



MINUTES

GOVERNANCE AND PRIORITIES COMMITTEE MEETING

Wednesday, June 12, 2024, 7:00 P.M.
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE
80 COMMERCIAL STREET, NANAIMO, BC

Members: Councillor B. Geselbracht, Chair
Mayor L. Krog
Councillor S. Armstrong
Councillor T. Brown
Councillor H. Eastmure
Councillor E. Hemmens
Councillor P. Manly
Councillor J. Perrino
Councillor I. Thorpe

Staff: D. Lindsay, Chief Administrative Officer
S. Gurrie, Director, Legislative Services
N. Sponaugle, Communications Advisor
A. Chanakos, Recording Secretary

1. CALL THE MEETING TO ORDER:

The Governance and Priorities Committee Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

(a) Agenda Item 6(a)(1) Lisa Zwarn Alternative Approval Process Review -
Add Report titled "Alternative Approval Process Review"

3. APPROVAL OF THE AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF THE MINUTES:

It was moved and seconded that the Minutes of the Governance and Priorities Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2024-MAY-13, at 1:00 p.m. be adopted as circulated. The motion carried unanimously.

5. AGENDA PLANNING:

a. Upcoming Topics and Initiatives

Sheila Gurrie, Director, Legislative Services, spoke regarding topics and initiatives scheduled for upcoming Governance and Priorities Committee (GPC) meetings. She noted the next GPC meeting is scheduled for 2024-JUN-24 and will focus on the Public Works Yard and options for funding, as well as discussing future GPC topics and initiatives.

6. REPORTS:

a. Empowered Nanaimo:

1. Lisa Zwarn Alternative Approval Process Review

Introduced by Dale Lindsay, Chief Administrative Officer.

- Following two cancelled Alternative Approval Processes (AAPs), Staff felt it was important to have a third-party peer review conducted in order to better understand where mistakes were made and how to proceed with any future AAPs

Presentation:

1. Lisa Zwarn spoke regarding the Alternative Approval Process Review. Highlights included:

- The purpose of the AAP review was to determine what challenges occurred during the AAP processes and how to address challenges in the future
- Methods used to conduct the review included interviews conducted with Staff and one elected official, review of ministerial guidelines and documents created by Staff, and viewing past Council meeting videos where various AAP issues were discussed
- The City adopted a Public Notice Bylaw which states that notices will be posted in the Nanaimo News

Bulletin and on the City's website, in addition to posting on the public notice posting place

- The Public Notice Bylaw was to be used for the AAP instead of the default publication requirements in Section 94.1 of the *Community Charter*
- The City must also adhere to Section 86 of the *Community Charter* in order to obtain approval of the electors, either by an AAP or assent voting
- At the end of the AAP time period, the Corporate Officer determines the number of responses, if the responses are valid, and if the number meets the threshold of 10% of the fair determination of the total number of electors. If the 10% threshold is met or exceeded, the City may proceed with assent voting
- There is a minimum 30 day time period to receive responses beginning on the date of the second publication of the notice
- The Ministry amended the AAP guidelines in July 2023, stating the first and second notice can be published on the same day
- Provincial legislation requires the elector response forms to be available on the first publication date of the notice
- For AAP No. 1, which ran 2023-SEP-27 to 2023-NOV-03, Staff published both notices on the same day in the Nanaimo News Bulletin and the City's website, and had elector response forms available on that day
- Following AAP No. 1, the 10% threshold was not met, and some residents noted they had not been made aware of the AAP
- Staff then sought a legal opinion which noted that AAP No. 1 could be challenged. To avoid risk of a challenge, Council decided to cancel AAP No. 1
- Prior to commencement of a second AAP, Staff sought a legal opinion from the same law firm; it was later determined that the process used in AAP No. 1 was defensible. A second legal opinion was then sought out from a second law firm, which came to the same conclusion

- For AAP No. 2, which ran 2024-JAN-18 to 2024-FEB-20, two notices were published in an attempt to avoid similar complaints from AAP No. 1. The first notice was published as a courtesy and the second notice was published as the official notice
- Elector response forms were not available on either publication date, when they should have been made available on the date of the first notice
- Assent voting is an expensive process with heavy administrative tasks, and often end up with extremely low voter turnout when not paired with an election
- If another AAP takes place, the following should be considered:
 - Adequate staffing levels
 - A clear communications plan
 - Using a comprehensive checklist for tasks
 - Only adhere to what is required by legislation
 - Ensure elector response forms are available upon first notice of the AAP at City Hall and on the City's website
 - Continue to only accept original elector response forms until legislation is clear on electronic submissions
 - Consider distributing information prior to the AAP regarding why the subject matter needs to come forward to avoid the spread of misinformation
- Inquiries from citizens should be added to the FAQs on the AAP page of the City's website
- Council could consider approaching the Province to request changes to the legislation that would offer more clarity around what needs to be done and when during an AAP

Committee discussion took place. Highlights included:

- A communications plan should include information such as the name change from Public Works Yard to Nanaimo Operations Centre, and what would happen if the City did or did not use borrowing to fund the project

- Providing mailouts is not required in the legislation and should be avoided in order to avoid being challenged later on
- The AAP guidelines note that Council can make a choice through a policy to allow electronic submissions; however, the policy would need to be very robust to ensure the rules are clear
- If using mailouts, it should be kept as simple as possible with a website to visit and contact information where residents can find more information on the project

2. Alternative Approval Process Policy Options

Introduced by Sheila Gurrie, Director, Legislative Services.

- Feedback was received from a number of different sources and included suggestions to improve the process for AAPs
- Long-term borrowing by municipalities requires approval by electors, either by assent vote or AAP
- The AAP guideline sets certain processes and outlines where a local government can set certain processes out in a policy
- An AAP policy should only set out flexible parts of process such as engagement/communication, and procedures for providing and accepting response forms
- When approval of electors is required, Council should determine which method to use each time
- The timeframe of an AAP should be decided by Council each time as holidays and weekends can affect how many days the AAP should run
- An AAP policy could include a communications plan; however, Council would determine the details of the plan for each AAP
- The policy could also include the set number of printed forms provided per person for an AAP
- If electronic submissions are eventually accepted, they could be uploaded to the City's website with a photo of the signed form, rather than emailed, to help mitigate cybersecurity risks; however, this process is more time consuming due to the need to reconcile the electronic form with a paper form once received

- AAPs are budgeted annually; however, assent votes are not, with the exception of the last two years due to capital projects

Committee and Staff discussion took place. Highlights included:

- Due to the high volume of forms requested by individual citizens, Staff determined that 100 forms per person per day was a fair number to hand out
- Consideration to include a handout with utility bills to notify residents of upcoming capital projects and an outline of what the costs will be
- Creating a policy would be helpful for future councils, and would help answer certain questions from the public
- Petition-style forms are a concern to many residents for privacy reasons so the single signature form is preferred

Delegation:

1. Sandy Bartlett spoke regarding the Alternative Approval Process Policy Options, and noted the policy should ensure that AAPs only include “needs”, not “wants”, and should outline ways to clearly outline for the public what the project is, the price, and the process.

Committee discussion took place regarding legal action being taken in the City of Victoria regarding an AAP similar to AAP No. 1 in Nanaimo and increasing the 30-day window to submit elector response forms to 90 days.

Committee and Staff discussion took place. Highlights included:

- Support for the creation of a policy as it lays out considerations and options for any Council to consider going forward
- The policy should outline options that could be available at Council discretion, such as mailouts
- The issues regarding clarity and process of Provincial legislation that governs the AAP should be brought to the 2024 Union of British Columbia Municipalities Annual General Meeting
- Suggested the recommendation be brought back to the GPC prior to being adopted by Council

It was moved and seconded that the Governance and Priorities Committee recommend that Staff return to Council with a policy for their consideration that includes:

- a) The method of communication/engagement be considered on a case-by-case basis based on the scale and the borrowing amount of the project;
- b) Setting 100 forms per person as the limit of forms provided to citizens during the AAP period; and,
- c) Options for the inclusion of mail-out options for response forms and electronic submission of the response forms.

Additional discussion was held regarding what to include in the policy.

It was moved and seconded that the motion be amended as follows:

- That the policy come back to a Governance and Priorities Committee meeting for consideration prior to going to Council;
- That the number of forms be set at 10 forms per person as the limit of forms provided to citizens for the duration of the AAP period.

The vote was taken on the amendment.

The motion carried unanimously.

The vote was taken on the main motion, as amended, as follows:

That the Governance and Priorities Committee recommend that Council direct Staff to prepare a draft policy for the Governance and Priorities Committee that includes:

- a) That the method of communication/engagement be considered on a case-by-case basis based on the scale and the borrowing amount of the project;
- b) That the number of response forms be limited to 10 forms per person for the duration of the AAP period; and
- c) Options for the inclusion of mail-out options for response forms and electronic submission of response forms.

The motion carried unanimously.

It was moved and seconded that the Governance and Priorities Committee recommend that Council direct Staff to prepare a resolution for submission to the Union of British Columbia Municipalities annual convention outlining issues around the clarity and process of the legislation that governs the Alternative Approval Process. The motion carried unanimously.

It was moved and seconded that Council send a letter to the Province requesting that amendments be made to the legislation pertaining to the Alternative Approval Process as outlined on page 47 of the report titled "Alternative Approval Process Review" by Lisa Zwarn. The motion carried unanimously.

7. QUESTION PERIOD:

The Committee received three questions from the public regarding agenda items.

8. ADJOURNMENT:

It was moved and seconded at 9:23 p.m. that the meeting adjourn. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER