



## STAFF REPORT

---

**DATE:** May 3, 2023

**FILE:** 0360-20

**TO:** Chair and Directors,  
Electoral Areas Services Committee

**FROM:** Dave Leitch  
Chief Administrative Officer

**RE:** ELECTORAL AREA C ADVISORY PLANNING COMMISSION – DRAFT BYLAW

### **PURPOSE/PROBLEM**

To consider a draft bylaw governing the selection process, duties and procedures applicable to an advisory planning commission (APC) for Electoral Area C.

### **EXECUTIVE SUMMARY**

During its last few meetings, the Committee has been considering alternatives for structuring advisory planning commissions for those electoral areas interested in such an arrangement. On that theme, Director Mawhinney has provided a written list of matters that she wishes to consider for an Electoral Area C advisory planning commission. That listing is provided below.

In order to address the matters that have been raised and to review them in context, a draft bylaw has been prepared for the Committee's consideration. The bylaw is similar to that recently approved for Electoral Area D with comments specific to the different sections inserted for convenience (text in brown type is extracted from Director Mawhinney's submission, text in green type is the response from staff). A similar format is followed for the submission itself, attached below.

Once the Committee has completed its review of this matter and is satisfied with the content of the draft bylaw for Electoral Area C, its recommendations will be forwarded to the Board for further consideration.

### **RECOMMENDATION**

THAT the report from the Chief Administrative Officer be received.

Respectfully:



\_\_\_\_\_  
Dave Leitch  
Chief Administrative Officer

**Prepared by:** T. Yates, Corporate Services Manager

Attachments: Draft bylaw for Electoral Area C advisory planning commission

**Director Mawhinney submission on advisory  
planning commission for Electoral Area C**

Suggestions for consideration of the APC Bylaw for Area C

-The first 'Whereas' paragraph also includes the word 'license' as the definition of 'application' includes 'license' (unless this is unnecessary/inappropriate) **The addition of the word 'license' would not be appropriate since there are no licenses to be considered by the Regional Board under Part 14 of the Local Government Act.**

-Third paragraph, at least 90% of members are residents of the electoral area (if this is legal?) **The 2/3 minimum is prescribed in the Local Government Act and cannot be changed by bylaw. However, the Board may target a higher percentage if it wishes when making appointments.**

Interpretation: not interested in restricting the areas of consideration, I am interested in the broadest terms possible under the provincial legislation **In that case, it is suggested that the section be amended by expanding the definition to include all matters under Part 14 of the Local Government Act.**

Commission Membership: shall comprise of not more than 11 persons representing a cross section of the community (strike ratepayers unless this is a provincial requirement) within the electoral area **Increasing the number of members is not a problem but will affect quorum requirements. Recommend replacing 'ratepayers' with 'persons' to avoid the ambiguity of phrase "community within the electoral area".**

-Appointment of members: I like the first choice in the options presented (**public application process**). I found the following in the Cowichan Valley RD APC bylaw, I'm curious what your thoughts are on this, is it too prescriptive or would it be helpful to include? In making appointments to an Electoral Area APC the Board will consider membership that is representative of the people and geographic zones in the electoral area for which the appointments are sought. **This is addressed in the previous section.**

-The Director and Alternate Director are not eligible members of the Electoral Area APC but may attend APC meetings in a resource capacity **Purpose is unclear. The restriction on appointing a director or alternate director is already regulated by the Local Government Act. Since APC meetings are public meetings, the attendance by the director or alternate director "in a resource capacity" seems to denote a different status than other members of the public. This may be seen by some as an attempt to subtly influence the decisions of the Commission.**

Is 5.2 necessary or could it be struck? **If 5.2 is stricken, the ability of the Board to remove or dismiss a member of the Commission will be more difficult, even if there are compelling reasons for doing so. The current wording is not uncommon for appointments made to advisory bodies.**

Rather than the current 5.3 (or in addition to?) what do you think about The Board may remove any member from an APC at any time by an affirmative vote of not less than two-thirds of the Directors entitled to vote upon the recommendation of the Area Director -- This is a mash-up of two APC Bylaws I've looked at. **If understood correctly, the Board would not be able to remove a member of the APC except upon the recommendation of the Electoral Area C director and then only with a 2/3 majority. The requirement for a 'director recommendation' may be problematic since there is no provision in the bylaw or Local Government Act defining what this is or how it is to be given. This may also be considered a fettering of the Board's discretion not contemplated by the statute. With respect to the 2/3 majority vote, since this is the same as a simple majority vote in the case of the SRD, suggest it is unnecessary.**

-The Electoral Area APC will consist of a minimum of six and not more than 11 members. **If a minimum number of members is specified, that number must be met before the APC can meet. For purposes of quorum, it may be prudent to consider an odd number for the minimum.**

-APC members will serve without remuneration **This restriction is contained in the Local Government Act and is not a matter that can be regulated by the Regional District.**

-Term of Office for members: a term not exceeding three years; term limit of six years. **Term limits can be included in the bylaw.**

Election and term of Chair: Chair and vice chair? So there is a person to chair if the chair is unavailable? **A Vice Chair may be elected or appointed annually in lieu of a Chair pro tem. A member would still need to be appointed as Chair pro tem if both the Chair and Vice Chair were unable to attend.**

Referrals: The Corporate Officer will notify the Director when a referral is made to their Electoral Area APC. **See previous comment regarding influence over APC decisions. It may be preferable to state that the director will be provided with a copy of all APC meeting agendas.**

-The Corporate Officer may refer matters respecting land use, community planning, proposed bylaws, permits or licenses to the APC in order that the APC may advise the Corporate Officer & Board or Director on those matters. **The bylaw is currently structured to require that all relevant matters will be referred to the APC rather than leaving this to the discretion of a staff person.**

-The Board may refer a matter to one or more APCs if the Corporate Officer has not done so and the Board wishes to have the advice of the APC on the matter. **The Board has the statutory authority to refer any matter within the APC's purview without that being specified in the APC bylaw.**

-A Director may refer a matter to the Director's APC if the Corporate Officer has not done so and the Director wishes to have the advice of the APC on the matter. **The draft bylaw does not restrict the ability of the director to refer matters to the APC.**

-The APC to which a matter is referred will provide its recommendation within 40 days of the date of referral unless a longer time is specified in the referral, in which case the recommendation must be provided within that time period. **Setting a specific deadline for dealing with any referral should be considered against the scheduling process for APC meetings to ensure that expectations are achievable.**

-APC Procedures: There are several procedures noted in Cowichan Valley Regional District Bylaw 4408; some of these may be helpful in providing clarity to the participants and observers? I look forward to hearing SRD staff thoughts on the necessity or usefulness of these.

**CVRD APC PROCEDURES:**

At the first meeting of each new year, which will be convened by the General Manager, the APC will elect one of its members as Chairperson and another as Vice- Chairperson to act in the absence of the Chairperson. The Chairperson and Vice- Chairperson will hold these positions for one year or until their successors are elected. **See comment under section 9.**

In the absence of the Chairperson and Vice-Chairperson, the APC will elect from the members present a temporary Chairperson for that meeting only. **See comment under section 9.**

. The General Manager may assign a CVRD representative to serve as a Recording Secretary for an APC. . In the absence of the Recording Secretary, the APC will elect from the members present a temporary Recording Secretary for that meeting only. **That is possible but nor preferred.**

A majority of the members of an APC will be deemed a quorum. **This is already dealt with under provincial statute.**

Following the first meeting of each calendar year, each APC will forward a schedule of regular meetings including dates, times and location to the General Manager. **Not clear why this is necessary.**

. . The Chairperson of an APC may, by notice in writing to each of its members, schedule a special meeting of the APC to consider a matter that has been referred to the APC if the matter cannot conveniently be dealt with in accordance with the APC's schedule of regular meetings. **An APC may adopt a regular schedule for its meetings and hold 'special' meetings as required.**

. APC meetings will be held in accordance with the open meeting rules in section 89 of the Community Charter. **Yes, this is correct.**

1• 9. An APC will hear all applicants who wish to make representations on an application referred to it by the General Manager, Board or Director. **Yes, an APC must make provision for applicants to make a submission regarding their application.**

10. Where not otherwise covered in this bylaw, the rules of procedure governing APC meetings will be those of the current Committee and Committee Meeting Procedures Bylaw of the Regional District. **Yes, meeting minutes must be provided to the Regional District.**

11. Within 14 days of an APC meeting, the Secretary or Land Use Services staff member who took the minutes must submit them to the General Manager. **Not sure why a time limit is relevant.**

. The draft minutes of the APC will be made public upon publication of the meeting agenda on which the draft APC minutes are provided as information to the Electoral Area Services Committee. **Purpose of this provision is unclear.**

. The General Manager will provide reasonable administrative support for each APC in respect of any referral of a matter pursuant to this bylaw, including without limitation the provision of a public meeting space, delivery of notices of upcoming meetings to APC members and applicants, preparation and circulation of meeting agendas, production and circulation of minutes as recorded by the APC Secretary or Land Use Services staff member, and the submission of APC recommendations to the board or a committee of the Board. **This provision may reflect a somewhat different approach to APC's within the CVRD.**

-There are a few interesting ideas in the Sunshine Coast RD APC Bylaw (SCRD also has an APC Orientation booklet)

Members of an Advisory Planning Commission who are absent for three {3} or more consecutive regularly scheduled meetings will be deemed to have resigned their position unless the absence is because of illness or injury or is with the leave of the Board. **This is more restrictive than proposed bylaw.**

The Board shall have the power, by an affirmative vote of not less than two-thirds of all the members thereof, to remove any member of the Advisory Planning Commission from office at any time upon the recommendation of the Area Director. **See comment under section 5(3).**

Upon the resignation, death or removal of any member during their term of office, the Board, on the recommendation of the Area Director, shall appoint a successor who shall hold office during the remainder of the term of the vacating member. **Presume this provision reflects a different system that is devoid of public application process.**

Each Advisory Planning Commission may reserve the right to invite non-members to attend meeting in a resource capacity, as needed. **Purpose is unclear.**

-Each Advisory Planning Commission shall at its first regular meeting of the term appoint a Chair from among its members. The Chair shall hold office for one year or until a successor has been appointed. **This is consistent with proposed bylaw.**

Recommendations of the Advisory Planning Commission must be adopted by a majority vote of the members present at the meeting, and the Chair of the commission shall be a voting member. **Of course.**

- Any person, other than a corporation, who is qualified as an elector within the meaning of the local Government Act is eligible for appointment to an advisory planning commission. **This provision would be inconsistent with the restrictions contained in the Local Government Act.**

#### Ineligibility for Appointment to Advisory Planning Commissions

A Council Member, Board Director, Employee or Officer of the Regional District, or an Approving Officer, is not eligible to be a member of an Advisory Planning Commission but they may attend at a meeting of a commission in a resource capacity. **See comment under section 8.**

Interestingly, some APCs seem to have a set meeting schedule, monthly for an entire year in advance, and meetings are cancelled by the Corporate Officer/RD staff if there is nothing to refer to the meeting. I'm

unsure about how often an Area C APC might be utilized, does this seem reasonable or perhaps not? **The SRD would not be concerned if the APC worked from a set meeting schedule.**





**BYLAW NO. [REDACTED]**

---

**A BYLAW TO ESTABLISH AN ADVISORY PLANNING COMMISSION FOR ELECTORAL AREA C (DISCOVERY ISLANDS-MAINLAND INLETS) OF THE REGIONAL DISTRICT**

---

**WHEREAS** the Regional District may, by bylaw, establish an advisory planning commission for an electoral area or portions thereof to advise the Regional Board or a director representing that area on all matters referred to the commission by the Board or the director respecting land use, the preparation and adoption of an official community plan or a proposed bylaw or permit that may be enacted or issued under Part 14 of the *Local Government Act*;  
The first 'Whereas' paragraph also includes the word 'license' as the definition of 'application' includes 'license' (unless this is unnecessary/inappropriate). **The addition of the word 'license' would not be appropriate since there are no licenses to be considered by the Regional Board under Part 14 of the *Local Government Act*.**

**AND WHEREAS** a bylaw establishing an advisory planning commission must provide for the composition and manner of appointing members to the commission, the procedures governing the conduct of the commission and the referral of matters to the commission;

**AND WHEREAS** at least 2/3 of the members of an advisory planning commission must be residents of the electoral area for which the commission has been established;  
Third paragraph, at least 90% of members are residents of the electoral area (if this is legal?). **The 2/3 minimum is prescribed in the *Local Government Act* and cannot be changed by bylaw. However, the Board may target a higher percentage if it wishes when making appointments.**

**AND WHEREAS** the Regional District wishes to establish an advisory planning commission for Electoral Area C (Discovery Islands-Mainland Inlets).

**NOW THEREFORE** the Board of Directors of the Strathcona Regional District, in open meeting assembled, enacts as follows:

**Interpretation**

1. In this bylaw, unless the context otherwise requires:

“**application**” means a written application from an owner of land, a landowner’s authorized representative or the Regional District proposing that:

- a) a zoning designation,
- b) an official community plan designation,
- c) a development variance permit, or
- d) a temporary use permit,

applicable to the owner’s land be amended, repealed, issued or otherwise considered in accordance with Part 14 of the *Local Government Act*.

Not interested in restricting the areas of consideration, I am interested in the broadest terms possible under the provincial legislation. **In that case, it is suggested that the section be amended by expanding the definition to include all matters under Part 14 of the *Local Government Act*.**

“**appointment**” means the appointment or reappointment of a person as a member of the Advisory Planning Commission.

“**Board**” or “**Regional Board**” means the Board of Directors of the Strathcona Regional District.

“**Commission**” means the Advisory Planning Commission established by this bylaw.

“**Chair**” means the Chair of the Advisory Planning Commission.

“**director**” means the director representing the electors of Electoral Area C.

“**electoral area**” means Electoral Area C of the Strathcona Regional District.

### **Establishment of Advisory Planning Commission**

2. There is hereby established an advisory planning commission to be known as the Electoral Area C Advisory Planning Commission.

### **Jurisdiction of Commission**

3. The area of jurisdiction of the Commission established by this bylaw is coterminous with the boundaries of Electoral Area C.

### **Commission Membership**

4. The Commission shall comprise not more than 8 persons appointed by resolution of the Board to represent a cross-section of the ratepayers within the electoral area.

Shall comprise not more than 11 persons representing a cross section of the community (strike ratepayers unless this is a provincial requirement) within the electoral area. **Increasing the number of members is not a problem but will affect quorum requirements. Recommend replacing ‘ratepayers’ with ‘persons’ to avoid the ambiguity of phrase “community within the electoral area”.**

The Electoral Area APC will consist of a minimum of six and not more than 11 members. **If a minimum number of members is specified, that number must be met before the APC can meet. For purposes of quorum, it may be prudent to consider an odd number for the minimum.**

APC members will serve without remuneration. **This restriction is contained in the *Local Government Act* and is not a matter that can be regulated by the Regional District.**

### **Appointment of Members**

5. (1) Before appointing persons to the Commission, the Regional District shall invite applications from the general public interested in serving as members of the Commission.

I like the first choice in the options presented. I found the following in the Cowichan Valley RD APC bylaw, I'm curious what your thoughts are on this, is it too prescriptive or would it be helpful to include? “In making appointments to an Electoral Area APC the Board will consider membership that is representative of the people and geographic zones in the electoral area for which the appointments are sought.” **This is addressed in the previous section.**

- (2) Members of the Commission shall serve at the pleasure of the Board.

Is 5.2 necessary or could it be struck? **If 5.2 is stricken, the ability of the Board to remove or dismiss a member of the Commission will be more difficult, even if there are compelling reasons for doing so. The current wording is not uncommon for appointments made to advisory bodies.**

- (3) The Board shall not appoint or dismiss a member, or otherwise change the composition of the Commission, if such action would result in less than 2/3 of the members being residents of the electoral area.

Rather than the current 5.3 (or in addition to?) what do you think about “The Board may remove any member from an APC at any time by an affirmative vote of not less than two-thirds of the Directors entitled to vote upon the recommendation of the Area Director – This is a mash-up of two APC Bylaws I’ve looked at. **If understood correctly, the Board would not be able to remove a member of the APC except upon the recommendation of the Electoral Area C director and then only with a 2/3 majority. The requirement for a ‘director recommendation’ may be problematic since there is no provision in the bylaw or *Local Government Act* defining what this is or how it is to be given. This may also be considered a fettering of the Board’s discretion not contemplated by the statute. With respect to the 2/3 majority vote, since this is the same as a simple majority vote in the case of the SRD, suggest it is unnecessary.**

### **Oath of Office**

6. Before taking up their duties the members of the Commission shall make an oath of office in the form prescribed by Appendix ‘A’, attached to and forming part of this bylaw.

### **Term of Office for Members**

7. Members of the Commission may be appointed to any term not exceeding 3 years and may be appointed to additional terms of office at the Board’s discretion.  
**Term of Office for members: a term not exceeding three years years; term limit of six years. Term limits can be included in the bylaw.**

### **Attendance at Meetings**

8. Members are expected to attend every meeting of the Commission unless the absence is due to sickness or injury, or with leave from the Commission Chair.  
**The Director and Alternate Director are not eligible members of the Electoral Area APC but may attend APC meetings in a resource capacity. Purpose is unclear. The restriction on appointing a director or alternate director is clearly regulated by the *Local Government Act*. Since APC meetings are public meetings, the attendance by the director or alternate director “in a resource capacity” seems to denote a different status than other members of the public. This may be seen by some as an attempt to subtly influence the decisions of the Commission.**

### **Election and Term of Chair**

9. The members of the Commission shall elect a Chair at their first meeting each year who shall hold office for the remainder of the year.  
**Chair and Vice Chair? So there is a person to chair if the chair is unavailable? A Vice Chair may be elected or appointed annually in lieu of a Chair pro tem. A member would still need to be appointed as Chair pro tem if both the Chair and Vice Chair were unable to attend.**

### **Commission Secretary**

10. The corporate officer for the Regional District, or that person’s designate, shall perform the duties of secretary to the Commission.

### **Commission Procedures**

11. (1) Except as otherwise provided, and to the extent applicable, the Commission shall be governed by the procedures set out in the Regional Board’s meeting procedures bylaw.

(2) Despite any rule to the contrary, the Chair of the Commission may second a motion proposed to be considered by the Commission.



### **Matters to be Considered Expeditiously**

12. The Commission shall consider such applications as may be referred to it by the Regional District and provide its recommendations as soon as reasonably possible.

The Corporate Officer will notify the Director when a referral is made to their Electoral Area APC. **See previous comment regarding influence over APC decisions. It may be preferable to state that the director will be provided with a copy of all APC meeting agendas.**

The Corporate Officer may refer matters respecting land use, community planning, proposed bylaws, permits or licenses to the APC in order that the APC may advise the Corporate Officer & Board or Director on those matters. **The bylaw is currently structured to require that all relevant matters will be referred to the APC rather than leaving this to the discretion of a staff person.**

The Board may refer a matter to one or more APC's if the Corporate Officer has not done so and the Board wishes to have the advice of the APC on the matter. **The Board has the statutory authority to refer any matter within the APC's purview without that being specified in the APC bylaw.**

The APC to which a matter is referred will provide its recommendations within 40 days of the date of referral unless a longer time is specified in the referral, in which case the recommendation must be provided within that time frame. **Setting a specific deadline for dealing with any referral should be considered against the scheduling process for APC meetings to ensure that expectations are achievable.**

### **No Additional Fees Required**

13. The Commission shall not require that any fee, charge or other payment be required in connection with its consideration of an application.

### **Notice of Application**

14. Following receipt of an application by the Commission, the secretary shall ensure that a notice advising of the time, date and location of the meeting at which the application is to be considered is mailed or otherwise delivered to the applicant at least 10 days prior the meeting.

### **Report to be Prepared**

15. A report containing an analysis of the land use policies and regulations applicable to the application shall be prepared by the Regional District for each application and provided to the Commission for placement on a meeting agenda.

### **Process for Consideration of Applications**

16. (1) Before finalizing its recommendation on an application the Commission shall consider the report under section 15 and provide an opportunity for the applicant to address the Commission orally or in writing.

(2) If a written submission is received from the applicant prior to publication of the agenda for the meeting at which the application is to be considered, the submission shall be included on the meeting agenda.

(3) If a written submission is received from the applicant following publication of the meeting agenda but prior to the meeting at which the application is to be considered, it shall be read aloud at the meeting by the applicant, the applicant's representative or the Commission secretary.

(4) Written submissions received after the Commission has finished considering an application will be provided to the Regional District.

**Matters Referred by Director**

17. If the Commission is asked to consider a matter referred to it by the director, the Commission shall ensure that a copy of the request and any related records are provided to the Regional District following consideration by the Commission.

A director may refer a matter to the Director's APC if the Corporate Officer has not done so and the Director wishes to have the advice of the APC on the matter. **The draft bylaw does not restrict the ability of the director to refer matters to the APC.**

**Previous Bylaw of no Effect**

18. Upon adoption of this bylaw, Bylaw No. 2861, being Advisory Planning Commission Bylaw 2006, as adopted by the Comox-Strathcona Regional Board on January 30, 2006, shall cease to have any force or effect within Electoral Area C.

**Citation**

19. This bylaw may be cited for all purposes as Bylaw No. [REDACTED], being Electoral Area C Advisory Planning Commission Establishing Bylaw 2023.

**READ A FIRST TIME ON THE    DAY OF    , 2023**

**READ A SECOND TIME ON THE    DAY OF    , 2023**

**READ A THIRD TIME ON THE    DAY OF    , 2023**

**RECONSIDERED, FINALLY PASSED AND ADOPTED ON THE    DAY OF    , 2023.**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Corporate Officer

**APPENDIX 'A'**  
**ELECTORAL AREA C ADVISORY PLANNING COMMISSION**

**OATH OF OFFICE**

I, \_\_\_\_\_, do solemnly affirm that:

1. I am qualified to hold the office of commissioner for the Electoral Area C Advisory Planning Commission to which I have been appointed.
2. I am not an employee, officer or elected representative of the Strathcona Regional District or an approving officer appointed under the provisions of the *Land Title Act*.
3. I will faithfully perform the duties of my office, and will not allow any personal interest to influence my conduct in public matters.
4. I will disclose any direct or indirect pecuniary interest I have in a matter and will not participate in the discussion of the matter and will not vote in respect of the matter.

\_\_\_\_\_

(Signature of Appointee)

Affirmed before me at \_\_\_\_\_, B.C.

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

(Corporate Officer or Commissioner)