



Committee of the Whole Report

For the Meeting of April 1, 2021

To: Committee of the Whole

Date: February 26, 2021

From: Chris Coates, City Clerk
Karen Hoes, Director of Sustainable Planning and Community Development

Subject: Strategic Plan Actions – Public Hearing-Only Council Meetings and Video Submissions to Public Hearings

RECOMMENDATION

That Council direct staff to:

1. Bring forward amendments to the Council Procedures Bylaw to:
 - (a) formally establish daytime Council meetings to follow Committee of the Whole meetings and the order of business for them.
 - (b) establish the Order of Business for evening Council meetings to include Public Hearings, Opportunities for Public Comment and Request to Address Council and Question Period.
2. Approve amendments to the Public Hearing Speaking Policy and Request to Address Council Policy to permit pre-recorded audio and video submissions and telephone participation.

EXECUTIVE SUMMARY

Council's Strategic Plan includes "Hold Public Hearing Only Council Meetings" and "Allow people to make video submissions to public hearings" as action items continuing in 2021. The purpose of this report is to introduce the legislative framework to permanently implement these action items which have both been implemented on a temporary basis due to the pandemic and to discuss the experiences during the time they have been utilized.

In the spring of 2020 the COVID-19 pandemic resulted in a re-structuring of Council's meeting processes to comply with Health Orders that enabled public participation by electronic means both live remote participation and through pre-recorded audio or audio and video submissions. In addition, evening Council meetings were adapted to only include public participation components of the specified Order of Business in the Council Procedures Bylaw while the other items of business were moved to a daytime Council meeting that follows Committee of the Whole. The staff report introducing these temporary changes is attached as Appendix A.

The Council Procedures Bylaw provides the regulatory framework for conducting Council meetings and includes the Order of Business for Council's meetings. Ministerial Orders from the Provincial

Government enabled processes to be adapted in response to the COVID-19 pandemic without amendments to the Council Procedures Bylaw. These adapted processes have been in effect since June 2020.

Staff suggest that expanded opportunities for public participation in Council meetings and public hearings align very closely with Council's approved principles around Equity. Should Council wish to adopt these processes on a permanent basis as identified in the Strategic Plan, amendments to the Council Procedures Bylaw, the Public Hearing Speaking Policy and the Request to Address Council Policy would be appropriate. Alternatively should Council wish to consider an alternative approach further options are presented for consideration.

PURPOSE

The purpose of this report is to bring forward two Strategic Plan action items involving Public Hearing Only Council Meetings and Video Submissions to Public Hearings.

BACKGROUND

Council's 2019-2022 Strategic Plan includes "Hold Public Hearing Only Council Meetings" and "Allow people to make video submissions to public hearings" as action items originally for 2020 but that were delayed due to the pandemic and the by-election and are now identified as continuing in 2021. These items were temporarily implemented under the authority of Ministerial Orders in response to the Covid-19 pandemic. There were no technical changes to City bylaws and policies made.

On May 28, 2020 Council passed the following motion:

That Council:

1. *Authorize an amended process and move forward with public hearings and opportunities for public comment in accordance with the Ministerial Order M139 for receiving oral submissions during public hearings by allowing the public to participate via live phone and pre-recorded video as a substitute to in-person attendance while authorized by the provincial government.*
2. *Restore the public request to address Council and question period to regular council meetings by electronic participation or written submissions during the COVID-19 pandemic.*
3. *Restore the holding of twice monthly evening council meetings with remote participation in Public Hearings and Opportunities for Public Comment, Request to Address Council and Question Period.*
4. *That staff proactively communicate opportunities for public participation in the City of Victoria public processes and information regarding all public hearings be sent to all CALUCs.*
5. *That staff provide a verbal progress report on public participation at the June 18 COTW meeting.*

ISSUES & ANALYSIS

These action items, albeit with a slightly expanded scope including request to address council and question period have essentially been implemented since June 2020 due to the pandemic and the technology is available to support them on a permanent basis. However the authority for them is as a result of the Ministerial Orders under the pandemic and to adopt them permanently, Bylaw and Policy amendments would be required.

While in-person participation is a foundation of local governance, a need for electronic participation during the pandemic provided opportunities to gain experience with these methods of participation

as well as piloting public participation only Council meetings (Public Hearings, opportunities for Public Comment and Request to Address Council during the evening.

The Strategic Plan actions essentially give direction to implement these items but given that they have been utilized during the pandemic staff are also providing a review based on the experiences during this time to further inform Council's decision making around permanent implementation, while heeding the strategic plan direction to implement them as the recommendations indicate.

Public Hearing-Only (Evening) Council Meetings

The Strategic Plan action involves public hearings (and opportunities for public comment) applicable to land use items. Council may wish to consider expanding the action item to include all public participation adding request to address council, and question period to be included as has occurred under the pandemic-related modifications.

If Council wishes to keep the action item scope to public hearing-only meetings, these other sections under the Orders of Business would need be added to the daytime Council meeting agenda. However, such addition to Council daytime meetings would increase the length of daytime meetings resulting in less time between day and evening meeting twice monthly. A minimum break of at least 1.5 hours in between the daytime and evening meetings is usually necessary in order to ensure the technical ability to conduct the evening meetings.

To permanently implement this action item, amendments to provisions in the Council Procedures Bylaw would require the formal establishment of the two types of meetings and the Order of Business for each of them that would appear as follows:

Daytime Council Meeting

Order of Business

Approval of Agenda
Reading of Minutes
Proclamations
Unfinished Business
Rise and Report
Reports of Committee
Notice of Motions
Bylaws
Correspondence
New Business
Closed meeting, if required
Adjournment

Evening Council Meeting

Order of Business

Approval of Agenda
Request to address Council (max 6)
Public Hearings
Request to address Council
Question Period
Adjournment

Staff recommend expanding the scope of this action item to include Request to Address Council and Question Period in addition to Public Hearings and opportunities for public comment.

Video Submissions to Public Hearings

This action item includes statutory and non-statutory hearings, which includes both public hearings under the Local Government Act and Opportunities for Public Comment under the Land Use Procedures Bylaw. The pandemic-related adaptations also allowed for video submissions to

Request to Address Council submissions. The City has existing policy enabling staff to provide accommodations for speaking to Council for accessibility reasons. Therefore, the matter for consideration is not based on accessibility but rather on issues of practicality. Staff interpret the scope of this action to apply only to hearings as opposed to request to address council or question period. Council may wish to consider expanding the scope of this to include request to address council and/or question period.

Expanded opportunities could potentially produce an increase in public participation through more convenient, remote methods in addition to attending in-person or by written correspondence. Telephone participation has also been utilized and has been a successful way to allow real-time participation but remotely done. It requires at least one additional staff person to be in attendance in order to ensure callers can be effectively managed. Telephone participation could also be considered on a permanent basis.

Since the Strategic Plan was approved Council has directed the preparation of an Equity Frameworks. Expanded public participation opportunities in Council's meetings aligns very closely with the principles Council endorsed to prepare the Equity Framework.

The experience during the pandemic with video submissions to public hearings suggests there is a tendency for both supporters and opponents to organize and coordinate video submissions. This practice occurs during in-person participation with supporters and opponents attending hearings in an organized manner. For some, producing a pre-recorded submission is easier than attending in person. Increasing participation in public hearings is important but has consequences. Council may wish to further consider the benefit of making this practice permanent after the pandemic restrictions are removed based on the experiences over the past months.

More broadly, there have been questions raised around who is entitled to speak at a public hearing. The Local Government Act provides that *"At the public hearing, all persons who believe that their interest in property is affected by the proposed bylaw must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the hearing"*. From a planning perspective, this includes not only those in the neighbourhood but extends to those with a future interest in the neighbourhood or the city more generally. Council members can be subjective about the relative weight to issues raised by speakers with these varying perspectives.

The City has an existing policy for accommodation to persons wishing to speak at a public hearing who are unable to do so for reasons of accessibility. Three options for implementation of this process are reviewed below.

Staff recommend an expanded scope to include request to address Council and question period submissions and to also permit telephone participation in addition to pre-recorded submissions.

OPTIONS AND IMPACTS

A. Public Hearing Only Council Meetings

Option 1 – Establish Daytime Council Meeting and Evening Meetings as follows (Recommended)

Daytime Council Meeting

Order of Business

Approval of Agenda
Reading of Minutes
Proclamations
Unfinished Business
Rise and Report
Reports of Committee
Notice of Motions
Bylaws
Correspondence
New Business
Closed meeting, if required
Adjournment

Evening Council Meeting

Order of Business

Approval of Agenda
Request to address Council (max 6)
Public Hearings
Request to address Council
Question Period
Adjournment

Option 2 – Same as Option 1, but moving request to address council and questions period to daytime meetings

B. Video Submissions to Public Hearings

It is noted that options 2 and 3, if selected, would not come into effect until in-person participation is restored as Ministerial Order M192 overrides Council Procedure Bylaws at this time. Staff have included telephone participation into these options as this practice has been utilized during the pandemic and note that it is out of scope to the Strategic Plan actions and can be included or excluded at Council's discretion based on the merits of that method of participation.

Option 1 - Expanded Scope to include Request to address Council and Question Period and telephone participation (*Recommended*)

This option would require amendments to the Public Hearing Speaking Policy and the Request to as shown on Appendices B and C

Option 2 – Public Hearings and Opportunities for Public Comment only with telephone participation

This option would require only the amendment to the Public Hearing Speaking Policy (Appendix B)

Option 3 – Limit Video submissions or telephone participation only for Reasons of Accessibility

The City has a Public Hearing Speaking Policy around accommodation for reasons of accessibility, attached as Appendix D. This option would not technically require amendments to policies, although it may be more clear to provide amendments to all of the policies to clarify the range of options for participating.

Accessibility Impact Statement

Implementing these Strategic Plan action items will support accessibility at Council meetings. Dedicated public hearing-only or public participation-only meetings would reduce the length of evening meetings with the formal move of other business to the daytime. Use of video submissions

and telephone participation would continue to enable persons who are unable to attend for accessibility reasons to speak to Council and also enable those who are otherwise unable or unwilling to participate in-person to send a pre-recorded video submission or participate by telephone.

Impacts on Financial Plan

There are no measurable implications on the Financial Plan for holding Public Hearing Only Council meetings or accepting pre-recorded submissions. Accepting telephone participation has resulted in at least one additional staff member attending evening Council meetings and in some cases for expected larger public hearings, two additional staff persons to manage telephone participation. This could have an additional cost of approximately \$4,000.00 per year and is currently being employed due to the pandemic. Additional costs have been absorbed due to vacancy management strategies in Legislative Services.

CONCLUSIONS

Council identified these action items in the Strategic Plan. Helpful experience from implementing these to support participation during the COVID-19 pandemic demonstrates that it is possible to implement these moving forward. All the options presented above would support participation at Council meetings, a critical component of local governance.

Respectfully submitted,

Chris Coates
City Clerk

Karen Hoes
Director of Sustainable Planning
and Community Development

Report accepted and recommended by the City Manager.

List of Attachments:

Appendix A – May 14, 2020 COTW Report
Appendix B – Public Hearing Speaking Policy showing proposed amendments
Appendix C – Request to Address Council Policy showing proposed amendments
Appendix D - Public Hearing Speaking Accommodation Policy