

REPORT TO GOVERNANCE AND FINANCE COMMITTEE MEETING OF WEDNESDAY, MARCH 06, 2019

SUBJECT Procedures for Notice of Motion and Motion with Notice

ISSUE

The Governance and Finance Committee requested that staff report back on the current process for notices of motion and motions with notice.

BACKGROUND

At the February 6, 2019 Governance and Finance Committee meeting, the committee approved a Motion with Notice from Committee Chair Brice (Appendix A) that stated:

That the Governance and Finance Committee direct staff to prepare a report on the current CRD procedures for Notice of Motion and Motion with Notice and that the Committee review current practice and determine if changes need to be considered.

The current process for Notices of Motion and Motions with Notice is governed by the CRD Board Procedures Bylaw No. 3828 in section 22 (attached as Appendix B). The differences can be summarized as follows:

<u>Notice of Motion - s. 22 (5 & 6a)</u>	<u>Motion with Notice – s. 22 (6b)</u>
<ul style="list-style-type: none"> Received by the Corporate Officer less than 7 business days prior to a meeting; Not added to the agenda but read at the meeting, when acknowledged by the Chair, and added to the minutes; To be considered at the following meeting; Can be considered at the same meeting if 2/3rds of members present approve; Does not get added to the agenda in time to receive delegation requests at the meeting where it is received. 	<ul style="list-style-type: none"> Provided to the Corporate Officer a minimum of 7 business days in advance of a meeting; Added to the agenda for consideration at that meeting; Published with the regular agenda; Can receive delegation requests at the meeting where it is received.

Comparisons between municipal motion procedures are at times difficult to apply to the CRD as generally Board and Committees meet monthly, or even bi-monthly or quarterly. Other local governments have similar processes for members to bring forward motions, and the following is a summary of how the following local governments handle motions as per their procedures bylaws:

- **City of Victoria:** Motions must be submitted a minimum of 24 hours before a meeting by submission to the Corporate Officer or if it has not been submitted can only be introduced with the leave of Council;
- **District of Saanich:** Motions provided at a Council meeting will be placed on the agenda of the next Council meeting;

- **Metro Vancouver:** Motions submitted nine business days prior to the meeting will be added to the agenda for consideration. Motions that do not meet that deadline provided during a meeting will be considered at the next regular meeting;
- **Regional District of Nanaimo:** Motions submitted seven business days prior to the meeting will be added to the agenda for consideration. Motions that do not meet that deadline provided during a meeting will be considered at the next regular meeting.

Historically the motion procedures have been in place in order to allow staff time to prepare any information they feel is required should they be asked questions as well as time to process the item for inclusion on the agenda. In addition, it provides time for Directors an opportunity to read and look into the item, as well as provide time for members of the public to apply to speak to the item.

In practice, once a motion is filed with the Corporate Officer it is distributed to senior staff and added to draft agendas for discussions between the Committee or Board Chair and staff. The motion is added to the agenda for publishing on the Friday prior to the next week's meeting. Delegations then have until Monday at 4:30 pm to apply to speak to the item at the Wednesday meeting. In cases where direction is not to seek further information from staff and significant resources are required to implement what the motion proposes, staff may add a staff report for information to the agenda as well. This was the case for the recent Motion with Notice regarding the Declaration of a Climate Emergency.

ALTERNATIVES

Alternative 1

That the report be received for information.

Alternative 2

That this report be referred back to staff for additional information.

IMPLICATIONS

Recent Notices of Motion and Motions with Notice have generated considerable interest from the public and a significant number of delegations requests. In some case, the delegation requests and media interest have been generated prior to the motions being filed with CRD staff.

The current 7 business day notice provision for Motions with Notice does not generally give staff much time to prepare any accompanying information, given that the deadline is less than 4 business days' notice prior to agenda publishing and the internal deadline for staff report review has already passed. In addition, writing a staff report to provide information on a motion that has been submitted but has not been introduced or discussed by committee, requires staff to anticipate the information the Directors may need to make a decision and to speculate as to the questions that may arise, without the benefit of hearing the motion introduced and discussed at committee to provide context. In some cases, the committee or Board may not wish to advance a Motion with Notice for further consideration in which case the staff time spend preparing to respond to the motion is not well spent.

A Motion with Notice that has resource implications is best considered with staff input, which is why staff, whenever possible, draft a staff report to accompany the motion on the agenda. However, a staff report on the implications of a motion presented at the same time the motion is first introduced can create a dynamic where it appears that staff are highlighting challenges to adoption of the motion before it's even introduced by the moving Director. A possible way to

mitigate this effect is to ensure that all Motions with Notice that have resource implications include a recommendation that staff report back on the issue, before a decision is made to endorse the recommendation. Similarly, having delegations appear and speak to a motion at the time it is first introduced to committee or Board, but prior to Directors receiving a report from staff on implications, can create a gap where the interested public and Directors are discussing an issue without the benefit of all the information that is relevant to the discussion.

The Governance and Finance Committee could recommend a variation to the current process and amendments to the CRD Procedures Bylaw to the Board if it feels that the current provisions of the bylaw do not reflect the way Directors want new business brought before them. CRD's current practice is in line with what is being done in some other jurisdictions, however, an amendment could be made to require all motions to be filed at one meeting for consideration at the next, but retain the provision that Notices of Motion can be considered at the same meeting they are filed for situations of demonstrated urgency. In all cases, if there is a need to address a motion that is time sensitive, the Chair has the authority to call a special meeting under our current procedural rules.

CONCLUSION

The Governance and Finance Committee requested information on the current Notice of Motion and Motion with Notice processes. This report provides some comparison procedures from other local governments and highlights the current provisions in the CRD Board Procedures Bylaw with discussion on how the procedures are put into practice.

RECOMMENDATION(S)

That this report be received for information.

Submitted by:	Emilie Gorman, MPA, Manager, Legislative Services & Deputy Corporate Officer
Concurrence:	Kristen Morley, JD, General Manager, Corporate Services & Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

Attachments:

Appendix A: Motion with Notice of February 6, 2019 Governance and Finance Meeting

Appendix B: CRD Board Procedures Bylaw

**REPORT TO GOVERNANCE AND FINANCE COMMITTEE
MEETING OF WEDNESDAY, MAY 01, 2019**

SUBJECT **Follow-up Report: Procedures for Notice of Motion and Motion with Notice**

ISSUE

A report on the current procedures for the Notices of Motions and Motions with Notice was referred back to the Governance and Finance Committee by the CRD Board for more information on the process for notifications.

BACKGROUND

At the March 13, 2019 Special CRD Board meeting, the report of the Governance and Finance Committee meeting of March 6, 2019 (Appendix A) related to Motions with Notice was referred back to the Committee. Comments made during the debate on the referral requested additional information on the method of distributing Motions with Notice, including the fact that Directors submitting Motions with Notice are able to distribute them to the media and public prior to other Directors being aware of the item that will be placed on the next agenda.

ALTERNATIVES

Alternative 1

That the Governance and Finance Committee recommend to the Capital Regional District Board: That Bylaw No. 3828, Capital Regional District Board Procedures Bylaw, 2012, be amended to:

- Remove the provisions for Motions with Notice; and
- Add criteria and a voting threshold for consideration of Notices of Motion at the same meeting as introduction.

Alternative 2

That this report be received for information.

IMPLICATIONS

The current practice for Motions with Notice requires that the Corporate Officer receive the motion a minimum of seven business days prior to the meeting. Directors do not see the motion until it is published on the agenda the Friday before the meeting. Recent motions have been circulated to the media and the public prior to the filing with the Corporate Officer or the publication of the agenda.

Requiring Directors to notify their colleagues of emerging issues, including notification of possible motions, would not typically be addressed in a Procedure Bylaw, but it could be the type of content included in a Code of Conduct. The CRD does not currently have a Code of Conduct. It was considered by the Governance Committee and in March of 2018 the Board endorsed the Committee's recommendation to not pursue a Code of Conduct. An alternate solution to ensure equal notice for all Directors could be accomplished by uploading motions filed with the Corporate Officer to the Board Correspondence Portal. However, it would still be possible for the Director filing the motion to distribute it to others in advance and would not ensure that all members of the public receive equal notice of the upcoming item.

Some jurisdictions have the practice that there are no Motions with Notice; rather, the only motions permitted are Notices of Motion, where motions are read into the record at one meeting and officially on the next agenda for debate. This ensures that there is adequate time for delegations to make requests to address the issue, for staff to prepare to answers to questions that may arise and for other Directors to have the opportunity to look into the issue in advance. This approach may result in a more equitable notice provision for the public, staff and Directors.

There is an existing provision in the Procedure Bylaw that items that have not met the 7 day pre-meeting deadline can be considered at the same meeting with a 2/3rds majority vote, however a 2/3rds majority is not difficult to obtain and consideration at the time of filing means the public in particular have not been given proper notice should they wish to appear as a delegation.

The CRD Board generally meets only monthly, therefore to ensure that items of an urgent nature can be addressed the bylaw could be amended to include criteria in which the Notice of Motion could be considered at the same meeting. This would be done only on unanimous approval and require the item meet one of the following criteria to demonstrate urgency:

- Approaching deadline (e.g. for grant opportunities);
- Items of minor organizational impact (e.g. advocacy positions or letters of support); or,
- Supporting the position of member local governments (e.g. resolutions).

CONCLUSION

The intent of both Motions with Notice and Notices of Motion is to ensure that Directors have a procedural way to gain the support of their colleagues in a transparent process that ensures proper notice and informed debate.

The Board requested additional information on the process related to distribution and notification for Motions with Notice. Amending the CRD Board Procedures Bylaw to only allow Notices of Motion would assist with more uniform notification, as all Directors, staff and the public would receive notice of the item at one meeting for consideration of the item at the next meeting.

RECOMMENDATION(S)

That the Governance and Finance Committee recommend to the Capital Regional District Board: That Bylaw No. 3828, Capital Regional District Board Procedures Bylaw, 2012, be amended to:

- Remove the provisions for Motions with Notice; and
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Concurrence:	Kristen Morley, JD, General Manager, Corporate Services & Corporate Officer
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Attachments:

Appendix A: Staff Report of March 6, 2019

Appendix B: Motion with Notice of February 6, 2019 Governance and Finance Meeting

Appendix C: CRD Board Procedures Bylaw