

REVIEW OF COUNCIL'S PROCEDURE BYLAW

EXECUTIVE SUMMARY

This report introduces a proposed bylaw to replace the Procedure Bylaw 44M2006 in order to:

- increase clarity and flexibility;
- introduce efficiencies to Council and Committee meetings;
- incorporate plain language principles; and
- respond to recent changes to the *Municipal Government Act* that affect Council and Committee meeting procedures.

Adoption of a new Procedure Bylaw is recommended to take effect following the 2017 municipal election. This timing was selected to build synergy with other related changes, such as the launch of a new electronic legislative management system (eScribe) and the orientation of new and returning Members of Council which will also occur following the election.

The report also identifies opportunities for future improvements to the Procedure Bylaw in areas that could not be captured during this phase, due to the need for broader engagement or due to pending provincial legislation which has not been finalized as quickly as anticipated.

ADMINISTRATION RECOMMENDATION(S)

That the Priorities and Finance Committee recommends that Council:

1. Consider the proposed Procedure Bylaw (Attachment 1) to regulate meetings of Council and its Committees, for three readings and adoption;
2. Consider the proposed amendments contained in Attachment 3 to implement a Councillor-as-Chair-of-Council model for presiding of Council meetings; and
3. Direct Administration to bring forward a Procedure Bylaw review on the items listed in "Opportunity For Future Improvements" contained on Page 7 of this report, no later than Q4 2018.

RECOMMENDATIONS FROM THE PRIORITIES AND FINANCE COMMITTEE, DATED 2017 JULY 18:

That Council:

1. Give three readings to **Proposed Bylaw 35M2017** to regulate meetings of Council and its Committees, for three readings and adoption, **after amendment as contained in Attachment 6.**
2. Consider the proposed amendments contained in Attachment 3 to implement a Councillor-as-Chair-of-Council model for presiding of Council meetings; and
3. Direct Administration to bring forward a Procedure Bylaw review on the items listed in "Opportunity for Future Improvements", contained on Page 7 of this report, **after**

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amendment by adding a new bullet as follows, no later than Q4 2018:

- **A review of the existing Gas, Power and Telecommunications Committee membership restrictions on Councillors who are ENMAX Directors.**

PREVIOUS COUNCIL DIRECTION / POLICY

On 2017 June 6, the Priorities and Finance Committee referred 'Presiding Officer for Council Meetings – Option 2', contained in Report PFC2017-0261 (a Councillor as presiding officer) to Administration for further examination of benefits and possible implementation, and to return to the Priorities and Finance Committee in conjunction with the Procedure Bylaw Review.

Council endorsed a Business Protocol on 2017 March 20 for the administrative management of written public submissions which are not respectful (PFC2017-0015). Council directed that during the upcoming Procedure Bylaw review, provisions which reflect the new business protocol be included in the bylaw.

On 2015 March 30, Council was presented with minor housekeeping amendments to the Procedure Bylaw 44M2006, as a component of the LGTF 2014 – 2017 Work Plan. The minor amendments were intended to facilitate short-term meeting efficiencies, and to align the Procedure Bylaw with existing business processes (LGT2015-0237). Major amendments that were identified were referred to the future review.

On 2014 March 26, Council approved the Legislative Governance Task Force 2014 – 2017 Work Plan LGT2014-0399, which contained direction for a major review of the Procedure Bylaw. Funding was acquired through a Council Innovation Fund Application, which was approved on 2015 March 30, with direction to present recommendations to the Priorities and Finance Committee by Q2 2017(PFC2015-0308).

BACKGROUND

The intended outcomes of the Procedure Bylaw Review include:

1. To facilitate more efficient meetings.
2. To improve readability and incorporate plain language principles.
3. To assess whether recent changes to the Municipal Government Act, RSA 2000, c. M-26 (the "MGA") and resulting City Charter outcomes, should be addressed within the Procedure Bylaw, and when.
4. To address other practical issues such as:
 - a. maximizing the benefits to be gained from a new agenda and minutes management system (eScribe);
 - b. inserting key legislative provisions within the Bylaw instead of requiring the reader to cross-reference with other legislation;
 - c. making the bylaw more relevant to the current reality and needs of elected officials, staff and citizens;

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- d. embedding fundamental principles and explaining the intended purpose of certain rules;
- e. establishing a procedure to suspend certain rules, and explaining what happens if a procedure is inadvertently not followed;
- f. revising public participation procedures; and
- g. grouping some rules and the most common motions into "how-to" and "helpful hint" tables as practical aids for Members participating in meetings.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

In response to Council's 2015 March 30 direction for a major Procedure Bylaw review, the project team, including the expertise of a Professional Registered Parliamentarian, met extensively with Members of Council, the Office of the Councillors and key members of Administration to gather feedback on issues experienced with the existing Procedure Bylaw 44M2006. Stakeholder comments are grouped below into categories based on the degree of consensus heard.

Consensus Feedback

The majority of stakeholders agreed that:

- Meetings could be shorter. There was support for including more reports in Council consent agendas, and some support for reducing the length of time to speak at meetings.
- Procedure Bylaw provisions are not clear and are difficult to find when needed.
- The flow of items and content in the current bylaw is not consistent or logical.
- The Bylaw is too prescriptive around minor procedural issues, creating unnecessary barriers to forward progress.
- The principles for when and why to use 'Committee of the Whole' are not well understood.
- Administrative Inquiries, while useful, are difficult to keep track of. Both Members of Council and Administration have commented that searching for a response to an Administrative Inquiry is complicated by the multiple avenues for response available.
- It is cumbersome to require non-Member Councillors to declare an interest before being allowed to attend the discussion of an item in a Committee's closed meeting. There was support for giving non-Member Councillors easier access to attending the in-camera (closed) portion of a meeting.
- There is uncertainty both with members of Committees and staff who support those Committees, over the degree of authority that Council SPCs may exercise.
- Reports which are presented 'for information only' should be received by Members of Council, but should not take up Council's meeting time.
- The way land use reports are grouped during Public Hearing meetings is inefficient and restrictive, due to out-dated categories in the prescribed Order of Business for meetings.
- Rules around reconsiderations are too complicated.
- Several Members of Council expressed a desire to be able to recall a speaker during a Public Hearing, in particular the proponent of the application, in order to ask additional questions.

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Mixed Feedback

There was less or no consensus on the following topics:

- Some stakeholders feel Council duplicates the work that Committees have done. Some Members of Council feel that Council should have the freedom to dive deeply into the reports that were received from Committees, even to the extent of having Administration deliver a second presentation, while others feel that Council should trust the work of Committees.
- There are too many provisions on conduct with condescending/parental language. (Members shall not speak disrespectfully, shall not leave without permission of the Chair etc.) A small amount of concern was expressed that relaxing too many restrictions would lend itself to being used for obstructive purposes (by those who 'know the rules').
- There was little support for only allowing Councillors who have been specifically appointed to attend Committee meetings. Some Councillors feel that non-Member Councillors should have full privileges at Committees to which they have not been appointed (attend, debate, count for quorum). Some Councillors feel that limited privileges are more appropriate, although there was no consensus on which privileges to limit.
- Some have advised that 9:30 p.m. is too late to adjourn, conversely, some feel they should be able to complete the meeting regardless of the time.
- Who should preside at Council meetings to achieve the best efficiency and impartiality.
- Some Councillors feel that they should be allowed to debate the substance of a report or a bylaw prior to the item being moved, while other Councillors have commented that this practice would be an unproductive use of time.
- Some concern was expressed, primarily by members of Administration, that motions arising without notice and motions which are not seen or crafted until the day of the meeting present difficulty for Administration to properly address and prioritize. Being responsive to emerging issues is expected and necessary, but time for analysis would lower the risk of Council making a decision without the relevant and material facts.

Attachment 1 contains the City Clerk's recommendation for a Procedure Bylaw to replace the existing Bylaw 44M2006. Attachment 2 contains an explanation of the underlying principles of the changes recommended and specific rationales. Given the feedback above, the City Clerk's Office recommends that Council adopt the proposed Procedure Bylaw because the proposal:

- (1) responds to the requested issues on which there was consensus,
- (2) provides some thoughtful solutions to issues which did not gain consensus, and
- (3) addresses some issues on which stakeholders were silent, but that will provide additional practical efficiencies.

1. Response to Consensus Feedback

The proposed bylaw includes the following changes from the current Procedure Bylaw:

Efficient, simplified process:

- Most substantive motions can be adopted by a democratic majority vote.
- SPC and Council consent agendas have been expanded to include more report types.

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- After Administration introduces a report at Council or Committee, questions of clarification and responses from Administration would be limited to a combined maximum of 10 minutes per report.
- Reconsideration motions have been simplified.

Improved layout and organization:

- The proposed bylaw is better organized to make relevant provisions easy to find.
- Appendices and tables can function as 'helpful tips' to guide Members in-meeting.

Relaxed procedural standards:

- Members of Council will not be required to stand when recognized to speak at meetings.
- The proposed bylaw only anticipates and fully addresses substantive and straight-forward breaches of rules.
- Many non-substantive issues can be decided without a vote if there is general consent.

Eliminating Committee of the Whole:

Many of the reasons for the use of Committee of the Whole are eliminated in the proposed bylaw (e.g.: Members can sit while debating, can suspend the rule to have a motion moved prior to discussing it); therefore, Committee of the Whole has been removed from the proposed bylaw entirely.

Keeping track of Administrative Inquiries:

Administrative Inquiries would be displayed on the Council Chamber video screens. Responses from Administration would be provided to all Members of Council, through the Council Agenda.

Flexibility for Non-Member Councillors to attend Closed portions of Committee Meetings:

Even when not specifically appointed to an SPC or a Standing Specialized Committee, Members of Council may attend and discuss items in the closed meeting portion, without declaring an interest (except at Audit Committee, in keeping with provisions of the Audit Committee Bylaw).

Improved process around "For Information Only" Reports:

- Reports to Council whose only recommendation is that "Council receive for information" would be included in Council consent, unless pulled out of consent prior to the omnibus motion.
- Options to receive these reports outside of the meeting environment are recommended to be analysed further on page 7 of this report, 'Opportunities for future improvements'.

Better grouping of reports in Public Hearing meetings:

The Order of Business agenda sections have been revised to remove historical categories no longer in use, and to allow more flexible grouping of similar reports at Public Hearings.

Simplified reconsiderations:

Rules applying to reconsideration motions have been simplified, and have been expanded to allow reconsideration of bylaw readings.

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Recalling a development proponent:

Revised rules on public hearing participation by citizens would allow the Chair to recall a proponent, if required, in order to provide clarifications.

2. Response to Mixed Feedback

Degree of authority exercised by SPCs / Council duplicates the work of Committees:

The governance structure of Council's Committees (Committees to which Members of Council are appointed) was reviewed as recently as March 2015. The mandates, powers and duties of the Standing Policy and Standing Specialized Committees were fully examined at that time, and remain unchanged in the proposed bylaw. Should further clarification of SPC powers be necessary, this may be best achieved through education rather than through bylaw.

Condescending rules:

- The proposed Bylaw does not attempt to anticipate and fully address every potential breach of rules (laundry lists of Dos and Don'ts removed). Instead the proposed bylaw points to Council's policies on conduct and behaviour.
- While a too-prescriptive bylaw slows things down without producing additional benefit to stakeholders (and risks creating meeting fatigue), a too-relaxed bylaw can contribute to decisions which are not well-informed. Care has been taken to ensure that the bylaw strikes the right balance between formal procedure and a reasonable amount of flexibility.

Privileges of non-Member Councillors at SPC and Standing Specialized Committees:

Under the proposed bylaw, only appointed members may vote, put a motion or count for quorum at Standing Policy and Standing Specialized Committees.

9:30 p.m. is too late for meetings:

As this issue impacts stakeholders from all categories (Council, Public and staff) it would benefit from more thorough evaluation before amendments to the Procedure Bylaw are contemplated. The Council Calendar must also be considered in any further analysis.

Debating the substance of a report / bylaw prior to a motion being moved:

It is questionable as to whether or not an item which has not received enough support to be moved and seconded should take up the time of Council. The intended 'flow' of an agenda item has been articulated in the proposed bylaw, making it clear when it is appropriate to begin debating the substance of an item.

Motions requiring significant professional input arising in-meeting:

In the proposed bylaw:

- Motions which 'arise' on the floor of Council will first be screened by the Chair (in consultation with Administration), as to their degree of complexity. Those which can be considered 'simple' may be dealt with immediately. If assessed as being more complex, the motions will be re-directed to the Notice of Motion process.
- Notices of Motion submitted to the City Clerk would be placed on the PFC agenda in order to vet financial and policy implications, and would then be forwarded either to Council, Administration or an appropriate Committee for final resolution.

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- Motions from Members without notice (currently described as 'Green Sheets') would have to meet the conditions for adding an item as Urgent Business, or would be placed on the next meeting agenda for which the submission deadline has not passed.

3. Additional Practical Recommendations

There are a number of recommended changes around which feedback was not received, but which would achieve one or more of the intended Procedure Bylaw Review outcomes from the City Clerk's, Administration's or our impartial expert's perspective:

- Question Period (renamed 'Questions on Urgent Issues') remains in the proposed Bylaw, but would be minimized in the minutes of the meeting. (Only the fact that a question was asked and answered would be documented).
- Most provisions in the proposed bylaw can be suspended by Council and by Council Committees. Provisions which arise from the MGA and other governing legislation are identified, and these cannot be suspended.
- Many provisions which were purely administrative or not related to meeting procedures have been removed.
- Notice of Motion and public submission deadlines have been simplified.

4. What Won't Be Changing

- The Mayor presides at Council meetings, with the Deputy Mayor Roster to cover absences. (Attachment 3 to this report addresses the June 6th referral motion from PFC, which includes options for a 'speaker of Council' model and associated amendments to implement such a model).
- Councillors serving as ENMAX Directors may not attend meetings of Gas, Power and Telecommunications ("GPT") Committee.
- Recent changes to the MGA have occurred in a series of amendment waves. There is opportunity to align the Procedure Bylaw with changes which are expected to be proclaimed in the fall of 2017, but there are also some changes which can be better assessed after proclamation and associated regulations are finalized.

The first wave of amendments was Bill 20, the *Municipal Government Amendment Act*, which was passed in March 2015. It is advisable to delay further changes to the Procedure Bylaw until the impact of Bill 20 amendments are made clear through the establishment of associated regulations. The amendments contained in Bill 20 include:

- Section 2(b) gives the Minister the authority to make regulations to define a "meeting" for the purposes of the MGA.
- Section 2(c) identifies under what circumstances a meeting (or part of a meeting) may be closed to the public.
- Section 19(b) amends s. 197 of the MGA to allow meetings to be closed to the public if they deal with "certain matters" contained in the regulations,
- Section 19(d) requires the council or council committee to pass a motion approving the part of the meeting that is to be closed, and the FOIP

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exceptions under which the meeting is closed. The section also requires the minutes of the council or council committee meeting to reflect who attended the closed meeting and for what reason.

- A second round of MGA amendments were brought with Bill 21, the *Modernized Municipal Government Act*, SA 2016, c. 24. Bill 21 was passed in December 2016, but does not contain amendments which would impact Council's meeting procedures. A City Charter for the City of Calgary is also still in development, and it is unclear whether the City Charter will necessitate further Procedure Bylaw amendments.

Opportunity For Future Improvements

- Following adoption of a City Charter, and Bill 20 and companion regulation enactment, the Procedure Bylaw should be re-examined for continued compliance with the MGA, particularly with respect to sections 2 and 19 of Bill 20.
- Should a definition of Strategic Council meetings be adopted, inclusion as a defined term in the Procedure Bylaw could be considered at that time.
- Further options for diverting 'For Information Only' reports from Council meetings could be considered.
- Amendments to establish electronic voting methods could be proposed.
- A review of the advantages and disadvantages of setting an earlier time to adjourn meetings at the end of the evening (currently set at 9:30 p.m.) could be considered.

Stakeholder Engagement, Research and Communication

The Procedure Bylaw review was directed in 2014 to commence in 2016 and the engagement performed has spanned a significant length of time. The methodology used is detailed in Attachment 4.

Strategic Alignment

Increasing clarity around procedure for Council and Committees, and introducing efficient processes and incorporating plain language principles to the proceedings of Council meetings the Procedure Bylaw aligns with Council's priority of ensuring a well-run city and Council's focus on open, accountable and transparent decision making.

Social, Environmental, Economic (External)

Calgarians will benefit from clearly articulated Council meeting procedures which emphasize Council's commitment to transparency, open meeting principles, and to improving citizens' positive interactions with municipal government.

Financial Capacity

Current and Future Operating Budget:

Electronic voting functionality is part of the eScribe suite: costs for implementation would be included in the eScribe project budget.

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Council, Administration and the public will require training, education and to be provided with supplementary material on the Procedure Bylaw changes, the costs of which can be absorbed in the existing project budget.

Current and Future Capital Budget:

Not applicable.

Risk Assessment

Verbal reporting to Council has not been prohibited with the proposed Procedure Bylaw, and the risks associated with this process are that retention in the permanent Corporate Record is not possible, and no corporate memory is able to develop on recurring issues. When a verbal report is Confidential, there is also reduced ability for appropriate professional assessment by FOIP Officers.

There is a risk that adopting a Procedure Bylaw which contains plain language (imprecision of language) may result in less rather than greater meeting efficiency. This risk is mitigated by the presence of the City Clerk to provide procedural advice to the Chair.

The risk of proceeding with a new Procedure Bylaw in advance of expected *MGA* regulations and the City Charter being finalized, is mitigated by proceeding now and responding later to *MGA* amendments which may be impacted by establishment of companion regulations. This approach also minimizes the risk of having to delay adoption of more efficient procedural rules until a new term of Council.

The approaching implementation of eScribe requires that the training of 500-600 system users be developed and rolled out this summer. Should the Procedure Bylaw review experience significant delay, this would require re-training staff on the changed processes, a short time later.

REASON(S) FOR RECOMMENDATION(S):

A new Procedure Bylaw is proposed in order to introduce efficiencies to Council and Committee meeting procedures, increase clarity and flexibility around procedural rules, and to incorporate plain language principles to improve public understanding.

ATTACHMENTS

1. **Bylaw 35M2017**, a Bylaw to Regulate the Meeting Proceedings of City Council and Its Committees
2. Rationale for Procedure Bylaw Changes
3. Analysis and Recommended Amendments for Referred Speaker Model, Option 2
4. Engagement and Communication Methodology
5. **Feedback from Members Attending PFC July 04 – Supplemental Attachment**
6. **Recommended Bylaw Amendments From Priorities and Finance Committee, July 18**