

DATE OF MEETING MAY 30, 2022
AUTHORED BY KAREN ROBERTSON, DEPUTY CITY CLERK
SUBJECT PUBLIC NOTICE BYLAW

OVERVIEW

Purpose of Report

To introduce a bylaw that provides for alternative methods for publication of statutory notices.

Recommendation

That Public Notice Bylaw 2022 No. 7325 (a bylaw to provide for alternative means of publication) pass first reading.

That Public Notice Bylaw 2022 No. 7325 pass second reading.

That Public Notice Bylaw 2022 No. 7325 pass third reading.

BACKGROUND

Through the *Community Charter* and *Local Government Act*, local governments are required to provide advance public notice of matters of public interest (e.g. public meetings, elections, public hearings, disposition of land, etc.). These notice requirements (found in Section 94 of the *Community Charter*) have been in place since the *Community Charter* was implemented in 2004 and serve to facilitate transparency and accountability, and inform the public of opportunities to participate in local government decision-making.

The specific provisions associated with those requirements stated that local governments must:

- Publish notices in a newspaper that circulates in the community once each week for two consecutive weeks; or
- If publication by a newspaper is not practicable, the notice may be given in the area by alternative means.

Since the above provisions were implemented, internet access has advanced resulting in an increase in online news services and a decline in citizens purchasing newspaper subscriptions. Over time, this shift affected businesses who published local newspapers and some were either closing or reducing their publications. This presented challenges for some local governments (particularly smaller communities) in meeting the legislated public notice requirements. Advertising was also affected as it adjusted to suit the new mediums. As a result, local governments wanted more flexibility in how the advertising requirements could be met. This meant changes to the legislation would be needed in order to make this happen so commencing in 2015, and every year after, resolutions were put forward to UBCM by various local

governments requesting that that the Province modernize the language in Section 94 to allow statutorily required notices to be published using a variety of media channels.

The Province responded with new legislation on February 22, 2022 which gave local governments the option to continue using the default publication requirements (now outlined in section 94.1) of the *Community Charter* or the option to implement a bylaw that would provide for alternative means of publication through a new Section 94.2 which reads as follows:

- A Council may, by bylaw, provide for alternative means of publishing a notice instead of publishing the notice in a newspaper in accordance with section 94.1 (a) and (b).
- A bylaw adopted under this section must specify at least 2 means of publication by which a notice is to be published, not including posting in the public notice posting place.

Staff reviewed how the new legislation may benefit the City and recommend proceeding with a bylaw that would allow for alternative means of publishing notices based on the following identified benefits:

- reduce the timeline associated with development applications that require a public hearing;
- save money for applicants (as they are required to pay the full cost of advertising for those applications; and
- save the City money for other required advertising of notices associated with permissive tax exemptions, property dispositions, elections, etc.

Further rationale for pursuing this option is outlined below.

DISCUSSION

Prior to 2016, due to its size, the City was able to meet the Section 94 statutory advertising requirements through the Daily News (which published five times a week) and the Nanaimo News Bulletin which published a paper twice a week (Tuesdays and Thursdays). By having two papers available, the requirement for advertising public hearings under the *Local Government Act* wherein last publication had to be advertised “not less than 3 days and not more than 10 days” could be accommodated. The total turnaround process from the time the application was considered by Council took 2.5 weeks with an approximate cost to the applicant of \$800 - \$1500 depending on the size of the ad.

For the reasons cited in the background section of the report, readership of the local paper started to decline and in January, 2016, the decision was made by the owners (Black Press) to close the Daily News. The owners did retain the twice-weekly Nanaimo News Bulletin so the City was still able to meet its statutory requirements for advertising public hearings without a reduction in turnaround time.

In March 20, 2020, due to COVID 19, the Nanaimo News Bulletin (the Bulletin) took the step of combining the Tuesday and Thursday print editions into a single edition. This affected the notification schedule, resulting in a delay to consider the development applications at a public hearing. The time to consider an application at a public hearing, once the bylaw received its first two readings, now went from 2.5 weeks to a minimum of 3.5 weeks. The move to produce a paper weekly was seen as temporary; however, when staff contacted the Bulletin to see if they might return to twice weekly publication, they advised that while they would like to, there were no immediate plans to do so.

With the new legislation now giving the option for local governments to provide alternative ways to meet the statutory advertising requirements through a Public Notice Bylaw, the City has an opportunity to once again reduce the turn around time for development applications as advertising dates could be legally done by alternative means. It would also mean an overall cost savings to the municipality of 50% when legal notices have to be advertising twice as the City could utilize the City's website as one of the methods in addition to the newspaper.

Prior to Council considering this option, the following principles must be considered:

- Reliable – the publication methods selected must be dependable and trustworthy. For example, is the method a well-established source of information and tested and able to reliably display the information?
- Suitable – the public methods must work for the purpose for which the public notice is intended. Can it display all of the legislative required notice information in a legible manner, meeting specific timing requirements outlined in the legislation, and allow for the local government to keep a record of the date and period of time that the notice was published?
- Accessible – the publication methods must be easy to access and have a broad reach. Is the method accessible to a broad spectrum of the local population (e.g. age, location); provide for different ways for the public to be informed (e.g. in print and on-line); have limited barriers to access (e.g. one is free if the other is a paid subscription)?

Possible methods that would meet the above principles include newspapers, local government website, local government subscription service, local government Facebook page, and direct mail out. Examples of sources that would not meet the principles of public notice would be Twitter (the character limit means it is not suitable for displaying all of the information) or radio/tv (because the information is only quickly displayed/read – it limits access to the information).

In addition to considering the above principles, as a best practice the Province also recommends that local governments consider how people access information from the local government. A survey was conducted in 2020 with the launch of the on-line public engagement tool "Get Involved Nanaimo". Through this survey, the City asked what topics the community was interested in providing feedback on and one of the questions specifically asked was "How do you stay connected with the City of Nanaimo?" The survey was open during March 2, 2020 through October 1, 2020. The most popular responses were the City's website and newspaper (see Attachment 2).

Next Steps:

Given Council's priorities of ensuring that expeditious decision-making and action occurs with development applications, and cost-effective service delivery, implementing a new Public Notice Bylaw would meet both those objectives.

If supported, the newspaper and City's website would be as the two statutorily required methods for advertising whereby one of the notices would be advertised through the newspaper and the other posted on the home page under the Public Notices tab on the City's website. Staff would also ensure that notices associated with development applications would have a link from the Public Notices tab to the "What's Building in my Neighbourhood" section.

It should be noted that there is no limit to the number of methods one can list in the bylaw; however, any methods listed would then be mandated to be used each and every time. As not every method would be applicable (depending on the type and size of notice) staff recommend that only the City's website and the newspaper be considered as those that are the legally required methods. Staff does, and would continue to, utilize other methods (where applicable) such as the City's Facebook page, weekly newsletter, Nanaimo News Now, and Twitter, in addition to the two primary methods.

OPTIONS

Option 1:

That Public Notice Bylaw 2022 No. 7325 (a bylaw to provide for alternative means of publication) pass first reading.

That Public Notice Bylaw 2022 No. 7325 pass second reading.

That Public Notice Bylaw 2022 No. 7325 pass third reading.

- The advantages to this option are that: 1) it will reduce the turn around time to consider development applications that require a public hearing; 2) it will cut the advertising costs for applicants in half; and 3) it will save the City costs associated with the required advertising for permissive tax exemptions, property disposition notices, business improvement areas, etc.).
- There are no disadvantages for the City to this option; however, it is recognized that the newspapers would see reduced ad revenue through this option.

Option 2:

That Council continue to utilize the newspapers for all statutory required advertisements and continue to utilize section 94.1 to meet the statutory notice requirements.

- There are no direct advantages to the option.
- The disadvantages of this option are that 1) development applications would continue to take 3.5 weeks before a public hearing could be held once Council has given first two readings to a development application bylaw; 2) there would be no cost saving opportunities for applicants who are required to pay for all advertising costs associated with their application; and 3) no cost savings would be realized for other statutory notices that require advertising under Section 94 of the *Community Charter*.

SUMMARY POINTS

- Local governments must provide notice of matters of public interest.
- The notice requirements outlined in Section 94 of the *Community Charter* required local governments to meet the advertising requirements through newspapers.
- New legislation was introduced on February 22, 2022 giving local governments the option to continue advertising solely through the newspaper or the option to also advertise through other methods.
- The City conducted a survey in 2020 which demonstrated that citizens obtain their City-related news equally from newspapers and the City's website.

- Having the ability to meet the statutorily required advertising through both methods would provide the opportunity to reach a larger audience and provide a cost savings to the City and to applicants who pays for the legally required advertising associated with their development applications.
- Through either method, the City would continue to post notices on the City's Facebook page, Nanaimo News Now, Twitter and the City's newsletter (where applicable).

ATTACHMENTS:

Attachment 1 - BL7325 – Public Notice Bylaw

Attachment 2 – Public Survey Results – Get Involved Nanaimo

Submitted by: Karen Robertson, Deputy City Clerk

Concurrence by: Sheila Gurrie, Director of Legislative Services
Laura Mercer, Director of Finance
Bill Corsan, Director, Corp. & Business Development
Dale Lindsay, Deputy CAO/Gen Mgr. Development Services
Jake Rudolph, CAO