

Council Procedure Bylaw Questionnaire Responses & Recommendations

Bylaws are subject to interpretation when ambiguity arises. Therefore, it is important that the rules established under the new procedure bylaw are well-defined. This report summarizes the results received from the questionnaire completed by Council to explore what changes (if any) Council wishes to make to Council Procedure Bylaw.

A survey with 29 questions related to the appointment of the Acting Mayor, Council and committee meeting dates and times, quorum, public participation, public and statutory hearings, and reconsideration was sent out by email to Council on August 29, 2023. Six completed surveys were received by October 12, 2023 (extended deadline). From those six submissions and a review of best practices, the following changes to the new Council Procedure Bylaw are proposed. The data related to meeting length in Figures 5 to 9 is up to November 15, 2023.

The bars in the graphs have been colour coded to reflect the following:

- Where at **least 4** respondents have selected an option for a procedure to change or stay the same in the bylaw, the bar has been changed to **black**.
- Where procedure options that have received **less than majority** has been achieved, the bar has been changed to **blue** and Council will be polled during the Workshop to see if a majority decision can be achieved, otherwise the current procedure in Council Procedure Bylaw No. 3602 will remain the same (continue with the status quo).
- Where **staff is recommending an alternative or additional procedure** be included in the bylaw, the bar has been changed to **red** and Council will be polled during the Workshop to see if they support the recommendation. If that change is an administrative change, then Council will consider whether to keep the rule in the Council Procedure Bylaw when the new bylaw is presented to Council at a Committee of the Whole meeting for review and direction for any changes to be made to the bylaw before it goes to Council for first three readings.
- Where a procedure has not been selected by Council or recommended by staff, the bar shall remain **green**.

1. ACTING MAYOR

1.1 The current bylaw has established a rotating basis for designating the Acting Mayor which is consistent with the majority of local governments surveyed. Does Council wish to change how the Acting Mayor is appointed?

The majority of local governments surveyed utilize a rotating schedule to designate a member to act when the Mayor is absent or unavailable (see [Figure 1](#)), providing each Councillor with an equal opportunity to be designated as Acting Mayor during the term of Council. However, on April 5, 2023, Council resolved (unanimously) to designate a Councillor to serve as the Acting Mayor when the Mayor is absent or unable to act on a one-year rotating basis and appointed Councillor Toporowski to service until December 31, 2023. Councillor Toporowski was re-appointed as Acting Mayor for 2024.

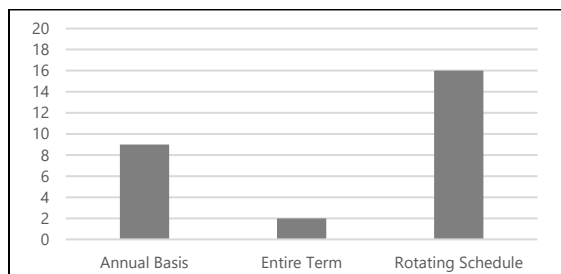


Figure 1: Basis on which Acting Mayor is designated (LGs surveyed)

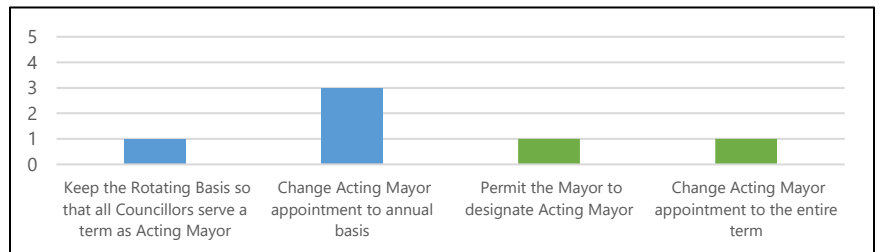


Figure 2: Basis on which Acting Mayor is designated (Council survey)

CHANGE BASED ON SURVEY RESPONSES:

When surveyed (see [Figure 2](#)), Council was no longer unanimous on changing to one-year appointments and the direction is now split between all four options.

Council will be polled during the Workshop to determine if Council would like to:

- (1) Continue with the current practice (section 8(2) in Council Procedure Bylaw No. 3602) of establishing a rotating schedule, which would mean that Councillors Caljouw, Findlay, Istace, Justice, and Manhas would be designated as Acting Mayor for terms of 4 or 5 months for the balance of the Council term, or
- (2) Change the procedure so that the Acting Mayor is appointed on an annual basis.

If a clear majority is not obtained, the procedure will not change, and option (1) will be included in the new bylaw and a report will be brought to Council before the end of 2024 to establish the rotating schedule for the balance of the term.

See page 3 in **Council Procedure Bylaw Best Practices & Analysis report** for legislative/procedural rules and BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, for designating a member as Acting Mayor.

1.2 When both the Mayor and Acting Mayor are absent, the current process is for the remaining members to choose someone to preside. Does Council wish to change how the Presiding Member is selected?

Based on the common practices of local governments surveyed (see [Figure 3](#)) and the responses of Council (see [Figure 4](#)), the current process, under section 12(2) of Council Procedure Bylaw No. 3602, of selecting a Councillor to preside will remain the same, the Corporate Officer would call the meeting to order, and the members present would choose a member to preside at that meeting.

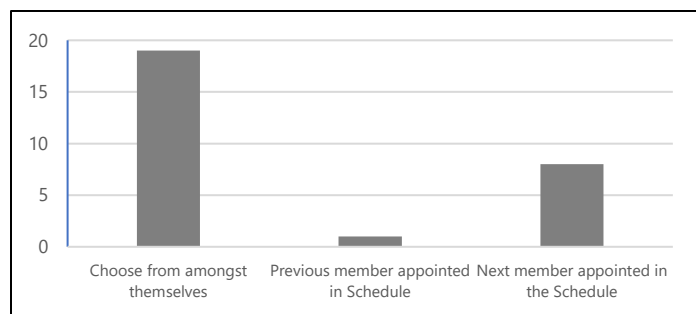


Figure 3: Basis for selecting Presiding Member when Mayor & Acting Mayor are absent (LGs surveyed)

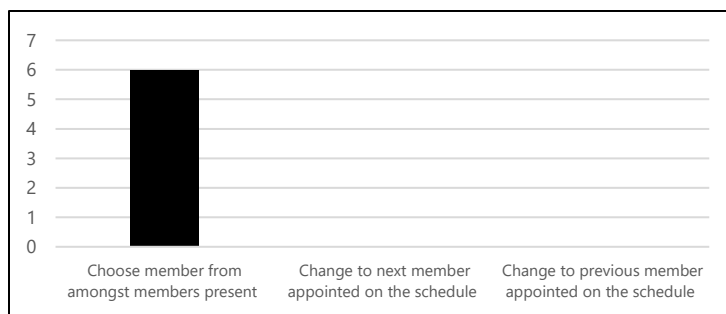


Figure 4: Basis for selecting Presiding Member when Mayor & Acting Mayor are absent (Council survey)

CHANGE BASED ON SURVEY RESPONSES:

No change required to how the presiding member is selected when the Mayor and Acting Mayor are absent.

See page 4 in **Council Procedure Bylaw Best Practices & Analysis report** for how the local governments surveyed designate a member to preside when both the Mayor and Acting Mayor are absent.

2. COUNCIL MEETING DATES AND TIME RESPONSES

2.1 Currently regular Council meetings start at 5pm. When considering the start time, take into account how it may impact your ability to complete in-camera business before returning to open and completing open business prior to the start time for the Public Hearing. Does Council wish to amend the regular Council meeting start time?

On average, in 2023, closed sessions during regular Council meetings last 1 hour and 23 minutes (see [Figure 5](#) and [Figure 6](#)), the open sessions last 2 hours and 24 minutes on average (see [Figure 7](#)) and public hearings last 39 minutes on average (see [Figure 8](#) and [Figure 9](#)) as compared to 2022 when closed sessions lasted on average 52 minutes, open lasted on average 3 hours on average and 6 minutes, and public hearings lasted on average 2 hours and 24 minutes.

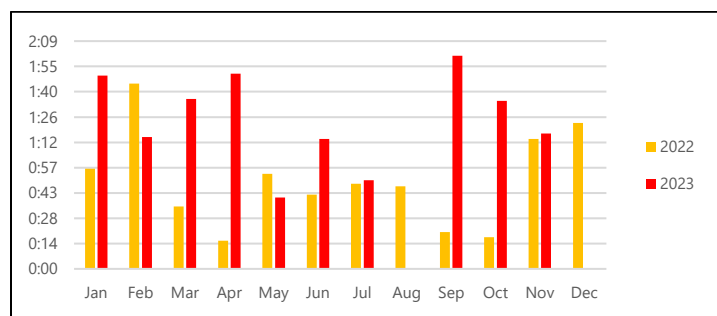


Figure 5: Monthly Averages of Closed Session in Relation to Regular Council Meetings

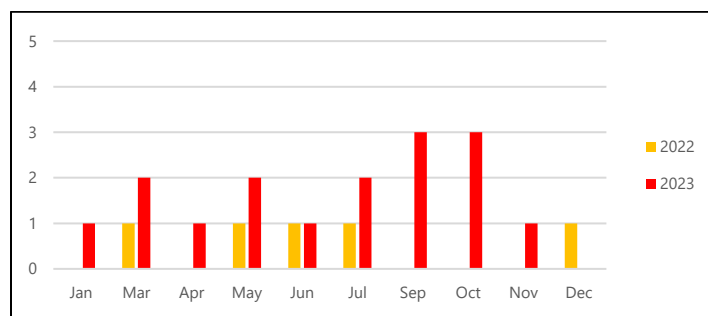


Figure 6: Number of Closed Sessions scheduled as Special Meetings per month

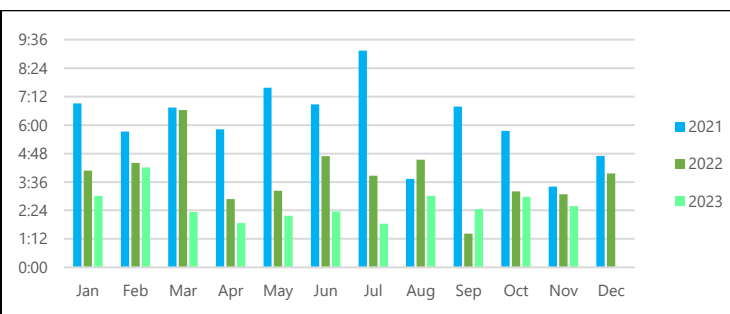
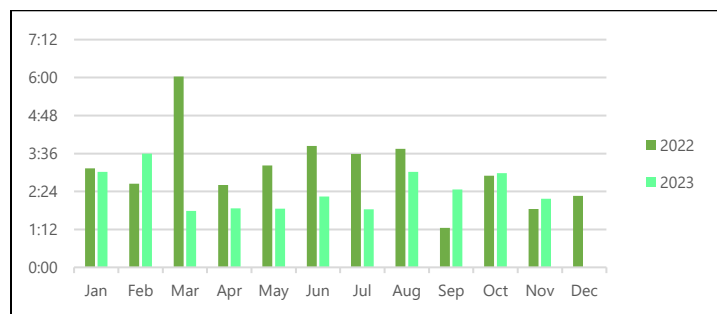


Figure 7: Monthly Averages for Regular Council Meetings (graph on left reflects the open portion only and the one on the right includes both open and closed)

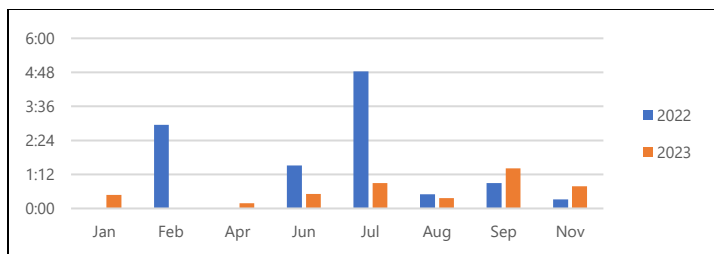


Figure 8: Monthly Averages for length of Public Hearing Meetings

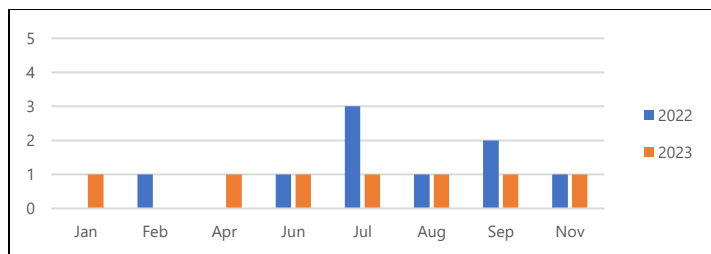


Figure 9: Number of Public Hearing Meetings per month

What this data tells us is that:

- (1) 45 minutes is not sufficient for closed sessions, as 65% of the time a special meeting was scheduled earlier in the day (usually at 3:00 pm) to provide more time or that the in-camera agenda items that have not been dealt with before 5:00 pm were postponed and dealt with after all of the open business has been completed.
- (2) When there is a public hearing, it is unlikely that Council will be able to consider all of the agenda items at the regular meeting before the public hearing is scheduled to begin as there are only 2 hours between the start of the regular Council meeting (5:00 pm) and the public hearing meeting (7:00 pm). As a result, Council is left to decide whether to:
 - (a) Adjourn the regular meeting to reconvene after the close of the public hearing,
 - (b) Adjourn the regular meeting and carry the items not yet dealt with to the next regular meeting, or
 - (c) Start the public hearing late.

When deciding what to do, Council should consider their duty of procedural fairness. Is it fair that the members of the public who came to observe the Council meeting and the proponents who are awaiting a decision of Council on their application to have to wait, or those who came to attend the public hearing? Leaving sufficient time between meetings avoids having to make these kinds of decision during the meeting.

When staff surveyed the 29 local governments in steps 2 and 3 of this review process, staff found the most common time for starting Council meetings was 7:00 pm (see [Figure 10](#)). However, Council members have indicated that they wish to stay with the 5:00 pm start time (see [Figure 11](#)) established under section 4(2) of Council Procedure Bylaw No. 3602 and not make a change.

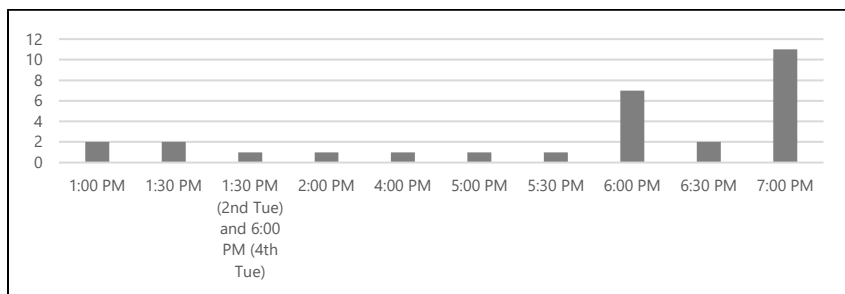


Figure 10: Regular Council/Board meeting start time (LGs surveyed)

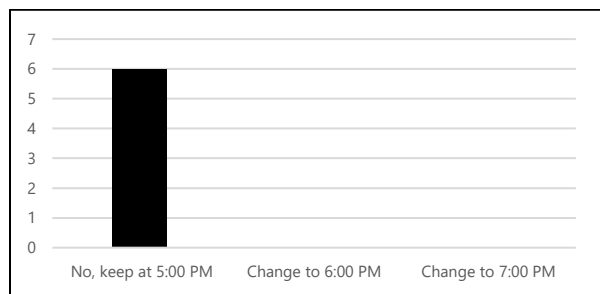


Figure 11: Regular Council meeting start time (Council survey)

CHANGE BASED ON SURVEY RESPONSES:

No change required, regular Council meetings to continue to be scheduled for 5:00 pm.

POLICY DEVELOPMENT: Agenda & Minutes Policy

Staff will be developing an Agenda & Minutes Policy to identify when and how agendas are developed and distributed, and what is captured in the minutes.

See pages 4 to 6 in **Council Procedure Bylaw Best Practices & Analysis report** for meeting start times and lengths, and how long other local governments have established in their procedure bylaws a meeting may last before having to adopt a motion to extend the meeting.

2.2 Currently the motion to extend the meeting requires a 2/3 vote of members present to extend the meeting beyond 8:00pm. Does Council wish to change the vote requirement to extend the meeting?

Currently, if a meeting is to extend past 3 hours, in accordance with section 4(6) and 28 of Council Procedure Bylaw No. 3602, a motion to extend the meeting by a 2/3 vote is required. However, the average length of Council meetings in 2023 (including closed if meeting started at 4:00 pm) is 2 hours and 37 minutes, which is significantly lower than the averages in 2022 (3 hours and 51 minutes) and 2021 (6 hours and 2 minutes) (see [Figure 7](#)) but is within the current limit of 3 hours. As a result, a motion to extend the meeting is rarely required.

Although ‘majority vote’ is the most common practice used by the local governments surveyed to extend the meeting beyond the time set in their procedure bylaws to adjourn (see [Figure 12](#)), the second most common practice (i.e., Council’s current practice) is to require a motion to pass by a 2/3 vote.

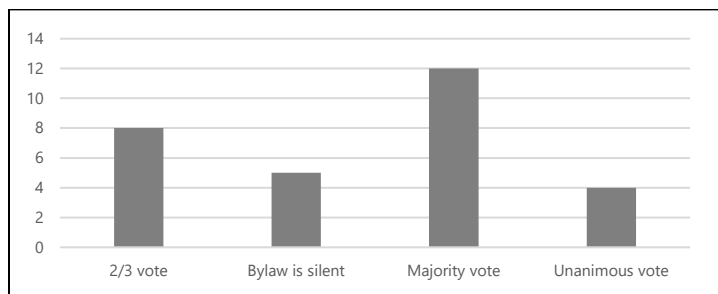


Figure 12: Vote requirement to extend meeting (LGs surveyed)

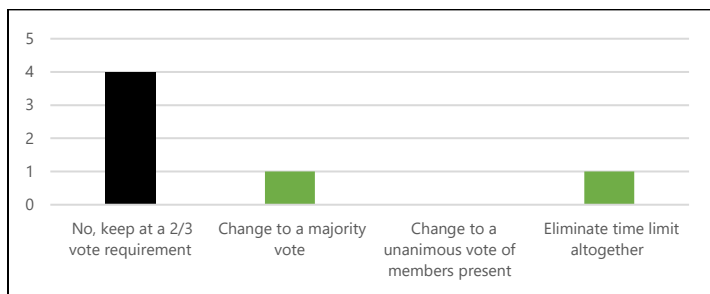


Figure 13: Vote requirement to extend meeting (Council survey)

CHANGE BASED ON SURVEY RESPONSES:

Based on the results, no change is required, the motion to extend the meeting beyond 3 hours will require a 2/3 vote to pass (see [Figure 13](#)).

See page 7 in **Council Procedure Bylaw Best Practices & Analysis report** to see what other local governments require for the vote to pass on a motion to extend the meeting.

3. CLOSED MEETINGS

3.1 The current start time for closed sessions during regular Council meetings is 4:00pm.

Given that closed sessions generally last longer than an hour, does Council wish to change start time for closed sessions?

Since the 4:00pm closed meeting start time (section 4(2.2) of Council Procedure Bylaw No. 3602) was established on January 1, 2023, 17 out of the 19 regular Council meetings have included a closed session, with an average closed session time of 1 hour and 23 minutes. The length of the in-camera portion has ranged from 13 minutes (June 7, 2023) to 2 hours and 28 minutes (September 6, 2023).

The common practice of the local governments surveyed is to conduct the closed business after all of the open items have been dealt with (see Figures 14 and 15). However, Council identified that they wished to keep the 4:00 pm start time for the closed sessions (see [Figure 16](#)).

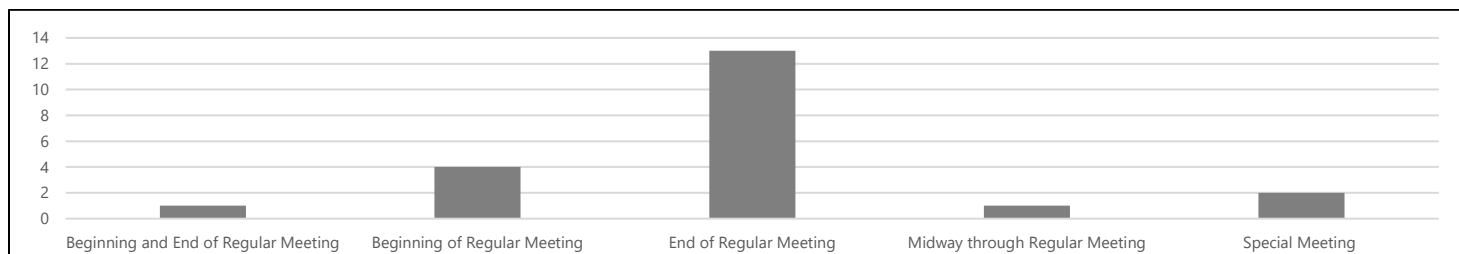


Figure 14: When closed matters are dealt with (LGs surveyed)

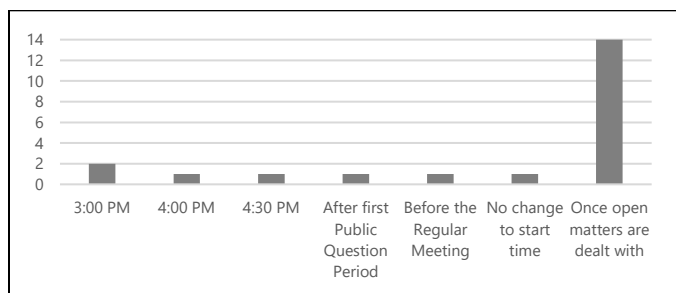


Figure 15: Time closed session begins (LGs Surveyed)

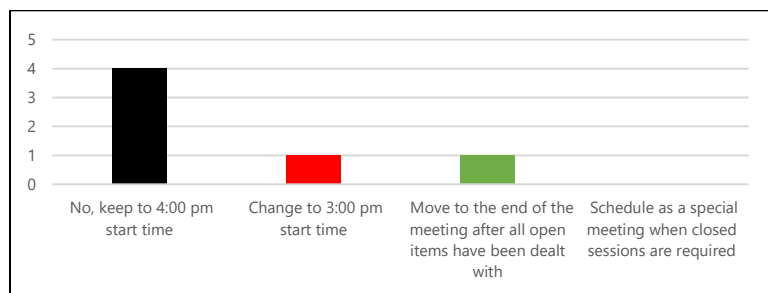


Figure 16: Time closed session begins (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Although the results indicate that a majority of Council would like to keep the closed session start time at 4:00 pm, the data provided under question 2.1 ([Council Meeting Start Time](#)) illustrates why it could be beneficial to change this start time.

STAFF RECOMMENDATION:

Given that the 65% (11 out of the 17 closed sessions in 2023, up to November 15, 2023) of the closed sessions were scheduled as special meetings and that 82% of those meetings started at 3:00 pm, staff would recommend that the closed session start time be changed to 3:00 pm. This change would improve efficiencies and provide a buffer between the open and closed sessions which would provide Council members with time to eat or take a bio break. It would also provide IT support staff more time before the open meeting starts at 5:00 pm to assist any members experiencing technical difficulties.

Council will be polled during the Workshop to determine if they wish to keep the start time at 4:00 pm or change to 3:00 pm as staff is recommending.

See pages 7 to 9 in **Council Procedure Bylaw Best Practices & Analysis report** for legislative/procedural rules and BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, for closed meetings.

3.2 Currently there is no formal process to release in-camera (closed) decisions during a public (open) meeting, other than to place the in-camera resolution in the open minutes that are adopted by Council. Given that over 30% of the local governments surveyed include an opportunity in their agendas to release their resolutions from closed, would Council like to establish a similar process for releasing closed decisions?

Council members must keep information from closed meetings confidential until such time that Council decides that the information can be released publicly or has been discussed at an open meeting. Establishing a place in the agenda where in-camera decisions can be released would be consistent with Council's strategic priority to "provide responsive, transparent and engaged service that contributes value to the community."

Staff found that 31% (9 out of 29) of the local governments surveyed included an opportunity/heading (e.g., Resolutions Released from Closed Session) in their public (open) meeting agenda for closed decisions to be released publicly during the meeting (see [Figure 17](#)). The current practice in North Cowichan is to include the in-camera resolution in the open meeting minutes that are included in the Consent Agenda for adoption, if the in-camera resolution has been released by Council and all conditions (if any) have been met. Otherwise, there is no official notice to the public of the release of the decision, other than to update the minutes that are published to the website.

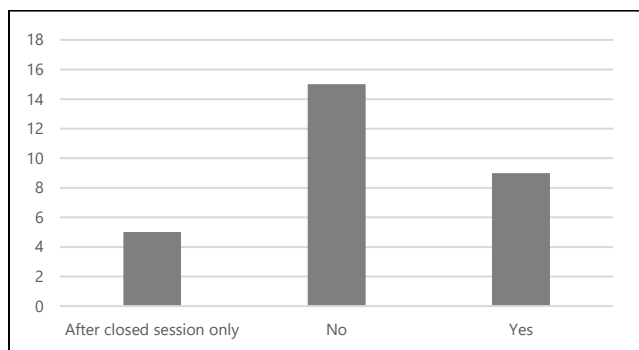


Figure 17: Includes an opportunity to release closed decisions (LGs Surveyed)

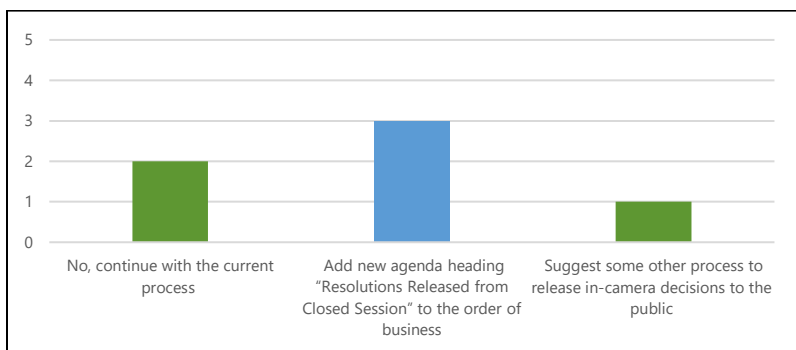


Figure 18: Includes an opportunity to release closed decisions (LGs Surveyed)

CHANGE BASED ON SURVEY RESPONSES:

Respondents were split on this question, 3 chose to include a heading called "Resolutions Released from Closed Session" in the order of business, 2 chose to keep the current process, and 1 indicated that they had no preference (see [Figure 18](#)).

STAFF RECOMMENDATION:

Staff recommends that Council include a heading called "Resolutions Released from Closed Session" in the order of business for the open agenda to increase public transparency and ensure that in-camera decisions that Council rose on which had a condition/action required to be met before the decision was released, are also released to public in an open meeting.

POLICY DEVELOPMENT: Agenda & Minutes Policy

The Agenda & Minutes Policy, previously mentioned, would also identify when and how in-camera decisions would be released to the public and placed under the new heading.

Council will be polled at the Workshop to determine if they agree with adding a place in the agenda for releasing in-camera decisions verbally during an open meeting.

See page 9 in **Council Procedure Bylaw Best Practices & Analysis report** to see when other local governments release their in-camera decisions.

4. CANCELLING A REGULAR MEETING

4.1 Currently the first meetings in January, July and August are cancelled each year, but the Council Procedure Bylaw is silent where there are conflicts with FCM or UBCM. Where a regular meeting has been cancelled, a special meeting can always be called if there is time sensitive matters, **Does Council wish to change which regular meetings are automatically cancelled?**

Historically Council has cancelled the first meeting during the months of January, July and August by resolution as there is reduced staff in the office due to vacations, therefore, fewer reports or bylaws are generally brought forward for Council consideration during those months. In December 2022, Council amended the Section 4(2.1) of Council Procedure Bylaw to provide greater transparency to the public on when regular meetings would take place. It was found that 38% (11 out of 29) of local governments surveyed cancel at least 1 meeting during the summer/winter months, week of FCM/UBCM, or in relation to an election (see [Figure 19](#)).

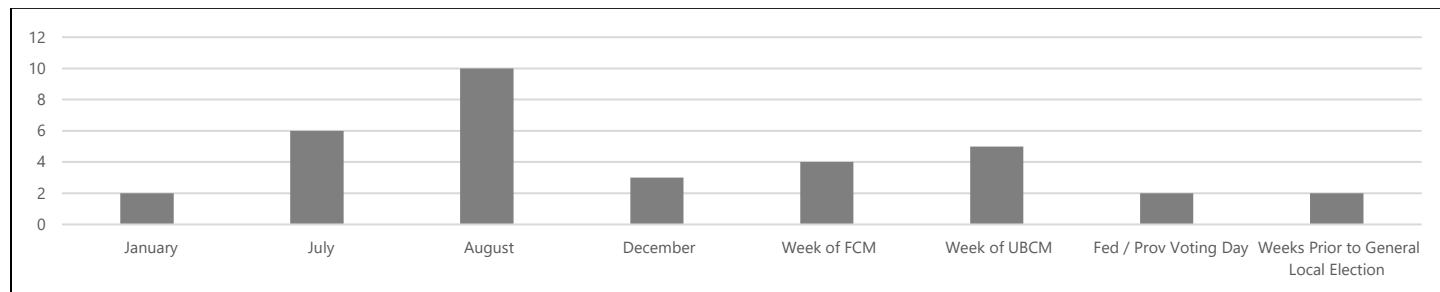


Figure 19: Meetings that are cancelled (LGs Surveyed)

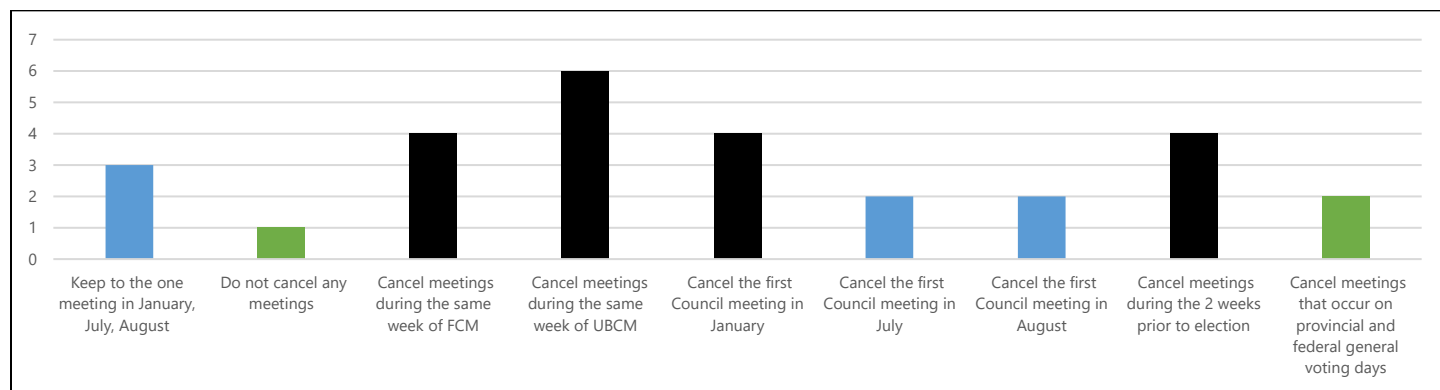


Figure 20: Meetings that Council selected to be cancelled (LGs Surveyed)

CHANGE BASED ON SURVEY RESPONSES:

Based on the survey results, the following meetings, selected by a majority of Council, shall automatically be cancelled in the new procedure bylaw (see [Figure 20](#)):

- Meetings that fall within the same week as UBCM
- Meetings that fall within the same week as FCM as Council has amended their "Council Conference Attendance Policy" to permit all members of Council to attend FCM
- Meetings that fall 2 weeks prior to a general local election
- The first meeting in January as 3 respondents selected the first option 'No, keep to one meeting in January, July and August' (2 of which also selected January) and 2 respondents selected "January" for total of 5 members in favour of cancelling the first meeting in January

Although only 2 members of Council selected the following meetings to be cancelled, there were a total of 4 members who selected these meetings to be cancelled as identified below:

- The first meeting in July as 3 respondents selected the first option 'No, keep to one meeting in January, July and August' (1 who also selected July) and 1 respondent selected "July" for total of 4 respondents in favour of cancelling the first meeting in July
- The first meeting in August as 3 respondents selected the first option 'No, keep to one meeting in January, July and August' (1 who also selected August) and 1 respondent selected "August" for total of 4 respondents in favour of cancelling the first meeting in August

All of the above meetings will be included in the bylaw to be cancelled. Council will not be polled on any of the above meetings.

STAFF RECOMMENDED ADDITION:

In addition to the meetings that a majority of Council has selected, staff is recommending that Council also cancel the following meetings that fall between general voting day and the inaugural meeting as this has been Council's practice for the 2018 and 2022 general local elections.

Council will be polled at the Workshop to determine if they agree with cancelling any meetings that fall between general voting day (third Saturday in October) and the inaugural meeting (first Wednesday in November).

See pages 9 and 10 in **Council Procedure Bylaw Best Practices & Analysis report** for legislative/procedural rules and BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, for cancelling meetings.

4.2 A motion to cancel a meeting currently requires a 2/3 vote of members present for the motion to pass. Given that the general practice of the majority of local governments surveyed requires only a majority vote, **does Council wish to change how many votes are required to cancel a regular Council meeting?**

When it comes to cancelling a regular Council meeting, only Council has the authority to cancel the meeting, unless Council has delegated that authority, by bylaw, to another person, such as the Mayor, CAO or Corporate Officer.

19 (66%) of the local governments surveyed require only a majority vote of Council/Board for a motion to cancel a meeting to pass and 6 (21%) of the bylaws do not provide the authority to cancel a regular meeting (see [Figure 21](#)).

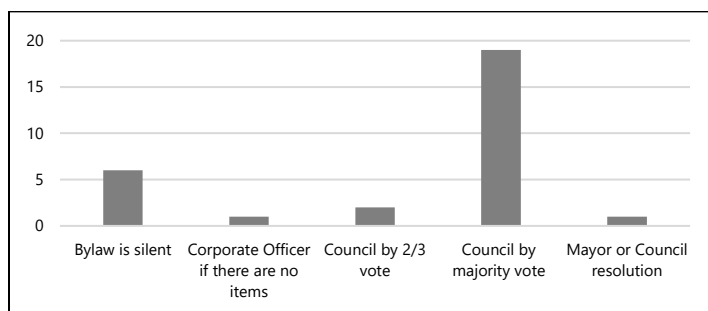


Figure 21: Vote requirement to cancel a meeting (LGs Surveyed)

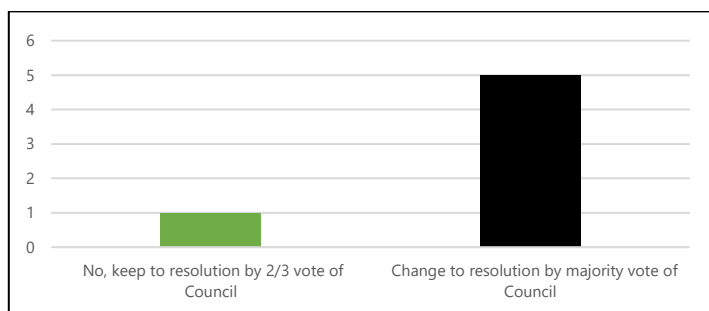


Figure 22: Vote requirement to cancel a meeting (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

The majority of Council indicated that they wished to reduce the vote requirement for cancelling a meeting from a 2/3 vote to a majority vote of Council (see [Figure 22](#)), which is consistent with the common practice of other local governments. Therefore, this requirement will be reduced to a majority vote in the new procedure bylaw.

See pages 9 and 10 in **Council Procedure Bylaw Best Practices & Analysis report** for breakdown of voting requirements by category .

4.3 Currently when a meeting needs to be cancelled, due to there being no business to be added to the agenda or knowing in advance that quorum will not be achieved, the only option is for the Mayor to postpone the meeting. Given that this has occurred in the past, **does Council wish to provide the Mayor authority to cancel regular meetings in certain circumstances?**

45% (13 of the 29) of the local governments surveyed have authorized their CAO or Mayor to cancel a regular meeting when it is known in advance that quorum will not be achieved or if there is insufficient business to warrant the holding of a regular meeting (see [Figure 23](#)).

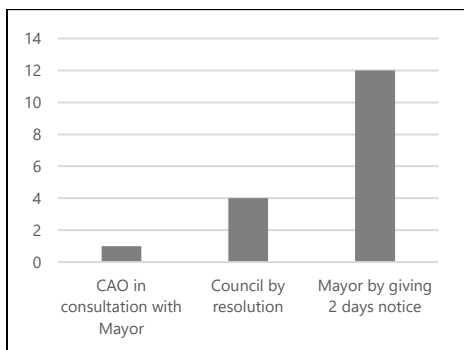


Figure 23: Vote requirement to cancel a meeting (LGs Surveyed)

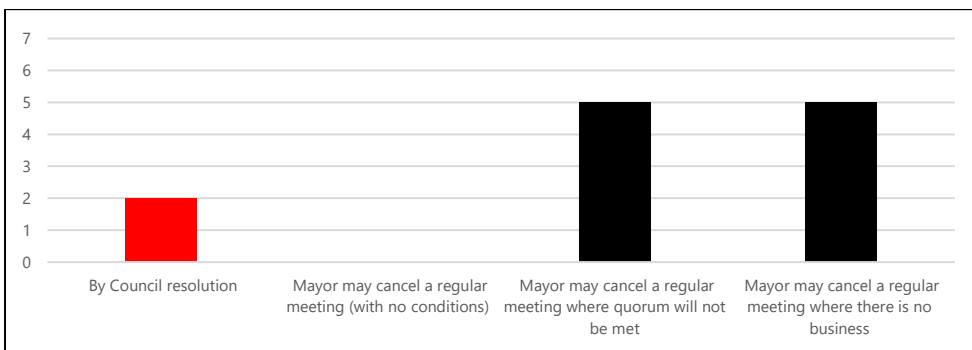


Figure 24: Vote requirement to cancel a meeting (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Based on the responses of Council, the Mayor will be authorized in the new bylaw to cancel a regular meeting if it is known in advance that quorum will not be achieved or if the CAO has no items of business to add to the agenda (see [Figure 24](#)).

STAFF RECOMMENDATION:

A resolution of Council will still be required to cancel a meeting for any other reason than what has been identified here and or under [question 4.1](#). Therefore, this procedure will remain in the new bylaw.

POLICY DEVELOPMENT: Agenda & Minutes Policy

The Agenda & Minutes Policy, previously mentioned, would also identify how Council and the public are notified when a meeting is cancelled.

5. QUORUM

5.1 Currently Council must wait 30 minutes before adjourning a meeting where there is no quorum. The common practice is 15 minutes. Does Council wish to change how long they must wait before adjourning a meeting when quorum is not reached?

The purpose for including a clause for how long Council must wait for quorum to be achieved is so that Council members do not have to wait around indefinitely.

For example, Let's say the meeting was scheduled to start at 5:00 pm, the limit is 15 minutes, and only 3 members were in attendance at 5:00 pm. If the Mayor or a staff person was able to reach one of the absent members and confirm that the member could arrive or join the meeting electronically by 5:25 pm, the meeting could still proceed once quorum was achieved. However, once the time has expired, and it is still unknown if quorum can be achieved, members no longer have to wait around and would be permitted to adopt a motion to 'Fix the Time to Which to Adjourn' by setting the date, time, and location for when the meeting could continue or 'Adjourn' to end the meeting¹.

66% (19 out of 29) of local governments surveys have specified in their bylaws that Council must wait 15 minutes before adjourning the meeting (see [Figure 25](#)).

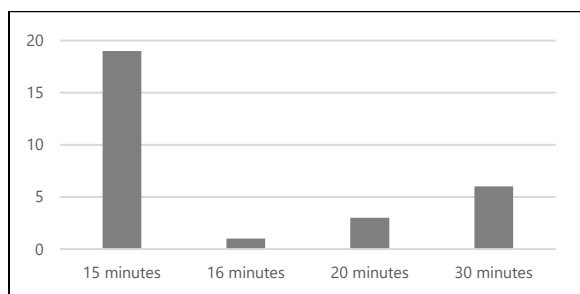


Figure 25: Time to wait when there is no quorum (LGs Surveyed)

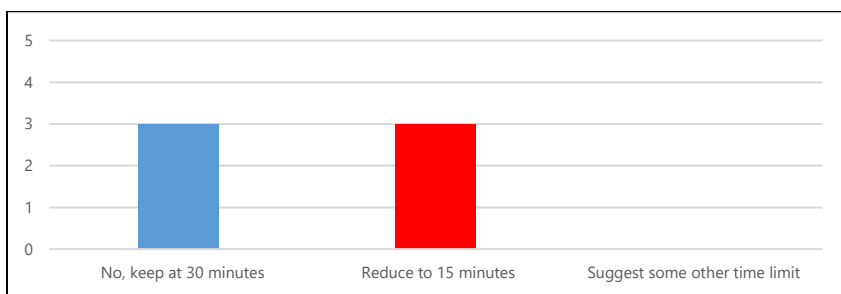


Figure 26: Time to wait when there is no quorum (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

There was a 50/50 split on this question as to how long Council must wait before adjourning a meeting due to lack of quorum, between 30 minutes and 15 minutes (see [Figure 26](#)).

STAFF RECOMMENDATION:

Given that Council has established the limit to wait for the Mayor or Acting Mayor to arrive before selecting a member present to preside at the meeting is set to 15 minutes and the majority of local governments surveyed have set their limit at 15 minutes, staff recommends that limit be reduced to 15 minutes (see [Figure 25](#)).

Council will be polled at the Workshop to determine if they wish to stay with the 30 minutes or reduce it to 15 minutes.

See pages 11 and 12 in **Council Procedure Bylaw Best Practices & Analysis report** for legislative/procedural rules and BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to quorum.

¹ This rule is intended to improve meeting efficiency not to prevent a meeting from taking place.

6. PUBLIC PARTICIPATION (PRESENTATIONS, DELEGATIONS, PETITIONS, PUBLIC INPUT)

6.1 Currently Council provides 2 opportunities for general input from the public during Public Input and Question Period. Given that less than 25% of all local governments provide 2 opportunities does Council wish to change this?

Council’s [Public Input and Meeting Conduct Policy](#) established two separate opportunities for members of the public to participate during a Council meeting. Although the policy does not include Committee of the Whole meetings, these public opportunities have been extended to those meetings as well. Section 89 of the Community Charter requires that Council meetings be open to the public so they may observe the proceedings. However, by providing the public with the opportunity to observe and engage with Council fosters trust and confidence in decision-making processes and allows for meaningful participation and contribution from informed citizens.

69% of local governments surveyed provide at least one opportunity for the public to comment on agenda items, whether it is at the beginning of the meeting as public input (45%) or the end during the question period (52%). However, only 24% (MNC + 6 other local governments, CVRD, Esquimalt, North Vancouver, Port Alberni, Port Coquitlam and Victoria) provide both a public input opportunity and a question period during their meetings (see [Figure 27](#)).

Based on the responses of Council, the current process of providing an opportunity at the beginning of the meeting to allow members of the public to comment on agenda items and an opportunity at the end of the meeting to ask Council questions regarding their decisions [s.15] will remain the same (see [Figure 28](#)).

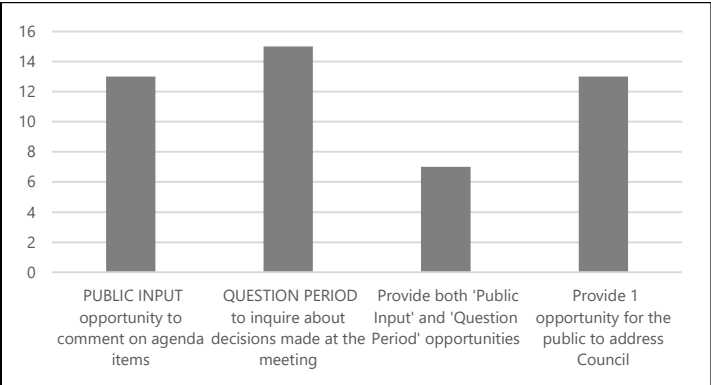


Figure 27: Public input during Council meeting (LGs Surveyed)

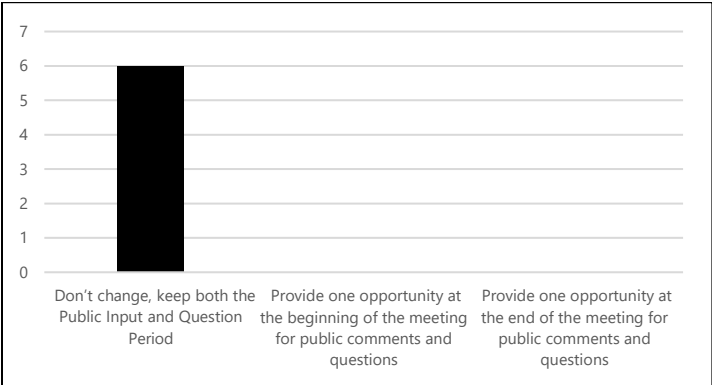


Figure 28: Public input during Council meeting (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

No change required.

POLICY DEVELOPMENT: Public Input and Meeting Conduct Policy

There will be some updates made to the Public Input and Meeting Conduct Policy to ensure that the procedural rules allowing for public input and question period are placed within the new procedure bylaw and that the details are contained within the policy. Details on how electronic participants can sign up to be added to the speakers list will also be included.

See pages 16 and 17 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to public participation during the decision-making process.

6.2 Currently delegations are provided with 10 minutes to address Council, which is consistent with all other local governments within the CVRD, however, on Vancouver Island and comparable sized municipalities, it is split between 5 and 10 minutes. Does Council wish to change how long delegations can speak?

Enabling members of the public to address Council on topics/issues of importance to them or their organization, is another opportunity that Council provides for the public to participate in meetings (see [Figure 29](#)). 52% of the local governments surveyed have established a 10-minute limit for delegations to make their presentation to Council (all LGs within the CVRD have established this limit at 10 minutes).

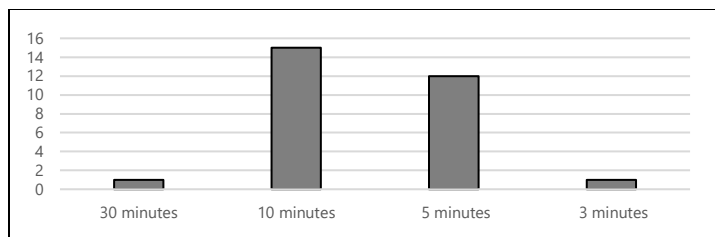


Figure 29: Limit for Delegation address (LGs Surveyed)

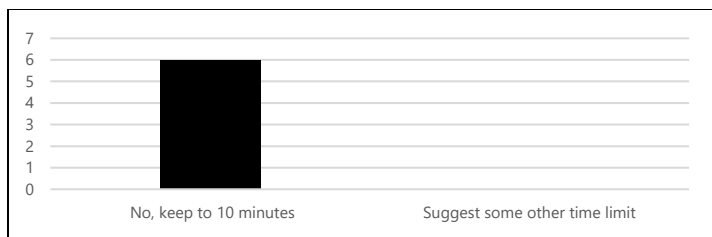


Figure 30: Limit for Delegation address (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Based on the responses of Council, the current process of providing an opportunity to allow members of the public to appear as a delegation before Council and have 10 minutes to make their presentation will remain the same (see [Figure 30](#)).

See pages 13 to 15 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to delegations and invited speakers.

6.3 The current process for adding a delegation to an agenda is to forward it to the Mayor for approval. Approximately 80% of local governments surveyed have established the conditions under which the Corporate Officer may approve or reject an application to be a delegation. Does Council wish to change how delegations and petitions are approved to be added to the agenda?

The best practice, as identified by the LGMA and the Ministry of Municipal Affairs is to include in the procedure bylaw how delegation requests are handled by the Corporate Officer, such as:

- the time frame for submissions for inclusion on the agenda
- limits on the frequency and length of presentations by delegations
- how many presentations or delegations may be heard per meeting and whether or not more may be added by resolution during the meeting
- referring topics that might affect the financial or operational plan to staff for a report before it is considered by the Council
- asking delegations to specify what they are seeking from Council

Of the local governments surveyed, 79% have authorized the Corporate Officer to reject delegation applications that do not meet the conditions established in their bylaws (see [Figure 31](#)).

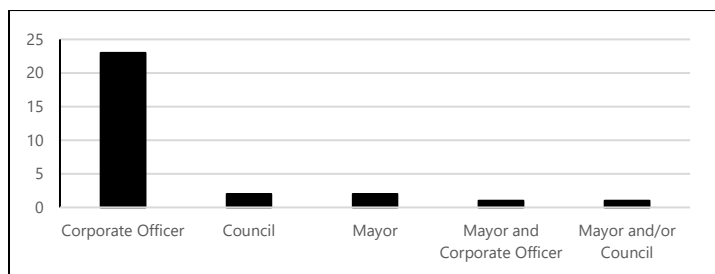


Figure 31: Who is authorized to approve Delegations (LGs Surveyed)

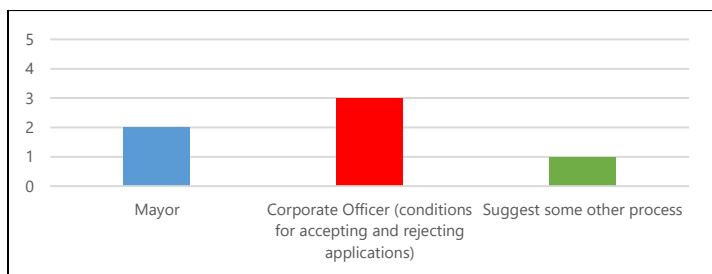


Figure 32: Who should approve Delegations (Council Survey)

NO CHANGE BASED ON SURVEY RESPONSES:

There was almost a 50/50 split on this question as to who should approve or reject a delegation application to be added to an agenda (see [Figure 32](#)).

The following process(es) was also suggested:

- (1) Corporate Officer and include conditions for accepting and rejecting applications in consultation with the Mayor

STAFF RECOMMENDATION:

Staff recommends changing to the Corporate Officer which is consistent with the majority of local governments surveyed and reduces inefficiencies.

Council will be polled at the Workshop to determine whether to continue with the Mayor to approving all delegation requests or change it to the Corporate Officer to approve or reject an application based on the conditions established by Council.

See pages 13 to 15 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to delegations and invited speakers.

6.4 Currently the only condition where a delegation application would be rejected is in regard to a bylaw for which a public hearing has been held but has not yet been adopted. However, several local governments have included additional reasons, as listed below. **Would Council like to include any of these reasons for rejecting a delegation request in the new bylaw?**

The current condition that “Council must not permit a delegation to address a meeting of the Council regarding a proposed bylaw in respect of which a public hearing has been held, where the public hearing is required under an enactment as a prerequisite to the adoption of the bylaw” will remain in the new bylaw as it is not proper for Council to receive new information from either proponents or opponents of the bylaw. If a delegation were to address Council after a public hearing, but before adoption of the bylaw, it could trigger a new public hearing. This condition applies to land use applications such as OCP & zoning amendments and TUPs (LGA s. 464 and 494).

It was identified as a best practice in BC by the Ministry of Municipal Affairs and the LGMA to restrict the following topics for delegations:

- Subjects that do not fall within the jurisdiction of Council;
- Bylaws where a public hearing is to be held;
- Matters subject to legal proceedings where a judgement has not been given;
- Publicly tendered contracts or proposal calls that have not yet been awarded;
- Staffing or labour relations matters;
- Applications, permits or licenses not yet considered by Council²;
- Information considered in closed meetings – unless the information has been released; and,
- Promotion of businesses.

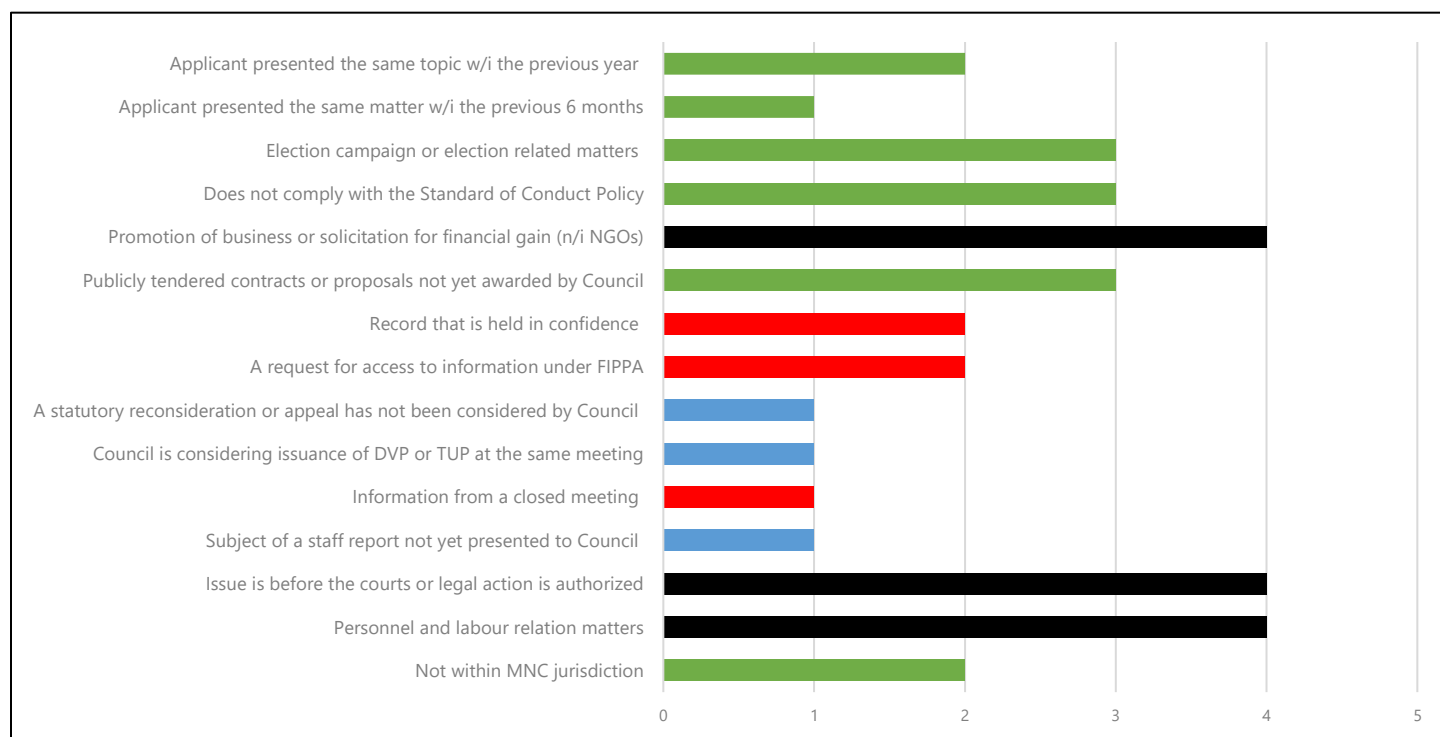


Figure 33: Conditions for Corporate Officer to reject a Delegation request (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Based on the survey results, the Mayor or the Corporate Officer, dependent upon the vote on the previous question at the Workshop, the following conditions will be included in the new bylaw to reject an application to be a delegation (see [Figure 33](#)):

- (1) Personnel and labour relation matters, including a grievance under a collective agreement³
- (2) An issue which is before the courts or on which Council has authorized legal action³
- (3) Promotion of applicant's business or solicitation of goods or service for financial gain³

² The suggestion provided by one member is consistent with this BC best practice. However, there are circumstances where the public has the right to be heard by Council, such as refusal to issue a business licence or where a person is required to take remedial actions on their property.

³ These conditions identified by 50% of Council members are consistent with BC best practices.

The following suggestion was received for other restrictions to include:

- We need a policy which regulates delegations that pertain to active land use files and/or development applications that require public hearings as part of the regular process. That is, if a public hearing is a part of the process, that is the appropriate time to be hearing from proponents.
 - See bullet (2) under the above paragraph, the condition which Council will be asked to consider adding

STAFF'S RECOMMENDATION:

In addition to the reasons identified by Council, there are some administrative procedures that staff believe would provide additional clarity, such as:

- (1) In relation to a record that is held in confidence, unless that record has been lawfully released to the public
 - to avoid breaching confidentiality
 - this is a BC best practice and takes into consideration the suggestions provided by a member of Council
- (2) Information considered in closed meetings, unless the information has been released by Council
 - this is a best practice in BC
- (3) Information from a closed meeting
 - this is a best practice in BC

POLICY DEVELOPMENT: Delegations & Invited Speakers Policy

Staff will be developing a Delegations Policy that would identify the conditions where the Corporate Officer would reject a request to be a delegation. The new procedure bylaw would authorize the Corporate Officer to approve delegations and point to the policy for the conditions for rejection.

Council will be polled at the Workshop to determine if they wish to include any of the following conditions in the new bylaw as these conditions did not receive a majority vote:

- (1) A statutory reconsideration or appeal of a decision pertaining to an application, permit or licence that has not been considered by Council (i.e., where Council has delegated the approval authority to staff and staff have rejected the application, cancelled, or suspended the licence or permit)
- (2) Property owner has obtained a DVP or TUP or Council is considering issuance of such a permit at the same meeting
- (3) Subject of a staff report not yet presented to Council

The draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support adding the administrative procedures recommended by staff.

See pages 14 and 15 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to delegations and invited speakers.

6.5 Currently the Council Procedure Bylaw only references petitions where they are received in relation to a Public Hearing but is silent where a petition is received in accordance with section 82 of the *Community Charter*⁴ or to bring attention to matters of interest in the community. Does Council wish to establish any rules for petitions to be included in a Council agenda?

Petitions are usually initiated by local residents interested in receiving a service (e.g., water or sewer) in their area. However, residents do submit *informal petitions* to Council to bring attention to matters of community interest.

These types of informal petitions are considered 'informational' and are not the same as formal petitions to establish municipal local area services, which must be done by bylaw. These informal petitions can be treated as any other correspondence and added to the Consent Agenda, or they can be given a higher priority by providing specific rules in relation to how they are received and considered by Council.

Providing rules regarding petitions would be consistent with Council's Strategic Plan goal "to provide responsive, efficient, transparent and engaged service that contributes value to the community."

⁴ This would include formal petitions to establish a local area service or informal petitions from residents wishing to bring Council's attention to matters of interest in the community.

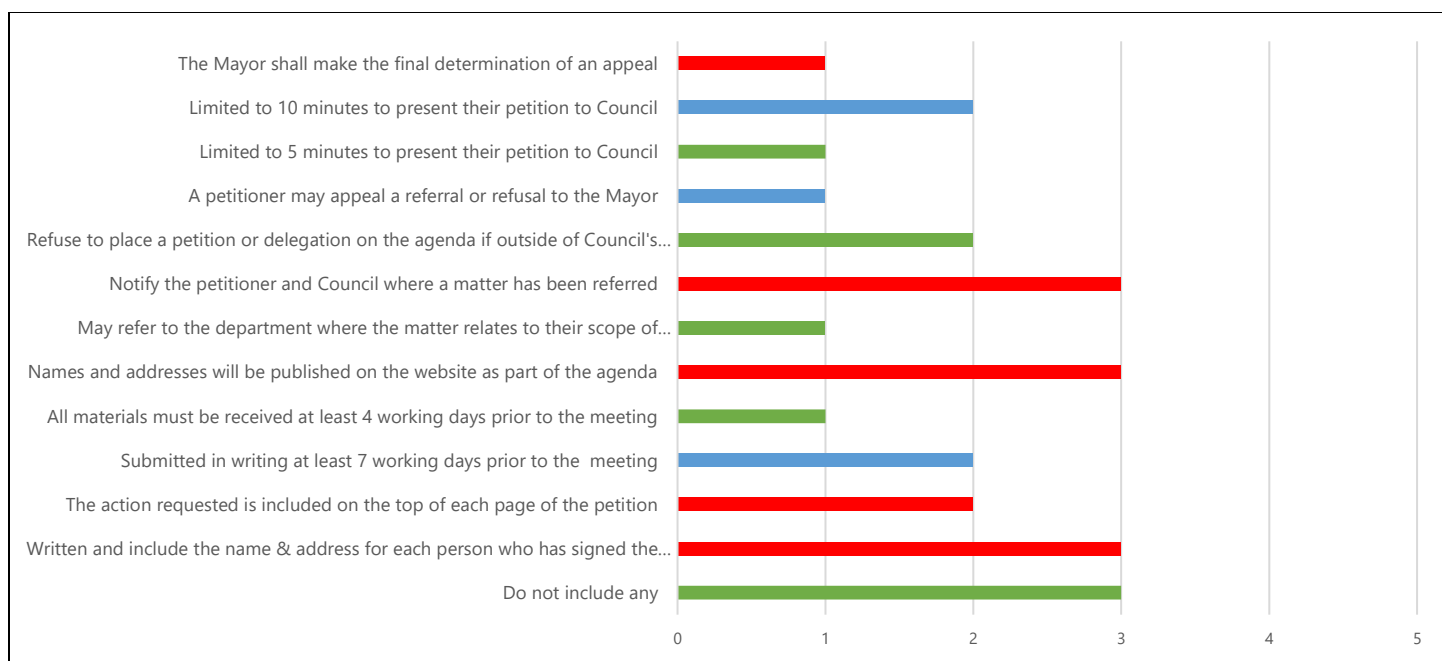


Figure 34: Rules to establish for petitions (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Since a majority of Council have not selected any of the options (see [Figure 34](#)), Council will be polled to determine which conditions, if any, are to be included in the new bylaw.

STAFF'S RECOMMENDED ADDITIONS:

Staff recommends including the following administrative procedures which provide clear direction to staff and petitioners:

- (1) A petition must be legibly written, typed, or printed; dated; must not be libelous, obscene, impertinent, or improper; and must include the name and address for each person who has signed the petition. In the case of a society or corporation signing a petition, the authority given by the society or corporation to sign the petition shall also be produced.
 - o This will ensure that Council knows if the petitioners are residents or from individuals outside of the municipality
- (2) Petitions form part of the public record and the names and addresses of the petitioners are considered germane to the topic and will be published on the website as part of the agenda package
 - o This will provide transparency to the public
- (3) The Corporate Officer will notify the petitioner and Council where a matter has been referred to staff or a committee
 - o This formalizes the current practice
- (4) The Mayor, in consultation with the CAO, shall make the final determination of an appeal
 - o If Council votes against providing the Mayor with the authority to consider an appeal, this will not be added
- (5) The action (i.e., resolution by Council) requested and all pertinent information must be included on the top of each page of the petition
 - o This help to ensure that all signatories understand what they are signing. There is no requirement for a local government to take action if an informal petition is received; however, such a petition can be a useful tool to bring a local matter to Council's attention.
- (6) A petitioner may appeal a referral or refusal to the Council
 - o Where an individual (e.g., the Corporate Officer) has been given authority to decide on how an informal petition is handled, Council must establish procedures for reconsideration of that decision if Council wishes to provide that right (CC s.156).
 - o Given that 50% of members indicated that petition presentations should be placed first in the 'Petitions and Delegations' section of the agenda under [question 6.7](#), staff have assumed that the expectation would be for the petitioner(s) to present their petition at the meeting, rather than limit their address to Council during the Public Input portion of the agenda.

POLICY DEVELOPMENT: Petitions Policy

Rules (2), (4), (5) under Staff Recommended Additions and the authority for the Corporate Officer to refuse to place a petition on an agenda will be contained within the new procedure bylaw. The remaining rules (i.e., the details) listed above would be included in a new Petitions Policy.

POLICY DEVELOPMENT: Consent Agenda Policy

The Consent Agenda Policy will be reviewed with Council to determine if any changes are required.

Council will be polled at the Workshop to determine if they wish to include any of the following conditions in the new bylaw as these conditions did not receive a majority vote:

- (1) A person or group shall be limited to 10 minutes to present their petition to Council.
- (2) A request to present a petition to Council or the Committee of the Whole must be submitted to the Corporate Officer in writing at least 7 working days prior to the day of the meeting
- (3) A petitioner may appeal a referral or refusal to the Mayor (if a petition is refused to be placed on agenda)

The draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support adding the administrative procedures recommended by staff.

See pages 12 and 13 in **Council Procedure Bylaw Best Practices & Analysis report** for more information related to petitions.

6.6 Currently there is no limit to how many delegations can address Council at the same meeting. The limitation ranges between 1 and 4 for those local governments surveyed who have established a limit, with 2 being the most common within the CVRD and on Vancouver Island, and 4 within comparable sized local governments. Staff suggest that delegations and petitioners be placed within the same category on the agenda (Petitions and Delegations), therefore, would Council like to establish a limit for the number of delegations and petitions presented at a single meeting?

21 of local government procedure bylaws reviewed have established limits of between 1 and 4 speakers or have left it up to the Corporate Officer to decide based upon the number of business items on the agenda. Of those 21 local governments, 38% have limited the number of speakers to 2 (see [Figure 35](#)).

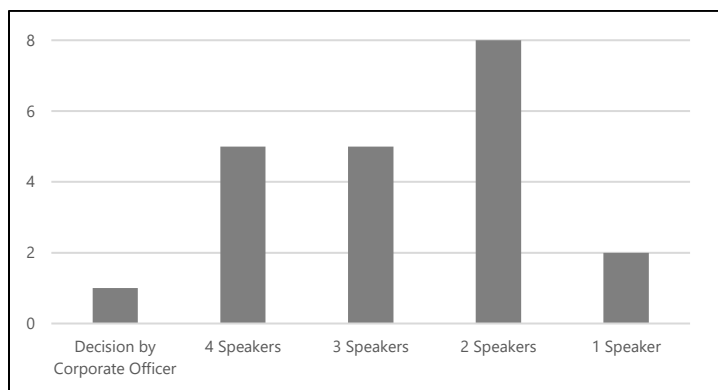


Figure 35: Number of Delegations at same meeting (LGs Surveyed)

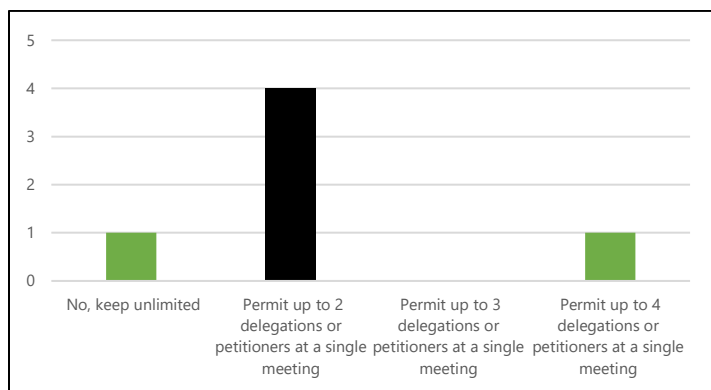


Figure 36: Number of Delegations at same meeting (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

A limit of 2 delegations or petitioners will be established in the new procedure bylaw (see [Figure 36](#)).

See page 14 in **Council Procedure Bylaw Best Practices & Analysis report** for a breakdown of how many delegations are permitted at a single meeting by local governments by category (CVRD, Comparable Size, Vancouver Island).

6.7 In addition to the rules suggested above ([question 6.5](#)), does Council wish to establish any of the following rules that would apply for both delegations and petitioners?

The best practice, as identified by the LGMA and the Ministry of Municipal Affairs is to restrict the following as topics for delegations:

- Subjects that do not fall within the jurisdiction of council or the board;
- Bylaws where a public hearing is to be held;
- Matters subject to legal proceedings where a judgement has not been given;
- Publicly tendered contracts or proposal calls that have not yet been awarded;
- Staffing or labour relations matters;
- Applications, permits or licenses not yet considered by council or the board;
- Information considered in closed meetings – unless the information has been released; and,
- Promotion of businesses.

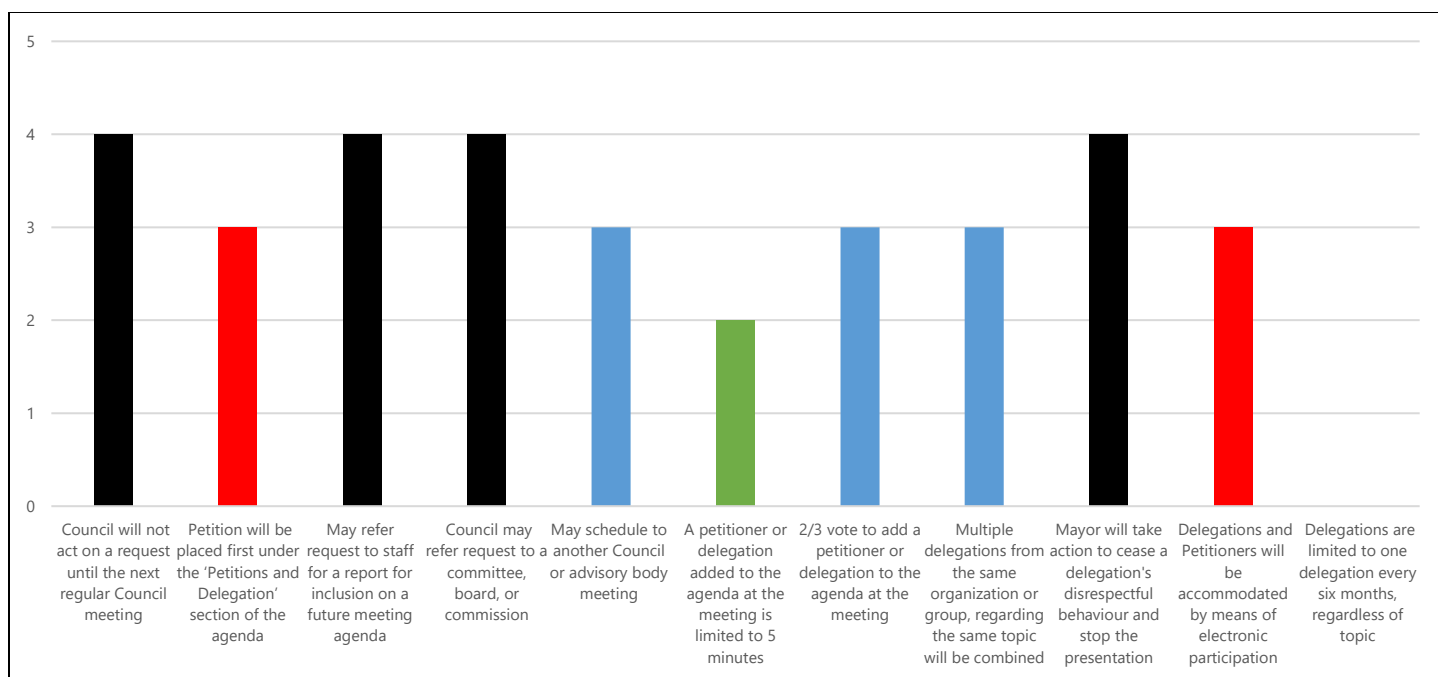


Figure 37: Rules to establish for petitioners and delegations (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Based on Council's responses (see [Figure 37](#)), the following procedures shall be included in the new bylaw:

- (1) Council will not act on a request from a delegation/petitioner at a Council meeting until the next regular Council meeting
- (2) Council may refer request from petitioners/delegation to staff for preparation of a staff report for inclusion on a future meeting agenda
- (3) Council may refer request from a petitioner/delegation to a committee, board, or commission with an accompanying staff report
- (4) Where a delegation speaks disrespectfully, refuses to abide by the rules, fails to adhere to time limits or disregards the authority of the Mayor, the Mayor will take action to cease the behaviour to stop the delegation's presentation

STAFF'S RECOMMENDED ADDITIONS:

Staff will be including the following administrative procedures which provide clear direction to staff and petitioners within the policies identified below:

- (1) Petition presentations will be placed first under the 'Petitions and Delegation' section of the agenda
- (2) Delegations and Petitioners will be accommodated by means of electronic participation

POLICY DEVELOPMENT: Delegation & Invited Speakers Policy

The following rules will be included in the new Delegation Policy:

- Delegations and Petitioners will be accommodated by means of electronic participation
- Details regarding the rule that "Council will not act on a request from a delegation or a petitioner at a Council meeting until the next regular Council meeting" (which shall be include in the new procedure bylaw) will be included in the policy (i.e., placed under New Business unless Council has referred the delegation request to staff or a committee)

POLICY DEVELOPMENT: Petitions Policy

The following rules will be included in the new Petitions Policy:

- Petition presentations will be placed first under the 'Petitions and Delegation' section of the agenda (a reference shall be included in the Agenda and Minutes Policy as well);
- Delegations and Petitioners will be accommodated by means of electronic participation
- Details regarding the rule that "Council will not act on a request from a delegation or a petitioner at a Council meeting until the next regular Council meeting" (which shall be include in the new procedure bylaw) will be included in the policy (i.e., placed under New Business unless Council has referred the petition to staff or a committee)

POLICY DEVELOPMENT: Electronic Meeting and Participation Policy

A new Electronic Meeting and Participation Policy will be developed to move some of the details out of the Council Procedure Bylaw into the policy so that the new procedure bylaw authorizes Council and Committee meetings to be conducted

electronically and for members to participate electronically where the meeting is not an electronic meeting. The policy will also address moving from open to closed in an electronic meeting, how to deal with technical difficulties, voting, obtaining the floor, conflict of interest, etc.

Council will be polled at the Workshop to determine if they wish to include any of the following procedures in the new bylaw as these procedures did not receive a majority vote:

- (1) The Corporate Officer may schedule petitions or delegations to another Council meeting or advisory body as deemed appropriate according to the subject matter of the delegation or petition
- (2) Where a written application or request has not been submitted (i.e., is not on the agenda), the petitioner or delegation may address Council if approved by a 2/3 vote of the members present
- (3) Multiple delegations from the same organization or group, regarding the same topic at the same meeting will be combined

The draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support adding the administrative procedures recommended by staff.

See pages 12 to 15 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to delegations and petitioners.

6.8 The Council Procedure Bylaw has not established a separate time limit for invited speakers (e.g., consultants hired by North Cowichan, CVRD or RCMP staff). Generally, these speakers require longer than 10 minutes to present their analysis or draft plans for Council feedback. If Council wishes to create a separate category (Presentations) for invited speakers, **what should those rules be?**

Typically invited speakers will include the RCMP when they present their quarterly updates to Council, Auditors presenting the financial statements, consultants contracted by the District to undertake research on the Municipality's behalf and individuals from organizations where Council would like to hear directly from the subject matter expert.

There is no direction in Council Procedure Bylaw No. 3602 on how to deal with invited speakers, they have been dealt with in an ad-hoc manner and placed under different sections of the Agenda (e.g., Delegations, Reports, and New Business). Dependent where the speaker is placed, Council typically must change the order of the agenda so that they can hear from the speaker before the delegations without any time limit.

Differentiating between a delegation and an invited speaker will allow Council to establish separate rules, such as limits on how long their address may be and where they are placed on the agenda.

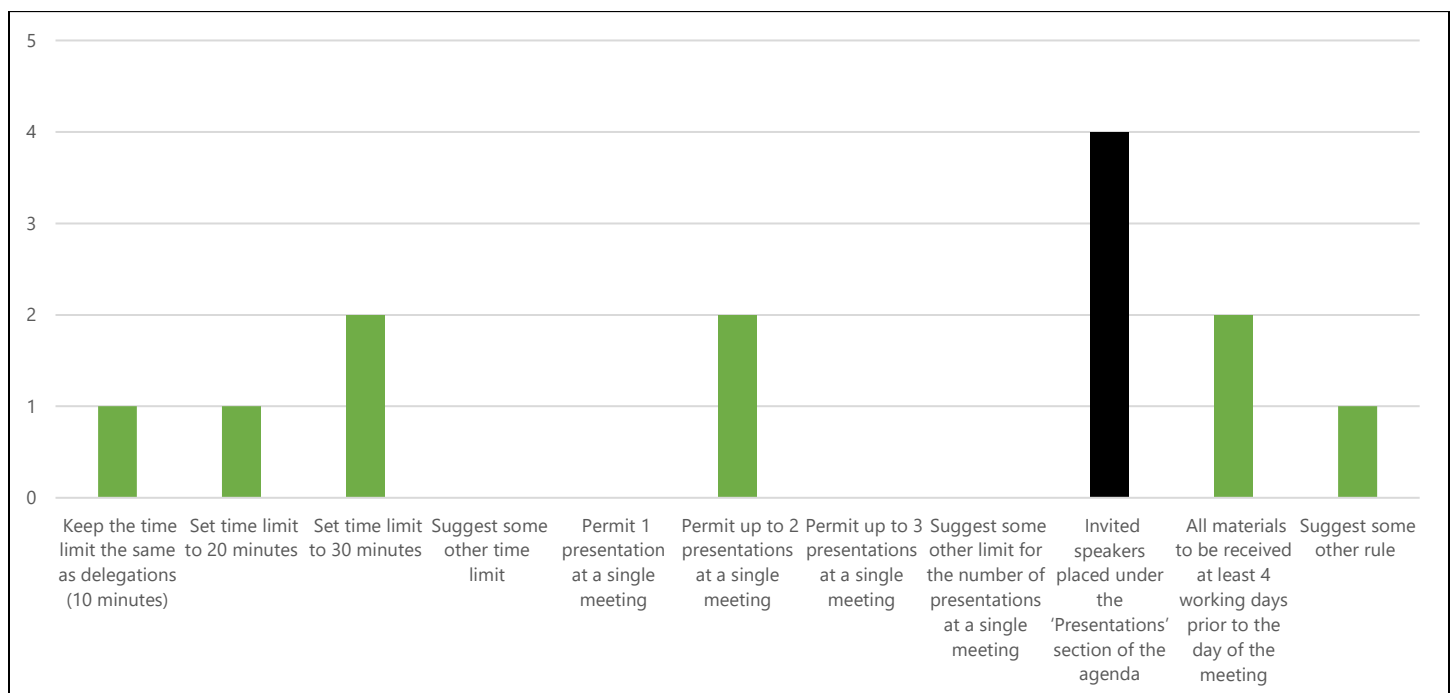


Figure 38: Additional rules to establish for petitioners and delegations (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Based on the feedback received from Council (see [Figure 38](#)), the following rule regarding invited speakers will be included in the new procedure bylaw:

- (1) Invited speakers will be placed under the 'Presentations' section of the agenda.

The following suggestion was received as a restriction for invited speakers:

- Presenters will have 10 min, with a vote from Council to increase time limit further

STAFF'S RECOMMENDATION:

Staff recommends that Council not establish a time limit for invited speakers as they are persons or organizations that Council has invited them to come to the meeting to make a presentation, or consultants contracted by North Cowichan.

POLICY DEVELOPMENT: Delegation & Invited Speakers Policy

The details regarding presentations and other documents related to invited speakers will be included in the Delegation & Invited Speakers Policy.

The draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support the administrative procedures drafted by staff regarding invited speakers.

7. PUBLIC HEARINGS AND STATUTORY HEARINGS & RECONSIDERATION

7.1 Currently public hearings are scheduled to be conducted on the 3rd Wednesday of the Month at 7:00pm, following the regular Council meeting. Given, that public hearings generally last less than 25 minutes, **does Council wish to change when public hearings are conducted?**

It is important that Council has enough time to cover all of the business in their regular meeting agenda prior to calling the public hearing to order at 7:00 pm. However, with only 2 hours between the start times for both meetings, it has proven a challenge, especially when the first hour of the meeting has been dedicated to hearing from the public during the Public Input portion (on average 27 minutes, ranging from 4 ½ minutes to 1 ½ hour) or as a Delegation (the average time per delegation address plus questions from Council is 25 minutes, ranging from 10 minutes to 1 hour & 5 minutes).

17 of the local government surveyed included when public hearings were held in their procedure bylaws, 71% scheduled their public hearings on the same day as their regular Council/Board meeting (see [Figure 39](#)). Slightly more than half (53%) include their public hearings in the regular Council/Board meeting agenda and 47% scheduled their public hearings before the Council meeting or at the beginning of their agenda (see [Figure 40](#)). Conducting the public hearing at the beginning of the agenda was found to be the most common practice (see [Figure 41](#)).

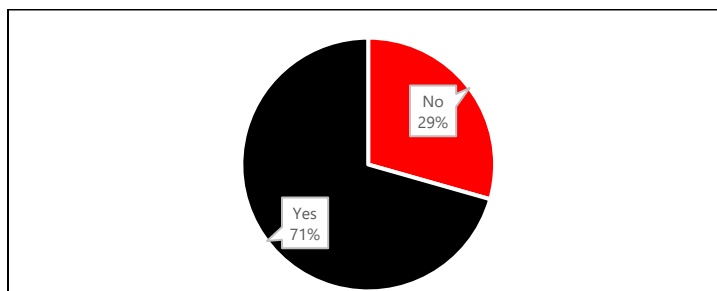


Figure 39: Public Hearing held same day as regular Council/Board mtg (LGs Surveyed)

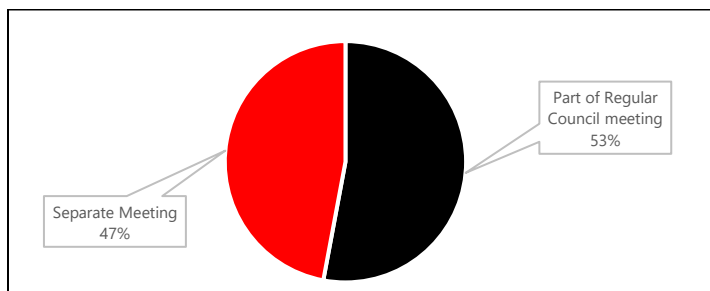


Figure 40: Public Hearing in same agenda as regular Council/Board mtg (LGs Surveyed)

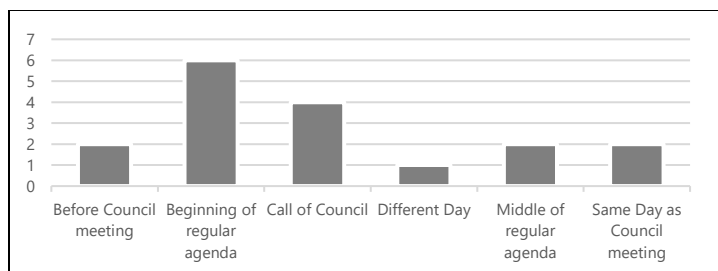


Figure 41: When Public Hearings are Scheduled (LGs Surveyed)

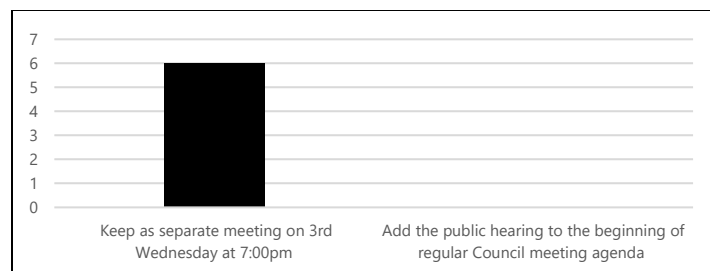


Figure 42: Change to Public Hearings meeting time (Council Survey)

Council has had to adjourn the regular Council meeting to reconvene the meeting following the close of the public hearing 67% (4 out of 6 public hearings) of the time in 2023.

CHANGE BASED ON SURVEY RESPONSES:

Although the results (see [Figure 42](#)) indicate that a majority of Council would like to keep the public hearing date (3rd Wednesday of the month) and start time the same (7:00 pm), the data provided under question 2.1 ([Council Meeting Start Time](#)) illustrates why it would be beneficial to change this start time.

STAFF RECOMMENDATION:

Given that the 4 out of the 7 (57%) public hearings held in 2023 interrupted the regular the Council meeting in order to call the public hearing to order at the time published in the notice, staff would recommend changing the start time to 8:00 pm. This would increase the start time between the meetings to 3 hours (which is the authorized meeting length unless extended by Council under section 4(6) of Council Procedure Bylaw No. 3602) and provide Council with time to eat or take a bio break before the public hearing as regular Council meetings last on average 2 ½ hours.

POLICY DEVELOPMENT: Public Hearing Procedures Policy

The Public Hearing Procedures Policy will be updated to include the processes currently followed by staff to ensure that all public submissions and notices are handled in the same way to guarantee administrative fairness.

Council will be polled at the Workshop to determine if they wish to keep the start time at 7:00 pm or change to 8:00 pm as staff is recommending.

7.2 The Council Procedure Bylaw has limited rules pertaining to public hearings, such as when they are held, rebuttal, notice, and who may ask a question. Does Council wish to add any additional rules?

The rules for the public to be heard at public hearings are different from Council meetings. All people who believe their interest in property is affected by the proposed bylaw must be given a reasonable opportunity to be heard or present a written submission on the information provided in the bylaw that is the subject of the hearing.

Sections 465 to 470 in the *Local Government Act* stipulates what rules must be followed before, during and following a public hearing, such as posting notice of the time, date and place for the public hearing, considering more than one bylaw at a public hearing, and providing all persons who believe that their interest in property is affected by the proposed bylaw a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw. Since subsection 465(1.1) of the *Local Government Act* authorizes Council to conduct a public hearing by electronic or other communications facilities, Council does not have to include the authorization in the new procedure bylaw as the authority is prescribed in the legislation. Whereas electronic Council and committee meetings may only occur if authorized in the procedure bylaw.

As long as the guiding principle on public participation (affording all persons who believe that their interest in property is affected a reasonable opportunity to be heard or to provide written submissions) is respected, the *Local Government Act* allows "the chair of the public hearing" to "establish procedural rules for the conduct of the hearing." Examples of such procedural rules include things like a speaker's list and time limits on submissions. In establishing procedural rules, the chair's principal concern should be to ensure that members of the public are permitted to make their representations effectively.

Establishing limits on how long members of the public can speak protects the rights of others to be heard. Limiting the time for each speaker to address Council encourages speakers to be focused and direct and permits more people to be heard. Anyone who ran out of time would have an additional opportunity to be heard after everyone else had an opportunity to speak for the first time. If a hearing is rowdy and emotional, the chair has considerable leeway to keep order and may establish (reasonable) rules governing the hearing (not included in the policy) and direct hecklers or persons interrupting other speakers to their seats (or expelled from the hearing – s.133 of the *Community Charter*), to ensure that others are not intimidated from participating.

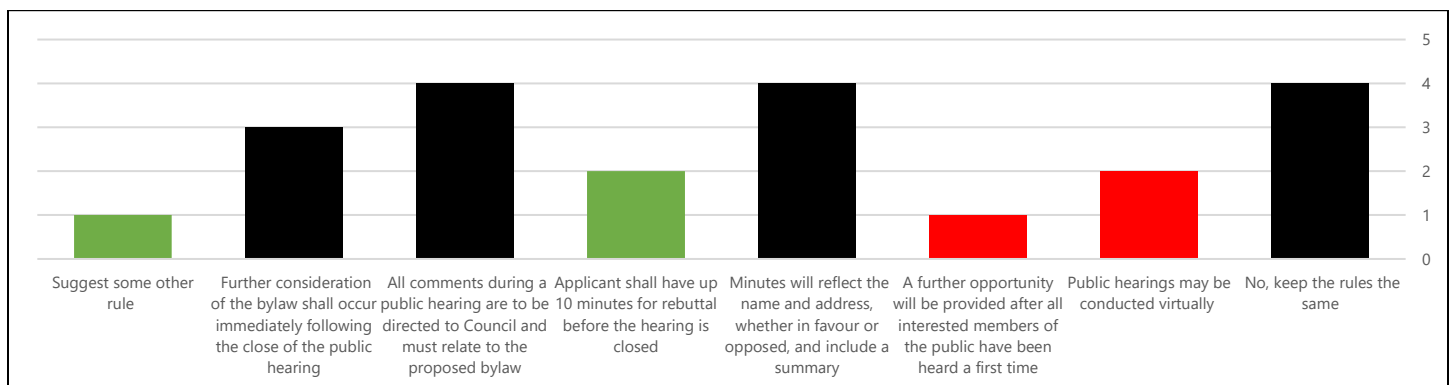


Figure 43: Public Hearing rules (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

As a majority of Council indicated that they wished to keep the rules the same, therefore, the following rules under Part 9 of Council Procedure Bylaw No. 3602 shall be included in the new bylaw:

- Public hearing to be held if the Director of Planning has given notice
- Only a Council member ask a question
- Replies or rebuttals are only allowed if permitted by Chair
- Applicant may make a presentation prior to comments from the public

In addition to keeping the rules the same, a majority of Council chose to include the following rules (see [Figure 43](#)):

- (1) Minutes of a public hearing will reflect the name and address of each speaker or written submission, whether in favour or opposed to the application, and a summary of the nature of the representation.
- (2) All comments during a public hearing are to be directed to Council and must relate to the proposed bylaw. Comments must be respectful of Council, staff and other members of the public.
- (3) Further consideration of the bylaw that was subject to the public hearing shall occur immediately following the close of the public hearing

The following are suggestion(s) for other rules:

- Speakers should not be limited to two minutes but should be able to speak freely and fully

Based on the responses and that the recommendations by staff are of an administrative nature, there will be no poll questions for Council to consider related to public hearing procedures.

STAFF RECOMMENDATION:

Staff is recommending that the following rules be added to the new procedure bylaw or policy:

- (1) That the use of a speakers' list be included in the policy and not the new procedure bylaw.
 - This would ensure that the names and addresses were spelled correctly in the minutes.
- (2) That a speaker's limit (if necessary) be established by the chair at each public hearing (BC best practice).
 - This would allow the chair to establish a limit of 3 to 5 minutes where there are a lot of people present who wish to speak, like the public hearings for the OCP, otherwise speakers would be able to speak for as long as they needed when there are only a few members of the public present.
- (3) If a person wishes to speak a second time, they will be given further opportunity to address Council after all interested members of the public have been heard a first time.
 - To ensure that everyone present at the public hearing has at least one opportunity to be heard
- (4) Public hearings may be conducted by means of electronic or other communication facilities
 - Although this is authorized under the legislation, including it will be consistent with the other meeting types

POLICY DEVELOPMENT: Public Hearing Procedures Policy

Staff include the above noted rules to the existing Public Hearing Procedures Policy.

The draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support the administrative procedures drafted by staff regarding public hearings.

See pages 18 and 19 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to public hearings.

7.3 The current process for statutory opportunities for persons to be heard varies dependant on the particular matter. Does Council wish to establish a formal process where the public or specific persons have a statutory right to be heard?

There are other circumstances where the public has a right to be heard by Council as a result of a decision made by Council where that decision has been delegated to staff. *For example*, refusal of business licenses or a person required to take remedial actions on their property. The best practice in British Columbia for reconsidering a delegate's decision is to:

- include a cross reference to it in the procedure bylaw; and,
- outline the process if a person wants to appeal a delegated decision.

Council is required by law to provide certain persons an opportunity to be heard at a meeting:

- prior to adopting a bylaw that removes a park or public square reservation or dedication;
- prior to adopting a bylaw that permanently closes a road;

- prior to adopting a resolution where the building inspector has recommended that Council place a note on the title of a property where the owner has contravened a municipal bylaw of the provincial building regulation;
- prior to adopting an amendment to the Business Licence Bylaw;
- prior to adopting the resolution to issue a temporary use permit (TUP) or a development variance permit (DVP); or
- where the Annual Report is considered.

The following decisions that have been delegated to staff under [Delegation of Authority Bylaw No. 3814](#) and if denied, the person(s) has right to request Council to reconsider that decision to:

- grant, transfer, or renew a business licence
- issue a licence of occupation for less than 12 months
- authorize the installation of additional equipment on existing telecommunications towers
- issue a special event permit, development permit, development variance permits for a fence or retaining wall, or a temporary use permit to allow property owners to continue to occupy an existing dwelling while a replacement dwelling is under construction
- approve strata conversions
- a Clean Up Order issued under [Nuisance Abatement and Cost Recovery Bylaw No. 3804](#)

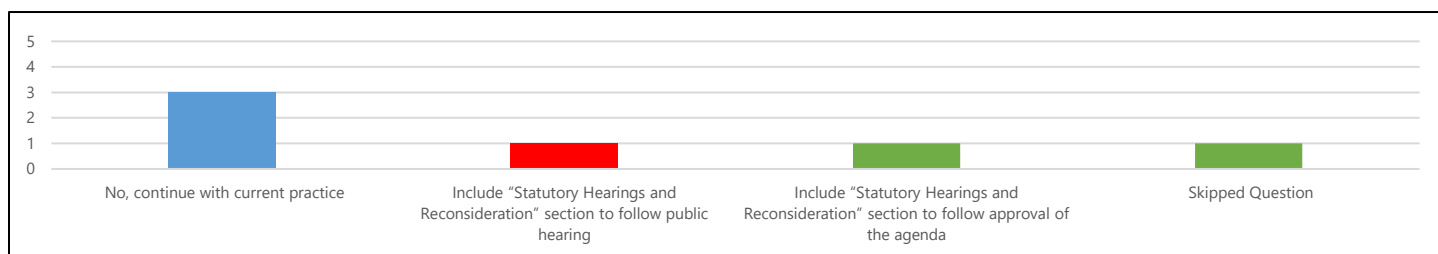


Figure 44: Public Hearing rules (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

There was no clear majority on this question (see [Figure 44](#)), however, as these opportunities have a statutory requirement, staff will be adding the procedures noted below in the new bylaw for Council's consideration.

STAFF'S RECOMMENDED CHANGE:

Given that the law requires Council to provide certain persons an opportunity to be heard before Council adopts a bylaw or a resolution for the above-described manner, staff recommends that a "Statutory Hearings and Reconsideration" section be added to the public hearing agenda following public hearings for OCP and zoning amendments and establish a formal process (see question 7.4) in the new bylaw and update the details in the Public Hearing Procedures Policy.

POLICY DEVELOPMENT: Public Hearing Procedures Policy

Details regarding the ordering of statutory hearing or reconsideration matters shall be fleshed out in the Public Hearing Procedures Policy.

The draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support the administrative procedures drafted by staff regarding statutory hearings.

See pages 19 to 21 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to statutory circumstances where the public has a right to be heard and reconsideration of a delegate's decision.

7.4 Staff is recommending that Council include a new category in the agenda for Statutory Hearings and Reconsideration, which of the following rules does Council wish to include?

Local governments must follow fair decision-making processes when making decisions that directly impact a person, group of people or organization, which includes meeting the duty of procedural fairness owed to those impacted by Council's decision. The duty of procedural fairness has two key elements:

- (1) Right to be heard: Those directly impacted by a decision should have an opportunity to understand and meaningfully participate and be heard in the decision-making process.
- (2) Right to an impartial decision maker: The decision maker must have an open mind, be unbiased and not prejudge the decision they will make.

According to the BC Ombudsperson local governments should ensure that it has policies and processes that support making fair decisions and that Council’s decision-making processes provide opportunities for individuals to meaningfully participate and be heard when Council is considering actions proposed by staff that will impact them.

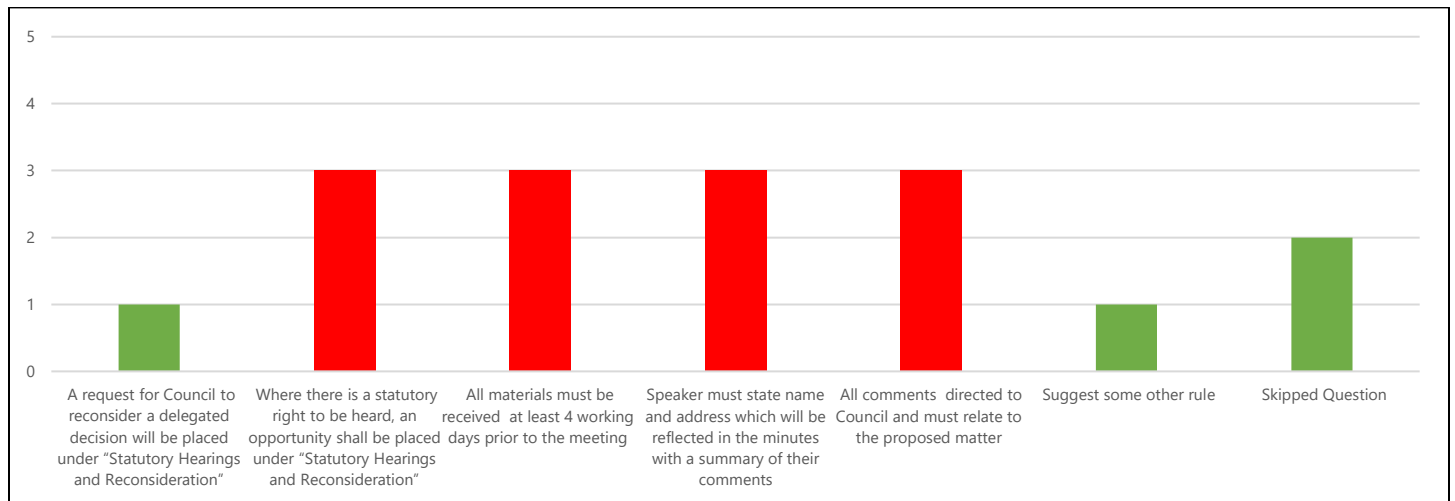


Figure 45: Statutory Hearing and Reconsideration rules (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

There was no clear majority on this question (see [Figure 45](#)). As indicated under question 7.3, the procedures recommended by staff which are BC best practices and recommended by the BC Ombudsperson shall be incorporated into the new bylaw for Council’s consideration.

STAFF’S RECOMMENDED ADDITIONS:

Staff recommends that the following procedures be included in the new procedure bylaw or added to the Public Hearing Procedures Policy:

- (1) All comments are to be directed to Council and must relate to the proposed matter for consideration or reconsideration. Comments must be respectful of Council, staff, and other members of the public.
- (2) Each speaker will state their name and address of residence for the record. The minutes will reflect the name and address of each speaker or written submission and a summary of the nature of the representation.
- (3) All materials to be presented must be received by the Corporate Officer at least 4 working days prior to the day of the meeting (e.g., handouts or PPT presentations).
- (4) Where a person(s) has a statutory right to be heard under provincial legislation, that person shall be provided such an opportunity, subject to all conditions under the provincial legislation being met, their request shall be placed under “Statutory Hearings and Reconsideration”.
- (5) Where a decision was delegated under the Delegation of Authority Bylaw, a person(s) may request Council reconsider that delegated decision in accordance with the Delegation of Authority Bylaw.
- (6) A delegated decision that has been reconsidered by Council cannot be reconsidered a second time.
- (7) No person may appeal a decision reached after a public or statutory hearing has been conducted or where a decision has been made to do one or more of the following, where the action has been fully or partially carried out:
 - adopt a bylaw that removes a park or public square reservation or dedication;
 - adopt a bylaw that permanently closes a road;
 - adopt a resolution where the building inspector has recommended that Council place a note on the title of a property where the owner has contravened a municipal bylaw of the provincial building regulation;
 - adopt an amendment to the Business Licence Bylaw; or
 - adopt a resolution to issue a temporary use permit (TUP) or a development variance permit (DVP).

POLICY DEVELOPMENT: Public Hearing Procedures Policy

The first two options (above) selected by respondents shall be added to the Public Hearing Procedures Policy. The policy name will be changed to “Public and Statutory Hearings and Reconsideration Process Policy” to better reflect the process contained within it.

The draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support the administrative procedures drafted by staff regarding statutory hearings.

8. COMMITTEE OF THE WHOLE & COMMITTEE MEETINGS

8.1 Committee of the Whole (COW) meetings are held once a month on the second Tuesday at 5:00pm. Is Council interested in changing the COW meeting date or time?

COW is a non-binding committee made up of all Council members to discuss or debate a topic less formally, develop common understanding, help reach consensus and develop recommendations to report back to Council. COW meeting procedures are the same as Council meetings unless specific procedures are outlined in the procedure bylaw.

On average, in 2023, Committee of the Whole meetings last 1 hour and 45 minutes (see [Figure 46](#) and [Figure 47](#)) as compared to 3 hours and 7 minutes in 2022.

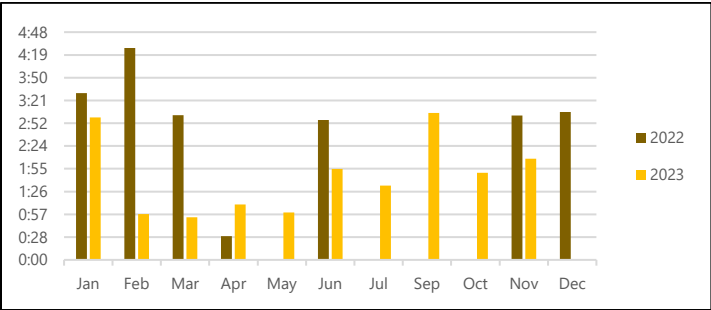


Figure 46: Average length of Committee of the Whole (regular and special) Meetings by month

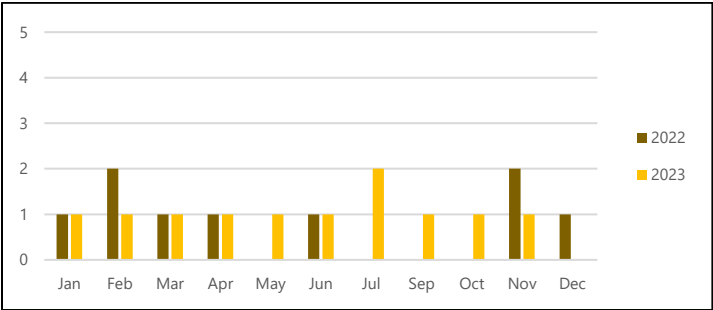


Figure 47: Number of Committee of the Whole Meetings per month

The start time for COW meetings ranged between 8:40 am and 7:00 pm with the greatest number starting at 7:00 pm followed by 6:00 pm (see [Figure 48](#)). North Cowichan was the only local government that included a 5:00 pm start time in their bylaw.

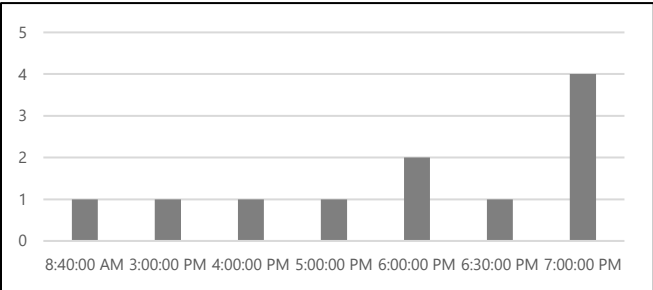


Figure 48: Committee of the Whole meeting start times (LGs Surveyed)

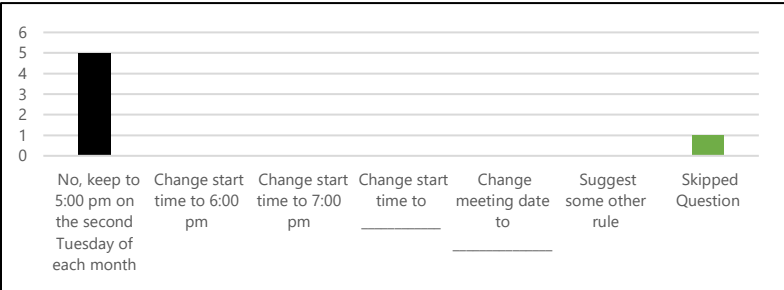


Figure 49: Committee of the Whole meeting date and time (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

A majority of Council indicated that they wanted Committee of the Whole meetings to continue on the same day and time (see [Figure 49](#)). Therefore, no change required, regular Committee of the Whole meetings to occur on the second Tuesday of each month at 5:00 pm, unless cancelled as per [question 4.1](#).

See pages 21 to 23 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to Committee of the Whole meetings.

8.2 Currently the Mayor presides at COW meetings unless the Mayor appoints a Councillor to do so. Does Council want to change who chairs COW meetings?

The practice of who presides over a COW meeting has varied in North Cowichan from the Mayor presiding to the Acting Mayor dependant upon what the Mayor at the time decided as it is the Mayor’s decision whether or not to delegate that responsibility [s.39]. The common practice amongst the local governments surveyed is for the Mayor to preside unless the Mayor chooses to delegate that responsibility (see [Figure 50](#)).

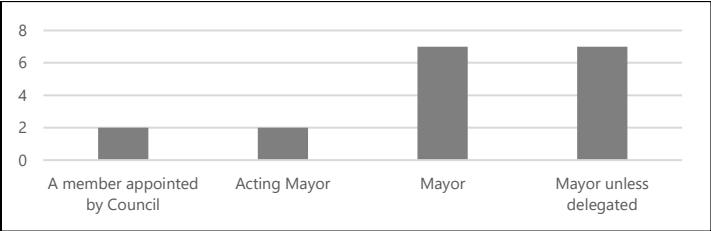


Figure 50: Committee of the Whole Chair (LGs Surveyed)

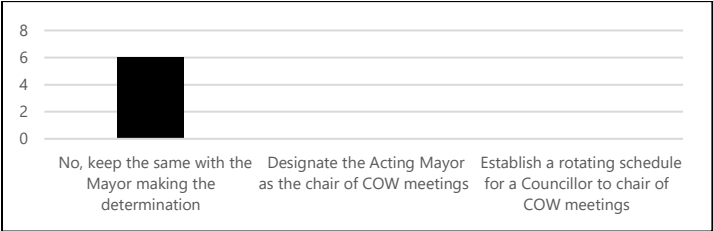


Figure 51: Committee of the Whole Chair (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

A majority of Council indicated that they did not want to change the rule for the Committee of the Whole Chair (see [Figure 51](#)). Therefore, no change required, the Mayor will continue to chair unless a Councillor is appointed by the Mayor.

See pages 23 and 24 in **Council Procedure Bylaw Best Practices & Analysis report** for a breakdown by sector on COW chairs.

8.3 Does Council wish to establish any other rules in relation to COW meetings?

Generally, procedure bylaws include rules specific to COW meetings, such as going into COW from a Council meeting and the process to return to the Council meeting. Although only one meeting was scheduled, two sets of minutes would be required to reflect any directions given to staff or recommendations made to Council while in COW and the decision (if any) made during the Council meeting.

The following rules specific to COW (that are different than the rules established for Council meetings) are currently contained in the Council Procedure Bylaw:

- At any time during a council meeting, Council may, by resolution, go into a committee of the whole
- The Mayor may postpone or cancel a regular committee of the whole meeting by giving notice through the Corporate Officer’s office at least 2 days before the date for which the meeting is scheduled
- A motion made at a committee of the whole meeting to rise without reporting (a) is always in order and takes precedence over all other motions, (b) may be debated, and (c) may not be addressed more than once by any one member.
- If a motion to rise without reporting is adopted by a committee of the whole at a meeting constituted under section 36 (1), the council meeting must resume and proceed to the next order of business.

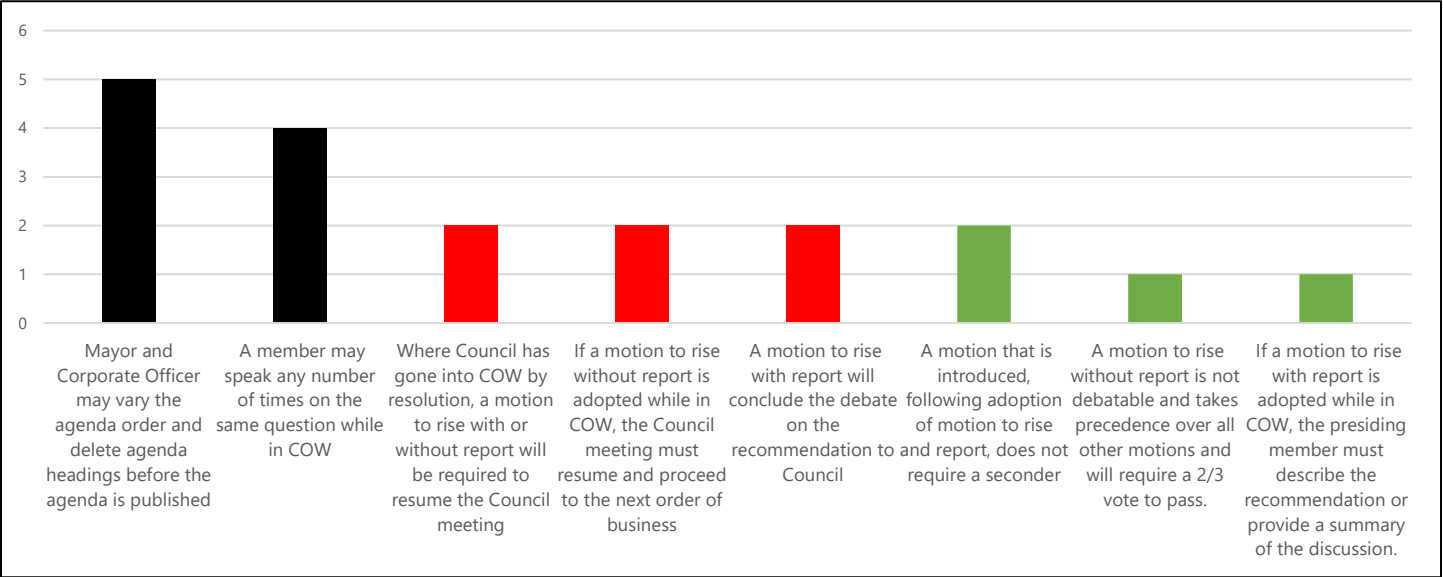


Figure 52: Committee of the Whole meeting rules (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

A majority of Council selected the following rules, which shall be included in the new procedure bylaw (see [Figure 52](#)):

- (1) When preparing the agenda, the Mayor and Corporate Officer may vary the order set out under the Order of Business for COW meetings and delete agenda headings if there is no business under those items. This will avoid having to go through a formal process during the meeting to change the order of business. The only exception would be that the New Business heading would always appear in the agenda regardless of whether there are any items under that heading, as all late items introduced at a meeting are placed under New Business.
- (2) A member may speak any number of times on the same question while in COW. This means that the 10-minute speaking limit would no longer apply while in COW.

STAFF’S RECOMMENDED ADDITIONS:

If Council decides they wish to keep these types of procedures, then the existing procedures and the following will be included in the new bylaw:

- Where Council has gone into COW by resolution, from a regular Council meeting, a motion to rise with report or rise without report will be required to resume the Council meeting.

- If a motion to rise without report is adopted while Council members are in COW, the Council meeting must resume and proceed to the next order of business.
- A motion to rise with report will conclude the debate on the recommendation to Council. The motion is not debatable and requires a majority vote to pass.
- A motion to rise without report is not debatable and takes precedence over all other motions and will require a 2/3 vote to pass.

POLICY DEVELOPMENT: Agendas and Minutes Policy

The process for preparing separate minutes when Council, by resolution, went into COW will be described in the Agendas and Minutes Policy.

Council will be polled at the Workshop to determine if they wish to keep any procedures in the new bylaw related to going into Committee of the Whole from a Council meeting.

If Council keeps the above noted procedures in the new bylaw, the draft Council Procedure Bylaw will be presented at a Committee of the Whole meeting for Council to decide if they support the administrative procedures drafted by staff regarding going into Committee of the Whole from a Council meeting.

8.4 Under the existing bylaw, the Mayor is considered and ex-officio member of all committees and may participate in the debate and vote. Does Council want to allow the Mayor to continue with this ex-officio status?

The Mayor or Board Chair is an ex-officio committee member within 21% of local governments surveyed but is not entitled to vote on a motion in 2 (Oak Bay and West Kelowna) of those 6 (North Cowichan, Duncan, Ladysmith, RDN, Oak Bay, and West Kelowna) local governments (see [Figure 53](#)). However, that ex-officio status is not generally established by most comparable sized municipalities or local governments on Vancouver Island.

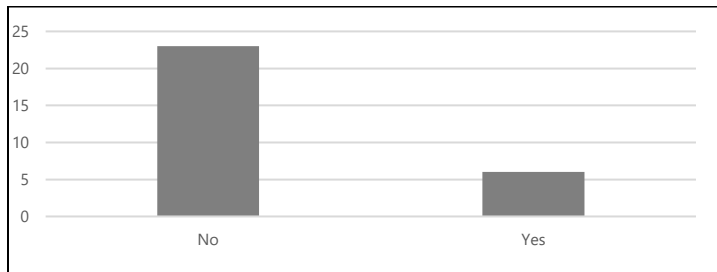


Figure 53: Is the Mayor or Board Chair automatically an Ex-Officio member on all committees? (LGs Surveyed)

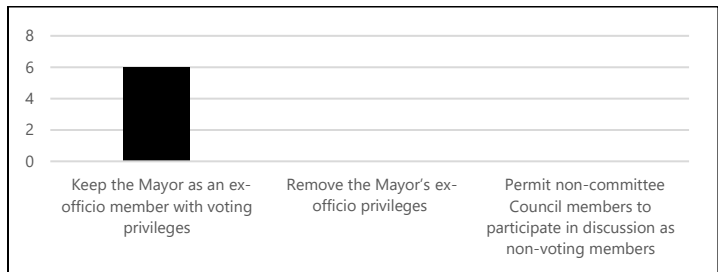


Figure 54: Mayor's Ex-Officio status on committees (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

A majority of Council indicated that they did not want to change the rule under section 53(2) of Council Procedure Bylaw No. 3602, regarding the Mayor's ex-officio status for committee meetings (see [Figure 54](#)). Therefore, no change required, the Mayor will continue to have the same rights as other committee members when attending their meetings.

Council will be polled at the Workshop to determine if they wish to permit non-committee Council members to participate in committee meeting discussions.

See pages 24 and 25 in **Council Procedure Bylaw Best Practices & Analysis report** for a breakdown by sector regarding ex-officio status and voting.

9. MOTIONS

9.1 Under the Notice of Motion Policy, a motion may not be considered at the same meeting where notice was given. Does Council wish to change this so that the motion could be considered at the same meeting?

A notice of motion is how a member of Council can bring forward a proposal for an item of business (idea or a specific course of action) that is not on an agenda. Under the existing [Notice of Motion Policy](#), the motion may not be considered until the next regular meeting or a meeting stipulated by the author. Although the policy prohibits consideration of the motion until the subsequent meeting, Council could suspend the rule (since it is not in the Council Procedure Bylaw) if all members were present at the time the rule is suspended. The motion to suspend the rule and consider the motion immediately would require a 2/3 vote to pass.

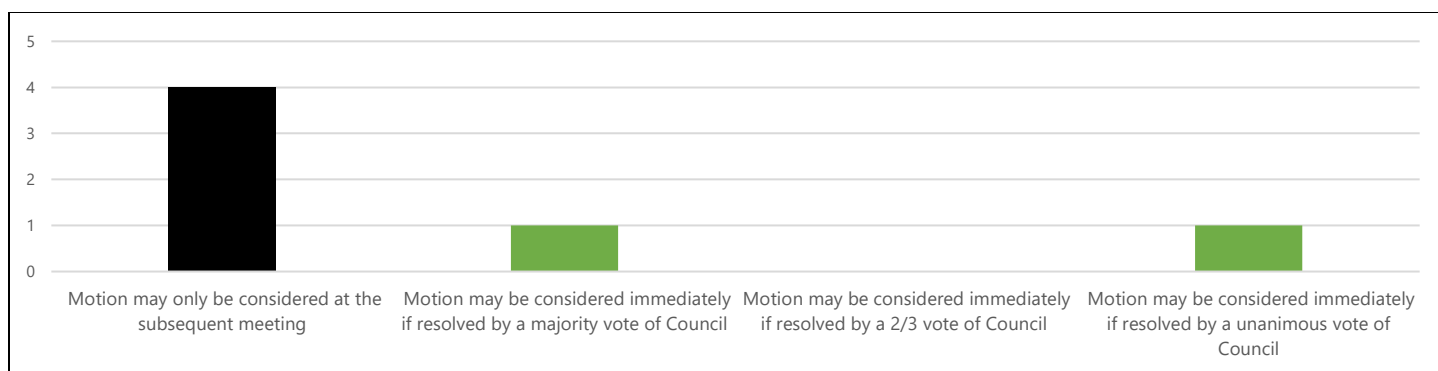


Figure 55: Notice of Motion consideration by Council (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

Given that a majority of Council selected the option that the motion could only be considered at the subsequent meeting (see [Figure 55](#)), that rule shall be moved from the Notice of Motion Policy into the new procedure bylaw.

POLICY DEVELOPMENT: Notice of Motion Policy

Staff will be reviewing the Notice of Motion Policy to determine if there are any other rules that should be moved into the new procedure bylaw along with when the motion may be considered.

See page 30 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to notices of motion.

9.2 Currently Councillors have 30 days to move a motion to reconsider a decision of the original vote, does Council wish to keep this limit the same?

Section 131 of the *Community Charter* states that the Mayor has the authority to require Council reconsider and vote again on a matter as long as the Mayor has initiated the process at the same meeting or within 30 days following the meeting. Whereas Councillors only have that authority, after the meeting where the decision was made and the meeting was adjourned, if the rule is established in the procedure bylaw. 86% of local governments surveyed authorize Councillors to bring forward a motion for reconsideration after the meeting was adjourned, however, the majority only permit the motion to be introduced at the next meeting (see [Figure 56](#)). Section 25(1) of Council Procedure Bylaw No. 3602 states that a Council member who voted with the prevailing side may, within 30 days of the original vote move to reconsider a resolution adopted or defeated by Council or move to reconsider an adopted bylaw after an interval of at least 24 hours following its adoption.

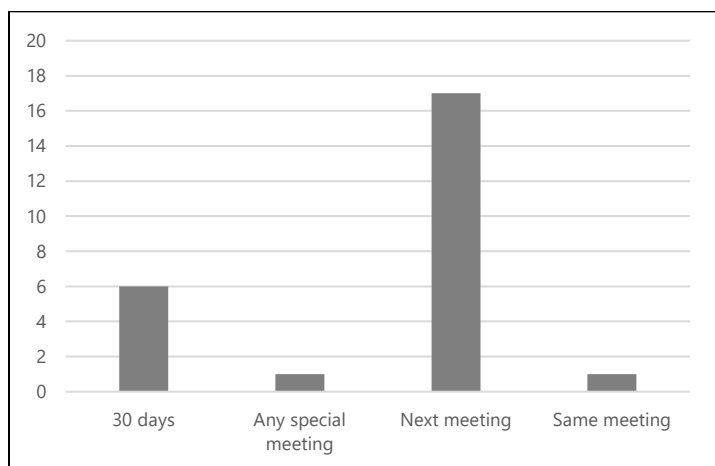


Figure 56: Motion to Reconsider (LGs Surveyed)

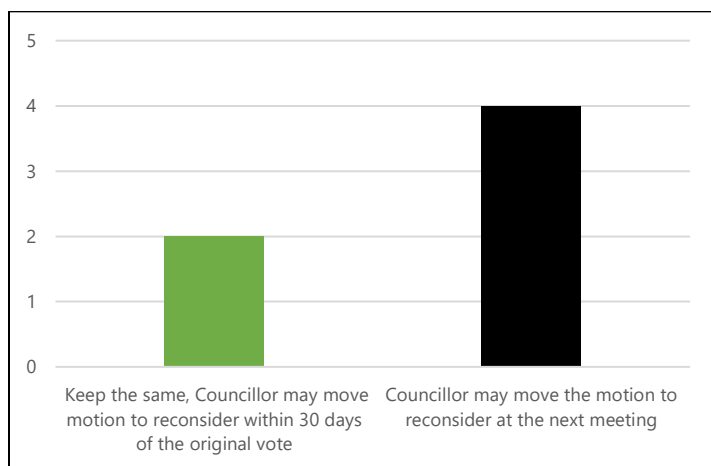


Figure 57: Motion to Reconsider (Council Survey)

CHANGE BASED ON SURVEY RESPONSES:

The survey results show that a majority of Council wish to reduce the period a Councillor, who voted on the prevailing side of a decision, could introduce a motion to reconsider from 30 days to the next meeting (see [Figure 57](#)), which is consistent with the common practice of other local governments. Therefore, this procedure will be updated in the new bylaw to reflect this change.

See pages 31 and 32 in **Council Procedure Bylaw Best Practices & Analysis report** for BC best practices, as identified by the LGMA and the Ministry of Municipal Affairs, in relation to reconsideration.

10. GENERAL

10.1 Is there anything else you would like changed or added to the Council Procedure Bylaw?

Suggestion	Staff Comments or Recommendation
A longer period between agendas being published and meetings so council and the public have more time to read/process	<p>Although s.14(3) says that the agenda must be made available at least 48 hours (i.e., before 5pm on Monday) prior to the meeting, the agendas are published Friday afternoons, after they have been reviewed with the Mayor.</p> <p>Of the 29 local governments surveyed, 3 other LGs (CRD, CVRD and Sechelt) conduct their meetings on Wednesday and publish their agendas on the preceding Friday. The range between publishing the agenda and the meeting was from 24 hours up to 5 days (Parksville).</p> <p>Staff will be polling Council at the workshop to determine if Council wishes to receive their agendas earlier than they currently do (i.e., before 4 pm on the Thursday preceding the meeting).</p>
Notice of Motions require 3 weeks to debate – that is too long. A provision for Notices of Motion to be made up to and in the proceeding meeting (without having to get permission from Council)	<p>Generally, there are 2 weeks between Council meetings, with the exception when there are 5 Wednesdays in the month.</p> <p>Council policies provide a governing framework to promote transparency and accountability in their decision-making, and as such are not legally binding, which means Council may suspend a rule (in accordance with Robert's Rules of Order), if all members of Council are present, that impedes the transaction of business. It requires a 2/3 vote to pass.</p> <p>A motion to suspend the rules cannot be applied to a rule in the procedure bylaw unless the bylaw permits the suspension. The bylaw must be amended to change or rescind the rule.</p> <p>This question was asked on the survey and the majority of respondents selected the option that the motion could only be considered at the subsequent meeting.</p>
Public input should happen before delegations.	<p>Delegations are a form of public input. A member of the public wishes to address Council on a matter that is important to them but may not be included on an upcoming agenda, must do so by submitting a request to be a delegation as the public input is limited to speaking to items on the agenda only.</p> <p>When local governments provide the public with an opportunity to address Council, they must decide on whether they wish to allow the public to comment on:</p> <ol style="list-style-type: none"> (1) any issue of concern to the citizen; (2) any issue on the agenda for that meeting; or (3) only on selected items on the agenda. <p>When the Public Input and Meeting Conduct Policy was adopted in 2012, the intent was to allow the public an opportunity to provide input to Council before it makes its decisions. Since delegations are a form of public input and Council does not make a decision at the same meeting where the delegation has made their presentation, it would make sense for the public to wait to make any comments on the delegation request when the matter is before Council for a decision.</p> <p>Staff will be polling Council at the workshop to determine if the rest of Council would like to re-order the agenda to place Delegations after Public Input or if they would like to exclude delegation presentations from public input until such time as the matter comes back to Council for a decision.</p>
There needs to be a procedure by which Council can direct or reconsider the decision of a delegate in accord with <i>community charter</i>	<p>Section 156 in the <i>Community Charter</i> refers to an individual requesting that Council reconsider a delegate's decision. Council itself cannot reconsider the decision, they would have to amend the Delegation of Authority Bylaw to repeal the powers and duties delegated to staff.</p> <p>Once Council has delegated a duty to a person or committee, that person or committee, under law cannot sub-delegate that duty even if it were delegating it back to Council. See the Young</p>

Suggestion	Staff Comments or Recommendation
"A council may, by bylaw, establish a right to have decisions delegated under this Division reconsidered by council.")	<p>Anderson paper on Mastering the Art of Delegation for more information.</p> <p>No action will be taken at this time as the Delegation of Authority Bylaw is not under review.</p>
Councillors should be able to refer received correspondence for inclusion on an upcoming agenda	<p>Section 5.3 in the Consent Agenda Policy states "A member of Council may bring forward an item that is excluded under Section 5.1 as a notice of motion. Such notices of motions are subject to the rules established under Council's the Notice of Motion Policy", therefore, if a member of Council was in agreement with an opinion shared by a member of the public, they could bring forward a notice of motion and include the original correspondence with their background report when the motion is included in the subsequent agenda under New Business.</p> <p>The Consent Agenda Policy and Notice of Motion Policy will be brought forward to Council for review and update after the new procedure bylaw has been adopted.</p>
We should increase the allowable time for speakers from 3 minutes to either 4 or 5 minutes, as other jurisdictions do. We rarely have 5 or more, so it wouldn't add that much to the meeting, and many speakers are frustrated at the time given it can be nerve-wracking for many.	<p>Public input is just one way that a member of the public can address Council. If they do not feel that 3 minutes is sufficient, they can always request to be a delegation and then they will have 10 minutes.</p> <p>Of the local governments surveyed, 19 have established limits for public input ranging from 2 minutes to 5 minutes. One LG established a limit of 20 minutes for public input without establishing any individual limits. The most common limit was 3 minutes (9 LGs), followed by 2 minutes (7 LGs), with one providing 4 minutes and one providing 5 minutes. Staff would recommend that Council establish a time period for public input of either 20 or 30 minutes and keep the individual speaker limit to 3 minutes.</p> <p>Establishing individual time limits does not only ensure that Council meetings are efficient, but that it guarantees that each speaker has the same amount of time to be heard. See the BC Ombudsperson's Guide to Administrative Fairness in the Public Sector for more information.</p> <p>Staff will be polling Council at the workshop to determine if the rest of Council would prefer to:</p> <ul style="list-style-type: none"> • set a limit for how long the Public Input portion lasts (e.g., 15, 20 or 30 minutes) and remove the limit of 5 speakers • increase individual speakers time limit from 3 minutes to 4 or 5 minutes