Order No. M192

*Local Government Act* s. 464 Requirement for public hearing before adopting bylaw

- (2) A local government may waive the holding of a public hearing on a proposed zoning bylaw if
- (a) an official community plan is in effect for the area that is subject to the zoning bylaw, and
  - (b) the bylaw is consistent with the official community plan.

***Legal/Statutory Procedural Requirements:***

*Local Government Act* s. 467 Notice if public hearing waived

(1) If a local government waives the holding of a public hearing under section 464 (2) [waiver for certain zoning bylaws], it must give notice in accordance with this section.

(2) The notice must state

- (a) in general terms, the purpose of the zoning bylaw,
- (b) the land or lands that are the subject of the bylaw, and
- (c) the place where and the times and dates when copies of the bylaw may be inspected.

(3) Section 466 (3), (4) and (6) to (8) applies to a notice under subsection (2) of this section, except that

- (a) the last publication under section 466 (3) is to be not less than 3 days and not more than 10 days before the bylaw is given third reading, and
- (b) the delivery under section 466 (4) (b) is to be at least 10 days before the bylaw is given third reading.

***Existing Policy:***

Council Policy No. 307 Waiver of Public Hearing

**Considerations not applicable to this report:**

*Financial/Budgetary Considerations:*

*External Agency/Public Comments:*

*Communications Comments:*

Submitted by: L. Bentley, Deputy City Clerk

cc:

R. Smith, Divisional Director, Planning & Development Services