



Adoption of an Updated Procedure Bylaw

Electoral Division: All

File: N/A

Date:	October 22, 2024
Presenter:	Tyler Andreasen, Lead Legislative Officer
Department:	Legislative Services

REPORT SUMMARY

The purpose of this report is for the adoption of an updated Procedure Bylaw. Some of the proposed amendments to the bylaw are required by the Municipal Affairs Statutes Amendment Act, 2024 (Bill 20), while others are based on best practices and general housekeeping, such as:

- electronic participation in public hearings;
- abstentions due to conflicts of interest;
- limitations on public hearings for residential development;
- public hearing withdrawal process;
- agenda addendum process;
- municipal election blackout period; and
- motions to postpone, motions to receive for information, and motions out of order.

While amendments have been made to the current Procedure Bylaw over time, it has not been fully reviewed by Administration since the COVID-19 pandemic necessitated changes to the bylaw. The majority of the proposed Procedure Bylaw remains the same as in the current bylaw, except for those amendments identified in Attachment A of this report.

Administration presented a draft of the proposed Procedure Bylaw to the Governance Committee at its September 17, 2024 meeting. Based on feedback from the Governance Committee, Administration has made two changes to the proposed Procedure Bylaw:

- the draft bylaw presented to the Governance Committee included changes to the secret ballot process used to appoint members to the County’s various boards and committees. The proposed change would have seen members appointed by the candidate who receives the most votes rather than which candidate receives a majority of votes; and
- the effective date of the bylaw has been changed to allow for the vast majority of the proposed Procedure Bylaw to come into full force and effect on January 1, 2025, with the exception of two provisions required by Bill 20 that will come into full force and effect when Bill 20 is proclaimed.

ADMINISTRATION’S RECOMMENDATION

THAT Bylaw C-8555-2024 be given first reading.

THAT Bylaw C-8555-2024 be given second reading.

THAT Bylaw C-8555-2024 be considered for third reading.

THAT Bylaw C-8555-2024 be given third and final reading.



Adoption of an Updated Procedure Bylaw

BACKGROUND

Procedure bylaws are not a requirement under the *Municipal Government Act*. They are, however, encouraged as they ensure meetings are held in an orderly manner and decisions are made in compliance with legislation and the principles of procedural fairness.

- Procedure bylaws provide for orderly meetings by incorporating elements of parliamentary procedure to guide how decisions are made. The most common parliamentary procedure used by municipalities in Alberta is Robert's Rules of Order. The current and proposed *Procedure Bylaw* uses Robert's Rules of Order as its foundation.
- Meetings must be held in compliance with legislation, mainly the *Municipal Government Act*. Many sections of the proposed bylaw address legislative requirements. One of the main purposes behind the proposed *Procedure Bylaw* is to ensure the County is compliant with the changes to the *Municipal Government Act* introduced by Bill 20.
- Procedure bylaws also ensure that decisions are made in a procedurally fair way. Procedural fairness, also known as natural justice, is a fundamental part of administrative law, which is the body of law governing how decisions are made by public and regulatory bodies. Ensuring procedural fairness better protects decisions from legal challenges on procedural grounds.

The current *Procedure Bylaw* was adopted by Council on June 14, 2022, which introduced several significant changes to how Council and committee meetings are conducted, including clarifying the rules governing motions, discussion and debate, and electronic participation in meetings.

While the *Procedure Bylaw* is a living document and has been amended on several occasions, it has not been fully reviewed since its adoption in 2022. In its review, Administration identified the need for several amendments to the bylaw to reflect changes to the *Municipal Government Act* introduced by Bill 20, as well as additional amendments based on best practices and general housekeeping.

As of the drafting of this report, Bill 20 has yet to be proclaimed into law. Administration does not have a timeframe for the proclamation of Bill 20, but the proposed bylaw has been drafted to be compliant with the changes to the *Municipal Government Act* introduced by Bill 20.

As of the drafting of this report, Bill 20 has been passed by the Legislative Assembly of Alberta and has received royal assent from the Lieutenant Governor of Alberta, but it has yet to come into full force and effect, which will occur when it receives proclamation in fall 2024. The majority of the proposed *Procedure Bylaw* would come into full force and effect on January 1, 2025, with the following exceptions which will come into full force and effect upon the proclamation of Bill 20:

- Abstentions Due to Conflicts of Interest
- Limitations on Public Hearings for Residential Development

The delayed effective date of the proposed bylaw would allow Administration to communicate changes to the public through the County's website and through public notifications and circulations for public hearings. The current *Procedure Bylaw* would remain in effect until January 1, 2025.

Adoption of an Updated Procedure Bylaw

ANALYSIS OF BILL 20 AMENDMENTS

In the spring of 2024, the provincial government introduced Bill 20 to make a number of changes to the *Municipal Government Act* and the *Local Authorities Election Act*. As a result, the following amendments are required to the *Procedure Bylaw* to ensure compliance with the *Municipal Government Act*:

- electronic participation in public hearings;
- abstentions due to conflicts of interest; and
- limitations on public hearings for residential development.

Electronic Participation in Public Hearings

Municipalities are now required to provide electronic participation options for public hearings. The proposed bylaw, therefore, has been amended to provide for public hearing presentations through Microsoft Teams on a by request basis as detailed in Attachment A of this report.

Electronic participation options for public hearings were originally permitted, but not required, under the *Municipal Government Act* due to office closures during the COVID-19 pandemic. The desire for electronic participation in public hearings has continued since the COVID-19 pandemic.

The current *Procedure Bylaw* provides the public with the option of submitting pre-recorded audio/video presentations for public hearings, which were implemented due to the closure of County Hall during the COVID-19 pandemic. However, this participation method does not meet the definition of electronic participation in the *Municipal Government Act*. Electronic participation is defined as:

“an electronic or telephonic communication method that enables all persons attending a meeting to hear and communicate with each other during the course of the meeting”

Abstentions Due to Conflicts of Interest

Councillors are now permitted under the *Municipal Government Act* to abstain from voting on matters due to conflicts of interest if a matter could affect the councillor, the councillor’s family, or the councillor’s employer or business interests in a non-financial capacity.

There are now three scenarios in which a councillor may abstain from voting on a matter under the *Municipal Government Act*, which are for a having a conflict of interest, having a pecuniary interest, or being absent from a public hearing.

The *Municipal Government Act* states that a conflict of interest is a private interest of a councillor, a councillor’s family, or a councillor’s employer or business interests. Unfortunately, the *Municipal Government Act* does not define private interest. Instead, it defines what a private interest is not, which is:

“an interest in a matter that is of general application, affects a councillor as one of a broad class of the public, concerns the remuneration and benefits of a councillor, or is trivial”

The process for declaring and abstaining due a conflict of interest under the *Municipal Government Act* is similar to that of a pecuniary interest: the councillor must declare their interest, abstain from the discussion and voting on the matter, and must leave the room. The proposed bylaw, therefore, has been amended to permit councillors to abstain from voting on matters due conflicts of interest using the process that is currently used for pecuniary interests as detailed in Attachment A of this report.

One important distinction between conflicts of interest and pecuniary interests is that contravening the pecuniary interest sections of the *Municipal Government Act* may result in the disqualification of a councillor whereas contravening the conflict of interest sections would not.

Adoption of an Updated Procedure Bylaw

Limitations on Public Hearings for Residential Development

Municipalities are now limited to holding a maximum of one public hearing for matters dealing with residential development. Holding more than one public hearing for a matter is desired from time to time due to there being significant amendments or new information that warrants an additional public hearing.

Based on legal advice received by Administration, the limit of one public hearing would apply to individual redesignation applications as well as the *Land Use Bylaw*, *Municipal Development Plan*, and other statutory plans that provide for residential development in some capacity.

The proposed bylaw, therefore, has been amended to stipulate that multiple public hearings may be held for matters except for matters dealing with residential development, in which case only one public hearing may be held, as detailed in Attachment A of this report.

ANALYSIS OF BEST PRACTICE AND HOUSEKEEPING AMENDMENTS

In addition to amending the *Procedure Bylaw* to ensure compliance with the *Municipal Government Act*, Administration is also proposing a number of best practice and housekeeping amendments to the bylaw. The full list of proposed amendments to the *Procedure Bylaw* is detailed in Attachment A of this report; however, some of the more significant amendments are highlighted in this section of the report.

Public Hearing Withdrawal Process

Administration is proposing to include a process in the *Procedure Bylaw* for applicants who wish to withdraw a public hearing after it has been advertised to the public, which would complement a fee for withdrawing public hearings that was added to the *Master Rates Bylaw* in 2024.

When requesting to withdraw a public hearing, applicants are required to pay a fee of \$550 (plus an additional \$65 for each lot over four lots) under the *Master Rates Bylaw*. Withdrawal requests may be approved by:

- Administration after the public has been notified but before the agenda is published; or
- Council after the public has been notified and after the agenda is published.

The *Master Rates Bylaw* withdrawal fee would not be required if there is a legislative or legal reason why the public hearing should be withdrawn, such as advertising errors.

Agenda Addendum Process

Administration is proposing to include an agenda addendum process in the *Procedure Bylaw* for distributing additional materials that were not included in an agenda package or corrected versions of materials that were included in an agenda package.

Additional and corrected materials are currently distributed to Council and the public individually on an ad hoc basis, but the agenda addendum process would distribute these same materials to Council and the public in a consolidated addendum package. Some frequently distributed materials include:

- emergent business items;
- revised or corrected staff reports, attachments, and bylaws; and
- public submissions that were missed in the agenda package.

For a typical Tuesday meeting, the agenda package would be distributed to Council on the Tuesday before the meeting and distributed to the public on the Wednesday before the meeting. The addendum package would then be distributed to both Council and the public on the Friday before the meeting.

Adoption of an Updated Procedure Bylaw

Most significantly, the agenda addendum process would affect the deadlines for public submissions:

- Currently, public submissions are required to be submitted prior to the agenda package for the meeting being published to the public. This does not provide the public with the opportunity to review the agenda package before providing a submission.
- With the agenda addendum process, the public would be provided the opportunity to review the agenda package on the Wednesday when it is published to the public before providing a submission on the Friday when the addendum package is published to Council and the public.
- Public submissions received after the addendum package is published to Council and the public would be considered late submissions and Council would need to pass a resolution to have them distributed during the meeting.

Municipal Election Blackout Period

Administration is proposing to include a municipal election blackout period in the *Procedure Bylaw* that would prohibit scheduling regular Council and all-of-Council committee meetings between nomination day and the inaugural meeting. The purpose of blackout periods, whether at the federal, provincial, or municipal level, are to reduce the potential advantages of running for office while still occupying that office.

An informal blackout period was implemented ahead of the 2021 municipal election but was not formalized in the *Procedure Bylaw*. If the proposed *Procedure Bylaw* is adopted, the proposed blackout period would be in effect for the 2025 municipal election starting on nomination day on September 22, 2025 and ending with the inaugural meeting to be scheduled for some time in October 2025.

When the blackout period is in effect, no regular meetings of Council or all-of-Council would be scheduled but special meetings would be permitted for essential business that cannot wait until after the municipal election. Council did not schedule or hold regular Council meetings during the 2021 municipal election blackout period, and no special Council meetings were required to be called.

Motions to Postpone and Motions to Receive for Information

Administration is proposing the following amendments to the motions provided in the *Procedure Bylaw*:

- Replacing tabling motions with motions to postpone to further align the proposed bylaw with the motions provided for in Robert's Rules of Order. Tabling motions, according to Robert's Rules of Order, are commonly misused and motions to postpone should be used instead.
- Providing guidance on motions to receive for information as they are one of the most commonly used types of motions, particularly during Governance Committee meetings. While motions to receive for information are not provided for in Robert's Rules of Order, Administration supports their continued use for matters that are purely for informational purposes.

Adoption of an Updated Procedure Bylaw

Motions out of Order and Points of Privilege

Administration is proposing the following amendments to points of privilege and out of order motions in the *Procedure Bylaw*:

- Permitting motions to be ruled out of order if they would infringe on the role of the Chief Administrative Officer. This is in keeping with section 201(2) of the *Municipal Government Act* which states:

“A council must not exercise a power or function or perform a duty that is by this or another enactment or bylaw specifically assigned to the chief administrative officer or a designated officer”

- Permitting councillors to call points of privilege for inappropriate behaviour or the improper treatment of others during a meeting. This is in keeping with Robert’s Rules of Order which states:

“Questions of the privileges of the assembly may relate... to the comfort of its members with respect to heating, ventilation, lighting, and noise or other disturbance; to the conduct of its officers and employees, or of visitors”

COMMUNICATIONS / ENGAGEMENT

Should the proposed *Procedure Bylaw* be adopted by Council, Administration would communicate the changes to the public through the County’s website and through notifications and circulations for public hearings, particularly the new electronic participation options for public hearings and revised public submission deadlines associated with the agenda addendum process.

IMPLICATIONS

Financial

Administration does not foresee significant financial implications with the adoption of the proposed *Procedure Bylaw*; however, there will be significant resources required to support electronic participation in public hearings through Microsoft Teams, which is now required due to changes to the *Municipal Government Act* introduced by Bill 20.

Legislative and Legal

Several of the changes to the *Municipal Government Act* introduced by Bill 20 are new to municipalities in Alberta and will require some time to fully grasp from a legislative and legal perspective, such as allowing councillors to declare conflicts of interests and limiting the number of public hearings that can be held for matters concerning residential development.

Most of the proposed amendments to the *Procedure Bylaw* are relatively minor and did not necessitate a full legal review of the proposed bylaw; however, Administration sought legal advice on specific matters related to the changes to the *Municipal Government Act* introduced by Bill 20 and is prepared to provide advice to Council and the public on those matters.

Adoption of an Updated Procedure Bylaw

STRATEGIC ALIGNMENT

Key Performance Indicators		Strategic Alignment
Effective Service Delivery	SD3: Citizens are satisfied with Public Engagement opportunities and availability of information	SD3.1: Citizens satisfied with the information provided by the County (newspaper, website, social media)
Effective Service Delivery	SD3: Citizens are satisfied with Public Engagement opportunities and availability of information	SD3.2: Citizens satisfied with the public engagement opportunities provided by the County
		<p>Along with the <i>Public Notification Bylaw</i>, the <i>Procedure Bylaw</i> provides for notice of public hearings through the newspaper, website, social media, and direct mail to residents</p> <p>The <i>Procedure Bylaw</i> provides for public engagement opportunities through public hearings, and the proposed amendments to the bylaw would provide for electronic participation in public hearings</p>

ALTERNATE DIRECTION

Administration does not have an alternate direction for Council's consideration. However, should Council have significant amendments to the proposed *Procedure Bylaw*, Administration recommends the following motions to refer the proposed bylaw to the November 26, 2024 Council meeting to allow Council to submit its proposed amendments by email:

THAT further consideration of *Procedure Bylaw C-8555-2024* and any proposed amendments be referred to the November 26, 2024 Council meeting.

THAT proposed amendments to *Procedure Bylaw C-8555-2024* be submitted to Administration by email no later than 4:30 p.m. on Friday, November 1, 2024.

ATTACHMENTS

Attachment A: List of Significant Changes to the *Procedure Bylaw*

Attachment B: Proposed *Procedure Bylaw C-8555-2024*

Attachment C: Current *Procedure Bylaw C-8277-2024*

APPROVALS

Manager:	N/A
Executive Director/Director:	Gina van den Burg
Chief Administrative Officer:	Byron Riemann