

Report

Date May 4, 2022
Subject OCP Bylaw 3900 next steps and public hearing options

File: SPP00040

PURPOSE

To complete the statutory steps required following first reading of the Official Community Plan (OCP) bylaw and provide Council with options regarding a public hearing.

BACKGROUND

On April 25, Council gave first reading to [OCP Bylaw 3900 as attached to the Planning Manager's Report dated April 25 2022](#). Staff also committed to provide Council with options regarding holding a subsequent public hearing.

DISCUSSION

Statutory Process after First Reading

After first reading of the complete version of the OCP, Council is statutorily required to consider the OCP in conjunction with applicable Financial Plan and Waste Management Plans. There is no legislative requirement to take any further action beyond "considering."

The applicable plans with which the OCP must be considered were included as hyperlinks within the staff report dated April 25, 2022. Those plans were:

- 1) [North Cowichan 2022 Five Year Financial Plan](#)
- 2) [Cowichan Valley Regional District Solid Waste Management Plan \(as amended\)](#)
- 3) [Cowichan Valley Regional District Central Sector Liquid Waste Management Plan](#)

The statutory requirement that, after first reading, Council considers the OCP in conjunction with these plans does not specify what matters are to be considered by Council. While the previous statutory provision required Council to consider the OCP in conjunction with these plans to ensure that it was consistent with them, the requirement to ensure consistency is not found in the current statute. The current statute simply requires that Council considers the OCP in conjunction with these plans. When considering the OCP in conjunction with these plans, it is important to note that the statute expressly provides that the OCP does not commit the Municipality to proceed with any project specified within it.

The preparation of the OCP has taken place with the applicable Financial and Waste Management plans in mind and with input provided from senior Finance and Utilities staff working directly with these plans. No conflicts were identified. In *implementing* the OCP (if adopted), Council will consider various OCP policies and resourcing of projects in the context of the annual budgeting process. Staff would advise on any specific implications regarding finance or waste management as part of the regular project management of any such projects.

Members of Council, now having had an opportunity to consider the OCP in conjunction with the applicable Financial Plan and Waste Management Plans, are invited through the recommendation of this report, to resolve that the OCP has been considered in conjunction with these plans, in fulfilment of the requirements of s.477(3)(a) of the *Local Government Act*.

Once this step has been completed, Council may direct the OCP to be referred to the Agricultural Land Commission (ALC), as required by s.477(3)(b) of the *Local Government Act*.

Public Hearing Format

A public hearing associated with the adoption of a new OCP is likely to be a significant event attracting a large number of speakers. As we emerge from the COVID-19 pandemic and restrictions on gathering are lifted, there are different levels of comfort, preference and enthusiasm from various people regarding electronic formats versus in-person gatherings. At the time of writing, a public hearing can be held either in-person or by electronic means. However, it is also possible to consider practical arrangements constituting a combination of these two approaches, assuming no significant change in public health orders.

The logistics of arranging a hearing in an in-person or combination format are not trivial, both in terms of IT demands and orderly procedure; however, staff have identified the potential for a public hearing format which begins online and reconvenes in-person on the following day. Although an in-person portion in this format would be live-streamed, there would only be facilities for electronic participation available during the (online) portion held on the first day. Holding the online portion on the first day allows members of the public who experience technical difficulties to attend the following day to provide their comments in person. The greater the turnout during the online portion of the public hearing, the less risk of any capacity issues (accommodating members of the public) during the in-person portion.

The Municipal Council Chambers are not large enough to accommodate the expected high number of participants an OCP public hearing typically attracts. The Cowichan Performing Arts Centre is the most appropriate location by reason of its capacity, accessible location and audio/visual technology capabilities; however, this venue is not available during the summer due to a seating refit. Staff are currently investigating availability and feasibility of alternative venues should Council eventually opt to proceed with an in-person or combination format for the public hearing.

Public Hearing Date

ALC staff have advised that they are experiencing a backlog in reviewing applications. As such, it is likely that the review may take the full 60 days referenced in the ALC's guidance materials or even longer. There is no statutory deadline for the ALC's review, so a response cannot necessarily be assumed within 60 days. Staff will attempt to prompt the ALC, including offering a virtual meeting to help expedite the review but do not anticipate any response from the ALC prior to mid to late June. This means a mid/late July public hearing is the earliest that can reasonably be expected, given the necessary lead-in times to arrange a hearing of this magnitude.

Staff will bring a report to Council, prompting a decision on dates, potential locations, and format for a public hearing in June. In the interim period, Council may wish to continue outreach efforts regarding the OCP, particularly with First Nations.

OPTIONS

1. Proceed with consideration of the OCP in conjunction with the five-year financial plan and applicable waste management plans and refer the OCP to the ALC (Recommended Option)

THAT Council:

- 1) Has considered the Official Community Plan (OCP) in conjunction with all applicable Financial Plans and Waste Management Plans, including the North Cowichan 2022 Five Year Financial Plan, the Cowichan Valley Regional District Solid Waste Management Plan (as amended) and the Cowichan Valley Regional District Central Sector Liquid Waste Management Plan in accordance with section 477(3)(a) of the *Local Government Act*; and,
- 2) Direct that the proposed OCP be referred to the Agricultural Land Commission for comment as required by section 477(3)9b) of the *Local Government Act*.

2. Request further information from staff prior to proceeding

- Should Council not be willing to proceed as recommended, it may direct staff to provide such additional information as Council requires:

THAT Council:

- 1) Direct staff to report back to Council with further information regarding [... to be identified by Council]

IMPLICATIONS

Completing these steps will enable the Municipality to move forward with a public hearing on the proposed OCP at a time of Council's choosing following the referral to the ALC. Staff will bring forward a report at a future meeting of Council, prompting Council to determine the date and format of the public hearing.

RECOMMENDATION

THAT Council:

- 1) Has considered the Official Community Plan (OCP) in conjunction with all applicable Financial Plans and Waste Management Plans, including the North Cowichan 2022 Five Year Financial Plan, the Cowichan Valley Regional District Solid Waste Management Plan (as amended) and the Cowichan Valley Regional District Central Sector Liquid Waste Management Plan in accordance with section 477(3)(a) of the *Local Government Act*; and,
- 2) Directs that the proposed OCP be referred to the Agricultural Land Commission for comment as required by section 477(3)(b) of the *Local Government Act*.

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