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**MEETING TYPE:** Regular Council Meeting  
**MEETING DATE:** May 21, 2024  
**AUTHOR:** Reyna Seabrook, Director of Corporate Services  
**DEPARTMENT:** Corporate Services  
**ITEM TITLE:** Council Procedure Bylaw 1229, 2024  
**DESCRIPTION:** To consider amendments to Council's Procedure Bylaw

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**PURPOSE**

To consider an updated Council's Procedure Bylaw.

**RECOMMENDATION**

THAT Council Procedure Bylaw 1229, 2024, be read a first, second and third time.

**EXECUTIVE SUMMARY**

Staff are proposing an updated Council Procedure Bylaw 1229, 2024. A majority of the amendments are clarified wording and renumbering within the bylaw with the significant amendments as follows:

- Updated Agenda Headings (Section 7.1).
- Updated Public Hearing Procedures (Section 15)
- Amendments to Public Comment procedures (Section 16).

**Late Items**

The current Procedures bylaw has been revisited and some of the language has been updated to provide clarity for Council and the public. For example, the wording in Late Items has been amended slightly by changing "must not" to "should not" which provides flexibility in considering late items. This provides clarification but does not alter any procedural requirements.

**Public Hearings and Bill 44**

Prior to Bill 44 being introduced, local governments were required to hold a public hearing for all Official Community Plan (OCP) and Zoning bylaw amendments. In 2021 the *Local Government Act* (LGA) was amended to give Council discretion on when a public hearing was required allowing Council to waive a public hearing. Bill 44 further implemented the prohibition of public hearings in specific circumstances. The goal of these restrictions in prescribed circumstances is to provide a streamlined and simplified development process and to focus public input on consideration of the OCP. Sections 464 to 468 of the LGA establish the new requirements for public hearings. To summarize, a public hearing:

- (a) is mandatory for OCP bylaws or amendments thereto;
- (b) may be waived where the proposed zoning is consistent with the OCP as per LGA s 464(2);
- (c) is prohibited if the zoning bylaw is for the sole purpose of complying with LGA s 481.3, Zoning bylaws and small-scale multi-family housing as per LGA s 464(4);
- (d) is prohibited as per LGA s 464(3), if the proposed zoning:
  - (i) is consistent with the OCP; and
  - (ii) is solely for residential development, in whole or in part; and
  - (iii) the residential component is at least half of the gross floor area of all buildings and structures.

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While the opportunity for oral submissions has been removed, the duty of procedural fairness is met by ensuring written submissions and public input can be made by alternate forms. Legal literature on Bill 44 recommends that where public hearings are waived or prohibited, Council establish a deadline for the receipt of submissions. The literature also recommends that staff reports include clear comprehensive information on written submissions and other forms of public engagement received in relation to the bylaw, where a public hearing is prohibited.

Where a public hearing has been waived or is prohibited notice must be published prior to first reading. Council may then proceed with any number of readings at a subsequent meeting, which may be first reading only or may be all 3 readings at the same meeting. The new bylaw recommends a deadline of 4:30 p.m. on the day of the Public Hearing (where a public hearing is held), and a deadline of 4:30 p.m. on the date of the meeting where Council will consider third reading (where waived or prohibited). Should Council only consider first reading at a meeting, written submissions would continue to be received until the meeting where third reading is considered. Should Council consider three readings at the same meeting, written submissions would be received up until 4:30 p.m. on the date of that meeting. No submissions, oral or written, would be permitted after the deadline.

Setting a deadline for both public hearings and where waived or prohibited ensures consistency in the receipt of information and procedural fairness in both circumstances. A deadline also ensures that staff have time to review and prepare responses to submissions. Staff and Council may not be prepared to respond to impromptu information received during a Regular Council Meeting which can result in files being delayed or referred back to staff for additional information. Where comments are provided at a public hearing, staff have an opportunity to report back to Council and the community with appropriate information.

### **Public Comment on Applications**

The requirement to provide notice and the requirement to allow oral submissions for development permits (DPs) and development variance permits (DVPs) is established by the *Local Government Act* and clarified in case law. The *Local Government Act* differentiates between the right to be *heard* and the right to be *notified*.

LGA s 465 related to Public Hearings, clearly conveys that all persons who believe their interest is affected must be afforded a reasonable opportunity to be **heard** or to present written submissions. LGA s 499 requires a local government to provide notice if they propose to issue a DVP and LGA s 494 requires notice for a Temporary Use Permit (TUP). The District's Development Approvals Procedure Bylaw establishes the requirement for notice to be delivered to properties within a 50 metres radius of the subject property. While the LGA establishes the requirement for notice for DVP's, LGA s 499 (1.1) explicitly states that the obligation for notice does not apply for DVP's that are delegated.

The LGA does not give recipients of notice a right to be heard before the permit is issued. The legislation is mainly concerned with disclosure of the intention to issue the permit. The question of whether a person has a right to make oral representations was addressed in a 2018 judicial review in the Resort Municipality of Whistler. In accordance with the usual practice the applicant was not given an opportunity to address the council. The B.C. Supreme Court held there was no obligation to adopt a court-like hearing procedure on a DVP application, including oral representations and a right of reply to letters.

Council has the ability to hear from residents in a variety of ways including phone, in-person, email, social media, public engagement meetings, oral submissions when applicable, and Mayor and Council correspondence. Members of the public can also contact staff for additional information on applications. The only restrictions on receiving input, oral or written, is following a public hearing. Development Application Procedures bylaw identifies the various methods of public consultation required for land use applications including public information meetings, development notice signs and neighbour consultation.

Application Type	Public Information Meeting	Surrounding Property Owner Letters	Development Notice Sign	Neighbour Consultation	Agency Referral
OCP Bylaw - Public Hearing	✓		✓	✓	✓
Zoning Bylaw - Public Hearing		✓	✓		✓
Zoning Bylaw - Public Hearing waived or prohibited			✓	✓	✓
DP Delegated					✓
DP Council					✓
DVP Delegated			✓		✓
DVP Council		✓	✓	✓	✓
TUP		✓	✓	✓	✓
TUP - Renewal			✓	✓	✓
Phased Development Agreement	✓		✓		✓

*\*the items indicated above are tentative notification requirements pending consideration of an amendment to Council's Development Application Procedures Bylaw.*

### Development Permit with Variance

The current Council Procedures Bylaw indicates the public may make oral presentation on Development Permits (DP) with a variance. DPs with a variance are DPs issued in accordance with section 490(1) of the LGA which states a DP can: vary or supplement a land use bylaw, include requirements and conditions or impose conditions for timing of construction. A "DP with variance" is a DP under section 490(1) of the LGA that varies the land use bylaw but is still a DP. As a result, there is no requirement for public notice or opportunity for public input for a DP. The proposed Council Procedures bylaw amendment recommends removing "Development Permit with variance" so no public comment is permitted for a DP with Variance. This does not restrict Council from passing a resolution to hear from the public at any time, unless otherwise restricted by law or legislation.

### Public Comment

Regular council meetings are a formal constituted meeting of elected officials where Council exercises their powers, duties and functions for pre-established business items. Public comment as a standing agenda item provides an opportunity for impromptu comments not governed by legislation and does not offer an effective means of participation. In accordance with the Community Charter and Roberts Rules of Order, Regular Council meetings are established to conduct the business of Council and are not designed to support conversation or debate with members of the public. Staff and Council are not prepared to provide informed responses and spontaneous comments have the unintended potential of diverting Council business or creating debate on topics not on the agenda.

In addition to the opportunities for public input established by legislation and case law, there are many other opportunities for public engagement, including, but not limited to open houses, public information sessions, community surveys, updates on the District's website and communication directly with staff. Members of the public also have numerous ways to interact with or contact their elected officials including email, phone, social media or in person. Correspondence received to [mayorandcouncil@lakecountry.bc.ca](mailto:mayorandcouncil@lakecountry.bc.ca) is circulated to all members of Council with informed responses provided from the Mayor and assigned staff. These methods of public engagement ensure citizens are involved in appropriate ways at the correct time.

With various aspects of public input governed by legislation, additional opportunities through public engagement and opportunities for residents to contact their elected officials, removing public comment as a standing item does not impact the public's ability to participate in decision making or contact their elected officials. Council also has the authority to make a motion to hear from a member of the public at a Regular Council meeting at any time unless it is otherwise restricted by legislation or inappropriate such as following a public hearing.

## Agenda Headings

Following is a summary of the proposed Agenda Headings:

- The addition of territorial acknowledgement;
- Renaming “Report from Mayor” to “Mayor’s Report”;
- Renaming “Delegations and Petitions” to Delegations (petitions are included as a delegation);
- Creating two main report headings: “Planning and Development Applications” and “Departmental Reports”.
- Adding Section 7.2 “Reports categorized under “Departmental Reports” will be ordered to ensure items involving public or applicant participation are located before internal or organizational reports.”
- Remove Public Comment.
- Consolidate Bylaws following a Public Hearing and Bylaws for adoption
  - “Bylaws following a Public Hearing” was intentionally placed before “Public Comment” on the previous layout to ensure no public comment was heard following Public Hearing. With the removal of Public Comment, Bylaws following a Public Hearing and Bylaws for Adoption have been consolidated and will include bylaws for readings that generally do not include a staff report for Council but may include an update from a Public Hearing.
- Rename Report from In Camera to “Rise and Report from In Camera” for consistency with parliamentary procedure language.
- Split Committees into “Council Committees” and “External Committees and Boards”.
- Rename Councillor Items to “Report from Councillors”.
  - A Councillor report template will be provided for Councillors that may wish to provide an update on events or conferences etc. in a report format. The heading still allows flexibility for Council to provide updates or announcements at the direction of the Chair as currently done.

EXISTING	PROPOSED
Call to Order	Call to Order and Territorial Acknowledgement
Adoption of Agenda	Adoption of Agenda
Adoption of Minutes	Adoption of Minutes
Report from Mayor	Mayor’s Report
Announcements	Announcements
Delegations and Petitions	Delegations
Bylaws following a Public Hearing ( <i>No Public Comment</i> )	Planning and Development Applications
Bylaws for Adoption	Departmental Reports
Public Comment ( <i>For items not included on the agenda</i> )	Bylaws for Adoption & Readings Following a Public Hearing
Development Related Applications ( <i>Public Comment</i> )	Rise and Report from In Camera
Development Related Applications ( <i>No Public Comment</i> )	Council Committees
Non-Development Related Reports	External Committees and Boards
Report from In Camera	Strategic Priorities
Council Committees	Report from Councillors
Information Items	Adjournment
Strategic Priorities	
Councillor Items	
Adjournment	

### Stating Name and Address

The current bylaw requires speakers to identify themselves by stating their name and address. The address of the speaker is useful information to help Council determine the proximity of the speaker to the subject property and the level of interest they may have in the application. This helps Council determine what weight should be given to the submission when voting on the matter. Section 26(g) of the *Freedom on Information and Protection of Privacy Act* authorizes the collection of personal information if the information is collected at an event where the individual voluntarily appears, and the event is open to the public. The requirement for a speaker to state their address has been amended so only the general area or road name must be stated. This does not prohibit speakers from providing the information if they wish but eliminates the requirement to state personal information at a public meeting while ensuring enough information is still provided to assist Council in their decision making.

### Strategy Session Summation

In some instances, the discussion at a Strategy Session results in unclear or differing opinions. Staff must use discretion to interpret the discussion which has the potential to create uncertainty and risk of responding to individual requests rather than Council as a whole. Where this occurs, staff recommend the Chair provide a summation of the discussion prior to closing the Strategy Session. This will assist staff with a clear interpretation while still ensuring no formal decisions are made.

This recommendation does not require an amendment to the Council Procedures Bylaw and can be implemented as a pilot project at future Strategy Sessions.

### Council Report Templates

Staff are working on developing updated report templates. Some changes include consistency for various report types such as DP and DVPs and clearly identifying reports are provided (not presented) to Council through the CAO in accordance with the one employee structure. An additional Councillor template will also be available for Councillors that may wish to provide a report on recently attended conferences or sessions etc.

### APPLICABLE LEGISLATION, BYLAWS AND POLICY

Section 124 of the Community Charter requires Council to establish a bylaw for the general procedures to be followed by council and committees in conducting their business. Without limiting the matters to be included, the bylaw must:

- establish rules of procedure for Council and Committee meetings;
- establish how resolutions and bylaws may be passed and adopted (in accordance with legislation);
- provide for the taking of minutes and the certification of those minutes;
- provide public notice of the time and date and place of meetings and the procedures for giving such notice;
- identify public notice posting places;
- establish the procedure for designation a member to act in place of the mayor (Acting Mayor);
- establish the first regular council meeting in the first 10 days of November following a general local election.

A bylaw under this section must not be amended, repealed and substituted with public notice describing the proposed changes in general terms.

### FINANCIAL IMPLICATIONS

None                       Budget Previously Approved     Other (see below)

Two consecutive ads in the local newspaper.

### OPTIONS

THAT Council Procedure Bylaw 1229, 2024 be amended as directed by Council;

AND THAT Council Procedures Bylaw 1229, 2024 be read a first, second and third time, as amended.

Respectfully Submitted,  
Reyna Seabrook, Director of Corporate Services



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**Report Approval Details**

Document Title:	Council Procedure Bylaw 1229, 2024.docx
Attachments:	- Attachment A - Council Procdure Bylaw 1229, 2024-V03.pdf - Attachment B-Redline Bylaw 1105.pdf
Final Approval Date:	May 16, 2024

This report and all of its attachments were approved and signed as outlined below:

**No Signature found**

**Brian Zurek, Manager of Planning - May 16, 2024 - 1:55 PM**

**Paul Gipps, Chief Administrative Officer - May 16, 2024 - 2:01 PM**