

qathet REGIONAL DISTRICT

SECTION 5.2	INDIVIDUAL SERVICE POLICIES – PLANNING
POLICY	5.2.6
SUBJECT	PUBLIC HEARING PROCEDURE AND CONDUCT POLICY
ADOPTED	OCTOBER 25, 2012
AMENDED	JUNE 24, 2021

PURPOSE:

To outline guidelines for public hearing procedure and conduct

FREQUENCY:

As required

STAFF RESPONSIBLE:

Manager of Planning

PROCEDURE:

The *Local Government Act* (section 465) requires that local governments hold a public hearing following first reading and prior to third reading of an official community plan bylaw or zoning bylaw. The public hearing process is one that requires strict compliance with the statutory procedures outlined in the *Local Government Act* and per established case law. If these procedures are not followed, there is always the chance a bylaw that is the subject of a public hearing could be challenged based on procedural irregularities.

Procedure “before” Public Hearing

1. Delegating Holding of Public Hearing

- a) Board delegates holding of public hearing to Public Hearing Committee.
- b) Public Hearing Committee composed of a quorum of Board Directors whose Electoral Area receives land use planning service from the regional district.
- c) Chair to be determined by the Planning Committee.

2. Posting Notice of Public Hearing

- a) Staff will post notice of public hearing in two (2) consecutive numbered issues of a local newspaper, plus an additional publication. The final notice will be published not less than three (3) full days and not more than ten (10) days before the hearing date.
- b) Staff will post notice of public hearing on the Regional District notice board, and on the Regional District website, at least two (2) full weeks prior to the public hearing.
- c) Staff will ensure a copy of the proposed bylaw is available for inspection by the public in the Regional District office, and on the Regional District website, at least two (2) full weeks prior to the public hearing.

3. Written Submissions Relating to Public Hearing

Staff receives written submissions relating to the public hearing at the Regional District office until 4:00 pm on public hearing day. Written submissions received up to 4:00 pm on public hearing day will be circulated via email to Board Directors whose electoral areas receive land use planning service from the regional district. Written submissions will also be accepted at the public hearing. All submissions received up to the close of the public hearing will form part of the official record.

Procedure “at” Public Hearing

4. Establishing Speakers List

Staff directs all persons wishing to speak at the public hearing to sign the public hearing speakers list.

5. Opening of Public Hearing by Chair

Chair reads attached “Statement of Chair” outlining public hearing process.

6. Format and protocol for each bylaw being considered

Staff identifies subject of hearing (Bylaw number, Title, Location and Purpose as listed on Public Hearing Notice) and briefly outlines bylaw.

7. Public Representations

Representations are heard from those who believe that their interest in property is being affected by the proposed bylaw. Those speaking should limit their initial presentations to 10 minutes, and begin by clearly stating their name and address. If required, speakers will be afforded a second opportunity to speak but only after all other speakers have been

heard. If members of the public have questions, they may state them. Staff will respond in an appropriate manner.

The main function of directors is to listen to the views of the public with an open and unbiased mind. Directors will not enter into dialogue with the public at the hearing and not debate the merits of the proposed bylaw.

8. Concluding the Public Hearing

If all speakers have been heard, the public hearing may then be closed and no further submissions from interested parties may be received by members of the Board.

Procedure “after” Public Hearing

9. After the Public Hearing

Members of the Board may receive input from staff or solicitors to provide clarification on issues raised at the hearing. Members of the Board may not consider new evidence or further public submissions after the close of the public hearing. Any written or oral submissions received after the close of the public hearing will be referred to staff. As a matter of procedural fairness, to consider new evidence after the hearing is closed, the Board would have to convene another public hearing prior to making a decision to adopt a bylaw. Any such materials will be circulated to the Board following adoption of the bylaw.

10. Disposition of the Bylaw

When the Bylaw is returned to Board, the Board may, without further notice or hearing:

- a) Adopt or defeat the bylaw; or
- b) Amend then adopt the bylaw provided the amendment does not:
 - i. Alter the use;
 - ii. Increase the density; or
 - iii. Without the owner’s consent, decrease the density of any area from that originally specified in the bylaw.

A member of the Board who is entitled to vote on a bylaw and who was not present at the public hearing may vote on the adoption of a bylaw provided that an oral or written report of the public hearing has been provided to that member of the Board.

For further information, refer to *Local Government Act, Part 14, Division 3 - Public Hearings on Planning and Land Use Bylaws.*

STATEMENT OF CHAIR

This public hearing is being convened pursuant to Section 464 of the *Local Government Act*.

Before we proceed, I ask the members of the Regional District Board and Staff who are present to introduce themselves.

At this public hearing, any person present who believes his or her interest in property is affected by the proposed bylaw shall be given an opportunity to be heard on the matters contained in the bylaw. It is important that all who speak at this meeting restrict their remarks to matters contained in the bylaw and address their remarks to the Chair.

In considering the proposed bylaw, the Board has received written submissions which may or may not ultimately influence its decision. All those submissions will be retained by the Manager of Planning and copies of submissions are available at this hearing.

LOCATION OF PUBLIC HEARING BINDER(S) TO BE IDENTIFIED BY THE CHAIR

The following rules of procedure are established:

1. A speaker's list has been established. If you wish to address the hearing, please ensure that your name has been placed on the list. You may add your name to the list at any time.
2. Please begin by clearly stating your name and address for the record, and limit your comments to 10 minutes or less. Any persons wishing to speak a second time will be afforded an opportunity to do so after all other speakers have been heard a first time.
3. You must limit your comments to the matters contained in the bylaw and you must not obstruct the hearing.
4. After everyone on the speaker's list has spoken once, those interested in speaking a further time may, but are encouraged to provide new information for the Board's consideration. Those speaking a second time should limit their comments to 5 minutes or less.

Please observe these rules, and if you have any concerns with the manner in which the hearing is conducted, direct your comments to the chairperson.

Your only opportunity to comment on the proposed bylaw will be during the hearing, as members of the Board are not permitted to receive further submissions after the close of the hearing.

No one will be, or should feel discouraged or prevented from making his or her views heard. Please remain respectful at all times and refrain from applause or other expressions of positive or negative emotion whether you favour or oppose any particular application or argument. We wish to hear everyone's views in an open and impartial forum.

The main function of Board members this evening is to listen to the views of the public. It is not the function of Board members at this public hearing to debate the merits of the proposed bylaw. Members of the Board may, if they wish, ask questions of you following your presentation for clarification. Questions pertaining to the proposed bylaw can be answered by staff as best as they are able at this public hearing. Staff is also available at the Regional District office during office hours which are 8:30 to 4:30 Monday through Friday.

A number of written submissions have been received. Submissions received form part of the official public hearing record and will be considered by the Board.

WE WILL NOW HEAR BYLAW NO. _____

STAFF IDENTIFIES SUBJECT OF HEARING (BYLAW NUMBER, TITLE, LOCATION AND PURPOSE AS LISTED ON PUBLIC HEARING NOTICE) AND PROVIDES A BRIEF OVERVIEW OF BYLAW

Are there any persons present who wish to comment on Bylaw No. _____?

COMMENTS FROM THE FLOOR

Are there any further comments to be made on Bylaw No. _____?

COMMENTS FROM THE FLOOR

Before closing this hearing, I am going to call three times for any further comments.

For the first time, is there anyone who wishes to make any further comments?

For the second time, is there anyone who wishes to make any further comments?

For the third time, is there anyone who wishes to make any further comments?

There being no further speakers, I declare the public hearing for Bylaw No. _____ is concluded.

Thank you very much for your submissions.

DON'T READ THIS OUT – it is for your information only:

It is critically important that Board members maintain an open mind by avoiding pre-judgment or the perception of pre-judgment of the question at hand. Board members have the duty to remain sufficiently open to the presentations and submissions of residents at the public hearing so as to be capable of being persuaded. In order to avoid the risk of a finding of bias, Board members should ensure that their statements prior to and during a public hearing do not indicate that their decision on how they propose to vote has already been solidly determined.

Debate among Board members or between Board members and the public should be avoided during the public hearing process. Such debate could tamper with the procedural fairness aspects of the process as statements made by Board members and the positions they appear to be taking may mislead members of the public in attendance at the hearing. Based on such perceived views, no matter how temporary such views may be, some proponents or opponents of the proposed bylaw may decide not to make a presentation or may alter their presentations on the mistaken assumption their position has less or more Board support than may actually be the case. **SEEK CLARIFICATION, BUT AVOID DEBATE**