



BOARD REPORT

DATE OF REPORT March 23, 2015
MEETING TYPE & DATE Committee of the Whole Meeting of April 8, 2015
FROM: Office of the CAO
SUBJECT: Commission Bylaw Review
FILE:

PURPOSE/INTRODUCTION

The purpose of this report is to present an analysis of the various CVRD commission bylaws and make recommendations to improve effectiveness, consistency and functionality of the commissions and their enabling bylaws.

RECOMMENDED RESOLUTION

For information.

BACKGROUND

In January 2015, an organizational assessment completed by the CAO identified challenges and deficiencies with respect to the functionality, consistency, effectiveness and purpose of a number of CVRD's commissions. Similar concerns with the Environment Commission and the Economic Development Commission were identified in 2014 and as a result, the Board authorized the engagement of Jerry Berry Consultants Inc. (JBC) to review the functionality and effectiveness of these commissions.

A report from JBC was presented to the Regional Services Committee (RSC) on January 28 and a subsequent staff report in response to the JBC report was received by the RSC on February 25. Recommendations from the Economic Development Commission in response to the JBC report were also received by the RSC on February 25.

Concurrently, during the month of February, staff conducted a thorough inventory and analysis of the 32 CVRD commission bylaws that are currently enacted.

ANALYSIS

The organizational assessment, JBC report and staff analysis have identified issues and challenges with Commissions and their bylaws in the following key areas:

Purpose/Responsibilities

The majority of older parks and recreation commission bylaws are reflective of a time when there were few staff within the regional district and commissions were empowered to deliver services on behalf of the Board. The purpose statements in these bylaws include "To acquire, construct, operate and maintain certain parks...." or "To develop, operate and maintain parks...."

In the case of the major recreation facilities, the commission bylaw purpose statements include "Administrative powers with respect to the development, operation and maintenance of...." or "Oversee the development and administration of...."

These bylaws continue to provide the commissions with a range of administrative responsibilities including preparing budgets, expending funds, entering into contracts, setting fees, collecting revenues, maintaining insurance, establishing policy, and in some cases, hiring and dismissing

staff of the CVRD.

In the case of the newer commission bylaws (post-2000) such as Environment, Economic Development and Agriculture, the purpose statements include “To direct implementation...”, “To direct the function...”, and “To direct and provide input...”. Responsibility statements for these commissions also include directing the preparation of budgets, developing and implementing plans/strategies, ensuring sufficient resources are available, etc.

Analysis – The purpose/responsibility statements for the various parks and recreation commissions are not in alignment with the current operation and management of parks and recreation programs. Parks are acquired, constructed, operated and maintained primarily by professional staff. Although commissions are involved with fund-raising, planning and hands-on work in parks they do so under the direction of staff. The primary role of parks and recreation commissions today should be to provide advice and recommendations to the Board.

The purpose/responsibility statements for the major recreation facilities provide the commissions with a high degree of administrative powers and decision-making regarding management and operation of the facilities. This is not so much a concern with the Cowichan Centre (ISC) as the commission is comprised solely of elected Directors and Councillors. However, the Kerry Park, Lake Cowichan and Shawnigan Lake commissions are comprised of public and elected officials with elected officials not having a majority of the membership. As such, public members of the commission could out-vote the elected members, resulting in decisions that contradict the objectives or desires of the elected Directors who sit on the commission. The Board should consider the degree of administrative authority it wishes to provide commissions with a majority of unelected members.

The purpose/responsibility statements for Economic Development, Environment and Agriculture commissions suggest the commissions are responsible for directing and/or delivering work. This presents challenges for staff in terms of who directs their work and allocates their time. It also presents challenges for the commissions in terms of capacity for delivering projects or initiatives. In accordance with ‘best practices’ and the recommendations of the JBC report, these bylaws should be amended to better reflect the advisory role of the commissions. Should the Board determine that these commissions should be responsible for delivering projects and initiatives, formal lines of authority and accountability for staff must be considered.

Membership

Membership of commissions is as varied as the commissions themselves. The total number of members, the ratio of Directors to public members and election of public vs appointment of public members vary significantly.

Analysis –The composition of membership on a commission is an important consideration, particularly if decision-making powers are delegated to the commission. The ISC commission is an example of a commission where the decision-making authority lies entirely with elected officials. As mentioned previously in this report, decision-making by commissions with a majority or equal number of non-elected officials can be problematic for the Board. From a practical perspective, decision-making should be the responsibility of the participating Directors at the Board level, with input and advice from a public advisory body if desired. It is recommended that the Lake Cowichan and Kerry Park Centres adopt a commission structure that is advisory in nature and comprised primarily of members of the public/user groups, allowing the decision-making to remain at the Board level.

Commissions of an advisory nature have a mix of elected Directors and non-elected, with all members having voting rights. For advisory commissions, it may be more appropriate to have the elected Directors participate as non-voting members, allowing their voting power to be exercised at the Board table rather than at both the commission and the Board. Elected

Directors could participate on advisory commissions as liaisons to the Board, allowing more independence of the commission to make non-political recommendations to the Board. At the end of the day, the elected Directors have the final vote on any matter at the Board table, regardless of the recommendations of a commission.

The practice of the public 'electing' members to commissions is not considered 'best practice'. Section 838 of the LGA provides for elections of public members to a Local Community Commission. However, Local Community Commissions require a bylaw establishing a local community commission and the bylaw must receive the assent of the electors in the area of the local community and must be approved by the Inspector of Municipalities. Additionally, an elected commissioner must have the qualifications to hold office as a director. It appears that none of the CVRD commission bylaws that allow for election of members at an AGM were created under S. 838, although the bylaws are structured as though they were. In the absence of a local community commission bylaw and recognizing the desire for communities to have a role in selecting the members of a commission, it is recommended that members of the public are 'nominated' rather than 'elected', thus allowing the Board to appoint those who have been nominated.

The numbers of members on commissions vary greatly, ranging from 5 to 18. It is recommended that commissions have a consistent number of members, depending on the nature of the commission. Commissions representing broad interests or 'sectors' may require larger numbers such as Agriculture, Economic Development and Environment. However, parks and recreation commissions, fire commissions and other advisory commissions should have smaller, more efficient numbers in the range of 6 to 8. APCs are currently consistent with 15 members each.

Term

Terms of membership range from 1 year to 3 years and some 'up to' 3 years. Some terms expire at the end of the Director's term, others expire at the end of November, December or March.

Analysis - Consistency in terms would be more efficient from an administration perspective, with a provision for overlap of terms for continuity. It is recommended that the Board consider two-year terms for commission members with a consistent expiry date so that recruitment and appointments can happen at the same time every year.

Procedure

Many commissions have Chair, Vice-Chair and Secretary positions, the remainder do not have Secretary positions. In a majority of commissions, the positions are elected by the commission at the first meeting each year. In the case of Economic Development and Agriculture, the Chair and Vice-Chair are appointed by the Board Chair. In many bylaws, quorums are defined as 'majority', while in others, it is defined numerically.

Analysis – the appointment of commission Chair and Vice-Chair by the Board Chair does not appear to have any particular purpose and diminishes the independence of the commission. The positions of Chair, Vice-Chair and Secretary (where identified) should be elected by the commission members at the first meeting of each year.

Quorums should be consistently defined as either a 'majority of members' or numerically in terms of a majority of the identified number of members. Commissions should have an odd number of members for ease of establishing majority.

Additional Considerations

Procedures Bylaw for Committees and Commissions

In accordance with Bylaw No. 2922 s.13(a) *Directors of the Board who are not members of a*

Committee (defined to include Commissions – Amendment Bylaw 3459) may attend meetings of that Committee, and may take part in any discussion or debate, and may vote on issues in which their jurisdiction participates or proposes to participate.

Analysis – the voting ability of Directors who are non-commission members is in contradiction of basic principles of democratic accountability and potentially diminishes the independence and value of a duly appointed commission. While understanding the concept of allowing each participating Director of a service to vote on matters pertaining to that service, that voting power is best exercised at the Board table, particularly if the commission in question is advisory in nature and only makes ‘recommendations’ as opposed to ‘decisions’. The definition of committees to include commissions in Amending Bylaw No. 3459 should be repealed.

Community Safety Advisory Commission

Commissions S. 176(1)(g) of the Local Government Act provides regional district boards with powers to establish commissions to: a) operate services of the regional district; b) undertake operation and enforcement in relation to a regional district's regulatory authority; c) manage property, or an interest in property, held by the regional district government.

In the case of the CSAC, the responsibilities appear to deal with matters outside the scope of CVRD services or functions. As such, the CSAC would more appropriately function as a select advisory committee of the Board to advise on a range of issues of interest to the Board as opposed to specific services of the Board.

Reporting Requirements for Commissions

One consistent issue identified with respect to the overall effectiveness of regional advisory commissions is the lack of regular reporting to the Board or respective committees. It is recommended that the regional advisory commissions have a requirement to report to the Board or appropriate committee of the Board at least quarterly and that the necessary procedure bylaw amendments be made to include commission reports on the agenda listings.

Number of Commissions

The CVRD has a significant number of commissions, particularly at the electoral area level, with each commission requiring a degree of support and participation of staff. Where possible, consideration should be given to combining electoral area commissions to reduce the overall number of commissions and the staff resources required to support the commissions.

Summary of Recommendations

Topic Area	Recommendation
Purpose/Responsibilities	<p>Amend the responsibilities of parks and recreation commissions to them providing advice and recommendations to the Board.</p> <p>Review and amend applicable bylaws to reflect the advisory role of commissions as opposed to operational and/or administrative.</p>
Membership	<p>Lake Cowichan and Kerry Park Centres adopt a commission structure that is advisory in nature and comprised primarily of members of the public/user groups, allowing the decision-making to remain at the Board level.</p> <p>Provide for elected directors participation on advisory commissions as liaisons to the Board, allowing their voting power to be exercised at the Board table and allowing more independence of the commission to</p>

	<p>make non-political recommendations to the Board.</p> <p>Amend the specified number of members on commissions for more consistency depending on the nature of the commission, e.g. 5, 7, 9, etc.</p>
Term	<p>Consider two-year terms for commission members with a consistent expiry date so that recruitment and appointments can happen at the same time every year.</p>
Procedure	<p>Allow the commission members to elect the positions of chair and Vice-Chair and Secretary (where identified) at the first meeting each year.</p> <p>Consistently define quorum as either a 'majority of the members' or numerically in terms of majority of the identified number of members, and ensure commissions have an odd number of members.</p>
Additional Considerations	<p>Revise the Committee/Commissions Procedures Amending Bylaw No. 3459 to remove the definition of committees as including commissions.</p> <p>Repeal Bylaw No. 3622 and establish the Community Safety Advisory Commission as an advisory select committee of the Board.</p> <p>Require regional advisory commissions to report to the Board or appropriate committee of the Board at least quarterly and make the necessary procedure bylaw amendments to include commission reports on the agenda listings.</p> <p>Where possible, combine electoral area commissions to reduce the overall number of commissions and the staff resources required to support the commissions.</p>

FINANCIAL CONSIDERATIONS

The proposed improvements and modifications to commission bylaws can be made with existing resources and with no impact to the 2015 budget.

COMMUNICATION CONSIDERATIONS

Amendments to commission bylaws have implications for the communities served by the commissions and the members who sit on the commissions. The intent and implications of any proposed changes to commission bylaws should be well communicated to those effected.

STRATEGIC/BUSINESS PLAN CONSIDERATIONS

This initiative is identified as an objective in the 2015 Business Plan for the Office of the CAO.

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Reviewed by:

Not Applicable

Not Applicable

Corporate Services Review:



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Reviewed for Form and Content and Approved for Submission to the Board:

Chief Administrative Officer's Comments / Concurrence

Not Applicable

ATTACHMENTS:

Attachment A – CVRD Commissions Summary