



Governance and Priorities Committee Report

Date: January 8, 2014 **From:** Robert Woodland
Subject: Information Respecting Proposed Council Standing Committees

Executive Summary

The purpose of this report is to provide recommendations regarding Terms of Reference (ToRs) for:

1. The Council Standing Committees on Community Services and Corporate Services that include citizen members;
2. Other committees of Council; and
3. The Mayor's Agenda Management Meeting (Agenda Committee).

At the November 21, 2013 Governance & Priorities Committee meeting Committee passed a motion to consider proposed ToRs for two Council Standing Committees that would include members of the public. Council earlier resolved to consider ToRs for two Committees of the Whole, a Committee to consider property maintenance matters and the Agenda Committee. Proposed ToRs in response to these resolutions are appended as Schedule A.

There are three distinct sets of authority that Council members exercise in the performance of their duties at Committee and Council meetings; namely, legislative, executive and quasi-judicial authority. Each authority has a specific set of rules and obligations that must be followed to ensure the valid exercise of that authority. The participation of nonelected citizen Committee members in the exercise of Council's authority should be carefully considered to ensure the citizens' role is appropriate.

The Council Bylaw enables the formation of Standing Committees that include members of the public; however, at least half the members of a Standing Committee must be Council members. This restriction ensures that matters deliberated and voted on by a Standing Committee enjoy at least some support by elected members of Council.

Citizen participation in a Standing Committee brings an external perspective to the table, be it that of a facility user, program consumer, business or resident. Since the proposed model of Standing Committees shares authority between elected and non-elected Committee members it is best suited to the role of formulating advice to the Council on City policies, programs or facilities and not decision-making. In this context, citizen participation through a Standing Committee in the formulation of policy advice, program objectives or facility needs does not intrude upon the executive or legislative (decision-making) roles of elected Council members.

The policy formulation function is distinct from the decision-making function that is expected to be exercised by the elected members of Council. To preserve this distinction it is recommended that Council's Committees of the Whole (Governance & Priorities; Planning & Land Use) are the primary forum where City actions that require Council authorization are dealt with. This preserves the primacy of Council in the exercise of its decision-making role.

The quasi-judicial authority of Council is routinely exercised through the Planning & Land Use Committee, whose role includes hearings in relation to administrative orders and sanctions against property owners. It is proposed that Council create a new Committee of Council, whose sole function

is to hear appeals in relation to administrative orders imposed under City bylaws.


Finally, it is recommended that the operation of the Agenda Committee as a Committee of Council be discontinued, and that this function be routinely performed through the Mayor's Office.

Recommendation:

This Committee recommends that Council:


1. Approve the proposed terms of reference appended as Schedule A
2. Commence a public recruitment of citizen members for the Standing Committees on
 - a. Community Services
 - b. Corporate Services
3. Rescind the terms of reference for the following Committees of Council:
 - a. Governance & Priorities Committee
 - b. Planning & Land Use Standing Committee
 - c. Environment & Infrastructure Standing Committee
 - d. Community Development Standing Committee
 - e. Corporate Services Standing Committee
4. Rescind the terms of reference for the following Public Advisory Committees:
 - a. Environment & Infrastructure
 - b. Community Development
 - c. Planning

Respectfully submitted



Robert Woodland
Director, Legislative & Regulatory Services

Report accepted and recommended by the City Manager



Purpose

The purpose of this report is to propose Terms of Reference (ToRs) for Council Standing Committees on Community Services and Corporate Services as requested by Council resolution. This report also proposes terms of reference for other committees of Council and the Mayor's Agenda Management Meeting (Agenda Committee) also as requested by Council resolution.

Background

Council is considering the formation of new Committees of Council; namely:

- Committee of the Whole (COTW) Council on Planning & Land Use;
- Standing Committee of Council on Community Services (Services & Infrastructure);
- Standing Committee of Council on Corporate Services.

The Planning & Land Use COTW would be composed exclusively of all nine members of Council. This model has been used in the past for Council's deliberation of reports respecting Planning policies and development applications. The proposed COTW would engage all members of Council in deliberation of these matters prior to the COTW recommendations moving forward to Council for approval or direction to convene a public hearing.

The two proposed Standing Committees are a continuation of two of the Standing Committees convened in 2009. However, Council is considering the addition of citizen members appointed by the Council to serve with elected Council members on these two Standing Committees. The proposed Standing Committee membership model is enabled under the Council Bylaw, provided that at least half of the Standing Committee members are Council members. There are some additional considerations (noted below) that Council should bear in mind when establishing the terms of reference for these two Standing Committees in light of the proposed citizen members.

The Planning & Land Use Standing Committee (PLUSC) has been the body through which bylaw enforcement matters respecting conditions on private property have been dealt with. A number of other bylaws engage the Council as an appeal body, in matters such as Business Licensing and Taxi Driver Licensing. Since the Planning & Land Use COTW will have a broader mandate (Planning policy) and the full participation of all Council members, it is recommended that Council consider a new Standing Committee to consider licensing and property maintenance appeals.

Council also resolved to develop terms of reference for the Agenda Committee, which provides a venue for discussion of the content, order and timing of Council and Committee agendas. If Council wishes to continue the Agenda Committee as a formal Committee of Council, then it will need to be administered like other Committees; namely, with formal agendas, public meetings and minutes. An alternative approach would be to continue the function in a less formal manner as an administrative meeting convened by the Mayor.

Issues & Analysis

Committees of Council and Council itself play a variety of roles, which can be generally categorized as follows:

- Legislative: the development of bylaws, regulations and policies that govern community and corporate affairs.
- Executive: decisions required to approve actions of the municipal corporation.
- Adjudicative: convening a quasi-judicial hearing to weigh evidence in relation to Council decision-making in a matter of public interest (e.g. a development application) or a matter of private interest (e.g. a business licence).

To illustrate the distinction between legislative and executive roles let us consider the acquisition of land for park purposes. Council has a "legislative" role to play in determining the policy and strategy for acquiring additional park lands that would guide administrative actions, typically through a Parks Master Plan. The deliberation of this plan could occur at the Community Services Standing Committee, thereby engaging elected and nonelected Committee members in a policy formulation role. Citizen advice helps to shape the Plan (legislation), which must ultimately be approved by the Council through the adoption of a bylaw or a resolution.

After the Plan is in place, a parcel of land becomes available to purchase. The parcel is determined to be instrumental to the Parks Master Plan implementation. To authorize the purchase an executive decision (Council resolution) is required, which would be considered by GPC, and approved by the Council. This process ensures that the executive function is properly exercised by the elected members of Council.

Planning & Land Use Committee of the Whole (COTW)

The Proposed Planning & Land Use COTW poses no particular issues other than scheduling and resourcing. It is proposed that the Planning & Land Use Committee meet on the first and third Thursday of each month at 9:00 a.m., which would enable recommendations to flow to the Council meeting the following week. This COTW would consider exclusively matters respecting Planning policy and various Planning applications, as set out in the proposed terms of reference appended as Schedule "A". Two to three hours will be scheduled for the meeting, since this COTW will initially be dealing with property maintenance matters.

Proposed Standing Committees of Council

Council is considering citizen members on the two proposed Standing Committees, which is authorized by the *Council Bylaw*. The addition of citizen members to this type of Standing Committee results in a sharing of authority between elected and nonelected Committee members. In many cases, the presence of citizen members will affect the topics that should be considered by a Standing Committee, due to confidentiality issues. For example, topics that pertain to human resource management, legal matters and decision-making on other internal corporate matters may no longer be appropriate for the Corporate Services Standing Committee.

The addition of non-elected officials to the Standing Committees entails these further recommended considerations:

1. Shift the focus of Standing Committee business toward policy formulation and policy development (legislative process);
2. Shift decision-making on matters that require a Committee or Council decision to the Governance & Priorities COTW or Council (executive process);
3. Establish a public recruitment process for citizen members of the Standing Committees.
4. Establish a form of "Oath of Office" for citizen members that secure each member's commitment to abide the same confidentiality and conflict of interest rules as elected members of Council.

Participation in the legislative process of Council is seen as the most appropriate place for citizen involvement in the conduct of Council business. Participation in these Standing Committees engages citizens at a formulative stage in the development of policies, regulations and bylaws, which may benefit from citizen member knowledge, experience and perspective. Information shared in this stage of "policy development" is typically factual and comparative, and not of high sensitivity vis a vis corporate confidentiality or personal information protection. If Council wishes to

have citizen involvement on Standing Committees, then it is recommended that the Standing Committees shift their focus more clearly toward policy formulation. Council should also develop formalized work plans for the Standing Committees to identify expected outcomes and time frames.

If Council accepts the premise that citizen members should participate in the development of legislation, but not in the exercise of executive (decision-making) authority of the elected Council members, then the terms of reference for the Standing Committees should be amended. The primary impact would be that matters requiring a decision of Council to authorize an action by the municipality would routinely flow to the Governance & Priorities COTW or directly to the Council.

If citizen members participate on the Corporate Services Standing Committee then some matters, such as sensitive human resource or labour relations matters, may no longer be appropriate for the agenda. Similar rationale holds for other corporate matters, such as legal advice, the acquisition of property or inter-governmental negotiations. Reporting on confidential matters for the purpose of a Council decision should be made exclusively to the elected members of Council, sitting as GPC (COTW) or as Council.

Finally, the Council should provide any member of the public who wishes to participate in a Standing Committee an equal opportunity to apply. This can be enabled through public advertising and recruitment in a process similar to that used for Public Advisory Committees. Council would review citizen applications and appoint citizen members based on the applicants' merit and experience. Citizens appointed to serve on a Standing Committee should also be required to enter into an "Oath of Office" to secure each member's commitment to abide confidentiality and conflict of interest rules that apply to elected Committee members.

Licensing & Property Maintenance Appeal Board

The Planning & Land Use Standing Committee (PLUSC) has been adjudicating private property maintenance hearings for a number of years. Under other City bylaws, the Council has been assigned a role directly in the hearing of some bylaw appeals, such as business licensing and taxi driver licensing. In the specific case of "reconsideration" under the Community Charter, the Council is required to hear appeals, and may not delegate this authority to another body.

It is recommended that Council consider the formation of a Licensing and Property Maintenance Appeal Board, whose singular focus is the conduct of appeal hearings under City bylaws. The proposed ToRs are appended to this report as Schedule A.

The proposed Appeal Board would be composed of three members of Council (Mayor would serve as alternate member), who would serve for a one year term. The Appeal Board would have a singular focus and a consistent set of rules and procedures that would apply to the monthly hearings it conducts. The Board members would not be required to "shift gears" between the consideration of policy reports, development applications and appeal hearings as is currently done at PLUSC. The proposed Appeal Board with fewer members and a specialized focus is believed to provide a better means for the City to administer these appeals.

Agenda Management Meeting

The Agenda Committee is intended to be an agenda management meeting that engages the Mayor and Acting Mayor in a dialogue with the City Manager regarding the content, order and timing of the Council and Committee agendas. This is an important function since the Mayor is assigned the role of Chair for each meeting in which he is in attendance.

The Agenda Committee has operated informally over the past four years and does not have specific terms of reference. If Council wishes to formalize the Agenda Committee as a Standing Committee of Council then we must formalize the meeting processes to be consistent with other Committee meetings. This would entail the publication of meeting schedules, agendas, minutes and meetings open to the public. This degree of administration may prove unwieldy for this "committee" whose actual role is quite limited.

An alternative approach would be to structure the agenda management meeting as a routine activity of the Mayor's Office. The Acting Mayor would be routinely invited to attend the meeting to ensure continuity should the Mayor be absent from an upcoming Council or Committee meeting. Brief ToRs would provide accountability to Council members regarding the purpose of the meeting and its expected outcomes, and the proposed meeting format would be simpler to administer saving City resources. Proposed terms of reference are provided in the attached Schedule A.

Options

Option 1 – Adopt Proposed Terms of Reference Appended as Schedule A

The proposed Terms of Reference outlined in Schedule A can be operationalized without additional staff resources. The proposed Terms also provide a meaningful opportunity for public participation in policy development on two Standing Committees while maintaining the role of elected Council members in governance decision-making.

Option 2 – Adopt Amended Terms of Reference based upon Schedule A

If amendments to the proposed Terms of Reference are contemplated, Council should bear in mind the impacts to:

- Council's governance roles and responsibilities; and
- City resources.

Recommendation:

This Committee recommends that Council:

1. Approve the proposed terms of reference attached as Schedule A
2. Commence a public recruitment of citizen members for the Standing Committees on
 - a. Community Services
 - b. Corporate Services
3. Rescind the terms of reference for the following Committees of Council:
 - a. Governance & Priorities Committee
 - b. Planning & Land Use Standing Committee
 - c. Environment & Infrastructure Standing Committee
 - d. Community Development Standing Committee
 - e. Corporate Services Standing Committee
4. Rescind the terms of reference for the following Public Advisory Committees:
 - a. Environment & Infrastructure
 - b. Community Development
 - c. Planning

Victoria City Council Policy
Committees of Council - Terms of Reference

Terms Applicable to all Committees

1. To consider and provide recommendations to the Council on matters referred to the Committee by the Council or the Governance & Priorities Committee.
2. To consider and provide recommendations to the Council on policy matters generally within the terms of reference of the Committee.

Specific Terms of Reference for each Committee of Council

Governance & Priorities Committee

Type of Committee:	Committee of the Whole
Term:	Term of Council office (three years)
Membership:	All Council members
Chair:	Mayor
Primary reporting relationship:	Council
Meeting frequency:	2 nd and 4 th Thursday each month

To consider and provide recommendations to the Council on:

1. Governance.
2. Strategic priorities and planning.
3. The Five-Year Financial Plan.
4. The Twenty-Year Capital Plan.
5. Infrastructure Master Plans.
6. Strategic community issues.
7. The Sustainability Framework.
8. Human Resources and collective bargaining issues.
9. City legal matters and risk management issues.
10. Actions by the City that must be authorized by a Council resolution.

Planning & Land Use Committee

Type of Committee:	Committee of the Whole Council
Term:	Term of Council office (three years)
Membership:	All Council members
Chair:	Mayor
Primary reporting relationship:	Council
Meeting frequency:	1 st and 3 rd Thursday each month
Technical Advisory Panel association:	Advisory Design Panel Heritage Advisory Panel

Summary:

To review and provide recommendations to the Council on land development regulations and policy, and specific land development applications, including:

1. The Official Community Plan, Core Area Plan and Neighbourhood Plans
2. The Zoning Regulation Bylaw
3. Significant urban planning policies, encompassing community and transportation planning
4. Rezoning Applications
5. Development Permit Applications
6. Development Variance Permit Applications
7. Master Development Agreements
8. Heritage Designation Applications
9. Heritage Alteration Permit Applications
10. Heritage Revitalization Agreements
11. Subdivision applications that require Council approval
12. Variance applications to the Sign Bylaw

Community Services Standing Committee

Type of Committee:	Standing Committee
Membership:	4 Council members (Mayor is alternate) 3 Citizen members
Chair:	Council member appointed by the Mayor
Term:	Two Committee terms within the three-year term of Council office: <ul style="list-style-type: none">• a first term that ends May 31st, eighteen (18) months following an election;• a second term that ends November 30th, in the year of a general election.
Rotation:	Council members serve one term in a three-year term of Council office. Citizen members may serve a maximum of two consecutive terms.
Primary reporting relationship:	Council
Meeting frequency:	Monthly
Summary:	

The purpose of the Committee is to guide the development of City bylaws and policies being prepared by City administration respecting the delivery of City programs and services to the community. Through its participation in the policy development process the Committee will consider potential policy options, evaluate those options in terms of community need and City resources, and make recommendations to the Council.

Specific subject matters for Committee consideration include:

1. Arts & culture policies, program and facility design.
2. Parks & recreation policies, program and facility design.
3. Policies and program design to support affordable housing development.
4. Policies to support community social service delivery.
5. Policies to support developing community capacity.
6. Policies to support community livability, particularly Downtown.
7. Energy conservation strategies and policies.
8. Policies to reduce greenhouse gas emissions.
9. Liquid and solid waste management policies and practices.
10. Transportation infrastructure planning.
11. Policies and program design to support the stewardship of parks, natural spaces and the urban forest.
12. Policies and practices that support a healthy marine environment.
13. Policies and practices to promote good environmental air quality.

Corporate Services Standing Committee

Type of Committee:	Standing Committee
Membership:	4 Council members (Mayor is alternate) 3 Citizen members
Chair:	Council member appointed by the Mayor
Term:	Two Committee terms within the three-year term of Council office: <ul style="list-style-type: none">• a first term that ends May 31st, eighteen (18) months following an election;• a second term that ends November 30th, in the year of a general election.
Rotation:	Council members serve one term in the three-year term of Council office. Citizen members may serve a maximum of two consecutive terms.
Primary reporting relationship:	Council
Meeting frequency:	Monthly
Summary:	

The purpose of the Committee is to guide the development of City bylaws and policies being prepared by City administration respecting some of the City's corporate services. Through its participation in the policy development process the Committee will consider potential policy options, evaluate those options in terms of City needs and resources, and make recommendations to the Council.

Specific subject matters for Committee consideration include:

1. Policies to guide financial management and reporting
2. Policies to guide corporate performance management and reporting.
3. Policies respecting the acquisition, disposition and management of City property.
4. Policies that guide civic engagement and communications.

Property Maintenance & Licensing Appeal Board (Under Review)

Type of Committee:	Standing Committee with Delegated Authority
Membership:	3 Council members (Mayor is alternate member)
Chair:	Appointed by the Mayor
Term:	One year
Rotation:	One member serves two consecutive terms. Two members serve one term.
Primary reporting relationship:	Independent Adjudicative Board Reports to Council on Specific Matters
Meeting frequency:	Monthly

Summary:

The purpose of the Appeal Board is to hold hearings with affected parties prior to the Board making:

1. A final determination in respect of an appeal of an Administrative Order issued by a delegate;
2. A recommendation to the Council in respect of a matter that requires a Council resolution.

The scope of an appeal heard by the Board is limited to the following bylaws:

1. Abandoned Properties Bylaw
2. Business Licence Bylaw
3. Nuisance (Business Regulation) Bylaw
4. Property Maintenance Bylaw
5. Sidewalk Cafes Regulation Bylaw
6. Street Vendors Bylaw
7. Vehicles For Hire Bylaw

Other

Mayor's Agenda Management Meeting

Type of Committee:	Not a Committee of Council
Required Attendees:	Mayor & Acting Mayor (for that month) City Manager (or delegate) Corporate Administrator (or delegate)
Meeting frequency:	Weekly

The purpose of the Mayor's Agenda Management Meeting is to:

1. Review and approve the proposed order of meeting agendas for Council and Committees of Council
2. Allocate the appropriate amount of time for each meeting agenda

The Mayor's Agenda Management Meeting must not:

- Refuse a Council member motion that has been submitted for a meeting agenda in accordance with the Council Bylaw
- Refuse an administrative report that has been prepared for a meeting agenda in response to a Council resolution
- Refuse a Request to Address Council application that has been submitted for a meeting agenda in accordance with the Council Bylaw
- Unduly delay an administrative report that is authorized by the City Manager