

## Attachment 1

*Notice of Motion Process Policy*

*Report dated February 13, 2023*

## **REPORT**

### ***Office of the Chief Administrative Officer***

<b>To:</b>	Mayor Johnstone and Members of Council	<b>Date:</b>	February 13, 2023
<b>From:</b>	Lisa Spitale Chief Administrative Officer	<b>File:</b>	01.0110.20-05
		<b>Item #:</b>	2023-78
<b>Subject:</b>	<b>Notice of Motion Process</b>		

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#### **RECOMMENDATION**

THAT Council adopt the Notice of Motion Process Policy in attachment 1 and give first, second and third reading to Council Procedure Bylaw Amendment Bylaw No. 8385, 2023 in attachment 2.

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#### **PURPOSE**

To respond to Council's motion on January 30th and provide Council with a defined mechanism to handle Notice of Motions being placed on the agenda.

#### **BACKGROUND**

On January 30<sup>th</sup> Council passed the following resolution

*"THAT Council direct staff to report back on the apparent discrepancy between how the Council Procedure Bylaw No. 6910, 2004 was and is being interpreted and applied in the present, notably at the November 28, 2022 Council meeting with respect to Notice of Motion, and how the Bylaw was interpreted and applied by previous Councils in order to clarify the situation and determine what the correct procedure is, and*

*FURTHER THAT staff report back at the February 13th Council meeting with recommendations to improve Section 21 of the Council Procedures Bylaw 6910 to ensure it no longer lacks clarity and is less subject to interpretation;"*

## **Procedure Bylaw**

The procedure bylaw addresses notices of motion in section 21 stating:

*“Any member has the right to give notice to Council of a motion which that member intends to make at the next meeting of the Council. The City Clerk shall make note of the motion and place it on the next agenda. The City Clerk may request that the member provide the motion that is subject of the notice in writing.”*

## **DISCUSSION**

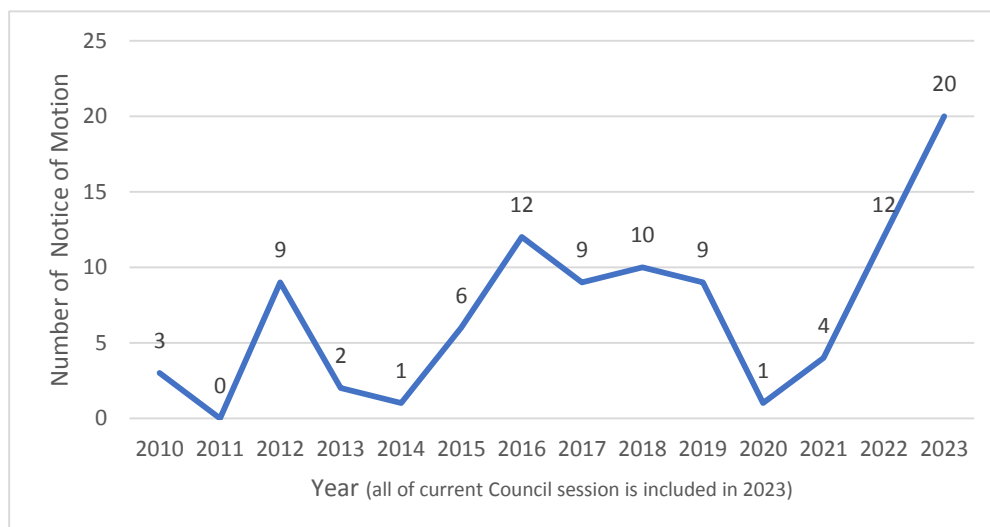
### **Previous Practice**

In previous Council terms, the usual practice for handling a Notice of Motion consisted of the introduction the Notice of Motion at the first meeting and then debate of the actual motion contained in the Notice of Motion at the following subsequent meeting. The Notice of Motion only contained the motion to be considered.

Prior to 2014, recitals were generally not included with the motion set out in Notice of Motion. With the change of Mayor and Council starting in the fall of 2014, there was a change to the process regarding a Notice of Motion. The Mayor directed staff in this change. The Mayor would work with the Councillor to prepare the Notice of Motion in advance of its submission to the City Clerk. This assistance helped to ensure that potential issues concerning the subject matter were addressed.

In late 2018, there was a need to review Notices of Motion upon the passing of the Council Code of Conduct. The City Clerk provided advice and suggestions to improve the notice of motion. Once the Notice of Motion was submitted it was debated at the first Council meeting that it was presented at. Notices of motion were relatively infrequent.

Graph 1 Notices of Motion by Year



Graph 1 shows the number of notices of motions on the Council agenda during the time frame 2010 – 2023. Previously, given the sporadic frequency of Notices of Motions on the Council agendas, a detailed process was not needed.

At the beginning of the present term, the new Mayor informed the City Clerk that the process for notices of motion would return to the former model, in alignment with the Procedure Bylaw as this provided Council and staff time to consider the motion before it was debated by Council.

### **Recommendations to Improve Section 21 of the Procedure Bylaw**

The increased frequency of Notice of Motions and Council's resolution require clarity in the Notice of Motion process. A revision to the Procedure Bylaw is recommended. This approach will provide a clear policy on the creation and processing of Notices of Motion.

Notices of Motion are an effective tool in parliamentary procedure. However, notice of motions can become administratively challenging if there are few process parameters.

In preparation for this report, staff reviewed the City of Nanaimo's Notice of Motion practices, the Ministry of Municipal Affairs – Procedure Bylaw Guide, and the Union of British Columbia Municipalities resolution guide. From this research, staff has developed a comprehensive policy that addresses a variety of aspects of the process for handling Notices of Motion. The proposed Policy is contained in Attachment 1.

The proposed Notice of Motion Process Policy is to apply to Notices of Motion whether they are considered in an open meeting or in a closed meeting.

To assist in the development of Notices of Motions, the proposed Policy articulates the content and structure for the Notice of Motion in **Part 1**. The identification of whether the Notice of Motion is to be considered in an open meeting or in a closed meeting will assist Legislative Services in appropriately handling the Notice of Motion. The indication of whether the subject matter in the Notice of Motion adheres to Strategic Plans will assist Council to determine how the proposed motion fits within the City's/Council's goals.

The use of recitals (the "Whereas" statement) is optional. The structure and the content pertaining to the recitals within the Notice of Motion follows the approach which is used by the Union of BC Municipalities for its convention motions. Given that recitals, if adopted, become the official position of the City rather than merely background information about the motion, it is essential that careful consideration is given to the content of those recitals to avoid potential positions which are not intended or which could be construed as a liability<sup>1</sup>. If a Member of Council is of the opinion that certain background information is critical for the understanding of the subject matter, that Member of Council has the ability to provide a summary of that information. Sections 5.0 and 6.0 are there to assist the Member of Council in complying with their

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<sup>1</sup> Resolutions and bylaws have been struck down by the Courts because of the content of recitals.

responsibilities under the Code of Conduct, Respectful Workplace Policy and legislative constraints.

**Part 2** articulates what a Member of Council needs to know for submitting a Notice of Motion. Submission of the Notice of Motion to the City Clerk eight (8) business days prior to the Council meeting will ensure that there is adequate time to assess whether changes may be needed.

As Council is aware, the organization is challenged due to unprecedented staff vacancies. At this time, staff is recommending that there be a limit to the number of Notice of Motions introduced at each Council meeting to one per Council Member. The limit on the number of Notice of Motions at each meeting is designed to allow the existing staff adequate time to process the Notice of Motions within the allocated time frame.

Moreover, as Notices of Motions are not motions to be adopted at that time, there is no need for a seconder. However, if there is a seconder, the proposed Policy provides clarity as to the seconder's ability to submit more Notices of Motion. If a situation arises in that two or more Members of Council each submit a Notice of Motion on the same or similar topic, staff will work with those Members to combine their Notices of Motion so that Council only has to deal with the topic once. However, if combining the Notices of Motion is not possible, then Council will address each of those Notices of Motion in the order that those Notices of Motions were received by the City Clerk (date and time).

**Part 3** establishes how staff will handle Notice of Motions that have been submitted. While the City Clerk conducts an initial review of the Notice of Motion based on specified factors, the City Clerk is not alone in providing input on the content of the Notice of Motion. The involvement of the Mayor is a continuation of the standing practice of the City. The inclusion of the Chief Administrative Officer and the City's lawyer ensures that operational and legal concerns are taken into consideration.

**Part 4** reinforces the nature of a Notice of Motion which is to allow a Member of Council to raise an issue in a timely fashion while enabling the rest of Council to have adequate time to consider the matter before proceeding.

In order to apply the City's resources in an efficient manner, staff will only assess those motions arising out of a Notice of Motion which have been adopted by Council.

### **Modification of the Procedure Bylaw**

To ensure the proposed Notice of Motion process Policy has the authority of the bylaw, staff recommend that the amendments set out in the Procedure Bylaw No. 8385, 2023 (Attachment 2) be adopted.

The bylaw amendments set out:

- Timing and the manner in which any motion arising from a Notice of Motion will be addressed at the Council level.
- Procedural clarity for specific motions requiring staff due diligence – these motions will take effect upon the completion of certain conditions as identified by staff (financial, legal, operational, staff capacity challenges, etc.).
- Procedural clarity for other motions that arise outside of staff reports (known as motions from the floor) in order to ensure consistent treatment of motions.

### **NEXT STEPS**

If Council adopts this process Policy at the February 13<sup>th</sup>, 2023 meeting, it will become applicable for February 27<sup>th</sup>, 2023 Council and subsequent meetings.

This Policy and the bylaw amendments to the Procedure Bylaw are a starting point for addressing changes to Council meetings and other processes. Staff will be returning to Council with additional refinements for streamlining processes as laid out in the City's Delegation Bylaw.

### **INTERDEPARTMENTAL COOPERATION**

This report was reviewed by the Manager of Legal Services and the Senior Management Team.

### **OPTIONS**

Council has four options:

1. THAT Council adopt the Notice of Motion Process Policy in Attachment 1 and give first, second, and third reading to Council Procedure Bylaw Amendment Bylaw No. 8385, 2023 in Attachment 2.
2. THAT Council adopt the process of submitting Notices of Motions without recitals at one meeting and consider the submission at the next Council meeting, as was done prior to 2014.
3. THAT Council continue to operate, as established with the previous Council, by submitting Notices of Motions to the Mayor for assistance in crafting the Notice of Motion prior to submitting the Notice of Motion for inclusion at the next Council meeting, as was done from 2014 to 2022.
4. The Council provide other direction to staff.

*Staff recommends Option 1.*

### **ATTACHMENTS**

Attachment 1 Notice of Motion Process Policy  
Attachment 2 Council Procedure Bylaw Amendment Bylaw No. 8385, 2023

### **APPROVALS**

This report was prepared by:  
Lisa Zwarn, Auxiliary City Clerk

This report was reviewed by:  
Jacque Killawee, City Clerk  
Craig MacFarlane, Manager Legal Services

This report was approved by:  
Lisa Spitale, Chief Administrative Officer

## Attachment 1

### *Notice of Motion Process Policy*

<b>SUBJECT: NOTICE OF MOTION PROCESS POLICY</b>		
<b>DEPARTMENT:</b> Mayor and Council	<b>DOC #:</b> 2206731	<b>VERSION:</b> 1

**PURPOSE:**

This provides a process for members of Council to follow to place a notice of motion on the agenda for presentation to Council. A Notice of Motion is the tool that Council members can use to bring topics forward for consideration at an upcoming Council meeting.

**PROCESS:**

- 1.0 If a Member of Council brings forward a Notice of Motion, the following policy must apply.
- 2.0 This policy must apply to any Notice of Motion, whether the Notice of Motion submitted for an open meeting or a closed meeting of Council.

***Part 1 - Structure and Content of Notice of Motion***

- 3.0 The Member of Council must provide the following details in the Notice of Motion:
  - 3.1 The topic or subject matter;
  - 3.2 Whether topic is to be considered in open or closed meeting. In the case of a closed meeting, the applicable subsection of section 90 of the Community Charter must be included;
  - 3.3 Whether the topic adheres to any City's/Council's strategic plans in effect at that time;
  - 3.4 Any recitals (the "Whereas" clauses); and
  - 3.5 The desired outcome within the resolution clause, being stated succinctly and in simple action oriented terms.
- 4.0 If recitals (the "Whereas" clauses) are included, the Member of Council must adhere to the following criteria:
  - 4.1 There shall be no more than 3 recitals in total in a Notice of Motion;
  - 4.2 The content of the recitals shall indicate the following:
    - 4.2.1 What is the issue or situation to be addressed;
    - 4.2.2 What is causing the issue or situation to be a concern; and
    - 4.2.3 How the resolution is the best way to resolve the concerns arising from the issue or situation.
- 5.0 If the Member of Council wishes to provide any additional background information pertaining to the Notice of Motion, the Member of Council may include that background information in a summary that is limited to 2 pages:
  - 5.1 Which does not form part of the Notice of Motion; and
  - 5.2 Which will be included with the Notice of Motion in the agenda package.

- 6.0 A Notice of Motion must:
  - 6.1 Be limited to one topic;
  - 6.2 Contain a motion that can be debated by Council;
  - 6.3 Avoid the use of ambiguous terms;
  - 6.4 Conform to the City's Code of Conduct;
  - 6.5 Contain factual background information;
  - 6.6 Not include comments pertaining to City personnel; and
  - 6.7 Not include comments pertaining to an identifiable individual, unless recommending them for an award, or a position on a committee, or a similar type of recognition.
- 7.0 The Notice of Motion must not include any discussion or content pertaining to a closed meeting unless:
  - 7.1 The Notice of Motion is to be considered in a closed meeting; or
  - 7.2 Council has authorized release of that discussion or content by a motion passed at a closed meeting.
- 8.0 The Member of Council may seek assistance from Legislative Services staff at any time in developing the Notice of Motion.

## ***Part 2 - Submission of the Notice of Motion***

- 9.0 The Member of Council must submit the Notice of Motion to the City Clerk, with a copy to the Mayor and the Chief Administrative Officer, 8 business days prior to the Council Meeting<sup>1</sup>.
- 10.0 A seconder is not required for a Notice of Motion.
- 11.0 If a Member of Council seconds a Notice of Motion, both Members of Council listed on the Notice of Motion are deemed to have jointly submitted the Notice of Motion for the purpose of any limits on the number of Notices of Motion.
- 12.0 A meeting means an evening Council meeting and a closed meeting but does not include committee of the whole, workshop, an open meeting only to go into closed, or a special meeting.
- 13.0 Each Member of Council is limited to 1 Notice of Motion per meeting.
- 14.0 There will be a maximum of 7 Notices of Motion per meeting.<sup>2</sup>

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<sup>1</sup> If there is a statutory holiday, that day does not count in the total number of business days.

<sup>2</sup> This is the equivalent of 1 Notice of Motion per Member of Council per meeting, unless a Notice of Motion has 2 Members of Council submitting the same Notice of Motion.

- 15.0 If two or more Members of Council each submit a Notice of Motion on the same or similar topic, staff will work with the Members of Council involved to combine the Notices of Motions, where possible.
  - 15.1 If the Notices of Motions can be combined into one Notice of Motion, then both of the Members of Council will jointly submitting the Notice of Motion and the limitation as to the number of Notices of Motions which can be submitted will still apply.
  - 15.2 If it is not possible to combine the Notices of Motions, then all of the Notice of Motions on the same or similar topic will be placed on the Agenda in the order of date and time when they were received by the City Clerk.

### ***Part 3 - Handling of the Notice of Motion Prior to Inclusion on the Agenda***

- 16.0 The City Clerk must review the Notice of Motion with consideration of the following:
  - 16.1 Compliance with the City's Code of Conduct;
  - 16.2 Conformity to the law;
  - 16.3 Accuracy of the legislative references;
  - 16.4 In light of any applicable existing bylaws and policies; and
  - 16.5 In light of prior Council dealings with the subject matter.
- 17.0 During the review of the Notice of Motion, the City Clerk must consult with:
  - 17.1 The Mayor;
  - 17.2 The Chief Administrative Officer; and
  - 17.3 The Manager of Legal Services.
- 18.0 The City Clerk may consult with any other persons during the review of the Notice of Motion.
- 19.0 If there are any concerns arising from the review, the City Clerk or individual names in section 16.0:
  - 19.1 May adjust the wording of the Notice of Motion to ensure compliance with the City's Code of Conduct, the law, bylaws, or policies; and
  - 19.2 Must discuss the concerns with the Member of Council prior to placing the Notice of Motion on the agenda.
- 20.0 After the review of the Notice of Motion and upon the resolution of the concerns, if any, with the Member of Council, the City Clerk must place the Notice of Motion on the agenda for:
  - 20.1 the upcoming meeting, provided that the concerns have been addressed in time prior to the distribution of Council package to Council for that meeting; or
  - 20.2 the subsequent upcoming meeting, if the concerns have not been addressed in time prior to the distribution of the Council package.

#### ***Part 4 - Handling of the Notice of Motion at a Council Meeting***

- 21.0 At the applicable point in the meeting when the Notice of Motion appears before Council for the first time, the Mayor will invite the Member of Council who submitted the Notice of Motion to read out the motion contained in the Notice of Motion.
- 22.0 At the meeting when the Notice of Motion appears before Council for the first time, the Members of Council must not discuss nor vote on the Notice of Motion.
- 23.0 At the subsequent meeting when the Notice of Motion appears before Council, the Notice of Motion will be considered under "Motions from Members of Council."
- 24.0 At the subsequent meeting when the Notice of Motion appears before Council, the Mayor will invite the Member of Council who submitted the Notice of Motion to move the motion and seek a seconder for the motion.

#### **RELATED**

Procedure Bylaw 6910, 2004

#### **APPROVAL HISTORY**

<b>APPROVED BY:</b>	<b>DATE:</b>
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## Attachment 2

### *Council Procedure Bylaw Amendment Bylaw No. 8385, 2023*

**CORPORATION OF THE CITY OF NEW WESTMINSTER  
BYLAW NO. 8385, 2023**

A Bylaw to Amend Council Procedure Bylaw No. 6910, 2004

The Council of The Corporation of the City of New Westminster in open meeting assembled ENACTS AS FOLLOWS:

**Citation**

1. This Bylaw may be cited for all purposes as "Council Procedure Bylaw Amendment Bylaw No. 8385, 2023."

**Amendments**

2. Council Procedure Bylaw No. 6910, 2004 is amended by:
  - a. Amending section 21 by striking out section 21 and inserting the following:
    - 21(1) Any member has the right to give notice to Council of a motion which that member will make at the next meeting of Council.
    - 21(2) The notice of motion must be submitted in accordance with any notice of motion policy adopted by Council.
    - 21(3) Any motion arising out of a notice of motion must not take effect unless the following conditions are met:
      - (a) The Chief Administrative Officer, in consultation with senior staff, has submitted a report within three Council meetings on the feasibility of that motion considering any budget and work plan implications including but not limited to staff capacity, financial, policy, administration, feasibility, operational, legal, etc.;
      - (b) Council has considered the budget and work plan implications of the motion in light of any strategic plan adopted by Council; and
      - (c) Council has passed a motion to authorizing the budget and work plan set out in the Chief Administrative Officer's report.
    - 21(4) As an exception to section 21(3)(a), section 21(3) must not apply, if the Chief Administrative Officer indicates that a report is not necessary at the time Council is initially considering the motion arising from the Notice of Motion.
  - b. inserting the following after section 46
    - 47 Section 21(3) shall apply to all motions approved by Council that do not arise out of a staff report.

GIVEN FIRST READING THIS \_\_\_\_\_ day of \_\_\_\_\_ 2023.

GIVEN SECOND READING THIS \_\_\_\_\_ day of \_\_\_\_\_ 2023.

GIVEN THIRD READING THIS \_\_\_\_\_ day of \_\_\_\_\_ 2023.

ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2023.

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Mayor Patrick Johnstone

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Jacque Killawee, City Clerk