

From: Ron Voss <rvoss@lightspeed.ca>
Subject: Re: [EXTERNAL] Seeking Clarity
Date: April 29, 2024 at 9:13:05 PM MDT
To: Jaylene Knight <Jaylene.Knight@cochrane.ca>
Cc: CouncilDist <CouncilDist@cochrane.ca>

Dear Ms. Knight,

While I don't expect the wording used by different municipalities to be exactly the same on the matter, I **do** expect them to be properly aligned with what constitutes a "notice of motion". Thus, while the City of Edmonton's procedural bylaw properly states, "The giving of notice of motion is not debatable", much the same is said in 7.2(b) of the town's **existing** Procedural Bylaw 19/2019, namely, "A notice must be given **without discussion** of the matter". That understanding is further clarified and confirmed in section 7.2(a)(i) of the town's existing procedural bylaw, whereby a councillor "may make a motion", that is, put a motion on the floor for debate and vote, "only if notice is given at a **previous** Regular Council meeting".

You are partially correct in saying that "The draft bylaw includes the Notice of Motion process as it has been operationalized by this Council over this last term". However, as I have repeatedly pointed out, what has been operationalized by this Council over this last term has most often been at odds with what is clearly written in Section 7.2 of the existing procedural bylaw. So what you are doing with this rewrite is codifying the procedures which did not comply with aspects of the existing procedural bylaw.

At the Regular Council Meeting on April 22, 2024, Councillor Nagel declared that he was "a little lost on this notice of motion thing". Similarly, Councillor Fedeyko expecting debate to be held off to a subsequent meeting (in accord with section 7.2(a)(i) of the town's existing procedural bylaw) expressed that she was "not sure of the whole rigmarole as to what is going on with the procedural bylaw". Indeed! At the April 2, 2024 Council of the Whole Meeting, Mayor Genung acknowledged that "we have stumbled over that (*notices of motion*) in the past", which is an understatement, as illustrated in my February 29, 2024 Dog With A Bone blog post, "Total Chaos and Inconsistency in the Town's (Mis)Handling Notices of Motion", as summarized in the table below from that blog post.

7. 2 Notices of Motion

Requirements	Met	Not Met
1) A Member may make a motion introducing any new matter only if notice is given at a previous regular Council meeting - 7.2(a)(i)	January 8, 2024 (1)	February 12, 2024 November 27, 2023 September 25, 2023 (2)
2) Or Council on a two-thirds (2/3) vote waives the requirement for Notice – 7.2(a)(ii)	July 10, 2023 (5)	
3) A notice must be given without discussion of the matter – 7.2(b)	December 11, 2023 (1)	February 12, 2024 July 10, 2023 May 8, 2023 (4)
4) To be placed on the meeting agenda, the Notice of Motion and any supporting documents must be submitted in the form of a Council Report to the Manager, Legislative Services by 4:00 pm on the seventh complete day preceding the meeting – 7.2(c)		September 11, 2023 (3)
<p>1) Councillor arranged with Administration to be able to request that debate and vote be deferred to next Council meeting, even though no such rule exists in the Procedural Bylaw 19/2019</p> <p>2) Administration claimed that NOM was presented at previous meeting on September 11, 2023, thereby meeting requirement #1. However, it should have been ruled out of order since did not meet requirement #4. No such thing as a 'notice of notice of motion' as declared by the mayor, as presider for the meeting.</p> <p>3) Although two NOMs did not meet requirement #4, one NOM was disallowed, and the other was inappropriately allowed through a two-thirds vote (requirement #2).</p> <p>4) There is no requirement in the Procedural Bylaw for Council to vote on the notice of motion and "If the notice of motion passes, then that that comes back at the next council meeting with the report from Administration" or "to send this to Administration for review", instructions the mayor received from Administration as to the process to be followed.</p> <p>5) Proposed by Mayor Genung as this was the last Council meeting before the summer break.</p>		

With respect footnote 2), it is noteworthy that in your explanation of the September 25, 2023 Council Meeting Minutes for the December 11, 2023 Regular Council Meeting, you referenced 7.2(a)(i) of the procedural bylaw and declared that Councillor Fedeyko had thereby satisfied that requirement in having "provided Notice at the September 11, 2023 Council meeting". Disappointing that you were not consistent in ensuring that 7.2(a)(i) of the existing procedural bylaw was followed for other notices of motion.

With respect to my questions related to 7.2(d) of the draft 2024 Bylaw, "The Member who submitted a written Notice of Motion is not required to be present when the Notice of Motion is read". Does the reading of the notice of motion mean that a motion has been moved or put on the floor for debate and vote? Does it make sense that if there is debate related to a council member's notice of motion, that that council member can be absent from the debate or discussion?":

You failed to answer my first question, "does the reading of the notice of motion mean that a motion has been moved or put on the floor for debate and vote?"

With respect to my second question, you replied, “As Council members are in control of when a Notice of Motion comes forward, it would not be likely that it would be presented without their presence at the meeting”, by which I presume you mean the Council member who authored the notice of motion. However, while “not likely” to be absent, there is no assurance of that as the councillor may have to be called away to a family emergency or fall ill on the day the notice of motion is read.

I understand full well that it is a draft and that Council at its Regular Council Meeting on April 22, 2024 decided to defer the matter, second reading for debate and possible amendment, to a later date because Councillor McFadden was unable to attend the meeting that evening. Nonetheless, although the draft procedural bylaw was **not** adopted that evening, Mayor Genung proceeded to use a new clause incorporated as part of section 4.3 of the draft Procedural Bylaw 17/2024 that evening to bring forward a notice of motion for the first time. His doing so was endorsed by Brett Hawken, Manager, Legislative Services, who declared, “you are allowed to debate a motion that is on the floor for a notice of motion because it follows the procedural process that comes forward tonight”, thereby making up rules on the fly because that procedural process, part of the draft Procedural Bylaw 17/2024, did not come forward that evening. As Stacey Loe, Executive Director, Legislative Services, stated that evening, “the only impact (*for deferring the matter*) would be that you continue to operate under the existing procedural bylaw that is in effect” (Procedural Bylaw 19/2019). An example of the arbitrariness with which the Administration handles the procedures described in the procedural bylaw.

Another example of such arbitrariness is how you gave Councillor Fedeyko the ability to request that her notice be debated at a subsequent meeting (which, by the way, was unnecessary as that is how a notice of motion is to be handled according to the existing procedural bylaw) instead of following the mayor's normal, improper procedure of inviting debate and vote on a notice of motion. If indeed, such a process, which appeared nowhere in the existing procedural bylaw, could, as you say, continue to be utilized at Council's discretion, the fact that it does not appear in the draft procedural bylaw, thereby, merely demonstrated how Administration has been making rules up on the fly!

Your reference to “Specific to Notice of Motions, a NOM report could appear on an agenda where no one puts the motion on the floor, in which case, it would be included in the next agenda for consideration. Again, this is at Council's discretion, and should a member of Council be unexpectedly absent, they can certainly request that their item be removed from an agenda and brought forward at a future meeting. There is flexibility built into the Procedural that allows for all of these situations”, adds even more confusion to an already confusing situation.

According to 7.2(a)(i) of the existing procedural bylaw, “A Member may make a motion introducing any new matter only if notice is given at a previous regular Council meeting”. How does one understand, “a NOM report could appear on an agenda where no one

puts the motion on the floor, in which case, it would be included in the next agenda for consideration”? Is one to understand that not only the author of the notice of motion but any other councillor could put the motion on the floor? What happens when the NOM comes up on the agenda at a meeting? Nobody says anything, so it would be included in the next agenda for consideration? No one puts the motion on the floor, so it would be included in the next agenda for consideration? If nobody puts the motion on the floor, makes a motion, then is there just silence and you move on in the agenda? Is the chair supposed to ask, ‘does anyone want to put the motion on the floor’? Very confusing. I see no “flexibility built into the Procedural (*Bylaw*) that allows for all of these unanswered situations”, other than as before, Administration will make up unwritten rules on the fly. I thought the objective of this rewrite was to provide clarity.

The above relates to the question I asked, without an answer, related to 7.2(b) of the draft 2024 Bylaw:

For example, while a notice of motion in accord with 7.2(b) of the 2019 Bylaw "must be given without discussion on the matter", 7.2(b) of the draft 2024 Bylaw declares that "A notice of motion may not be discussed or debated prior to putting a Motion on the floor". When a notice of motion is read or presented at a meeting, it is not thereby a motion that is put on the floor. Is the mere giving or reading a notice of motion at a meeting to be construed as having put a motion on the floor? What constitutes "putting a Motion on the floor"? As described by section 7.2(a) of the 2019 Bylaw, a Member may make a motion, that is, put a motion on the floor for debate and vote, "only if notice is given at a previous Regular Council meeting”.

As far as “should a member of Council be unexpectedly absent, they can certainly request that their item be removed from an agenda and brought forward at a future meeting”, such ability to amend an agenda already exists in the existing procedural bylaw.

No answer to the following question was provided:

When it says in 7.2(c) of the draft 2024 Bylaw that, "A Member may move a Motion whether or not the Member intends to support it", does this mean that any Member of Council, not just the author of the notice of motion, can put a motion on the floor related to the notice of motion? With the reference to "may" is one option that no Member of Council puts a motion on the floor? More confusion.

With respect to “I also wanted to address the section that speaks to ‘no action being taken by Administration’ on any Notice of Motion. This was included to provide clarity that Administration will not begin work on a Notice of Motion until Council has passed it. Work did not begin on the financial policies impacted by Councillor Wilson’s Notice of Motion until Council had passed a resolution. It is simply to recognize that Administrative time cannot be utilized until a vote has been undertaken and Council as a whole has provided direction to Administration to proceed”, that is inherently obvious

that Administration would not begin work on something until Council by vote had requested it!

As I have concluded in my recent April 24, 2024 email sent to you and Council, instead of ensuring that the notices of motion process was properly applied, as **clearly written** in the existing Procedural Bylaw 19/2019, **to avoid acknowledging Administration's failure to do so**, you decided to radically rework that section related to notices of motion such that it was so corrupted that it no longer resembles what constitutes a notice of motion and introduces a lot of confusion. What a mess you have created. Accordingly, I recommend that section, 7.2, of the draft revised Procedural Bylaw 17/2024, entitled "Notices of Motion", should more appropriately be entitled something like "Councillor Motions" (or "The Improper Process as It has Been Operationalized by Mayor Genung"), because it certainly does not describe what constitutes a "notice of motion". In any event, this entirely new animal needs to be properly explained to avoid confusion.

I have noticed that the members of council don't appear to have given much thought to the Procedural Bylaw 19/2019 which they adopted on March 25, 2019, buzzing though first, second and third reading in short order. They generally lean on the Administration to guide them through the procedures. The problem is that such guidance has been erratic, arbitrary, and often not aligned with the clear direction in the Procedural Bylaw. I hope with this revised procedural bylaw that the Council will seriously take into consideration what is presented to them and ensure that it is clear and understandable. The way it is currently written I expect the Council to be more than a "little lost on this notice of motion thing".

The argument that some aspects of the current bylaw are unclear is simply an excuse for their not being followed. I don't appreciate the gaslighting from the mayor and you claiming that I am confused and misunderstand Section 4.2(c) and Section 7.2 of the existing procedural bylaw because of a purported lack of clarity. Almost laughable your clearing up the supposed 'lack of clarity' of clause 4.2(c) by simply deleting it, thereby absolving the mayor of his failure to comply with it and your failure to ensure that he complied with a clause that you yourself had drafted in 2019.

Sincerely,

Ron Voss