



REPORT

To: Chair and Directors

Report Number: ADM-BRD-312

From: Tyra Henderson, Corporate Officer

Date: July 14, 2022

Subject: Board Procedure Bylaw No. 2490, 2022

RECOMMENDATION #1: [Corporate Unweighted]

That the Regional Board give Board Procedure Bylaw No. 2490, 2022, which establishes procedures for Board, Committee, and Commission Meetings in alignment with the *Local Government Act*, first three readings.

RECOMMENDATION #2: [Corporate Unweighted – 2/3 Majority]

That the Regional Board adopt Board Procedure Bylaw No. 2490, 2022.

BACKGROUND/RATIONALE:

The Board Procedure Bylaw is in place to provide structure and predictability to Board meetings for the benefit of staff, elected officials, and the public, and must, at minimum, include the mandatory content identified in the *Local Government Act* S.225. The existing Board Procedure Bylaw dates back to 2015 and has been amended four times since its adoption. Additional changes have been requested by the Board, and additional updates are necessary to maintain compliance with the *Local Government Act* (LGA). Key changes in the new bylaw proposed for the Board's consideration are as follows:

Electronic Attendance at Meetings:

Recently, (June 2, 2022) based on feedback from local governments, the Province added language into the *Local Government Act* and *Community Charter* that gives local governments the ability to authorize electronic participation as a regular and routine way of doing business, if provisions for such participation are included in the local government's Procedure Bylaw and the electronic meeting is conducted in a manner that will enable the meeting participants AND the public, to hear, or watch and hear, the meeting. Regional Board and Electoral Area Directors Committee/Rural Budgets Administration Committee meetings are livestreamed via the PRRD Facebook account, with the video recordings also posted to the web page post meeting for anyone who missed the livestream. These new abilities also extend to electronic meetings of 'other bodies' such as committees or commissions, again, if permitted under the rules governing the procedures of the body (committee) and the electronic meeting is conducted in a manner that will enable the meeting participants AND the public, to hear, or watch and hear, the meeting. Should a committee meeting that is not livestreamed be held 100% electronically, the dial in-information would need to be made publicly available to allow members of the public to listen to the meeting. Most often, a hybrid meeting is held, with some participants and staff in the Board Room, and others participating electronically. This gives members of the public the option to attend the meeting location and listen to the meeting, which meets the legislative requirement.

On [April 11, 2019](#), the Regional Board discussed expansion of electronic participation, to allow for time sensitive decisions to be made and later ratified, in lieu of calling a special meeting. Special meeting notices must be given according to specific procedures in the bylaw and legislation.

As a result of that discussion, the following resolutions were made:

Special (Electronic) Voting & Electronic Participation in Meetings

That the Regional Board provide direction to staff regarding whether or not they would like authority for special (electronic) voting included in the Board Procedure Bylaw; further, that said direction be not to include authority for special (electronic) voting in the Board Procedure Bylaw.

That the Regional Board provide direction to staff to amend Section 15 of PRRD Board Procedure Bylaw 2200, 2015 to allow for electronic participation in meetings by Directors unable to attend a meeting for any reason, for Special Meetings only.

An amendment to the procedure bylaw to implement the direction was approved by the Board on [December 13, 2019](#) as per the following resolution:

Board Procedure Bylaw Amendment No. 2395, 2019

That the Regional Board give first three readings to Board Procedure Bylaw Amendment No. 2395, 2019, which provides flexibility around scheduling and hearing delegations, provides for electronic participation in Special Meetings for any reason, and prohibits delegations of a commercial nature and delegations regarding land use decisions that may be the subject of a public hearing.

The ability to attend meetings electronically was then added back into the bylaw in response to COVID as per the following resolutions from the [March 19, 2020](#) Special Board Meeting:

Board Procedure Amendment Bylaw No. 2408, 2020

That the Regional Board give "Board Procedure Amendment Bylaw No. 2408, 2020", to allow an unlimited number of Directors to participate electronically in all regular and special meetings of the Board and its committees / commissions, for any reason, for the duration of the COVID-19 pandemic, first three readings.

That "Board Procedure Amendment Bylaw No. 2408, 2020" be amended to encourage the Board Chair or Vice-Chair to physically be in attendance, if at all possible, to provide for effective governance of Board business.

Following the expiry of the Provincial State of Emergency re: COVID in 2021, the ability to attend electronically for any reason was again removed from the Procedure Bylaw and the bylaw reverted back to electronic participation on the 'account of illness or inclement weather only' as per the following resolution from the [October 7, 2021](#) Board meeting:

Board Procedure Bylaw Amendment No. 2461, 2021

That the Regional Board give Peace River Regional District Board Procedure Bylaw Amendment No. 2461, 2021, to remove the unrestricted ability to attend meetings electronically, first three readings.

However, the Regional Board also added a new section to its Strategic Plan on [May 27, 2021](#) titled “New and Emerging Issues” with the sub-section of “Embracing ‘new normal’ opportunities” as per the following resolution:

2019-2022 Strategic Plan

That the Regional Board adopt the 2019-2022 Strategic Plan as amended to add a section titled “New and Emerging Issues” that includes the following items:

1. COVID-19 Response and Recovery Plan – regular updating of the plan is required to address changes in public health orders and resulting impacts on operations and restoration of services. During this period, it was expressed **that the organization needs to be flexible and nimble** and focus on immediate needs vs discretionary requests
2. Gap in public engagement – develop strategies to address current challenges with in-person engagement and communication with constituents resulting from COVID-19.
3. **Embracing future opportunities – consider strategies/policies associated with alternative work arrangements, engagement practices, and other adaptive measures resulting from COVID-19.**
4. New Financial Contribution Services – establish new services that will provide dedicated funding for programs that have been impacted by elimination of grant in aid. Includes drafting and consideration of service establishment bylaws and determining elector approval processes.
5. Sub-regional governance – investigate options for a sub-regional governance structure to enhance the effectiveness of sub-regional services and governance.

In June of 2021, the *Local Government Act* was amended to permit electronic meetings and participation by members, not due to Covid, but as a normal way of doing business. Regional Board members have routinely attended meetings electronically since the bylaw was changed back on October 7, 2021, to its pre-Covid status, permitting electronic attendance only “on account of illness or inclement weather”. This may be partly attributable to the new normal public expectation that people not attend public events when they are even mildly ill, due to heightened sensitivity and awareness of the potential spread of communicable disease following Covid, however, no “sick note” is requested when a Board member chooses to attend a meeting electronically. Removing the short list of acceptable justifications for electronic attendance, and leaving the decision to attend electronically up to each Board member, including the Chair, on a meeting by meeting basis, appears to be the ‘new normal’ for the Peace River Regional Board and the attached bylaw reflects that.

Notice of Meetings

The *Local Government Act (LGA)* was amended in February 2022 to change the requirements for giving notice of Special Meetings. Previously, the LGA required that the corporate officer call a special meeting by providing Directors five (5) days’ notice of a special meeting, while the new language is patterned after the provisions of the *Community Charter* that has been applicable to municipalities for years, requiring twenty four (24) hours’ notice be given. In previous versions of the Board Procedure Bylaw, the pertinent sections of the legislation were included in the bylaw, which would mean that when the legislation changed, the bylaw was no longer in step with legislation. In October of 2021, the section of the Board Procedure Bylaw outlining requirements for special meetings was amended to simply state that notice must be given in accordance with the *Act*. Therefore, changes to the act in February 2022 automatically apply to the Peace River Regional District and the Board Procedure Bylaw is not contrary to provincial legislation and no amendment is required. It is noted here for the Board’s information as it is a change to a previous procedure.

Time Limit for Delegations:

In response to a number of situations when the Board resolved to extend the maximum time limit for a delegation/presentation, on November 12, 2020, the Regional Board passed the following resolution to eliminate the need for a resolution to extend a time limit and instead make it known in advance that 20 minutes would be afforded to a delegation:

"MOVED, SECONDED, AND CARRIED,

That Board Procedure Bylaw No. 2200, 2015 be amended to extend the maximum time for the appearance of a delegation before the Board from 15 to 20 minutes."

The Board has on several occasions, used the authority provided to them under the Procedure Bylaw, to authorize more than the maximum of three delegations specified in the bylaw. This maximum is not changed; however, the increase in time limit from 15 minutes to 20 minutes may impact the Board's willingness to accommodate additional delegations to any particular Board meeting.

Additionally, the bylaw specifies that delegations that appear at the request of the Board are not subject to the 15 minute time limit and in those instances, the length of time a delegation is permitted to occupy the day's events is not constrained by bylaw.

New Business:

Somewhat frequently, at both the committee and Board meeting level, Directors request to add new business to a meeting agenda, absent background information being included in an agenda package provided in advance to the public and meeting participants. The Procedure Bylaw states that new business items will only be permitted if the item is 'time sensitive' in some way, and provides that the Board shall indicate its acceptance of the new business item by adopting the agenda, including the new business item(s).

On July 22, 2021, the Regional Board passed the following resolution:

MOVED/SECONDED, AND CARRIED,

That the Regional Board authorize the preparation of a report that reviews and provides alternative options on how the Board considers and accepts "New Business" items to inform potential amendments to the Board Procedure Bylaw.

Staff understand the concerns to be as follows:

1. Board members are asked to make decisions on issues they have little or no background information about.
2. There is inconsistent application of acceptance of new business items amongst the various committees; on paper, the decision to accept a new business item is made by the Board as a whole, by resolution, however, in practice, new business is routinely accepted by the Chair, with no time sensitivity requirement imposed, and the Board/Committee is then asked to adopt an agenda inclusive of the new business items(s). Under the previous bylaw, the Board does have the option of adopting the agenda as originally presented, thereby rejecting the addition of new business items and requiring that the flow of the meeting stick to the published agenda, however, in practice this ability is rarely exercised.
3. The time sensitivity requirement should either be followed, or removed from the bylaw.

Staff recommend that at minimum, the current language imposing limits on new business items remains in the bylaw, and further recommend stricter procedures than currently exist be included in the bylaw to ensure that new business items are only added when absolutely necessary. Most local governments' procedure bylaws include procedures that limit when and how new business items may be added. The agenda is published in advance to allow meeting participants to familiarize themselves with the issues that are going to be discussed, and to seek additional information or clarification from staff if necessary, new business items should not be added as a 'surprise' to fellow meeting participants. The advance notice of the agenda is also key to transparency to the public. In extreme circumstances, new business items are introduced dependent on who may or may not be in attendance, for example. Additionally, the public should be able to trust that an agenda has been published, and that they have reviewed the agenda and chosen whether or not to attend, based on the planned topics of discussion, will not be changed at the outset of the meeting, unless the additional item is of extreme importance and/or time sensitive.

There are a few options available to deal with the addition and acceptance of new business:

1. Discontinue the practice of adopting the agenda at the outset of the meeting. This is done as a courtesy to the meeting participants, and is meant to confirm the agenda for the day's business, and therefore limit the discussion to the items included on the agenda. If the Board did not adopt an agreed upon agenda at the outset of the meeting, there would be greater flexibility to add new business items. In this scenario, a standing category "New Business" would be added to the end of all meeting agendas, and when that portion of the agenda was reached, any Director wishing to provide an update on an event, or propose a motion on any topic, would have the opportunity to introduce their new business item.
2. Include additional procedural limitations to require a motion adopted by a 2/3 majority, to accept the new business item, prior to discussion of the item. This places the responsibility to accept the item, whether time sensitive or not, on those present in the meeting, and allows acceptance of any item on a case by case basis. On a day when the agenda was very full and the meeting was quite long, Directors may choose not to approve some or any new business items to avoid extending the meeting duration.
3. Include the procedural limitations noted in 2. above, and in addition, retain the requirement that ANY New Business item be time sensitive and require that a Director wishing to add a new business item be required to introduce their New Business item and clearly identify the item, not only by topic but by desired outcome, and explain the time sensitivity, and ask the Board to accept the item of new business. Following the item introduction and explanation, the Board would then be required to resolve to accept the New Business, and it could be added to the agenda for discussion if the motion passed. If not satisfied as to the urgency, the Board would not need to make any resolution and the proposed new business would be deemed denied. The Director could then propose a Notice of Motion at the end of the meeting, to place the item on the next meeting agenda, or could submit a Director's Report prior to the next meeting agenda deadline, in order to have their item placed on a Board meeting agenda.
4. Retain the current language, which dictates time sensitivity as a pre-requisite, and requires that the meeting participants accept the new business at the outset of the meeting, when the agenda is adopted.

The language in the proposed bylaw changes the procedure for accepting new business items, and makes it stricter, as outlined in option 3 above.

Public Comment Opportunities – Land Use Applications

On March 26, 2020, the Regional Board passed the following resolution:

MOVED/SECONDED, AND CARRIED,

That the Regional Board be provided with a report outlining options for amendments to Board Procedure Bylaw No. 2200, 2015 that would enhance opportunities for the public to comment on land use applications that may be the subject of a Public Hearing, including the holding of Public Hearings at PRRD Board meetings.

Staff understand the concerns to be as follows:

1. Board members want to hear from residents regarding issues that affect them.
2. Not all Board members attend public hearings held separately from Board meetings.

Handling of land use application public hearings is highly regulated by the *Local Government Act*, and staff are keenly aware of the reality that “the easiest way to overturn a zoning bylaw is to attack the process, not the bylaw” and are therefore very careful to observe legislated requirements. The Regional Board, when considering land use applications, has the ultimate and final say absent an appeal to the courts, and while decisions may not need to be ‘explained or justified’, they do need to be made in a procedurally fair manner. To ensure that any options presented to the Board would not attract liability, staff consulted legal counsel, seeking advice regarding preservation of procedural fairness for consideration of land use applications. To illustrate what is meant by “procedural fairness”, imagine that it was expected that there would be multiple comments provided by members of the public in attendance at the meeting during the gallery comments portion of the board meeting. The Gallery Comments section does not provide any procedure to ensure that an equal number of comments are heard from those in favor of the proposal, and those against. Staff could propose, that in order to preserve procedural fairness and minimize the opportunity for any part of the bylaw consideration and approval process to be challenged and used to overturn the bylaw, that those wishing to speak be asked to line up ‘on the right’ if in favor, and ‘on the left’ if opposed, to allow alternating points of view to be heard, and avoid all ‘opposed’ opinions to be heard consecutively, until the 15 minute Gallery Comment time period maximum was reached and no time was remaining for anyone ‘in favor’ to be heard (or vice versa). This would be a fair approach, however, if the time limit was exceeded, there would still be persons who were not afforded the opportunity to share their views. Similarly, with a maximum limit of three delegations, if someone wanted to attend a meeting as a delegation to speak for or against a proposal, and the meeting agenda was already full, it would be perceived as unfair to anyone denied delegation status on that basis. Legal counsel recommends that comments regarding land use applications NOT be accepted during gallery comments, nor from delegations, and instead, that all public comment regarding land use applications be directed to the formal Public Hearing, which is not subject to time limits or number of speakers.

On [December 13, 2019](#), the Regional Board approved an amendment to the Board Procedure Bylaw which included new provisions to prohibit gallery comments or delegations regarding land use decisions for which a public hearing has been, or may in future, be held.

Subsequently, as per the resolution included above, the Board requested options for enhanced opportunities for public comment... including the holding of Public Hearings at PRRD Board Meetings.

Staff continue to recommend that public comments be directed to a public hearing. Deferring gallery comments or delegations on any land use decisions that could be subject to a public hearing will allow the Board to fulfill their responsibility to consider each application on its merit, review the facts of the proposal against the planning policies and guidelines that are in place via the Official Community Plan, and Zoning Bylaws, and determine whether or not they wish to entertain the proposal by giving it first two readings and advancing it to a public hearing to hear feedback from the public regarding the proposed change. Directing all comments to a single public hearing venue also ensures that anyone from the public who has concerns, has the opportunity to hear “the other side” and to ask questions of the Board, the proponent, and even other members of the public. Public hearing procedures are specified in the *Local Government Act* and it is a requirement of a public hearing that “all persons who believe that their interest in property is affected by the proposed bylaw must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the hearing”. No such guarantee can be made for a Board meeting where gallery comments are time limited and delegations are capped at three and also subject to time limits.

Holding of Public Hearings during Board Meetings is another option the Board asked be considered. Historically, the Regional Board has delegated the holding of Public Hearings to the Electoral Area Director in whose area the property that is the subject of the proposed bylaw is located, and public hearings have been held in a facility nearest to the subject property, and during the evening. It is staff’s understanding that this practice is followed to encourage members of the public to be able to easily attend when a change is proposed in their neighborhood or community, and for the Electoral Area Director to hear from their constituents and affected residents. Under current provisions of the Local Government Act, Public Hearings may be held electronically, so the location in close proximity to the subject property may no longer be an issue; residents interested in attending, whether they live 10 minutes or five hours away, can take advantage of the ability to attend electronically, and save the time (and gas money) required to drive to a public hearing.

In the past five years’ the only public hearings held in conjunction with Board Meetings have been for changes that have a regional impact, such as the when Cannabis was legalized and zoning bylaws were amended to address the new reality. As all member municipalities participate in planning, all Directors vote on planning decisions, such as zoning amendments. If Public Hearings were held in conjunction with Board meetings, all Directors who were voting would hear ‘first hand’ the submissions made by members of the public regarding the proposed changes. The *Local Government Act* s. 470 (2) requires that prior to voting on a zoning bylaw, all members of the Board who are eligible to vote, who were not in attendance at a public hearing may vote on adoption of the bylaw if an oral or written report of the hearing is given by either an officer or employee of the local government, or the Chair of the hearing. In addition, it is required under LGA s. 465(6) that a written report of each public hearing, containing a summary of the nature of the representations respecting the bylaw that were made at the hearing be prepared and maintained as a public record. It is customary to attach this written report to the staff report to the Regional Board, when a bylaw is brought back to the Board for consideration of third reading and adoption, after a public hearing has been held.

In summary, based on legal advice regarding public comments being funneled to a public hearing, no changes are proposed to this portion of the Procedure Bylaw.

Staff note for the Board’s information that as the Procedure Bylaw is silent on the delegation of public hearings, or hearings being held in conjunction with Board meetings, both options are currently available to the Regional Board under the authority of the *Local Government Act*, **Division 3 – Public Hearings on**

Planning and Land Use Bylaws . At the time of consideration of each application, the Board may choose the familiar recommendation that includes “and further, that the public hearing be delegated to Electoral Area Director XX”, or could instead resolve to schedule a public hearing in conjunction with a future Board meeting on a case by case basis. Depending on the next scheduled meeting Board meeting date, and public notification requirements, it is not probable that a public hearing could be held two weeks later; currently public hearings delegated to Electoral Area Directors are scheduled in consultation with the Director who will chair the meeting and then advertised according to the LGA.

Communications Update

On March 10, 2022, the Regional Board passed the following resolution:

MOVED, SECONDED, AND CARRIED,

That the Regional Board authorize that a “Communication Update” be added to the Regional Board regular meeting agenda template.

‘Communications Update’ has been added as a standing item to the Order of Business section of the bylaw.

Miscellaneous

Other administrative changes made to the bylaw:

1. The option to vote electronically, or verbally, in addition to a show of hands (which is the only currently authorized method of voting), was added to the bylaw in recognition that meeting participants participating electronically by phone are unable to raise their hand and are asked to indicate verbally their vote either in favour or opposed, and in preparation for the transition to electronic voting via eSCRIBE in January, 2023.
2. Removal of the requirement to record votes for the election of Chair and Vice Chair on ballot papers prepared and distributed for that purpose by the Chief Administrative Officer or designate. This was done so that Directors who are participating electronically, and unable to physically mark a paper ballot handed out by staff, can vote by alternate means such as an email vote to the Corporate Officer. The Corporate Officer would then mark a ballot on behalf of the Director attending virtually and insert the ballot into the ballot box, along with the others, to preserve the secrecy of the ballot.
3. Removal of the requirement that a Director request their vote be recorded, in anticipation of the transition to electronic voting via eSCRIBE voting in January 2023, as the software captures the vote from each meeting participant and stores it ‘in the background’ of each meeting’s records. Recording votes is also necessary to ensure that a request for a reconsideration of an item is initiated by a meeting participant who voted in agreement with the prevailing vote.
4. Removal of specific references to specific Robert’s Rules of Order guidelines have been removed from the bylaw. Instead, the bylaw will simply refer all matters of procedure not provided for in the Bylaw to be governed by the rules in the latest edition of the Robert’s Rules of Order. Including specific rules from a prior edition of Robert’s Rules negates that statement, and creates confusion as to which rules are applicable. Removing specific references ensures that the bylaw is ‘in step’ with current Roberts Rules, and also removes the suggestion that the rules

in the bylaw are the Board's rules, when they are in fact an adoption of an outside reference or best practice.

5. Removal of sections of the *Local Government Act*, being restated in the bylaw. This practice could suggest that the rule in the bylaw is the 'property' of the Regional Board. Re-stating rules that appear in the *Local Government Act* merely creates the opportunity for conflict between the Act and the Bylaw, and of course if the Act changes (which it has done several times in the past two years) the Bylaw is overruled in any event, as Provincial legislation 'trumps' local government bylaws in an event that they were discordant. The Regional Board must adhere to provincial legislation whether the provisions are repeated in the Procedure Bylaw or not.
6. The cancellation of meetings section was amended to specify that the notice of a meeting cancellation be posted not only 'in a place accessible to the public at the location for the Regular Meeting' (ie: the front door, in case a resident arrives to find the door locked, unaware that he meeting location or date had been changed) but also on the PRRD web page, the Notice Boards, and by any other means the Corporate Officer considers appropriate.
7. Gender neutral language substitutions for gender specific language wherever possible.
8. Removal of the requirement for 'one clear day' between third reading and adoption of the Annual Financial Plan Bylaw. Similar to the order of reports procedure being deleted, with an intent to continue the practice where reasonable and efficient, staff propose removal of this additional restriction from the bylaw in order to minimize the requirement for a special meeting should there be a late change to a budget requested by the Board. In the last three years, with budget adoption scheduled for the second meeting in March, there has been information provided to the Board that should they wish to change a budget at a late stage in the budget approval process, a special meeting would be required in order to meet the statutory deadline for budget adoption by March 31st. As an established practice, staff will anticipate three readings at one meeting and adoption at a subsequent meeting; removal of this restriction in the bylaw will provide flexibility in the event of an unanticipated change. The LGA allows Regional Districts to adopt bylaws at the same time as third reading is done, so long as there is no need to seek additional approvals from the Province or the electors, or some other additional step dictated by legislation. The financial plan bylaw must be submitted to the province but not approved by the Ministry.
9. Reduction of the time required to postpone both Regular and Special meetings when there is no quorum from two hours to one hour.

ALTERNATIVE OPTIONS:

1. That the Regional Board refer Board Procedure Bylaw No. 2490, 2022 back to staff to with additional requested changes prior to consideration of first three readings.

STRATEGIC PLAN RELEVANCE:

- ☒ Organizational Effectiveness
- ☒ New and Emerging Issues
 - ☒ Embracing 'new normal' opportunities

FINANCIAL CONSIDERATION(S):

Changes to the *Local Government Act* in February 2022 were made that require that public notice be given prior to the Board considering changes to its Procedure Bylaw. Notice that the Board intended to consider changes to the Procedure Bylaw was published in the Alaska Highway News and the Mirror on June 30th and July 7th, and on the PRRD website and bulletin boards (public notice posting places) from July 6 – 13th. The cost of this advertising was approximately \$315 per ad. No comments from the public were received in response to the advertising.

COMMUNICATIONS CONSIDERATION(S):

The Procedure Bylaw is posted to the PRRD website, for any member of the public who wishes to review it.

OTHER CONSIDERATION(S):

Additional changes seem to continually be under consideration for the Procedure Bylaw; it can be considered a living document. Many local governments have amended their bylaws to align with changes made regarding public notice requirements, by first adopting a Public Notice Bylaw and then amending the Board Procedure Bylaw to specify the correct public notice posting places and procedures. The Ministry of Municipal Affairs recommends two separate bylaws for public notice and board procedures, despite the linkages between the two. Staff may propose changes to public notice procedures at a future date.

Additionally, staff have been asked about inclusion of a land acknowledgment at the beginning of Regional Board events, including meetings. This could be added to the Procedure Bylaw to enshrine the land acknowledgement as a necessary procedure at the outset of Board and Committee Meetings.

The Board may have other ideas about what additional procedure should be included in the bylaw, or may wish to amend procedures that are not working. The bylaw can be adopted and then later amended, or can be referred to staff for changes prior to consideration of adoption, in which case, the existing Procedure Bylaw No. 2200 would remain in effect.

Attachments:

1. Board Procedure Bylaw No. 2490, 2022 (Draft)