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REPORT TO GOVERNANCE COMMITTEE MEETING OF WEDNESDAY, JUNE 01, 2022

SUBJECT Correspondence on Agenda Items

ISSUE SUMMARY

The CRD Board directed staff to report back on correspondence received on agenda items.

BACKGROUND

At its December 8, 2021 meeting, the Capital Regional District (CRD) Board received a staff report on the review of delegation speaking times in the *CRD Board Procedures Bylaw*. The Board directed staff to reduce the delegation speaking time down from 4 minutes to 3 minutes, and asked that staff review the impact of the procedural change in the first quarter of 2024. The Board also passed the following motion arising from the Governance Committee:

“To refer the question of correspondence relating to agenda items back to staff to report back through the Governance Committee.”

All correspondence directed to a CRD Board or Standing Committee is uploaded to the Board Correspondence Portal including written submissions concerning agenda items. During the COVID-19 pandemic, the frequency of uploading to the Board Correspondence Portal went from once a week to being updated daily. Directors can access and view the last six months of correspondence received through the CRD Board Portal webpage or app installed on iPads.

ALTERNATIVES

Alternative 1

There is no recommendation. This report is for information only.

Alternative 2

The Governance Committee recommends to the Capital Regional District Board:

That staff report back on the potential costs and service level adjustments required to publish correspondence related to agenda items on the meeting agenda.

IMPLICATIONS

Legal and Privacy Implications

Local governments can only collect personal information in accordance with the *Freedom of Information and Protection of Privacy Act* (FOIPPA), which includes any personal information received through correspondence submissions.

Before the CRD can publish correspondence received from the public on an agenda, staff would need to thoroughly review and redact each submission for personal information and libelous statements. The review and redactions that would be required before publishing correspondence on an open agenda could require a significant amount of staff time, within a short timeframe.

Under *FOIPPA*, public bodies must refuse to disclose any personal information which could be harmful to personal privacy, unless:

- the disclosure is otherwise permitted under *FOIPPA* (which is very limited in its application);
- the disclosure is authorized by the person(s) the personal information is about (which is not necessarily limited to the person submitting the correspondence, depending on the content of the correspondence); or
- the disclosure is authorized by another act.

Correspondence published on an agenda would require redacting personal contact information, including name, residential address, email address, and telephone number (unless the information is explicitly for business contact purposes related to the correspondence matter.) Furthermore, personal opinions, preferences and beliefs are also considered personal information under *FOIPPA* and would require redacting prior to publishing. Publishing unredacted correspondence on an agenda containing any personal information would require express written consent from each identifiable individual the correspondence is about, in accordance with *FOIPPA* and the *Freedom of Information and Protection of Privacy Regulations (FOIPPR)*, which sets out prescribed requirements for consent.

Any information, which if disclosed could be harmful to a third-party business interests or the interests of Indigenous peoples, also requires protection under *FOIPPA* and must be redacted. If the Board wished to publish correspondence on agenda items, the CRD Board contact form on the website would need to be re-designed to ensure the CRD is following the prescribed requirements for obtaining consent under *FOIPPR*. It is important to note that consent can be withdrawn at any time, which has further implications for published information.

Currently, the *FOIPPA* provisions for the disclosure of personal information outside of Canada is being updated and may impact the publishing of correspondence on agendas.

A libelous statement is any false and malicious statement made about a third party that damages their reputation. As CRD staff do not have the ability to fact check claims, there is always some level of risk present when publishing correspondence on an agenda. The CRD currently has an inactive but outstanding legal action against it regarding a defamation claim arising from a piece of correspondence that was published on an agenda in 2014. Correspondence that may give rise to such a claim is infrequent, but the risk does highlight the need to review correspondence with diligence prior to publishing.

Correspondence Processing Time

If the Board passes Alternative 2, the most significant challenge staff will need to consider is the short time period available to staff to upload documents and process redactions, the volume of which may vary considerably from week to week. Currently, there is no capacity in the Legislative Services work plan to absorb the time-intensive task of reviewing and redacting correspondence on agenda items.

Staff are already working with a short timeline to process and respond to applications to appear as a delegation with a deadline of 4:30 pm on Monday. Given that supplementary agenda items must be published 24 hours before the meeting in accordance with the *Board Procedures Bylaw*, staff would be required to work overtime to meet the supplementary agenda deadline when there is a high volume of correspondence.

There is also the issue of correspondence received after the deadline, assuming the deadline for receiving correspondence is kept consistent with delegations at 4:30 pm on Monday. Late submissions on a committee agenda item would be uploaded when the report goes to Board. Submissions received too late for the Board agenda would be posted only to the Board Portal. Regardless of whether correspondence is published on an agenda with the express consent of the writer, all correspondence on agenda items will still be uploaded to the Board Portal.

If the Board wishes to pursue Alternative 2, staff would recommend developing a fillable online form that would assist in separating the submitter's personal and contact information from the content of the correspondence. A fillable form could standardize the form of submission and potentially include a maximum character limit to encourage submitters to be concise.

A couple of times a year the CRD Board receives a strong response on agenda items as a result of organized letter writing campaigns. It would be very challenging for staff to prepare redacted correspondence in time for the agenda deadline, particularly when the topic is politically sensitive in nature or has resulted in a strong emotional response from letter writers. For example, in 2021 the CRD received more than 1200 items of correspondence and over 110 calls about the protection of old growth forest at Fairy Creek. It's estimated that it would require more than 40 hours of staff time, based on 2 minutes per record, to redact 1200 pieces of correspondence and prepare it for publishing on an agenda.

CONCLUSION

All correspondence received on CRD Board and Standing Committee agenda items is uploaded to the Board Correspondence Portal. Before the CRD could publish correspondence on an agenda, staff would need to thoroughly review and redact each submission for personal or identifiable information and potentially libelous or inflammatory statements. Express consent obtained from the submitter before publishing their correspondence on a meeting agenda could help reduce the redactions required, but would not eliminate the need for staff review.

Currently, there is no capacity for staff in the current work plan to absorb the time-intensive task of reviewing and redacting correspondence prior to publishing on an agenda. Further analysis would be required to determine the resources needed to create a technical solution that would streamline redactions and help mitigate the staff impact of processing unpredictable volumes of correspondence in a short timeframe.

RECOMMENDATION

There is no recommendation. This report is for information only.

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