



REPORT TO COUNCIL

To: **Mayor and Councillors**

Subject: Development of a Public Notice Bylaw -
Considerations

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From: Kelly Kenney
Corporate Officer

Date: November 30, 2023

RECOMMENDATION:

THAT

1. Staff be directed to bring forward for Council's consideration a public notice bylaw to permit the City to fulfill statutory public notice requirements through publication of notices on the City's website and on a notice board located in Timms Community Centre, instead of by newspaper publication.
2. Staff bring forward for Council's consideration amendments to existing bylaws that will be affected by the change in publication methods for statutory notices.

PURPOSE:

The purpose of this report is to report back to Council on development of a public notice bylaw.

POLICY:

Bill 26, which passed in the BC legislature in November 2021, amended various sections of the *Community Charter*, including Section 94, "Requirements for public notice". The intent of the amendments to Section 94 was to modernize public notice requirements, which, up to that time, required all local governments' statutory notices to be placed in two consecutive weeks' editions of its local newspaper. Amendments to Section 94 provide local governments with the ability to use methods other than the local newspaper to meet statutory public notice requirements.

The enabling legislation is as follows:

“Bylaw to provide for alternative means of publication

94.2 (1) 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 (1) (a) and (b).

(2) 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 places.

(3) Subject to the regulations, a council may specify, in a bylaw adopted under this section, any means of publication, so long as, before adopting the bylaw, the council considers the principles prescribed by regulation under subsection (6) (a).

(4) Section 12 does not apply in relation to a council's authority to adopt a bylaw under this section.

(5) If a bylaw is adopted under this section, the applicable notice referred to in section 94 (1) (a)

(a) must be published by the means specified in that bylaw,

(b) subject to the regulations and unless this or another Act provides otherwise, must be published at least 7 days before the date of the matter for which notice is required, and

(c) if a period is prescribed for the purpose of this paragraph and unless this or another Act provides otherwise, must be published in the prescribed period before the date of the matter for which notice is required.

(6) The minister may make regulations as follows:

(a) prescribing the principles that must be considered before adopting a bylaw under this section;

(b) prescribing one of the means of publication that must be specified in a bylaw adopted under this section;

(c) requiring that one or more of the means of publication specified in a bylaw adopted under this section be selected from the prescribed means;

(d) for the purpose of subsection (5) (b), prescribing a number of days, other than 7 days, before the date of the matter for which notice is required;

(e) for the purpose of subsection (5) (c), prescribing a period of time.”

Subsequent to amending Section 94 of the Community Charter, the province enacted Public Notice Regulation Reg. 52/2022, which prescribes the principles that must be considered before adopting a public notice bylaw:

“Principles for effective public notice

- 2 (1) Before adopting, under section 94.2 of the Act, a bylaw providing for alternative means of publishing a notice, a council must consider the following principles:
 - (a) the means of publication should be reliable;
 - (b) the means of publication should be suitable for providing notices;
 - (c) the means of publication should be accessible.
- (2) Means of publication are reliable if
 - (a) they provide factual information, and
 - (b) publication takes place at least once a month or, if the means of publication is a website, the website is updated at least once a month.
- (3) Means of publication are suitable for providing notices if
 - (a) they allow all information in a notice to be displayed legibly,
 - (b) they allow a notice to be published by the required date, and
 - (c) they allow a person to consult a notice more than once during the period from the date of publication until the date of the matter for which notice is required.
- (4) Means of publication are accessible if
 - (a) they are directed or made available to a diverse audience or readership, and
 - (b) they are easily found.”

COMMENTS/ANALYSIS:

Background

Earlier this year, an Alternative Approval Process (AAP) was undertaken for Loan Authorization Bylaw No. 3234. As required by legislation, notices were published in the local newspaper to inform the public of the AAP; however, staff received feedback from members of the public that they do not read the local paper and/or the local newspaper is not delivered to their townhouse complex.

At the September 11, 2023 Closed Council Meeting, Council provided the following direction:

“THAT staff prepare a report to Council outlining proposed options and next steps for creation of a Public Notice Bylaw.”

Accordingly, this report is being provided to Council to explain requirements for development of a public notice bylaw, provide options and propose next steps.

Requirements

The Ministry of Municipal Affairs has produced a guidance document entitled, “Public Notice Guidance Materials: For B.C. Local Governments” (Attachment 1).

The guide provides greater detail with respect to the principles required to be considered by Council before adopting a public notice bylaw:

Reliable

The publication methods are dependable and trustworthy in the community. To meet the principle of reliability consider whether the method is:

- trusted by the community to provide factual information (e.g. not solely opinions);
- a source that isn’t likely to abruptly stop operating and has been part of the community for some time (e.g., is a well-established source of information); and,
- tested and able to reliably display the required information.

Suitable

The publication methods work for the purpose of informing the community. To meet the principle of suitability consider whether the method can:

- display all of the legislatively required notice information in a legible manner;
- meet specific timing requirements outlined in the legislation (e.g., publishing by at least one of the means between three and 10 days before the matter is to be considered);
- be revisited during the publication period (e.g., won’t be published once and then disappear); 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 are easily accessible for people and have broad reach in the community. To meet the principle of accessibility consider whether the method(s):

- are accessible to a broad spectrum of the local population (e.g., age, location);
- provide an easy way for people to find and read the public notice information (considering also persons with disabilities, community demographics, and language needs);
- provide different ways for the public to be informed (e.g., in print and online);
- have limited barriers to access (e.g., one is free if the other is a paid subscription); and,
- take into consideration local circumstances (e.g., lack of reliable internet or a local newspaper).

The guide states that:

“A bylaw adopted under section 94.2 must:

- specify at least two methods of notice (e.g., newspaper and local government website), not including the public notice posting places; and,
- consider the principles of effective public notice (reliable, suitable and accessible) described by the Public Notice Regulation before adopting a public notice bylaw.”

Currently, the City’s public notice posting places are the notice board on the first floor of City Hall and optionally, the City’s website.

Options for alternative publication suggested in the guidance document, include:

- Print or online newspaper;
- Local government website;
- Local government subscription service;
- Community website or newsletter;
- Local government Facebook page;
- Direct email or mail out;
- Posting at recreation centres.

Considerations

In researching other municipalities that have implemented or are going to implement a public notice bylaw (Attachment 2), it is clear that Communications staff have a significant role to play in establishing and maintaining on-line and electronic alternatives for statutory public notices.

Accordingly, both the Legislative Services Division and Communications Division have reviewed the various options for alternative publication noted above, and the following considerations are provided with respect to alternative publication methods.

Print or online newspaper:

The number of print newspapers has been declining in recent years. The province amended its public notice provisions in the Community Charter in response to feedback from some local governments that they were unable to meet the required advertising provisions due to a lack of print newspaper circulation in their areas.

In August, 2023 a number of Lower Mainland municipalities were given only nine days notice that their local newspaper was ceasing print editions. In order to meet statutory notice requirements, those municipalities that didn’t already have a public notice bylaw in place, needed to scramble to adopt one. The City’s local newspaper, the Langley Advance Times, continues to produce print editions, but with less

frequency and circulation. Accordingly, it would be prudent for the City to adopt a public notice bylaw as a precautionary measure. Adopting a public notice bylaw would not prevent the City from posting notices in in the local newspaper; however, it would no longer be a mandatory requirement.

Based on feedback received from municipalities that have adopted a Public Notice bylaw as to what alternative communication methods they have chosen to fulfill statutory public notice provisions, none have chosen their local newspaper's on-line version, citing various reasons, in particular, the postings are not under the control of the municipality and therefore the municipality has limited control over issues such as the accessibility and legibility of notices, and for how long the notices are posted. Additionally, the cost to post notices in online newspapers is similar in cost to the paper format.

Local government website:

Local government websites have become increasingly valuable and are often the first point of contact for residents, businesses, and visitors. In the last three years, the City's website (langleycity.ca) has received a steady average of 740,000 page views annually.

As municipal websites have been increasingly used as a reputable source of information, most municipalities that have adopted a public notice bylaw are using their website as one of the required two alternate means of publication of notices. Some have a dedicated page for public notices while others include statutory notices under a "News and Announcements" section on their homepage.

The current configuration of the City's website does not easily allow for a dedicated page for statutory notices. The Communication Officer advises that it is on the Communication Division's workplan to redesign the City's website to make it more user friendly and that the addition of a dedicated Public Notice page could be included as part of that project. The timeline for this project has not been established.

The City's website does have a News and Announcements section on the homepage where statutory notices are currently being posted for information in addition to required publication in the local newspaper.

While a dedicated page for statutory notices on the City's website would be ideal, until such time as this is can be developed, staff believe that by renaming the News and Announcements section to News, Notices, and Announcements this section of the website would provide a reliable, suitable, and accessible means of providing public notice.

Local government subscription service:

The City does not currently have a subscription service. Establishing a dedicated subscription service for Public Notices would require a significant amount of Communications staff time, both to set up and maintain.

Community website or newsletter:

Currently the City has a monthly e-newsletter to which individuals may subscribe. The intention of this newsletter is to provide high level information on no more than five City initiatives. The current format does not lend itself to provision of statutory notices, nor does the frequency of publication permit the legislative timing requirements for various statutory notices to be met.

Local government Facebook page:

While some municipalities have chosen their Facebook page as one of their alternative communication methods, City of Burnaby chose not to, citing the following reasons:

- “Public notices are not a natural fit for content users, who do not generally subscribe to Facebook in order to receive legal statutory notices, which may be lengthy and text-heavy as notice content is legislated.
- The formal content of public notices is counter to what tends to be well-received on Facebook.
- Members of the public may respond to Facebook notices in comments instead of the prescribed methods provided in the notices (for example, a comment on a Facebook post does not constitute a public hearing submission).
- Facebook ads and pushed notices have a cost associated by fees set out by the software provider.”

Legislative Services staff share these concerns.

Direct email or mail out:

Establishing a list of direct emails has no advantage over establishing an e-newsletter for Public Notices and would require similar set up and maintenance. It would also require adherence to Freedom of Information and Protection of Privacy requirements with respect to collection, use and safekeeping of personal email addresses.

While direct mail is an effective means of reaching residents, tenants and renters may be missed, the cost to send direct mail to all City residents is much more costly than other alternative means and would take significant staff time to coordinate.

Posting at recreation centres:

Timms Recreation Centre advertises itself as a community hub for residents and visitors; accordingly, staff believe that a dedicated notice posting board in the foyer of

Timms would provide a reliable, suitable, and accessible means of providing public notice.

Given these considerations, staff recommend the City adopt a public notice bylaw that identifies a notice board in Timms Community Centre and the City's website as the two alternate methods of providing statutory public notices. As indicated previously, this would not preclude the City from utilizing other methods of communication, including the local newspaper, as deemed appropriate.

Next steps would include:

- designating space in the foyer of Timms Community Centre for a statutory public notice board;
- purchasing and installing a lockable glass or plexiglass cabinet for public notices;
- bringing forward a public notice bylaw for three readings and subsequent adoption once the notice board is in place;
- concurrently bringing forward amendments to the Council Procedure Bylaw and any other bylaws that will be affected by the change in publication methods for statutory notices.

BUDGET IMPLICATIONS:

In 2022, the City spend approximately \$37,000 to publish statutory public notices in the local newspaper. In 2023, to date the City has spent approximately \$31,500.

The cost of a lockable, enclosed notice cabinet is estimated to be \$5,000 and would be funded from the Communications Division's advertising budget.

ALTERNATIVES:

Council may provide alternative direction to staff.

Respectfully Submitted:



Kelly Kenney
Corporate Officer

Concurrence:



Samantha Paulson
Communications Officer

Attachments:

1. Ministry of Municipal Affairs - Public Notice Guidance Materials: For B.C. Local Governments
2. Municipalities that have Adopted or are Going to Adopt a Public Notice Bylaw

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I support the recommendation.



Francis Cheung, P. Eng.
Chief Administrative Officer