

**"John emphasizes that this was a co-operative effort and James' advice is much appreciated".**

**Subject:** RE: COW and Miscellaneous Council Procedure Bylaws (March 4 Report to Council)

**From:** "John Hunter" <hunterjohn@telus.net>

**Date:** 06/04/2013 3:00 PM

**To:** "James Gordon" <gordonj@dnv.org>

**CC:** "David Stuart" <StuartD@dnv.org>, "Alan Nixon" <nixona@dnv.org>, "Doug MacKay-Dunn" <MacKayDD@dnv.org>, "Mike Little" <LittleM@dnv.org>, "Robin Hicks" <HicksR@dnv.org>, "Roger Bassam" <bassamr@dnv.org>, "Lisa Muri" <MuriL@dnv.org>, "Richard Walton, Mayor" <waltonr@dnv.org>, "Corrie Kost" <corrie@kost.ca>, "Natasha Letchford" <letchfordn@dnv.org>, "Corrie Kost" <corrie@kost.ca>

Thanks James

My comments on your comments in BLACK CAPITALS

Lower case black	= John Hunter
Red print	= James Gordon
BLACK CAPS PRINT	= John Hunter

**From:** James Gordon [mailto:gordonj@dnv.org]

**Sent:** April 5, 2013 6:29 PM

**To:** 'John Hunter'

**Cc:** David Stuart; Alan Nixon; Doug MacKay-Dunn; Mike Little; Robin Hicks; Roger Bassam; Lisa Muri; Richard Walton, Mayor; Corrie Kost; Natasha Letchford; James Gordon

**Subject:** RE: COW and Miscellaneous Council Procedure Bylaws (March 4 Report to Council)

Good afternoon Mr. Hunter.

Thank you for your email on the proposal for using Committee of the Whole. I have provided a response to some of your points below in red.

Once you have read them over let me know if you have any follow-up questions.

## James A. Gordon

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**From:** John Hunter [mailto:hunterjohn@telus.net]

**Sent:** Friday, April 05, 2013 2:49 PM

**To:** David Stuart; James Gordon; Alan Nixon; Doug MacKay-Dunn; Mike Little; Robin Hicks; Roger Bassam; Lisa Muri; Richard Walton, Mayor

**Cc:** Corrie Kost

**Subject:** COW and Miscellaneous Council Procedure Bylaws (March 4 Report to Council)

Hi all

I have reviewed this report and the proposed bylaws. I am familiar with the COW concept from my 14 months interim management assignment at Hamilton Utility Corporation. Hamilton had a COW.

### My concerns are the following:

Policy and other decisions tend to get largely "baked" by the COW, subject of course to approval of the recommendations by Council and the resulting formal vote in open Council. However, the practicality reality is that generally in a COW system as I have seen it, formal Council deliberations and votes on an issue will become more of a rubber stamp post the COW meeting

on the issue.

Discussion occurs at CoW. Approval of the CoW recommendation at a subsequent regular meeting of council presents an opportunity to be expedient, given that the discussion has taken place at CoW, although there is nothing to prevent Council from re-debating the matter at the regular meeting. AGREE, BUT DOES NOT TAKE AWAY FROM MY POINT IN MY VIEW

Therefore, despite increasing the time for public input at formal Council meetings from 2 to 3 minutes (much appreciated), the chance of input at a post COW Council meeting having an impact will be reduced, in my opinion. As humans, we usually need a relative bombshell to reverse our course at such a late stage, with the previous COW work completed. Yes, we had workshops instead of COW, and perhaps without the issue I flag, but decisions in theory were not made at workshops. So I fear a reduction in the potential impact of even new and valuable public input at post COW Councils.

Council keeps an open mind on all matters so it is not appropriate to conclude that public input at a post-CoW regular meeting on a CoW-discussed topic would not be fully considered. I AGREE WITH YOU, BUT WHILE IT MAY NOT BE "APPROPRIATE", IT IS IN MY OPINION A PRACTICAL REALITY. PUT ANOTHER WAY, WHILE THE TRAIN CAN BE STOPPED, IT'S ALREADY LEFT THE STATION AND HAS CONSIDERABLE MOMENTUM.

I do not see a solution for this at Council meetings post a COW meeting, although the move from 2 to 3 minutes public input at Council meetings helps provided the 30 minute total limit does not become an issue. Instead, I think any solution lies at the COW meetings.

The limitation to 10 minutes total public input is, I suspect, unworkable. What if there is one person? What if 10? Or 20? We need to remember COW replaces Workshops which replaced regular Council meetings which by policy allowed 2 minutes per person and 30 total minutes of public input. Note that due to time shortfalls, public input was often missed at Workshops, and Workshops, unlike COW, had time limits on Council speakers so I believe the chance of public input at the end of a COW meeting being "squeezed out" is higher. **Clearly, we are regressing from the pre-workshop days insofar as public input if you adopt the report's proposal.**

The ten minute public input session at CoW is left to be handled at the discretion of the Mayor so as to best respond to the interest shown at that time.

CoW is not replacing workshops. Workshops will still occur as needed and are reserved for circumstances where staff simply wish to present information to Council and do not necessarily need a formal resolution as a result from the CoW.

Workshops (or CoW) do not replace regular Council meetings. The regular meetings will continue to occur on the first and third Monday of each month unless council resolves otherwise. MISSING MY POINT. IS MY MEMORY WRONG THAT WE TYPICALLY (SUBJECT TO HOLIDAYS AND OTHER FACTORS) HAD ABOUT FOUR COUNCIL MEETINGS A MONTH, HENCE PUBLIC INPUT TIME WAS 4 x 30 MINUTES PER MONTH (120 MINUTES)?

THEN CAME WORKSHOPS AND WE MOVED TO TWO COUNCIL MEETINGS A MONTH, WITH PUBLIC INPUT NOT ASSURED AT WORKSHOPS, SO NOW ASSURED PUBLIC INPUT TIME 2x30 MINUTES PER MONTH. NOW COW REPLACES WORKSHOPS **IN THE SENSE THAT** WE STILL ARE REDUCED TO TWO REGULAR COUNCIL MEETINGS A MONTH. SO PUBLIC INPUT HAS GONE FROM AN ASSURED 120 MINUTES PER MONTH TO (UNDER THE COW 10 MINUTE PROPOSAL) 2x30 MINUTES FOR TWO COUNCIL MEETINGS PLUS 10 MINUTES FOR COW, OR 70 MINUTES TOTAL, A REDUCTION OF OVER 40%.

THAT IS THE POINT I WAS TRYING TO MAKE

Workshops presently are the venue for in-depth council discussion on specific items. In a strict sense, public input is not part of these meetings although the Mayor, with the consent of Council, frequently permits input at the end if time permits.

Workshops do not have speaking time limits imposed on councillors. Speaking time limits only apply at regular and special council meetings. THE MAYOR SEEMS, IN MY RECOLLECTION, TO KEEP TIME UNDER PRETTY TIGHT CONTROL.

Staff feel that the CoW proposal enhances and expands public input by formalizing it at CoW whereas previously, as noted above, it was not formally entrenched in workshop agendas. THAT IS GOOD, BUT THE TIME FIGURES SPEAK FOR

## THEMSELVES.

**Allow 3 Minutes to COW Speakers:** We do not know how many of the public will attend COW meetings - it may be as few as at workshops. Nevertheless, to provide the public with the opportunity to input to COW, I believe a formal policy should be in place to allow 3 minutes to those who wish to speak at COW. It is much better, I suggest, for COW to get a surprise (or just useful info or perspective) in a COW meeting than to have a surprise arrive in the later Council meeting, or worse yet, a newspaper debate. I appreciate the main purpose of COW is not public input, and I suggest a 30 minute cumulative time limit, but I think to have a COW procedure that does not well define more reasonable public input rights is ill advised.

CoW is Council's opportunity for in-depth discussion on specific topics; however, Council values input from the public so a public input opportunity has been formalized in CoW. It is Council's choice (in the amending bylaw) how much time is devoted to this segment of the meeting. Within the understanding that most CoWs will last approximately two hours, it is believed that the ten minute public input opportunity would be sufficient in most circumstances. The Mayor has full discretion on how this time is allotted given the number of interested speakers at any one meeting. **AGAIN, THE FIGURES SPEAK FOR THEMSELVES REGARDING TOTAL ASSURED PUBLIC INPUT. IT HAS BEEN CUT OVER 40%.**

**Public Input at the meeting end is Problematic:** The Mayor tries to allow public input in workshops. Input at the end of a workshop or particularly a COW is perhaps of less value as it was not available to Council when the discussions (or, for COW, recommendations) took place. From workshop experience, it is clear that putting public input at the end tends to squeeze out or even eliminate the public input, and comes when the Council members are probably tired and ready to get home (just like the public!). The only apparent advantage of being last on the agenda is that the public has heard and seen the "action" before their input, but I suggest the net result is disadvantageous. **Therefore I suggest COW public input be the first item on the agenda.** It is even more important at COW meetings than workshops, because COW, unlike workshops, is actually more of a decision making process.

This is a glass half full situation in that public input at the beginning allows Council to benefit from input from the public whereas public input at the end allows the public the benefit of having heard the Council discussion to guide their comments. It has been proposed for the end in order to allow Council to discuss CoW agenda items from their perspectives given what relevant information they may have gathered up to that point and, since it is still just a recommendation to Council, that when the recommendation is brought forward at a subsequent council meeting it can be amended given what was heard at the end of the CoW or, indeed, heard between the meetings or at that council meeting. **I HAVE CONCEDED THAT POINT ABOVE, BUT AS AT Council, I THINK THE PUBLIC INPUT SHOULD, ON BALANCE, BE FIRST.**

**Tables:** I also urge you to provide tables in the Committee Room at which the public can sit. It's not easy to take notes or research items on a laptop or I-pad with everything balanced on your knee. In Council chambers, the "regulars" (back row "desk" on your left) have a table and power for machines. Others are happy with just chairs.

### **The Proposed Bylaw 7980**

- Page 137 38 (e) Thinking of a very few former Councillors going back 20 years, I suggest you strengthen this article to make it crystal clear that Chair can shut down a Councillor. The language seems a bit weak. As a minimum, change "the Chair shall use discretion..." (sounds to me like he has to be nice and be careful) to "the Chair shall use his discretion...." (much stronger in my view).

The Chair has full authority over the conduct of the meeting. Accordingly, the Chair controls who has the floor and may silence speakers who have not been recognized. **LOOK AT IT THE OTHER WAY. HOW COULD ADOPTING MY SUGGESTED LANGUAGE HURT? IT IS, I THINK, CLEARER AND STRONGER.**

- 38(g) Voting procedure. "majority" vs. "simple majority"? Should it state that the chair has a vote? Not true in some business committees unless a tie.

Majority is the language used in the *Community Charter*.

The voting rules of the *Community Charter* apply. This states that every member has one vote on any question, must vote on a matter when present, and if does not indicate how they vote is deemed to have voted in the affirmative. Special

tie-breaking voting rules around the Chair do not apply in BC local government.

- Page 137 article 40 (a) I can't tell if this means total for all potential speakers, or per speaker. I think I know the answer, but it is unclear in my opinion. "Members of the public" can be read as "Each Member of the public".

Members of the public will have a total of ten minutes. Wording is always subject to interpretation but it is believed the plural of "members" and "total" indicated overall the window available is ten minutes. WHY NOT MAKE IT CRYSTAL CLEAR. YOU DO NOT HAVE TO MOVE MOUNTAINS TO DO SO.

- **Fairness in responding to speakers or delegations to council, or speakers to COW:** The bylaw provisions for these three occasions state (COW example; other 2 differ in a few words but same message) "Committee members shall not respond to public input nor engage in debate except to ask clarifying questions or to correct incorrect information." I think this quite unfair re "correct incorrect information". Somebody has had the gumption to speak in front of Council or a committee and in front of the public and perhaps press/TV. A Councillor can claim the person gave Council incorrect information, but that Councillor may be mistaken, and such a claim may be intimidating to the speaker. Secondly, to my knowledge, the speaker cannot respond. This is hardly natural justice. Either clearly state in the bylaw that the speaker can respond to questions or claims of incorrect information, **OR** do not allow Councillors to make remarks about "incorrect information".

The wording of these sections is chosen to avoid a debate arising out of a question or statement made by a member of the public. Councillors may ask questions in order to fully understand and benefit from the input. Council feels strongly that where incorrect information is stated publically, that it be corrected immediately. In most circumstances this is phrased in the manner of a clarifying question thereby giving the speaker an opportunity defend the statement. MY VIEW REMAINS UNCHANGED – I THINK IT VERY ONE-SIDED AND UNFAIR.

#### **General Comment on DNV Bylaws- WHY NOT MAKE IT EASY FOR THE PUBLIC AND COUNCIL?**

At the risk of flogging a horse that apparently never lived in DNV (although this horse does in almost all business and in some munis), why do we force Councillors and public to have to put the old bylaw and the new bylaw side-by-side if they want to see clearly the changes or rely totally on a Report to Council. Let me as the reader have the choice of checking the changes myself if I wish, at minimum pain.

Quite some time ago Council asked that this type of comparison be provided and staff have consistently provided this. Depending on the complexity of the bylaw or policy amendment, the comparison may be presented in different ways giving consideration to what will be the easiest way to convey the information in an easy to understand way. In this particular case a comparison document was included in the agenda package (see page 147 of the March 18, 2013 regular agenda).

Why can't Staff just black line the old bylaw and you can see clearly the stuff being removed and added? I have been asking this question of DNV for 20 years – just give me a good answer and I'll drop it. We did black lining to some extent in the tree bylaw – at least between Staff and me. It is a tremendous time-saver for everybody in the review chain – including Staff.

As noted above, we provide the comparison in the easiest to convey/understand manner. In this case the summary document was chosen because the bylaw amendment incorporates sections of new text and excerpts from a policy. The relevant sections of the bylaw and policy were combined in this comparison document where black-lining was used. In other, more straight forward bylaw amendments, black-lining straight in the source bylaw was used.

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