



City of Port Moody

Report/Recommendation to Council

Date: March 16, 2021
Submitted by: Legislative Services Division
Subject: Handling of Written Public Input

Purpose

To report back on Council direction on Capturing Written Public Input.

Recommended Resolution(s)

THAT the report dated March 16, 2021 from the Legislative Services Division regarding Handling of Written Public Input be received for information.

Background

At the Regular Council meeting held on October 27, 2020, Council considered a report dated October 9, 2020 from Councillor Steve Milani regarding Capturing Written Public Input (**Attachment 1**) and passed the following resolution:

RC20/400

THAT staff be directed to capture and acknowledge written public input in Council meeting minutes and Public Hearing minutes to ensure fair representation in public records as recommended in the report dated October 9, 2020 from Councillor Steve Milani regarding Capturing Written Public Input;

AND THAT written public input received before noon on the day of a meeting be made available online on the City website for those who cannot participate in person.

Discussion

This report provides information on the two directives of Council in the context of legislative requirements, current City policies, and organizational capacity:

- 1) Capture and acknowledge written public input in Council meeting minutes and public hearing minutes to ensure fair representation in public records; and
- 2) Written public input received before noon on the day of a meeting be made available online on the City website for those who cannot participate in person.

This report provides relevant background information, the advisability of the direction, as well as an estimate of the funding necessary to implement Council's direction.

Current Procedures

The procedures for handling written public input for Public Hearings differ significantly from procedures for handling written public input for other meetings of Council. The two processes are as outlined below.

Written Input for Public Hearings

Information submitted by the public before noon on the day of the Public Hearing, with respect to an item on the Public Hearing agenda, forms part of the public record and is posted on the City's website after the Public Hearing. Items received before noon the day of a Public Hearing will be distributed to Council on-table in advance of consideration of an application; after the Public Hearing, all of the input, along with other materials submitted to Council and the Corporate Officer during the meeting, would be posted to the City website the day following the Public Hearing. As decision makers, Council receives all submitted information on the day of the meeting, unless a large volume of input is received ahead of time, in which case Council may receive preliminary versions of the on-table package as appropriate. All submissions are later posted on the City website with the full agenda package and remain available to the public on a permanent basis in their entirety save for limited redactions of personal information or other protected information. For convenience, a full summary listing of all written public input received is included in this publicly-available and permanently-retained package.

Written Input for Council Meetings

The City specifically solicits written public input for specific items on the Council agenda, including Temporary Use Permits, Development Variance Permits, Road Closure Bylaws, and Annual Reports. Written Public Input submitted for such specific items are processed in the same manner as written public input submitted for Public Hearings. The input is collected, redacted, and provided to Council on-table, and the packages are uploaded to the City website the following day and remain permanently available.

The City does not collect and publish written submissions from the public for items for which the City has not specifically solicited written public input. Currently, members of the public can send written input directly to Council, and the input is retained as correspondence and not further published. Due to the potential volume of submissions and the accuracy of the information contained therein, staff do not recommend processing written public input for Council meetings in the same manner as for Public Hearings, as there is no legal requirement to do so, and the process carries with it significant risk of conflict and litigation, both from publishing the submissions as well as from failing or refusing to publish the submissions in whole or in part. If Council wishes to explore additional opportunities for public engagement with Council meeting agenda items, staff recommend directing staff to explore other methods that have a lower level of risk to the organization as well as a significant long-term administrative burden.

Advisability of Procedural Changes

As all accepted Public Input is published and retained permanently with minimal redaction, summarizing the content of written submissions in the minutes does not further the objective of ensuring fair representation, as the input as submitted is most accurately represented without alteration. While it is possible to include a listing of the names, dates, times, and subject lines of the submissions, it is not advisable to include a summary of the input, nor a determination of whether a submission is in support of or against an item, as doing so risks mischaracterising the submission, and, if the listing is understood as a record of public votes on an item, may increase

the number of submissions and duplicates that do not necessarily contribute to Council deliberation. It should also be noted that the City's Minute Taking Policy (**Attachment 1**) specifies that minutes are to include decisions only. When written public input is retained and made publicly available in their entirety, the inclusion of a summary of those submission in the minutes is a redundancy comparable to including a summary of the agenda package in the minutes. Council minutes do not serve the same purpose as Hansards, and should not be made to serve as a substitution.

The addition of a requirement to make on-table packages available on the website would require moving the submission deadline to noon on the Friday prior to the Public Hearing to ensure a sufficient buffer for redactions and producing the package for the public prior to the Public Hearing. As notifications for Public Hearings are published and advertised well in advance of the date of the Public Hearing, the shortening of the submission period should still allow sufficient time for the public to submit their input; however, the lengthening of the period where written input is no longer received before the Public Hearing may result in longer Public Hearings, as more people would be advised that the information submission period has closed, and that the only remaining option to submit input is to attend the meeting. For Public Hearings for which a greater amount of written input is received than can be processed by staff for public consumption, the City also risks failing to provide information to the public as promised. As the purpose of the on-table package is to provide information to decision-making participants of the meeting, the practical benefits of providing the same material to viewers is far outweighed by the risk and expense of doing so. It should also be noted that the purpose of a Public Hearing is for Council to receive input from the Public, and not for the Public to debate the merits of the input amongst themselves.

In 2018, a concerned resident made multiple complaints to the Office of the Ombudsperson regarding the City's handling of public input. The Office of the Ombudsperson determined that the City follows a reasonable procedure in each of the matters investigated, and did not recommend changes to any procedures reviewed. The following table outlines the complaints and the corresponding decisions of the Ombudsperson (copies of the Closing Summary Reports are included as **Attachment 2**):

| Complaint | Finding |
|--|---|
| <p>Complaint 18-164107/001 was that the City "was not including her written input to council for regular council meetings within the minutes of the meeting and therefore public record".</p> <p>The Ombudsperson investigated and noted the following in their July 19, 2018 decision:</p> | <p>We contacted the City and confirmed that written input is provided directly to council members for their consideration. In addition, the minutes of the meetings are a record of what took place at the meeting and we were unable to find a legislated requirement for written correspondence to be included within the minutes. The City's Minute-taking Standards Policy also stipulated that the minutes for regular council meetings are decision-only minutes, with short summaries included of public input that is provided during the meeting. As such, it did not appear unreasonable that the City did not include written correspondence sent to council within the minutes of regular council meetings. Further investigation of this aspect of the complaint was not necessary."</p> |

| Complaint | Finding |
|---|--|
| <p>Complaint 18-164107/002 was that the City “was not providing on-table documents online prior to the meeting for citizens who are unable to attend public hearings in person and instead watch the meeting via live web stream”.</p> <p>The Ombudsperson investigated and noted the following in their July 19, 2018 decision:</p> | <p>The City advised our Office that the on-table documents are all those documents submitted between the agenda publication deadline and the end of the public hearing. For materials that have been submitted after the agenda deadline and before noon of the day of the meeting, the City provides the printed first version of this to council and managers. Therefore, the City's council members receive copies of written input for their consideration. Copies of this package are also printed for members of the public who attend the meeting in person. The City advised that it is administratively challenging to complete this package prior to the start of the meetings and it is impractical to place it on the website. In addition, all materials submitted after the end of the agenda publication deadline and before the end of the meeting are placed on the City's website the day following the meeting. This package is permanently retained as on-table items. We noted that there is no legislated requirement that this package of materials be available online for citizens watching live web streamed meetings.</p> <p>Therefore, it did not appear unreasonable that the City does not publish this package of documents online prior to the meetings for those viewing the meetings via live web stream.”</p> |
| <p>Complaint 18-164107/003 was that the City “received materials after the agenda for public hearings had been published and that these did not form part of the public record”.</p> <p>The Ombudsperson investigated and noted the following in their July 19, 2018 decision:</p> | <p>We contacted the City and were informed that all written input regarding public hearings is retained permanently and made publicly available. For written input that is received before the agenda publication deadline, it is published as part of the agenda. If written input is received after the agenda publication deadline it is published as part of the on-table package of documents.</p> <p>As such, further investigation of this aspect of the complaint was not necessary.”</p> |
| <p>Complaint 18-164107/004 was that “citizens cannot submit an item for inclusion on the agenda of council meetings, and that this was contrary to the City’s Council Procedures Bylaw”.</p> <p>The Ombudsperson investigated and noted the following in their July 19, 2018 decision:</p> | <p>The City informed our Office that the deadline as stated in the Council Procedures Bylaw pertains to requests from the public that require a response from council but do not require attendance before council as a delegation. They confirmed that if individuals would like council to address a specific issue, they may contact council members directly who can ask for an agenda item to be included.</p> <p>This did not appear unreasonable and therefore further investigation of this aspect of the complaint was unnecessary.</p> |

Resources Required to Implement Council Direction

As Council is aware, many aspects of the Council meeting process have been improved over the past eight years, including capturing of motions during Council deliberation and the implementation of an agenda management system. Additionally, the Legislative Services Division continues to adapt to increased service demands such as increased Freedom of Information requests, the implementation of virtual/hybrid meetings, and increased levels of various other internal administrative support processes. Legislative Services staff do not currently have the capacity to implement Council's direction with respect to written public input as it pertains to Public Hearings or Council meetings, and will require additional staff resources to implement these procedures.

To implement the procedures for processing written public input, one additional part-time staff person will be required. The individual's responsibility would be the collection, collation, review, redaction, and publishing of written public input for each Public Hearing, and the incumbent would be required to attend the meetings. The responsibility level of this position will require specific expertise given the importance of ensuring that written public input is included and characterized accurately. The estimated cost of this 18 hours per week part-time position is \$50,813.09 annually including overhead, as follows:

| Coordinator for Written Public Input | |
|--------------------------------------|-------------|
| Pay Band | 10 |
| Step | 3 |
| Bi-weekly Hours | 36 |
| Annual Pay Periods | 26.089 |
| Annual Hours | 939.2 |
| 2019 Rate | \$38.20 |
| Total Salary | \$35,877.59 |
| 2% Contingency for 2020 Increase | \$36,595.14 |
| % in Lieu of Benefits | 1.16 |
| 2020 Overhead Rate | 1.197 |
| 2020 Total Including Overhead | \$50,813.09 |

Other Option(s)

THAT staff be directed to amend policies and procedures to capture and acknowledge written public input in Council meeting minutes and Public Hearing minutes and to provide written public input to the public prior to Public Hearings and Council meetings by reducing the public input submission period and adding a part-time position at the cost of \$50,813.09;

AND THAT the annual budget of \$50,813.09 be approved and forwarded to the Finance Committee for identification of a funding source.

Financial Implications

There are no financial implications with receiving this report for information as recommended. Financial implications of directing staff to implement the alternate procedures are as laid out in the discussion section.

Communications and Civic Engagement Initiatives

There are no communications or civic engagement initiatives associated with receiving this report for information.

Council Strategic Plan Objectives

The recommendation to receive this report for information aligns with the Council Strategic Plan Value of Exceptional Service by providing the public with transparent and open government.

Attachment(s)

1. Corporate Policy – 01-0340-2017-01 – Minute Taking Standards.
2. Ombudsperson Closing Summary Reports.

Report Author

Dorothy Shermer
Corporate Officer

Report Approval Details

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| Document Title: | Handling of Written Public Input.docx |
| Attachments: | - Attachment 1 - Corporate Policy - 01-0340-2017-01 - Minute Taking Standards.PDF - Attachment 2 - Ombudsperson Closing Summary Reports.pdf |
| Final Approval Date: | Jun 14, 2021 |

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

Natasha Vander Wal for Rosemary Lodge, Manager of Communications and Engagement - Jun 10, 2021 - 9:37 AM

Paul Rockwood, General Manager of Finance and Technology - Jun 10, 2021 - 10:23 AM

Tim Savoie, City Manager - Jun 14, 2021 - 8:45 AM