

NO: R203

COUNCIL DATE: November 20, 2023

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **November 16, 2023**

FROM: **Acting General Manager, Corporate Services
General Manager, Planning & Development**

FILE: **0125-01**

SUBJECT: **Bill 26 – Alternative Methods of Public Notice**

RECOMMENDATION

The Corporate Services Department and Planning & Development Department recommend that Council:

1. Receive this report for information;
2. Authorize staff to bring forward for Council's consideration a new public notice bylaw to allow the City to publish notices on the City of Surrey website and through a City of Surrey email subscription service ("Email Subscription") instead of newspaper publication, as generally described in this report, when the alternative methods are ready for implementation;
3. Authorize staff to bring forward for Council's consideration amendments to existing bylaws which will be affected by the change in publication methods; and
4. Authorize staff to supplement the methods of notice chosen by Council, as described in Appendix "I".

INTENT

The intent of this report is to provide Mayor and Council with information regarding amendments by the Province to allow for alternative methods of public notice other than publication by newspaper. Staff are also seeking to obtain direction from Council to use the City's website and Email Subscription as the two alternative methods of public notice and to provide staff the discretion to supplement the methods of notice as required.

BACKGROUND

The Province has made amendments to allow municipalities to adopt new alternative public notice options under Section 94 of the *Community Charter*. Currently, the default method of public notice is publication for two consecutive weeks in a newspaper that circulates in the community once each week.

Local governments now have the option of adopting a bylaw that specifies at least two different alternative methods of publication. Before adopting the bylaw, in accordance with Section 94.2 of the Community Charter, Council must consider the principles of effective public notice: reliability, suitability, and accessibility. A more detailed discussion of the background and these principles is provided in Appendix “I”.

Rationale for Change to Public Notice Methods

In July 2023, four public hearing notices that were scheduled for public notice via newsprint, were missed which caused hardship and confusion to the public, the applicants, and to the City. Due to this omission, the City was required to hold a second public hearing for each of the four applications, post additional advertisements in the newspaper, mail new notification cards to members of the public who are potentially impacted by the developments, and advise the applicants of the second public hearing.

In addition, because the major local newspapers are now distributed once per week, there are times when this method is not conducive to posting time-sensitive matters. Further, if an error in the notice occurs, there is limited opportunity to correct it in a timely way.

There is also concern for the continued service of print newspapers. Recently the Tri-Cities municipalities were provided with nine days notice that their print newspaper service would end. Each of the impacted municipalities rushed to put in place alternative means of notice that met Section 94 requirements of the *Community Charter*.

DISCUSSION

Several municipalities, including those listed below, now have a public notice bylaw in place that provides for alternative methods of notification.

Table 1

Municipality	Alternative Method of Public Notice
City of Vancouver	City’s website and digital newspaper
City of Coquitlam	City’s website and email subscription
City of New Westminster	Notice board in 2 public libraries and email subscription
City of Burnaby	City’s website and email subscription
City of Port Coquitlam	City’s website and City’s Facebook
City of Port Moody	City’s website and City’s Facebook

The City of Vancouver is using digital newspaper as one of its alternative methods of notice. Staff did consider this form of notice; however, online notification only is currently not an option in Surrey with the newspapers that the City uses for notification.

The cost to the City for using newspapers for public notice is approximately \$180,000 per year. Currently the City is required to provide public notice for items such as development applications, schedule of regular council meetings, proposed property dispositions, the annual tax sale, as well as other items detailed in Appendix “I”.

In consideration of the various options available for public notice and the principles required to be considered by Council, staff propose using the City of Surrey website and email subscription as the two alternative methods of public notice. Further, staff propose that there be flexibility to use additional methods of notification at staff's discretion for specific matters. Additional methods of notification may include direct mail, social media, media release, signage, and advertisements on billboards. This is a non-exhaustive list and staff request the discretion to choose a suitable form of additional notice as the circumstances warrant.

Next Steps

If Council approves the recommendations in this report, staff will plan for the implementation of Email Subscription and the City of Surrey website as methods of public notice. Once both alternative methods are ready for implementation staff will bring forward for Council's consideration a new public notice bylaw to provide for alternative methods of service, along with amendments to any existing bylaws affected by these changes.

Legal Services Review

Legal Services has reviewed this report.

CONCLUSION

Staff recommend that Council approve proceeding with alternative forms of public notice in the manner described in this report.

Joey Brar
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Appendix "I": Further Background and Discussion

Further Background and Discussion

On February 28, 2022, the Province brought into force further amendments to local government legislation to allow new alternative public notice options under Section 94 of the *Community Charter*. These amendments were brought pursuant to the *Municipal Affairs Statutes Amendment Act (No. 2)* (also known as Bill 26).

Currently, publishing in a newspaper that circulates in the community once each week for two consecutive weeks is the default method of providing public notice. Public notice is required in a wide variety of situations under the *Local Government Act* ("LGA") and *Community Charter*, including the following:

- Notice of public hearing before adopting Zoning or Official Community Plan bylaw [LGA s. 466];
- Notice if public hearing waived [LGA s. 467];
- Notice of proposed temporary use permit [LGA s. 494];
- Adopting or amending Council procedure bylaws [Community Charter s. 124(3)];
- Publication of intention to provide certain kinds of assistance [Community Charter s. 24];
- Notice of proposed property disposition [Community Charter s. 26];
- Notice of meeting on annual municipal report [Community Charter s. 99(3)];
- Notice of public hearing for proposed heritage designation bylaw [LGA s. 612];
- Reduction of municipal area [LGA s. 13];
- Other redefinition of boundaries (LGA s. 16);
- Notice of annual tax sale [LGA s. 647]; and
- Public notice requirements pertaining to elections [LGA s. 50].

Local governments now have the option of continuing default notice requirements of publishing in a newspaper, or to adopt a public notice bylaw if they choose not to use the default notice provisions. Under section 94.2 of the *Community Charter*, a bylaw providing for alternative methods of publication must specify at least two different means of publication, not including the public notice posting place (*i.e.*, City Hall and the City's website). Council must also consider the principles of effective public notice before adopting the bylaw. These principles are:

- **Reliability**: the means of publication are reliable if:
 - (a) they provide factual information; and
 - (b) the publication takes place at least once a month or, if the means of publication is a website, the website is updated at least once a month.
- **Suitability**: the means of publication are suitable for providing notices if:
 - (a) they allow all information in a notice to be displayed legibly;
 - (b) they allow a notice to be published by the required date; and
 - (c) they allow a person to consult a notice more than once during the period from the date of publication until the date of the matter for which notice is required.

- **Accessibility**: the means of publication are accessible if:
 - (a) they are directed or made available to a diverse audience or readership; and
 - (b) they are easily found.

Based on guidance from the Province, possible means of public notice include:

- Online or print newspaper;
- Local government website;
- Local government subscription service;
- Community website or newsletter;
- Local government Facebook page;
- Direct email or mail out; or
- Posting at recreation centres.

As discussed below, staff recommend that the City replace newspaper publication with the City's website and Email Subscription as the two methods by which the City publishes notices pursuant to section 94 of the *Community Charter*. Additional methods of notice can also be used to supplement these two methods as circumstances dictate. For example, for public hearings, in addition to these two forms of notice, the *Local Government Act* also requires the notice to be mailed out in certain circumstances to owners and tenants of properties affected by a proposed zoning bylaw. Even where no additional methods are legally required, the City may, depending on the occasion, exercise its discretion to provide supplemental notices.

DISCUSSION

Problems with Status Quo

There are a number of issues with continuing with local newspaper publications as the default method of service. This includes the relative cost of newspaper versus an Internet format, the reliability of the newspaper to include the notices in time to comply with applicable legislative deadlines, and a perceived lack of readership. Metrics on the actual level of readership of local newspapers is unavailable to the City, which in itself is a disadvantage. Furthermore, the reliable distribution of physical newspapers to subscribers and the rest of the public is out of the control of the City and therefore uncertain.

Consideration of Other Notice Methods

Staff have considered various potential notice methods and conclude that the City's website and Email Subscription are the two most effective methods for publishing notices under section 94 of the *Community Charter*. Staff's assessment of the various possible methods are discussed below:

City of Surrey Website: posting notices on the City's website satisfies the principles of effective public notice (reliable, suitable, and accessible). The website is a readily available medium to anyone with Internet access, and the City has control over the site to ensure that the notices are posted in a timely fashion, are legible, readily searchable, factual, and otherwise compliant with the requirements of legislation. Users can also find supporting documentation

on the City's website. The City has metrics on the use of the website, which already has a high volume of traffic. Staff recommend the website as one of the methods of alternative notice.

As mentioned earlier in this report, the alternative methods of publication must be in addition to the public notice posting places. Since the City of Surrey website is currently one of the public notice posting places, as defined in *Council Procedure By-law, 2004, No. 15300*, amendments will be required to remove the website from the definition of public notice posting place in order to permit the City of Surrey website to be included as an alternative method of publication.

City of Surrey Email Subscription Service: Another effective form of notice is Email Subscription, which will be made available to Surrey residents by free subscription. All that a resident requires is access to the Internet and an email address. Subscribers will be sent an email containing content related to each notice and/or weblinks containing complete information for the notices. Email Subscription is reliable, suitable, and accessible as a widely available means for the City to publish factual information in a timely manner. Email Subscription allows information to be displayed legibly, and notices can be repeatedly accessed by subscribers at their convenience. Other potential advantages include the following:

- Email Subscription is subscriber-driven, and subscribers are already highly engaged by indicating an interest in receiving public notices. It is also the subscriber's responsibility to update their email addresses with the City.
- Email Subscription is web compatible, which allows subscribers to easily access backup information on the internet.
- It is potentially possible for:
 - Notices to be organized by type (for example, a notice of public hearing versus permit notice); and
 - Multiple notices to be organized by category and distributed in one email to each subscriber.
- Metrics are readily available to assess the frequency and manner of use of Email Subscription by its subscribers.

Potential limitations to Email Subscription include that it may take time to build a subscriber base, and that some area-specific notices will not be relevant to all subscribers.

Staff recommend Email Subscription as the second form of alternative notice.

If Council selects Email Subscription as a form of alternative notice, the City will need to seek a suitable vendor to supply the services described above. It is expected that if a vendor is engaged, then Email Subscription may be ready for implementation in the first quarter of 2024. If a suitable vendor cannot be found, staff will report back to Council with a further update.

City of Surrey Facebook page: A local government Facebook page has been identified by the Province as a potential notice method. This Internet medium does not have any significant advantages over the City's website or Email Subscription and has several disadvantages. One disadvantage is that Facebook has a very limited organic reach and declining new user growth. Further, public notices are not a natural fit for content users, who do not generally subscribe to

Facebook in order to receive legal notices, which may be lengthy and text-heavy. The formal content of public notices is counter to what tends to be well-received on Facebook.

Email: Sending notices directly to residents' email addresses is another potentially viable option. However, this medium does not have any significant advantages over Email Subscription. A significant disadvantage of email is that the City would have the responsibility to compile and regularly update a list of the email addresses of residents, and this will likely pose a prohibitive obstacle to creating an effective means of notice.

Online newspaper, community website or newsletter: Although these related methods have been identified by the Province as a potential notice method, staff have concerns about the reach of such online media sources, given the perceived limited reach of local newspapers on readership generally. Staff also have concerns about the effectiveness of such notices, given that the postings are not under the control of the City and therefore the City has limited control over issues such as the accessibility and legibility of notices, and how long the notices are posted for. Further, the cost of using online newspapers for notices is similar to the cost of using the paper format, which is therefore higher than the cost of other Internet methods.

Direct mail out: Using direct mail out has the advantages of targeting the residents most impacted by the matter at issue. However, the cost of direct mail out is prohibitive as a default means of providing public notice throughout the City for every matter requiring notice. Direct mail out is currently used to supplement the default notice provisions, and staff recommend that this practice continues.

Posting at recreation centres and/or libraries: Recreation centres and/or libraries may be particularly appropriate for posting notices of matters relevant to the surrounding community. These places are frequently visited by youth and seniors – *i.e.*, audiences who are underrepresented on certain Internet formats. Libraries in particular may be suitable for the content of public notices, and residents are used to receiving general information that the libraries have on display. Recreation centres, on the other hand, usually display information pertaining to recreational activities.

A natural disadvantage of using any physical location is that residents would have to travel there to see the notice. Further, common areas may have space limitations, particularly at recreation centres. Further, the manual posting of public notices may leave room for human error. Digital kiosks located at these centres may be an option, but its feasibility would require further examination by staff. Staff recommend that the option be retained to use recreation centres and libraries to supplement the City website and Email Subscription as means of notice, depending on the circumstances.