

# MUNICIPAL ACCOUNTABILITY PROGRAM (MAP) REVIEW REPORT – ADMINISTRATION’S RECOMMENDATIONS

## SUMMARY

The attached MAP Review Report was delivered to the Chief Administrative Officer on October 17, 2019. Section 2.4 of the report states that a response, providing Administration’s plan to address the action items, must be provided to Municipal Affairs within eight (8) weeks of receipt, which indicates a response deadline of December 12, 2019.

Earlier this year, Administration compiled the list of documentation provided by the Municipal Affairs team conducting the review. The reviewers spent several hours with the CAO on August 7, 2019 reviewing some of the records and requesting clarification or further documentation where it was required. They also attended the Council meeting that same evening as a Delegation and to observe the Council meeting processes used here in Black Diamond.

The report created by Municipal Affairs is attached for Council’s consideration. Section 2.3 outlines the six (6) action items identified as Legislative Gaps. All of these items are easily able to be amended or included in future processes without undue hardship to any department or request for financial supports. These items are addressed below and include Administration’s recommendations. If Council approves all recommendations, they will be forwarded to Municipal Affairs prior to the response deadline.

## MUNICIPAL OFFICE – PAGE 10

Section 204 of the *Municipal Government Act (MGA)* states “A council must name a place as its municipal office.” Administration was asked to provide the review team with this resolution but was unable to locate one. It may exist somewhere in 90 years of minutes, but it was not located within a reasonable search effort, focussed on the timeline of the current building’s construction and the Town occupying it.

### **Recommendation:**

1. Administration will bring forward a Request for Decision (RFD) to Council to make this resolution, complying with the Municipal Government Act.
2. In future years, the resolution should be repeated at each Organizational Meeting and can be included as part of the regular meeting scheduling resolution.

## PECUNIARY INTEREST – PAGE 25

Pecuniary Interest is something that does not arise very often in our Council Chambers. As noted in the report, a specific meeting containing such an item was reviewed, and some of the required information was not contained in the Minutes.

- \*\* Section 7.5 of the Procedure Bylaw (16-06) references Pecuniary Interest, in compliance with the MGA.

**Recommendations:**

1. Administration will prepare a template statement, available to each member of Council, to assist when there is a need to declare a pecuniary interest. This template will help both Council and Administration to be sure that an appropriate statement is made during an open Council meeting, and recorded in the Minutes.
2. [Pecuniary Interest for Municipal Councillors document](#) will be available in Council Chambers to assist the Chair and Administrative staff in making sure correct processes are followed.
3. All members of Council should, for their own understanding, be familiar with the requirements of the Pecuniary Interest process, by reading the Municipal Affairs document and preparing appropriately, should the need arise.

**PROCEDURE BYLAW – PAGE 34**

Council's [Procedure Bylaw 16-06](#) is currently awaiting an amendment, arising from the 2019 Organizational Meeting. This amendment will change Council's meeting schedule, section 7.2, effective January 1, 2020.

The MAP Report found the following sections pertaining to the cancellation of Council Meetings:

- 7.3 This section *correctly* requires that Council must pass a resolution in order to cancel a meeting.
- 9.1 This section is mostly incorrect.
  - Subsection a) is correct. It allows for cancellation of a Regular meeting by a majority of members at a previous meeting. It should be more clearly worded, but it is not wrong.
  - Subsections b) and c) both allow for cancellation of Regular meetings by written consent. These two subsections are in violation of the MGA, sections 180 and 181, which requires that council act only by resolution or bylaw, passed in a public meeting with a quorum present.
- 9.2 This section only has two (2) subsections, which are essentially the same as the incorrect subsections (b) and (c) described in section 9.1. Section 9.2 relates to Special Meetings initiated by the Mayor.
- 9.3 This section also has only two (2) subsections, both incorrect, as above. Section 9.3 relates to Special meetings called by a majority of Council members.

*\*\* Council will note that no scheduled Council meeting, either Regular or Special, has been cancelled unless by resolution of Council. In spite of the wording of the bylaw, the Act has always prevailed.*

Legislative Services suggests a full review of Council's Procedure Bylaw. A few comments have been made by members of Council that warrant discussion. If Council is agreeable, the Legislative Services Manager requests that all members of Council review the bylaw individually, make note of any areas of concern or question and email them in. It would also be of assistance if Council were to give consideration to the second recommendation for the Procedure Bylaw during their individual reviews. The report recommends that "council may consider removing items in bylaw 16-06 that are a duplication of provisions in the MGA." during said review, Council could offer feedback on that as well. Administration will be identifying those duplicated sections prior to review activities.

Due to current staffing levels, it is requested that a review of the bylaw with all of Council be held, but not until early 2020.

**Recommendations:**

1. Legislative Services will prepare a simple amending bylaw to address the scheduling changes in section 7.2 of Bylaw 16-06, which needs to be passed before December 18, 2019,
2. Council members review and provide questions or comments to Legislative Services for changes to Bylaw 16-06, and
3. Legislative Services will prepare for a review of the bylaw in early 2020, incorporating changes to comply with the legislative requirements of the MGA noted in the MAP Review Report.

**CONTENT OF TAX NOTICES – PAGE 58**

The MAP Review Report noted two (2) items for action. Both are items missing from (certain) tax notices. The requirement to print on tax notices the name and address of the designated officer with whom a complaint must be filed, and information on how to request a receipt for taxes paid.

In clarifying this with Municipal Affairs, the designated officer information is only required on tax notices that contain taxes other than property taxes. Examples of these would be local improvement taxes, Business Revitalization Zone (BRZ) taxes or other forms of non-property taxes. Currently, the Town of Black Diamond does not issue any tax notices of this nature.

**Recommendations:**

1. The Tax Clerk is to review the tax notices each year, to determine if any of the notices qualify as non-property tax notices. If there are any, the designated officer information will be mailed out along with the tax notice. The designated officer is recommended to be the CAO or alternatively, the Assessment Review Board Clerk. Appointing the ARB Clerk would require an amendment to the Designated Officers bylaw and the appointments of designated officers. The CAO is already the designated officer for any non-appointed requirements.
2. Beginning with 2020 property tax notices, the information will be included to inform our taxpayers on how to request a receipt for taxes paid. This process will be as simple as a letter, email or phone call, providing basic account information and asking for their receipt. This information will be sent out with the tax notices and will be made available on the Town's website year-round.

**DEVELOPMENT APPLICATIONS – PAGE 61**

The MAP review noted that a decision was not made on a specific development permit application within the required 40 days, as specified by Section 684 (1) of the *Municipal Government Act* that was current at the time of application.

**Recommendations:**

1. Diarize acknowledgement of complete application dates to ensure decisions are made within the subsequent 40 days as required under Section 684 (1).
2. Amend applicable application forms to identify the date and Development Authority initials when an application is deemed complete.
3. The Planning Department has prepared a template "Time Extension Agreement" form for applicant or development authority's use when an application is going to exceed 40 days.

**COUNCIL APPOINTMENT TERMS:** The *Libraries Act*, Section 4, relates to Municipal Libraries. Section 12 relates to Intermunicipal Libraries. Each section speaks differently to the appointment of Council representatives to a Library Board. Municipal Affairs has been communicating with the Public Library Service to clarify this for us. They have confirmed that we must comply with Section 4, as stated in the MAP Review Report. The “full electoral term appointment” does not comply with the Act, it exceeds the maximum three-year term. At the October 2019 Organizational Meeting, Councillor Ted Bain was appointed to the Library Board for his third year, therefore the next Organizational Meeting must show a new Council representative appointed to that board.

**ALTERNATE APPOINTMENTS:** Alternate appointments for Council representatives are not permitted by the *Libraries Act*. Administration had become aware of and discussed this with Council prior to undergoing the MAP Review. At this year’s Organizational Meeting, Council did not appoint an alternate, and Administration’s committee list now states that none is permitted, for future reference.

***Recommendations:***

1. Municipal Affairs is to be notified that the Town of Black Diamond has already ceased appointing alternate Council members to the Sheep River Library Board. Further, Administration’s committee lists (Organizational Meeting preparation materials) now state that alternates are not permitted.
2. Administration will amend the Organizational Meeting preparation materials and committee lists to identify the maximum term for a Council representative to the Sheep River Library Board is three (3) years. This appointment will be reviewed annually, prior to the Organizational meeting, to ensure the maximum of three (3) years is not exceeded.
3. All future appointments to the Sheep River Library board are made for a (maximum) three-year term, per the Act, and are clearly stated as such in the resolution. For example, “that Council agree to appoint <Name> as a Black Diamond Member at Large on the Sheep River Library Board, for a three-year term, expiring on <Date + 3 years>.”

OTHER

**COUNCIL MEETING MINUTES – Page 26**

Page 26 of the MAP Review noted an item that provides an opportunity for improvement but is not targeted as a Legislative Gap, as Administration is currently meeting minimum legislative requirements.

Council Minutes show each resolution as Unanimously Carried, Motion Carried or Motion Defeated. Municipal Affairs recommends that Unanimously Carried should only be used is when it is a requirement to have a motion unanimously carried, such as unanimous consent to proceed to third reading of a bylaw in one meeting. All other motions should be stated to be Motion Carried or Motion Defeated. This practice is generally upheld by the Municipal Affairs document [The Preparation of Meeting Minutes for Council – Legislation and Best Practice \(2017\)](#) where the sample documents demonstrate this practice.

**Recommendation:**

Implementation of the report’s suggestion to discontinue general use of the term Unanimously Carried, when not required, following Council’s acceptance of the MAP Review Report.