

# Introduction to B.C. Local Government and the Resort Municipality of Whistler (RMOW)

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## LOCAL GOVERNMENT IN BRITISH COLUMBIA

### **Local Governance**

Governance deals with the structure and processes by which municipalities and regional districts are directed, controlled and accountable to. Local governments must often work with provincial ministries to regulate and maintain shared services and resources. Local governments must comply with relevant legislation to ensure that they are conducting business and making decisions in accordance with the law.

### **Local Government in British Columbia**

The purpose of a municipality includes providing good governance of its community, through the provision of core services, providing for stewardship of the public assets of the community, and fostering the economic, social and environmental well-being of its community. The Government of British Columbia must specifically grant powers to local governments in order to carry out their duties. Local governments in British Columbia (B.C.) affect all citizens on a day-to-day basis. Decision making at a municipal level includes more interaction with citizens than the provincial or federal government, and the decisions made impact the community more directly. Local governments are a large component of the public sector. Local governments are responsible for roads and streets, public safety, recreation facilities and opportunities, water and sewer supply, and land use. Residents of municipalities and regional districts in B.C. have the opportunity to become involved in local government, either by running for office or participating in public processes.

### **Municipalities**

Municipalities include cities, towns, districts, villages, regional municipalities, townships and resort municipalities. Whistler is a resort municipality. Municipalities may choose to provide a wide range of services to their residents and regulate activity within their boundaries. Municipalities have core service responsibilities that vary between municipalities.

### **Regional Districts**

Regional districts represent unincorporated areas within the Province. They facilitate inter-municipal cooperation in the form of functions, shared services and regulating activities. Regional districts must carry out some regulatory activities, but they may also voluntarily take on additional and specialized functions and services depending on the needs of their region including health care.

### **Improvement Districts**

Improvement districts are local authorities responsible for providing services for the benefit of the residents in a community. Improvement districts vary considerably in size, from small subdivisions to larger communities, and are usually located in rural areas of B.C.

Improvement districts are empowered to provide local services such as water, fire protection, street lighting, dyking, drainage, garbage collection and parks, rather than general governance or land use planning that municipalities and regional districts provide to residents. Typically an improvement district provides one or two services. These services are generally financed by taxation or user fees.

# IMPORTANT DOCUMENTS

## **Community Charter**

The *Community Charter* is provincial legislation that provides municipalities and their Councils with the legal framework for powers, duties, and functions, authority and discretion to address existing and future community needs, and the flexibility to determine the public needs of their communities. The Community Charter is amended regularly by the Province.

## **Local Government Act**

The *Local Government Act* provides the legal framework and foundation for the establishment and continuation of local governments to represent the interests and respond to the needs of their communities. The Local Government Act is more relevant to Regional Districts; however there are many sections that apply to both Regional Districts and municipalities. For example, election guidelines and zoning regulations are clearly identified in the Local Government Act and must be adhered to by both levels of local government. The Local Government Act is regularly amended by the Province.

## **Letters Patent**

The Letters Patent can be described as the municipality's or regional district's birth certificate. Issued by the Province upon incorporation, the Letters Patent lists the corporate name of the municipality (eg. Corporation of the Resort Municipality of Whistler), the classification (eg. Village, Town, District, or City), the area and boundaries, and certain preliminary matters if necessary. Additional Letters Patent are also issued as a result of any successful boundary extension.

## **Bylaws**

The Community Charter states that a Council may only exercise its authority by resolution or bylaw. Bylaws are to be impersonal, must address the public at large and must apply to all persons who fall within the description. In order to be valid, bylaws must be voted on and passed in a properly convened, Regular Council Meeting. All bylaws must receive three readings before adoption. Amendments to the bylaw must be made before third reading. Some bylaws, such as the Official Community Plan, Land Use Contract Termination or Zoning Bylaws, require a Public Hearing before third reading is given. Once a bylaw is adopted, it becomes local law, and can be enforced by Council and municipal bylaw officers. Bylaws are permanent documents and the municipality is required to retain a copy of all bylaws that have been passed or repealed by Council.

## **Policies**

Council may choose to develop and adopt Council policies that govern the administration of the municipality; it is staff's role to act as policy advisors and decision implementers. A policy is developed for a specific purpose and contains detailed guidelines and expectations to ensure consistency in municipal operations.

## **Audited Financial Statements**

Audited financial statements are completed each year by the contracted auditors. The Community Charter states that Council must appoint an auditor for the municipality. An audit of financial statements is the verification of the financial statements of a legal entity, with a view to express an audit opinion. The audit opinion is intended to provide reasonable assurance that the financial statements are presented fairly, in all material respects, and give a true and fair view in accordance with the financial reporting framework.

## **B.C. Assessment Roll**

B.C. Assessment produces independent, uniform and efficient property assessments on an annual basis for all property owners in the Province. These assessments are used by the RMOW to calculate property taxes. Property taxes are billed in May of each year and payment is due in early July of each year. The RMOW receives the updated Assessment Roll from the Province each year.

# COUNCIL

## Overview of Municipal Council

Council is the governing body of the municipal corporation. Major policy decisions in a municipality are made by the elected Council Members. For the Resort Municipality of Whistler (RMOW) this consists of the Mayor and six Councillors. All Members of Council must act in good faith in the best interest of the municipality as a whole. Only Council can exercise the powers of the municipality, which is by bylaw or resolution passed at a Regular, Closed or Special Council meeting when quorum is present (unless the duty is delegated to an officer in accordance with the *Community Charter*).

Quorum is the minimum number of members that must be present to hold a Council Meeting where binding decisions are made. For the RMOW, four of the seven members of Council must be present to achieve quorum. A single member of Council does not have the power to bind the municipality in any way (with the exception of the powers of the Mayor) or direct either its employees or its affairs. Council must give collective judgment as a group and not as individuals. The power of a single member of Council depends on his or her ability to persuade the other members to his or her point of view.

## Role of the Mayor

The Mayor is the head and Chief Executive Officer of the municipality. The Mayor acts as the Council spokesperson and provides general direction to administration respecting implementation of Council's policies, programs and other directions of Council.

In addition to responsibilities as a Member of the Council, the Mayor also has the following responsibilities (*Community Charter*, Section 116):

- to provide leadership to the Council, including by recommending bylaws, resolutions and other measures that, in the Mayor's opinion, may assist the peace, order and good government of the municipality;
- to communicate information to the Council;
- to preside at Council meetings when in attendance;
- to provide, on behalf of the Council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the Council;
- to establish standing committees in accordance with sections 141 and 142 of the *Community Charter*;
- to suspend municipal officers and employees in accordance with section 151 of the *Community Charter*;
- to reflect the will of Council and to carry out other duties on behalf of the Council; and
- to carry out other duties assigned under the *Community Charter* or any other Act.

## Role of Councillors

Members of Council, including the Mayor, have the following statutory responsibilities as per the *Community Charter*:

- to consider the well-being and interests of the municipality and its community;
- to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;
- to participate in Council Meetings, Committee Meetings and meetings of other bodies to which the Member is appointed;
- to carry out other duties assigned by the Council; and
- to carry out other duties assigned by or under the *Community Charter* or any other Act.

## RESPONSIBILITIES OF MAYOR AND COUNCIL

### **Ethics and Confidentiality**

Elected officials are expected to act in a fair, transparent and accountable manner with the best interests of the municipality at the forefront. It is important to gain and maintain public trust and act with integrity. Council members must adhere to provincial legislation and act in accordance with municipal bylaws and policies. It is important to remember that Council members are the trustees of the municipality's assets and the beneficiaries are the taxpayers.

Section 117 of the *Community Charter* states that a Council member, or former Council member, must keep in confidence:

- any record held in confidence by the municipality, until the record is released to the public as lawfully authorized or required; and
- information considered in any part of a Council meeting or Council Committee Meeting that was lawfully closed to the public, until the Council or Committee discusses the information at a meeting that is open to the public or releases the information to the public.

If the municipality suffers loss or damage because a person contravenes this section of the *Community Charter* and the contravention was not inadvertent, the municipality may recover damages from the person for the loss or damage. The municipality has the statutory authority to sue to recover damages from a Councillor whose breach of confidentiality results in loss or damage to the municipality.

It is the citizens of the municipality who are entitled to expect fair treatment and ethical behavior from the elected officials who represent them. Citizens expect Council to acknowledge the requirements of all legislation as well as abiding by its own bylaws, policies and regulations.

### **Conflict of Interest**

The *Community Charter* (Part 4: Divisions 6 and 7) outlines the rules, requirements and penalties for conflict of interest on the part of Council members. It is the responsibility of the individual Council member to recognize and declare if they are facing a conflict of interest. Section 100 (Disclosure of Conflict) of the *Community Charter* requires a Council member to declare a conflict of interest if he or she has a direct or indirect pecuniary (financial) interest in a matter under consideration. A member must also declare a conflict if he or she has some other, non-pecuniary type of interest that places the person in a conflict position (e.g. bias). This could include any benefit obtained by relations, close friends or associates of a member.

Examples of conflict of interest:

- A topic that would affect (positively or negatively) your employment at another organization;
- A rezoning application by a relative or close personal friend;
- A business license decision involving a competitor business to one operated by a close friend; or
- Awarding a contract to a family member or close friend.

The following process should be followed by a member of Council if they believe that they have a conflict of interest in regard to a certain topic:

1. Advise Council that they are in conflict of interest and state in general terms as to why the Member considers it to be a conflict of interest.
2. Remove themselves from the Council meeting while the topic is being discussed (it will be recorded in the minutes that a conflict was declared and that the Council member left the Meeting).

Section 101 (Restrictions on Participation if in Conflict) sets out the basic rule that, if a Council member has a direct or indirect pecuniary interest in a matter, the member must not:

- remain or attend any part of a meeting during which the matter is under consideration;
- participate in any discussion of the matter; or
- vote on the matter or attempt in any way to influence the voting of the matter, whether before, during or after a Council Meeting.

Once a declaration of conflict has been made, the member of Council must not do any of the things set out in section 101. These rules are in effect for Council members in relation to all types of Council Meetings, Committees and any other body created by the municipality or established pursuant to legislation. A Member of Council who determines, after declaring a conflict of interest, that he or she is, in fact, not in a conflict position, may withdraw the original declaration and participate in subsequent discussions and vote on the matter being considered. The member must, however, obtain legal advice on the question of conflict before withdrawing the declaration.

A Council Member who contravenes this section is disqualified from holding an office described in, and for the period established by, the *Community Charter*, unless the contravention was done inadvertently or because of an error in judgment made in good faith. A good rule to follow is “if you think you are in a conflict, you probably are”.

### **Financial Disclosure Statements**

The B.C. *Financial Disclosure Act* requires elected local government officials to complete and submit to the Corporate Officer a Financial Disclosure Statement by January 15th of each year so that it may be made available for public inspection. The purpose of the Financial Disclosure Statement is to identify any areas of influence and possible financial benefits an elected official may have by their position and to ensure the public has reasonable access to the information. Information to be included on the form includes corporations in which a councillor holds shares, creditors to whom a councillor owes a debt (it is not necessary to list the amount), organizations from which a councillor receives financial remuneration and land owned (excluding a councillor's residence). If circumstances change throughout the year, a new Financial Disclosure Statement must be filed with the Corporate Officer.

### **Disclosure of Gifts**

The *Community Charter* specifies that Council members must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of the duties of office except for a gift or personal benefit that is received as an incident of protocol or social obligation that accompanies the responsibilities of office. If a gift or benefit is being given with an expectation of future action that will benefit the giver of the gift or have influence on a decision or action by a Council member, it must not be accepted. If a gift or benefit is incidental to the duties of office and exceeds \$250 in value, or a combined value of lesser gifts from one source over any 12 month period exceeds \$250, a Disclosure of Gifts statement must be filed with the Corporate Officer as soon as reasonably practicable indicating the nature of the gift, who it was received from, when it was received and the circumstances under which it was given and accepted.

### **Freedom of Information (FOI)**

The *Freedom of Information and Protection of Privacy Act (FOIPPA)* applies to all local governments in B.C. *FOIPPA* mandates that some information must be kept confidential and that some information must be released upon request. The RMOW appointed FOI Head (Corporate Officer) and Coordinator receives and processes FOI requests in accordance with *FOIPPA* and the RMOW “Freedom of Information and Protection of Privacy Bylaw No. 1088, 1994”. If specific records in the custody and control of individual Council members, or records that were addressed, received or created by Council are requested, staff will work with Council to obtain copies in order to respond to the request.

# COUNCIL MEETINGS

## **RMOW Council Meetings**

RMOW Council Meetings follow the rules and regulations outlined in the *Community Charter, the Local Government Act*, and “Council Procedure Bylaw No. 2207, 2018”. Council must have a current procedure bylaw which establishes the general procedures to be followed by Council and committees when conducting Council business. This bylaw includes provisions for public notice of meetings, delegations to Council, bylaws, motions, rules of conduct and debate, minutes and committees. This bylaw can be amended or substituted if proper procedure is followed. For example, Special Meetings may be held if they are properly advertised as per section 94 of the *Community Charter*.

Regular, Closed, Committee of the Whole and Public Hearing meetings of Council are held on Tuesdays and Special Meetings are held as required. Closed Council meetings begin at 9 a.m. Committee of the Whole Meetings are held at 2 p.m. when needed. Regular Council Meetings begin at 5:30 p.m. Public Hearings are held at 6:00 p.m. when needed. An annual Council Meeting schedule is formally adopted in a Regular Council Meeting and advertised in the local newspaper and on the RMOW website. Changes to the schedule may only be adopted by Council resolution. Occasionally, Council Meetings vary to accommodate long weekends, summer schedules and Council conferences such as the Federation of Municipalities (FCM) and the Union of British Columbia Municipalities (UBCM).

## **Attendance at Council Meetings**

Council Meetings are to be attended by all Members of Council. General Managers (or their designate) also attend Council Meetings along with the Council Coordinator, Manager of Communications and the Corporate Officer. Other municipal staff also attend meetings, as required, to make presentations to Council and to be available for questions.

## **Protocol at Council Meetings**

Upon arrival at Council Meetings, Council members and staff are expected to act professionally and respectfully. The Mayor is the presiding official and Chair at all Council Meetings (unless absent and the Acting Mayor would assume the role) and maintains order at the Meeting. Seating arrangements are set by the Mayor.

Council meetings follow a formal process with many traditional aspects. Council members shall be referred to by their proper titles and staff is referred to by their position. All speaking shall be done through the Mayor. For example, if a Council Member or staff member wishes to make a comment on an Agenda item, they must wait to be acknowledged by the Mayor to speak.

## **Council Agenda**

The Council Agenda and Meeting Package is prepared and distributed by the Legislative Services Department on the Thursday before a Council Meeting. Agendas are available on the RMOW website and in printed form for the public. It is important that all Members of Council and staff members present at the meeting have reviewed the Agenda Package to ensure that they understand the decisions to be made at the Council Meeting. If Council has any questions about items on the Agenda, they are encouraged to contact the Mayor or Chief Administrative Officer prior to the meeting to seek clarification. Any additional information provided to a Member of Council for the purpose of clarification will also be provided to all other Council Members prior to the Meeting or will be explained verbally at the Meeting.

Urgent late items may be added to the Agenda if approved by the Mayor and CAO prior to the commencement of the Regular Council Meeting. If items are not time sensitive, they will be added to the next Regular Council Agenda to give Council and the public adequate time to review and consider the item.

## **Council Resolutions**

A resolution (also known as a motion) is a formal proposal by an individual Council Member, in an official Council Meeting, that the Council as a whole, and in turn the organization, take a certain action. Before a subject can be considered, it must be placed before Council for consideration in the form of a resolution, moved by one Council



member, seconded by another and voted on by all Council Members (including the Mayor). A resolution may be amended, withdrawn, tabled, reconsidered or rescinded.

### **Closed Council Meetings**

RMOW Council may hold Closed Council Meetings for the purpose of discussing confidential information. All closed discussions and information must be kept confidential by all those present. Closed resolutions or information may be released to the public by Council resolution. The *Community Charter* contains the rules for holding Closed Meetings of Council or Council Committees. Matters that may be discussed in a Closed Meeting must fit into one of the categories included in Section 90 of the *Community Charter*.

### **Committee of the Whole Meetings**

Committee of the Whole Meetings are open, deliberative meetings where Council Members can workshop specific items. Council cannot make any decisions during a Committee of the Whole Meeting. Any decisions from Committee of the Whole Meetings must be brought forward during a Regular Council Meeting.

### **Regular Council Meetings**

Regular Council Meetings are open to the public. During Regular Council Meetings, Council makes formal resolutions on public matters. Regular Council Meetings are mainly comprised of presentations and delegations, public Q+A, staff reports, bylaw readings and the receipt of and referring of correspondence.

### **Public Hearings**

Public Hearings are meetings held for the purpose of allowing the public to make comment on Official Community Plans and, Zoning Amendment Bylaws. Notice requirements for Public Hearings are legislated by the Section 94 of the *Community Charter*. Public Hearings must be held before third reading is given to a bylaw. The public can submit verbal or written responses to Council for the Public Hearing. Council's role during a Public Hearing is to listen and ask questions, however no debate is to take place during this Meeting.

### **Council Meeting Minutes**

Council Meeting Minutes summarize the proceedings of and the decisions made by Council at official Council Meetings. Minutes are captured by a recording secretary present during the Meeting and certified by the Corporate Officer and the Mayor in accordance with the *Community Charter* and the Council Procedure Bylaw. Final drafts of the Minutes are included on a Council Agenda for review, amended if necessary and formally adopted by Council. Once the Minutes are adopted, they are certified by the Corporate Officer and the Mayor and the original copy is filed at Municipal Hall.

### **Delegations and Presentations**

Delegations may request or be invited to attend Council Meetings and present to Council. Requests are made in writing to the Corporate Officer through the Council Coordinator and must include a detailed synopsis of the intended presentation. Once received, submissions will be reviewed and considered by the CAO and the Corporate Officer. Each approved delegation is allotted five minutes for their presentation.

### **Public Participation**

The public is encouraged to attend all Regular Council meetings and the local media are often in attendance. A Public Question and Answer Period takes place near the beginning of each Regular Council Meeting. A Member of the audience has the opportunity to ask a question of Council. The member of the public must state their name and address before asking their question. The Mayor will respond to the question and may request a Councillor or RMOW staff to provide a response. If action is necessary, the topic will be brought forward to a future Council Meeting or dealt with internally by staff. There is a time limit of five minutes per speaker. Members of the public may also submit correspondence for Council to receive or refer to staff.



## ROLE OF ADMINISTRATION

### **Statutory Officers of the Municipality**

As per sections 147 through 150 *Community Charter*, Council must appoint a Corporate Officer, Financial Officer and Approving Officer for the municipality. Those employees who are appointed officers are given certain powers and must perform specific duties and functions.

The RMOW has the following appointed officer positions:

- Chief Administrative Officer;
- Financial Officer;
- Corporate Officer; and
- Approving Officer.

### **Chief Administrative Officer**

The Chief Administrative Officer (CAO) is Council's link to the rest of the organization. The CAO is also the principal policy advisor to Council. Council has the option to appoint a CAO whose responsibilities are the overall management of the operations of the municipality, ensuring that the policies, programs and other directions of the Council are implemented, and advising and informing the Council on the operation and affairs of the municipality.

### **Corporate Officer**

The Corporate Officer ensures accuracy in Minutes from Council Meetings, to maintain and properly store the records of the business of Council, Bylaws and important municipal documents, and executes the signing of oaths, contracts and declarations. The Municipal Clerk also ensures that all actions of Council are made in accordance with presiding legislation including but not limited to the *Community Charter* and *Local Government Act*. The Corporate Officer and Legislative Service Department are responsible for the preparation of Agendas and Packages for Council Meetings and ensuring notice requirements for Council Meetings are met.