

Date: 08/03/2022

**To:** Chair and Directors, Committee of the Whole

**And To:** John MacLean, Chief Administrative Officer

**From:** Nigel Whitehead, Manager of Planning Services

**Date of Meeting:** Committee of the Whole\_Mar17\_2022

**File:** 6410-01

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## Short Summary:

Public Hearing Format – Moving Forward

## Background:

Since Spring 2020, local governments have had the authority to hold public hearings via electronic means. In September 2021, the authority was permanently legislated, and local governments may now hold public hearings either in-person, by electronic means (e.g., teleconferencing, or other web-based platform), or both (i.e., “hybrid” public hearing).

Since the onset of COVID-19 restrictions, the CRD has been holding public hearings via teleconference only. Prior to this, public hearings were held at a local community hall nearest the proposal, in-person only, normally chaired by the local EA Director, and usually without staff participation.

With anticipated easing of COVID-19 restrictions, a number of considerations for future public hearing methods are presented for the Committee’s discussion:

1. During COVID-19 restrictions, the CRD has utilized a controlled teleconferencing platform to host electronic public hearings. This platform allows control of the hearing similar to that of an in-person hearing.
2. All attendees, in-person **and** electronic, must be able to “hear” or “see and hear” each other during the hearing as per the *Local Government Act*. This adds a technological challenge to hybrid hearings where people attending virtually must at a minimum be able to hear all speakers in the room (and vice-versa). This would include the Chair, staff, proponent, and any public speaker. Essentially, a room with the same technology as the CRD Boardroom is required as a minimum standard.
3. In areas that experience seasonal residency, the teleconference option has generally increased participation *during the hearing*. It is not clearly evident whether it has increased **total** participation. For example, seasonal residents within 100 m of a proposal are notified by mail (usually to their primary residence) and many residents

even outside the 100 m notification distance continue to submit written comments for consideration.

4. In areas with a higher ratio of permanent residents, there has not been a substantial increase in participation. Participation has been mostly among permanent residents who would likely attend the hearing in-person if given the option.
5. There is a noticeable increase in the difficulty of conveying information via the current teleconference platform.
6. Other visual methods of electronic hearings are available (i.e. Zoom or similar); however, use of these platforms substantially impacts those trying to connect with low bandwidth, which is known to be an extensive problem in much of the CRD.
7. Any new public hearing format would have to be conducted consistently. To ensure procedural fairness, all public hearings need to follow the same format. We would be at risk to a procedural judicial challenge if hearing formats were changed based on assumptions of public interest, level of contention, etc., for each hearing.
8. Any public hearings with an electronic component would require staff support. Historically (i.e., pre-COVID), the EA Director holds the hearing, and the Planning Department is resourced only to provide staff support where a hearing is anticipated to be controversial. The department has adequate staffing and resources to manage electronic public hearings from the Williams Lake Boardroom, at current application volumes. Staff note that current application volumes have been trending up since 2020 and are anticipated to continue increasing. The department can handle an increase in hearings, but a substantial increase would likely result in reallocation of department priorities. (Current application volume is roughly 20 rezoning applications per year; our peak rezoning applications under modern procedures was in 2007 and 2008 with roughly 60 applications per year.)
9. Outside the Williams Lake CRD Boardroom, there are no facilities of which the CRD has regular access with the required technology, capacity, and availability to host a hybrid In-Person/Electronic Hearing.
10. Currently, if a hybrid hearing were to be held, it would need to be done in the CRD Boardroom. In-person attendees would be required to travel to Williams Lake.
11. If strategic community halls were selected to receive improved teleconferencing infrastructure, staff support to operate and maintain the systems would be required. The infrastructure would be owned and operated by the association which runs the hall. Travel time to locations outside Williams Lake would considerably impact staff resources (multiple hours of evening and nighttime travel on multiple dates per month). Either overtime cost, or time lost from other assignments would occur.
12. If teleconference systems are installed in select community halls there is a risk that systems not used or maintained regularly could fail at time of hearing. Staff would have limited control of the technology if used outside public hearings. After-hours IT support in remote locations is generally not available. If electronic systems fail, the hearing could not continue in-person (See comment 2). The hearing would need to be adjourned, rescheduled, likely re-advertised, and held again at a later date.
13. Alternatively, a portable teleconference system could be investigated and acquired by staff and brought to specific sites with adequate infrastructure. This would minimize risk

of IT failure during the hearing, but would likely come with additional setup time, maintenance resourcing, etc.

14. An estimated one third of rezoning applications do not require an OCP amendment. In these cases, under recent *Local Government Act* amendments, a public hearing is no longer required. At this time staff do not intend to amend our development procedures bylaw to remove the public hearing requirement in these cases, but this could be considered in the future to reduce the impact on staff resourcing.

Given the above considerations, it would be difficult to develop an electronic public hearing format without making some compromises. Staff request Board discussion on the following public hearing format options:

- a) Currently, evening hybrid hearings could only be practicably held in the CRD Williams Lake Boardroom. People who wish to participate in-person would need to travel to Williams Lake. Physical capacity issues remain with the Boardroom, should a large number of people attend in-person.
- b) Daytime hybrid public hearings could be held in select community halls. This would reduce the burden of evening travel on staff, although would still result in productivity loss due to daytime travel. This will take time to implement (1+ years), as halls need to be selected, equipment acquired and/or installed, and systems maintenance implemented. However, daytime hearings will substantially reduce the ability for in-person attendance by public, negating the benefit of such a format. Further, IT risks remain, systems maintenance issues remain, and staff resourcing becomes an issue if we see a substantial increase in application volume.
- c) Work towards securing and upgrading appropriate locations in Quesnel and 100 Mile House with aim to hold all public hearings in the sub-regional municipal location, with staff support. This could be an evening meeting, with staff resourcing impacts. Once implemented, hearings would no longer be held in local community halls. In reality, this would take 1+ year to implement; staff resourcing risk still remains; IT maintenance risk still remains.
- d) Develop and implement in the 2023 workplan, procedures and necessary bylaw amendments to not hold a public hearing when an application is consistent with the applicable Official Community Plan. This recommendation would be tied to the development of sub-regional hybrid hearing facilities in c) above. This option partially mitigates the staff resourcing risk, potentially reducing public hearings (and related staff time) by 33%.
- e) A return to in-person only public hearings in local community halls brings the public hearing closest to those affected. There will be no impact on staff resourcing. It reduces, but does not eliminate, the ability to participate by seasonal residents (i.e., they can still submit written comments). Currently, this is the most sustainable, lowest risk, and lowest cost public hearing option moving forward.

#### **Attachments:**

N/A

**Receipt Only:**

That the memorandum from Nigel Whitehead, Manager of Planning Services, dated March 8, 2022, regarding public hearing formats, be received.