

Staff Report for Decision

DATE OF MEETING | JULY 8, 2019 |

AUTHORED BY | JOHN VAN HORNE, DIRECTOR OF HUMAN RESOURCES |

**SUBJECT MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT
BYLAW REVISION**

OVERVIEW

Purpose of Report

To present a revised Management Terms and Conditions of Employment Bylaw to Council for adoption. |

Recommendation

- That “Management Terms and Conditions of Employment Bylaw 2019 No. 7273” (To establish the terms and conditions of employment for officers and excluded employees of the City) pass first reading;
- That “Management Terms and Conditions of Employment Bylaw 2019 No. 7273” pass second reading; and
- That “Management Terms and Conditions of Employment Bylaw 2019 No. 7273” pass third reading.

BACKGROUND

Management Terms and Conditions of Employment Bylaw 2005, No. 7000 (“Bylaw 7000”) contains the general employment terms and conditions for the City’s exempt employees, those not represented by a bargaining agent such as CUPE or IAFF. The Bylaw comes before Council from time to time for review and updating, most recently with the previous Council in October, 2018. At that time, Council voted not to make any changes and instead deferred further consideration of the Bylaw to the incoming Council. The Bylaw is included as Attachment A. |

DISCUSSION

Because exempt employees do not engage in collective bargaining like their union-affiliated colleagues, the process of changing exempt employee terms and conditions occurs infrequently. When it does occur, it falls to the Chief Administrative Officer and Director of Human Resources to engage with Council to establish what those terms and conditions will be. In the present case, staff have sought input from both compensation and employment law professionals to provide much of the detail that has gone into the revised Bylaw.

Staff engaged the services of a compensation consultant to review all aspects of the compensation program for excluded employees, which includes Bylaw 7000. The review was consistent with the Exempt Salary Administration Policy, which requires a “*an independent review of exempt/management compensation every 3 years in relation to B.C. municipal comparators to assess whether further adjustments may be required to maintain pace with the market.*” The review helps ensure that the total compensation package for exempt employees remains competitive, and in effect serves as a proxy for a formal collective bargaining process

for exempt staff by identifying terms and conditions amongst our comparator local governments, for consideration by Council.

Staff also utilized the City's employment lawyers to review the Bylaw, identify terms that were ambiguous, and recommend revised terms that were clearer and less open to multiple interpretations.

In light of these professional reviews and other considerations, a revised version of the Management Terms and Conditions of Employment Bylaw has been prepared. Revising Bylaw 7000 through an amending bylaw would be cumbersome given the number of changes required. Instead, it is proposed that Bylaw 7000 be repealed and replaced with Management Terms and Conditions of Employment Bylaw 2019 No. 7273 ("Bylaw 7273", included as Attachment B).

Bylaw 7273 will assist in attracting and maintaining quality staff at the City of Nanaimo. At the same time, clarifying potentially ambiguous language within the Bylaw helps protect and enhance the City's interests in the event of legal action over the terms of the Bylaw. |

OPTIONS

1. Recommendation:

- That "Management Terms and Conditions of Employment Bylaw 2019 No. 7273" (To establish the terms and conditions of employment for officers and excluded employees of the City) pass first reading;
- That "Management Terms and Conditions of Employment Bylaw 2019 No. 7273" pass second reading; and
- That "Management Terms and Conditions of Employment Bylaw 2019 No. 7273" pass third reading.

Advantages:

- Provides updated terms and conditions that will assist in attracting and retaining exempt employees.
- Expresses terms and conditions in a clearer way, avoiding ambiguity that could create potential liability.
- Reflects a total compensation package that is more comparable to many of the City's municipal comparators.

Disadvantages:

- Costs related to the Bylaw amendments are unbudgeted, and must be found through anticipated surplus and savings. Some terms of the new Bylaw will provide savings to the City over time.

2. That Council maintain the existing Management Terms and Conditions of Employment Bylaw 2005, No. 7000.

Advantages:

- No extensive process is required to repeal and replace the existing bylaw.
- Staff are already familiar with terms of existing Bylaw.

Disadvantages:

- Places the City at a competitive disadvantage in attracting and retaining exempt staff.

- Will not give effect to the term of the Exempt Salary Administration Policy that requires an independent review to help maintain pace with comparators local governments.
 - Does not enable the City to revise the terms that are currently ambiguous, which can create potential liability.
3. That Council provide some alternative direction to staff.
- Advantages:
- Provides Council an opportunity to gather additional information related to the proposed changes.
- Disadvantages:
- Prolongs the uncertainty for exempt staff as to any potential changes in their terms and conditions.

SUMMARY POINTS

- Management Terms and Conditions of Employment Bylaw comes before Council from time to time for review and revision.
- The City engaged external experts to assist in developing the revised Bylaw and the terms and conditions therein.
- The revised Bylaw will assist the City in attracting and retaining quality exempt staff.

ATTACHMENTS:

Attachment A: Current Bylaw 7000.
Attachment B: Proposed Bylaw 7273

Submitted by:

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