



To: General Purposes Committee **Date:** August 17, 2009
From: David Weber **File:** 01-0105-06-01/2009-Vol
 Director, City Clerk's Office 01
Re: Amendment to Council Policy No. 1312 – Public Hearings – Procedures for
 Conducting

Staff Recommendation

That Council Policy No. 1312 "Public Hearings – Procedures for Conducting," adopted by Council on September 8, 1997, be amended as outlined in Attachment 1 to the staff report dated August 17, 2009 from the Director, City Clerk's Office.

David Weber
 Director, City Clerk's Office
 (604-276-4098)

FOR ORIGINATING DEPARTMENT USE ONLY					
ROUTED TO:		CONCURRENCE		CONCURRENCE OF GENERAL MANAGER	
Law.....	Y	<input checked="" type="checkbox"/>	N		
Development Applications.....	Y	<input checked="" type="checkbox"/>	N		
REVIEWED BY TAG	YES	NO	REVIEWED BY CAO		
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ACTUAL	YES	NO
					<input checked="" type="checkbox"/>
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Staff Report

Origin

The majority of Richmond's public hearings are routinely scheduled to be held on a given evening and almost without exception, are adjourned that same evening after all interested parties have been given ample opportunity to present their views. However, from time to time, a proposed bylaw amendment or other land use matter generates considerable public interest with significant participation at the associated public hearing.

In response to complaints received from the public about the length of presentations and the necessity to reconvene such hearings a number of times in order to hear from all concerned, staff committed to undertake a review of the procedural rules around speaking limits and to explore whether a more equitable approach would be advisable.

Analysis

Public hearings are conducted in accordance with requirements of the *Local Government Act* as well as other relevant statutes. In addition, the general procedural rules for the conduct of public hearings are drawn from Council Procedure Bylaw No. 7560 and Council Policy 1312 "Public Hearings – Procedures for Conducting". These procedural rules have been in place and have not changed to any significant extent for many years.

Currently, Council's policies and procedures for the hearing of delegations at public hearings do not include a definitive time limit for primary presentations by applicants or delegations. The Public Hearing Opening Statement that is attached to Council Policy 1312 indicates that applicants will be asked to make a brief presentation; speakers may address the hearing a maximum of twice; that the length of a speaker's first presentation will not be limited, provided that comments are relevant and do not obstruct the hearing; and that the length of a secondary presentation, which must address new information, will be limited to ten minutes.

The only guidance on the issue of delegation opportunities in the *Local Government Act* is found in section 890(3) which stipulates that "*all persons ... must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the hearing.*" At the average public hearing where the typical turn-out is modest and usually consists of a small number of concerned neighbours, Richmond's current approach of not imposing time limits provides ample opportunity for speakers to present their views.

However, at public hearings where many people wish to address the hearing, the strict adherence to providing unlimited speaking opportunities can present a serious problem if a number of speakers wish to provide lengthy presentations. In such an instance, it is quite possible that time will run out before all the speakers in attendance have had an opportunity to delegate. This can cause stress and inconvenience on the part of the public who took the time to come out on the advertised public hearing date with an expectation to be heard. More importantly, if those people are unavailable on subsequent additional hearing dates, they may feel that they have not been afforded a reasonable opportunity to be heard, as required by the *Local Government Act*.

Further, Local Government Act, section 890(3.1) specifies that the chair of the public hearing is authorized to establish procedural rules for the conduct of the public hearing, subject to the provision that a reasonable opportunity to be heard is provided. By permitting the chair to establish procedures, this allows for more “situational” rules that respond as particular circumstances require. For example, when there are only a few speakers to be heard on a given evening, unlimited speaking time may not present a problem for the conduct of the hearing. However, when there are numerous speakers on a given evening, section 890(3.1) provides the authority to the public hearing chair to respond to the situation by establishing reasonable time limits for delegations so that everyone present may be afforded a fair opportunity to make their views known at the hearing. Under this guideline, different approaches can be taken in different situations, at the chair’s discretion.

For the purposes of comparison, the following table provides the results of a survey of public hearing practices currently in use by eight municipalities in the Metro Vancouver area. Seven of those municipalities impose a time limit, by policy, for first time presenters, six of which are 5 minutes or less, and four impose a time limit for those speaking a second time to present new information. Administrative staff at the municipalities contacted are of the opinion that the time limits provide for an orderly and fair public hearing process and have been well received by the public. A clearly stated rule articulated in policy also has the further advantage of providing transparency of process, meaning that the public will readily understand what to expect and how they should conduct themselves when they attend and speak at a public hearing.

MUNICIPALITY	Primary Presentation TIME LIMIT	Secondary Presentation TIME LIMIT
Vancouver	5 minutes	2 minutes
City of North Vancouver	5 minutes	5 minutes
District of North Vancouver	5 minutes	no time limit
Delta	5 minutes	2 minutes
New Westminster	3 minutes	3 minutes
Burnaby	10 minutes	no time limit
Coquitlam	5 minutes	no time limit
Surrey	no time limit	no time limit

The foregoing leads staff to recommend the introduction of general time limits for both primary and secondary presentations in order to ensure that all delegations at public hearings are given equal and reasonable opportunities to be heard and in order to provide clear and fair rules for the public. At the same time, it is important to recognize the authority of the chair to establish procedural rules in response to particular circumstances. In this regard, it should be clearly stated in the policy that any general time limits established may be adjusted by the chair in

response to the situation, provided that a reasonable opportunity is still afforded to all. Three options follow:

Option 1 - Status Quo (Not recommended)

Strict adherence to an unlimited speaking time can be problematic when many people wish to address the hearing; and a strict application of such rules does not recognize the authority of the chair to make situational procedural rules as anticipated in the Act.

Option 2 – Five minute speaking rule (Recommended)

This option would establish a five minute time limit for applicant presentations and primary presentations, and a further five minutes for secondary presentations on new information only.

It is noted that the time limit would not include the time taken for questions posed by council members and the chair would have the discretion to allow for more or less speaking time as circumstances dictate. This option would provide a speaking time for delegations that would be very similar to most other local governments surveyed.

Option 3 – Ten minute speaking rule

This option would establish a ten minute time limit for applicant presentations and primary presentations, and a further ten minutes for secondary presentations on new information only.

It is noted that the time limit would not include the time taken for questions posed by council members and the chair would have the discretion to allow for more or less speaking time as circumstances dictate. This option would provide a speaking time for delegations that would be longer than most other local governments surveyed.

To implement the recommended option, Council Policy 1312 on Procedures for Conducting Public Hearings would be revised to include a general rule to permit delegations at a Public Hearing to speak for five minutes for a primary presentation and for a further five minutes for a secondary presentation on new information only (as outlined in **Attachment 1**).

Financial Impact

None.

Conclusion

A speaking time of five minutes for applicant presentations, primary presentations and for secondary presentations would likely be considered by most people to be a reasonable amount of time in which to present one's views at a hearing. Furthermore, such a rule would prevent the situation whereby some speakers are effectively excluded from participating at a hearing when a small number of speakers are permitted to make very lengthy presentations. Finally, the establishment of clearly articulated rules subject to the authority of the chair to vary and make

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new procedural rules in response to arising circumstances would more accurately reflect the intent of the legislation with regard to the fair, reasonable and effective conduct of public hearings.

A handwritten signature in black ink, appearing to read "G. Johnson". The signature is fluid and cursive, with the first letter of the first name being a large, stylized capital "G".

Gail Johnson
Manager, Legislative Services
(604-276-4006)

Att.



City of Richmond

Policy Manual

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Adopted by Council: Sept. 8/97; Amended: August 25/2003

POLICY 1312

File Ref: 0105-00

PUBLIC HEARINGS – PROCEDURES FOR CONDUCTING

POLICY 1312:

It is Council policy that:

1. Public Hearings are to be conducted in accordance with the provisions of the *Local Government Act*, and in accordance with the Council Procedure Bylaw.
2. The establishment of a Speakers' List is at the discretion of the City Clerk.
3. As a general rule, applicants and delegations at a public hearing may speak for five minutes for a primary presentation and for a further five minutes for a secondary presentation on new information only, subject to the provisions of section 890(3.1) of the Local Government Act.
4. In accordance with the authority granted under section 890(3.1) of the Local Government Act, the chair of a public hearing may establish general procedural rules for the conduct of a hearing, provided that such rules afford all persons a reasonable opportunity to be heard or to present written submissions. For clarity, the chair may limit the length of the presentations at a public hearing in order to reasonably accommodate larger numbers of speakers who wish to address council on a given matter or the chair may allow longer presentations at his/her discretion.
35. The Chair will read the following "Opening Statement" which is attached hereto and forms a part of this policy, at the commencement of the Public Hearing proceedings.

Proposed Policy Amendment – REDLINE VERSION

(Underlined portions indicate proposed new text; stricken portions indicate deleted text)



OPENING STATEMENT TO BE READ BY THE CHAIR AT THE COMMENCEMENT OF THE PUBLIC HEARING PROCEEDINGS

This Council meeting is being convened in order to hold public hearings on land use matters.

At this hearing the public and anyone who believes that their interest in property is affected by the agenda items may speak or present written submissions to Council on these matters.

Those of you who wish to speak should, after being recognized by the Chair, begin by clearly stating your name and address. If you also have a written submission, please make this known at the beginning of your presentation.

Everyone will be given a reasonable opportunity to be heard at this hearing, and no one should feel discouraged from making their views known. Any person who wishes to present a written submission to Council may do so. The essence of the submission will be read out by the City Clerk. All written submissions will be retained by the City Clerk and will form part of the record of the hearing.

Each speaker may address the hearing a maximum of twice. The length of your first presentation will ~~not be limited~~ **be limited to five minutes**, provided your comments are relevant and the hearing is not being obstructed. Any additional presentation, which must be on new information, will be limited to a maximum of ~~ten~~ **five** minutes.

Members of Council may ask questions of you following your presentation. However, the function of Council members during a public hearing is to listen to the views of the public, not to debate the merits of the matters with citizens. Any debate by members of Council will occur at the subsequent vote.

The order of proceedings for each item will normally be as follows:

1. the City Clerk will briefly describe the matter under consideration;
2. the applicant (or agent) will be invited to make a brief **five minute** presentation;
3. the City Clerk will identify any written submissions received;
4. oral submissions from the public will be heard, and any further written submissions, if any, will be received;
5. the hearing will be closed and matters may be considered.

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

Proposed Policy Amendment – REDLINE VERSION

(Underlined portions indicate proposed new text; stricken portions indicate deleted text)