



## **LEGISLATIVE AND INTERGOVERNMENTAL SERVICES**

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**TO:** Council  
**DATE:** March 22, 2022  
**FILE:** N/A  
**SUBJECT:** *Procedure Bylaw C-8277-2022*

**DIVISION:** All  
**APPLICATION:** N/A

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### **POLICY DIRECTION:**

Section 145 of the *Municipal Government Act* allows Council to pass bylaws governing the procedures to be followed by Council, committees, and other bodies established by Council.

Section 230 of the *Municipal Government Act* allows Council to pass bylaws establishing procedures for public hearings.

### **EXECUTIVE SUMMARY:**

Administration has prepared *Procedure Bylaw C-8277-2022* for Council's consideration. The proposed bylaw would replace *Procedure Bylaw C-7907-2019*, which was passed on July 23, 2019 and has been amended a number of times since.

*Procedure Bylaw C-8277-2022* would ensure that the Rocky View County's *Procedure Bylaw* reflects the current procedures of Council and Rocky View County's various boards and committees, as well as the internal procedures of Administration when coordinating meetings.

Minor changes have been made to the wording throughout the proposed bylaw to improve its readability for Council, Administration, board and committee members, and the public. These changes are stylistic and do not affect the substance of the bylaw.

Some significant changes have been made in the proposed bylaw to address recurring questions and concerns during meetings, as well as to address new matters that have arisen since the adoption of the current bylaw in 2019. These changes are detailed in Attachment 'A' of this report.

Should Council wish to make amendments to the proposed bylaw, Administration recommends that consideration of the bylaw be tabled to allow councillors to submit amendments in advance and to allow Administration to prepare and review the amendments for the April 26, 2022 Council meeting.

It should be noted that Council is also considering the creation of a Public Presentation Committee (PPC) at the March 22, 2022 Council meeting. Should Council approve the PPC terms of reference, amendments would be required to sections 111 through 115 of the proposed bylaw. Administration is prepared with the required amendments if necessary.

### **ADMINISTRATION RECOMMENDATION:**

Administration recommends approval in accordance with Option #1. However, should Council have many or major amendments to the proposed bylaw, Administration recommends tabling in accordance with Option #2.

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### **Administration Resources**

Tyler Andreasen, Legislative and Intergovernmental Services



## 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 using parliamentary procedure, which governs items like motions, debate on motions, and points of order. The most common guide to parliamentary procedure used by municipalities in Alberta is Robert's Rules of Order. The County's current and proposed bylaw use Robert's Rules of Order as their foundation, particularly the sections governing debate and motions.
- Meetings must be held in compliance with legislation, mainly the *Municipal Government Act*. Many sections of the proposed bylaw address legislative requirements, such as public hearings being held prior to second reading of a bylaw or bylaws requiring unanimous permission for third reading if all three readings are to be considered at the same meeting.
- 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. The sections of the proposed bylaw governing public hearings, for example, are drafted to ensure that they are held in a procedurally fair way.

Procedural fairness should be ensured when councils and appeal boards, for example, make decisions that affect people's rights and interests. It should also be ensured to better protect the decisions made by Rocky View County from legal challenges on procedural grounds. Procedural fairness includes items like the opportunity to be heard, having an unbiased decision-maker, and providing proper notice of a hearing to those affected by it.

- Procedure bylaws also address the administrative processes behind items like scheduling meetings, preparing meeting agendas and minutes, and the powers and responsibilities of chairs and vice chairs.

Administration reviewed procedure bylaws from eight different municipalities when preparing the proposed bylaw, including Strathcona County, the Regional Municipality of Wood Buffalo, and the City of Calgary. Overall, the proposed bylaw is aligned with the best practises of other municipalities both in terms of the structure and content of the bylaw.

## DISCUSSION:

Although Administration is recommending a number of significant changes in *Procedure Bylaw C-8277-2022* (which are outlined in Attachment 'A'), the remainder of this report will focus on the County's current first reading and public hearing process. This was a major discussion item at the *Procedure Bylaw* workshop held with Council, and it was also a major discussion item at internal meetings held by Administration when reviewing the bylaw.

### Three Readings of a Bylaw and Unanimous Permission for Third Reading

Under section 187(1) of the *Municipal Government Act*, the passage of a bylaw requires three separate readings. The three readings may be given at the same meeting or all at different meetings, but unanimous permission by all councillors is required to give all three readings at the same meeting. If unanimous permission is not granted, consideration of third reading of the bylaw is postponed to the next available meeting.

- In 2017, unanimous permission was withheld 12 out of 86 possible times (~14%).
- In 2018, unanimous permission was withheld 3 out of 63 possible times (~5%).



Because of the unanimous permission requirement in section 187(4) of the *Municipal Government Act*, only one councillor is needed to postpone consideration of third reading of a bylaw. It is one of the few tools that an individual councillor can use without requiring support from other councillors for a motion. Most motions require a majority of councillors to pass.

#### No Amendments or Debate at First Reading of a Bylaw

The three reading process is based on the legislative process of the former British Empire and the Westminster parliamentary system inherited by its former colonies like Canada. The County's current process is to give first reading to a bylaw, without amendment or debate, before the public hearing. Second and third readings of the bylaw are considered after the public hearing.

First reading is also given without amendment or debate in the UK House of Commons, the UK House of Lords, the Canadian House of Commons, and the Canadian Senate, as well as in the Legislative Assembly of Alberta. The purpose of first reading at the federal and provincial levels is to introduce legislation to members and the public, with debate happening at second reading and amendments generally happening after second reading.

Section 230(5) of the *Municipal Government Act* states that when a bylaw requires a public hearing, the bylaw cannot be passed, amended, or defeated until after the public hearing. If a bylaw cannot be passed, amended, or defeated before the public hearing, it is not clear what would be debated at first reading when it is considered before the public hearing. These are effectively the only three decisions that can be made on a bylaw, but they cannot be made at first reading under the current process.

Considering first reading before a public hearing, therefore, has no clear purpose at the municipal level other than introducing a bylaw like at the federal and provincial levels. Under the County's current process, giving first reading to a bylaw should not be seen as signaling support for the bylaw or as providing assurances to applicants, as a bylaw that requires a public hearing should have its public hearing under the *Municipal Government Act*. It should not be defeated before the public hearing.

Administration reviewed eight procedure bylaws when preparing *Procedure Bylaw C-8277-2022*. Six of the municipalities hold their public hearings after first reading of the bylaw, and none of the six allow for debate or amendment at first reading. Some municipalities allow for questions at first reading, so long as the questions do not advance an argument or reveal a councillor's opinions on the bylaw. The other two municipalities consider all three readings of the bylaw after the public hearing.

#### First Reading and When to Hold Public Hearings

Section 230(1) of the *Municipal Government Act* requires that public hearings be held before second reading of a bylaw. There are effectively only two options to consider when scheduling readings of a bylaw around a public hearing, both of which have been used by the County:

- 1) First reading is given before the public hearing, and second and third readings are considered after the public hearing. This is the first reading process in the current *Procedure Bylaw* and the proposed *Procedure Bylaw* would provide for the same process.

##### *Advantages:*

- Because bylaws are given first reading well in advance of the public hearing, a copy of the bylaw is available to the public well in advance of the public hearing.
- Because first reading is given before the public hearing, second and third readings of the bylaw are considered without the need for unanimous permission.



*Disadvantages:*

- All bylaws requiring a public hearing need at least two reports, one for first reading and one for the public hearing and second and third readings. First reading reports do not have policy analyses or technical considerations, so there is little additional information in the report that is not already in the bylaw.
  - Because bylaws are given first reading well in advance of the public hearing, bylaws often need to be amended before and after the public hearing, which creates the need for redline amendments that are time consuming to prepare and often difficult to read.
  - First reading is considered without amendment or debate, which makes the purpose of first reading unclear. It also leads to the impression that giving first reading signifies support for a bylaw or provides assurances to an applicant, which it does not. It is simply a procedural step required to advance a bylaw to a public hearing.
- 2) The public hearing is held before any readings of the bylaw, and all three readings are considered after the public hearing, subject to unanimous permission to consider third reading. This was the process in the previous *Procedure Bylaw*, which was in effect from 2013 to 2019.

*Advantages:*

- Because all readings of a bylaw would be considered after the public hearing, there would be no special considerations when giving a bylaw first reading, whether legislative or with public perception.
- Because unanimous permission for third reading is granted more often than not, fewer reports would be needed, as only some bylaws would need a third reading report (14% in 2017; 5% in 2018) instead of every bylaw needing a first reading report.
- If unanimous permission for third reading is not granted, third reading can be considered with amendments and debate, whereas first reading is considered without amendments or debate.
- Withholding unanimous permission for third reading is one of the few tools that an individual or a minority of councillors can use without needing a majority of support for a motion. Considering first reading before the public hearing effectively removes this tool from individual or a minority of councillors.

*Disadvantages:*

- Sometimes withholding unanimous permission for third reading is used to obstruct and unnecessarily delay the passage of a bylaw. Only one councillor is required to withhold unanimous permission, whereas a tabling motion, for example, requires a majority of councillors in support.
- Because bylaws are not given first reading in advance of the public hearing, a copy of the bylaw is available to the public for a shorter period of time.

It is worth noting that Council is not obligated to consider readings of a bylaw immediately following a public hearing under either process. After a bylaw receives first reading, Council has up to two years to provide the bylaw with third reading before it is automatically rescinded through section 188 of the *Municipal Government Act*.



**CONCLUSION:**

Administration prepared *Procedure Bylaw C-8277-2022* in accordance with the best practices of municipalities around the province. The proposed bylaw would ensure that the County continues to hold meetings that are compliant with legislation, parliamentary procedures, and procedural fairness.

The stylistic changes throughout the proposed bylaw have, in Administration's opinion, improved its readability, making it an easier document to understand and apply. The significant changes in the proposed bylaw (outlined in Attachment 'A') would, in Administration's opinion, address many of the recurring questions and concerns that arise during meetings.

**BUDGET IMPLICATIONS:**

There are no budget implications with the adoption of *Procedure Bylaw C-8277-2022*.

**COMMUNICATIONS PLAN:**

If passed by Council, *Procedure Bylaw C-8277-2022* would come into force on May 3, 2022. Administration would use that time to communicate any significant changes to the public.

**STRATEGIC OBJECTIVES:**

There are no strategic considerations with the adoption of *Procedure Bylaw C-8277-2022*.

**OPTIONS:**

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| Option #1: | Motion 1: | THAT Bylaw C-8277-2022 be given first reading.   |
|            | Motion 2: | THAT Bylaw C-8277-2022 be given second reading.  |
|            | Motion 3: | THAT Bylaw C-8277-2022 be considered for third reading.  |
|            | Motion 4: | THAT Bylaw C-8277-2022 be given third and final reading.   |
| Option #2: | Motion 1: | THAT proposed amendments to <i>Procedure Bylaw C-8277-2022</i> be submitted to Administration by email no later than 4:30 PM on Friday, April 8, 2022. |
|            | Motion 2: | THAT further consideration of <i>Procedure Bylaw C-8277-2022</i> and any proposed amendments be tabled until the April 26, 2022 Council meeting.       |
| Option #3: |           | THAT alternative direction be provided.  |



Respectfully submitted,

Concurrence,

"Amy Zaluski"

"Byron Riemann"

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Director,  
Legislative and Intergovernmental Services

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Acting Chief Administrative Officer

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**ATTACHMENTS:**

ATTACHMENT 'A': List of Significant Changes with *Procedure Bylaw C-8277-2022*

ATTACHMENT 'B': Proposed *Procedure Bylaw C-8277-2022*

ATTACHMENT 'C': Consolidated *Procedure Bylaw C-7907-2019*