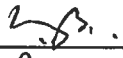


ROTHESAY

Policy

Topic:	Public Hearings
Application:	Rothsay Council and Staff

Date Prepared	1/10/01
Date Adopted by Council	9/10/01
Date Amended	09/2009 10/2014
Mayor:	
ACTING Town Manager:	B.W.

BACKGROUND

The Community Planning Act, R.S.N.B. (1973), Chapter C-12 and amendments thereto, provides the procedure to be followed for Public Presentations (Section 25) and Public Hearings (Section 68), copies of which are attached hereto and identified as Schedule "A".

There is no provision within the Community Planning Act, supra for a deadline to accept written objections before the Public Hearing. Section 68(1) indicates the second required advertisement shall be no less than four (4) days prior to the date of the Public Hearing. It has been the practice of the Clerk's office to indicate in the advertisement written objections will be received until 4:00 p.m. the Thursday preceding the Public Hearing. However, the Council agenda deadline is 12:00 p.m. the Wednesday preceding the meeting, which occasionally causes confusion on the submission deadlines.

During the process, Council acts in a quasi-judicial setting. There is ample opportunity throughout the process for the public to express their views. Once the Public Hearing has been held, Council makes its decision based on the information received up to the date of the Public Hearing. Any information received subsequent to the hearing should not be taken into consideration in the decision-making process. In a legal context, this would be the same as a judge receiving additional information once a trial is over but before making his decision.

POLICY:

This policy will be followed for all Public Hearings scheduled by Council, unless otherwise stated in provincial legislation. Advertisements shall be placed in the newspaper in accordance with Section 68(1) of the Community Planning Act, supra and shall indicate written objections will be received until 12:00 p.m. on the Wednesday preceding the Public Hearing.

Documentation received by the Town Clerk after 12:00 p.m. on the Wednesday preceding the Public Hearing will be distributed to Council members at the Public Hearing, immediately prior to the "Call to Order" of the Hearing. It shall be left to the discretion of Council to receive and/or consider the subsequent documentation received. In accordance with the Community Planning Act, supra Section 68(4) any person wishing to speak may do so at the Public Hearing.

Following the close of the Public Hearing, no further documentation or comments from the public will be received for consideration by Council, unless so requested by Council. Council members should disregard any information (email/correspondence/telephone) not received through the Town Clerk's office. Individuals submitting information directly to Council members (email/letters/phone calls) should be advised to contact the Town Clerk or Town Manager.

In accordance with the laws of natural justice, those Council members who were not in attendance at the public hearing shall be precluded from voting on the subject matter of the hearing.

The Public Hearing policy adopted by Council on October 9, 2001 (amended September 14, 2009) is hereby amended.

SCHEDULE "A"
Public Hearing Policy

Excerpts from the Community Planning Act, R.S.N.B. (1973), Chapter C-12 and amendments thereto:

25(1) Before complying with the requirements of section 68 with respect to a municipal plan, a council shall publish a notice in a newspaper circulated in the municipality at least ten, and no more than fourteen, days prior to the day mentioned in paragraph (b), stating

- (a) the intention of the council to adopt a municipal plan;
- (b) the day and place for a public presentation by the council of the proposed plan;
- (c) that objections to the proposed plan may be made to the council within thirty days of the day of the public presentation.

25(2) Where a notice is published under subsection (1), any person may submit to the council written objections to the proposed municipal plan within the period mentioned in that subsection.

68(1) With respect to a by-law under this Act other than a by-law mentioned in paragraph 67(1)(a), the council shall

- (a) by resolution, fix a day and place for the consideration of objections to the proposed by-law, and
- (b) subject to subsection (7),
 - (i) if a daily newspaper is circulated in the municipality, publish twice a notice in the form described in subsection (2) of its intention of considering the enacting of the by-law, the first of such notices to be published not less than twenty-one and not more than thirty days before the day fixed pursuant to paragraph (a), and the second not less than four days and not more than seven days before such day, or
 - (ii) if a weekly newspaper is circulated in the municipality, publish twice a notice in the form described in subsection (2) of its intention of considering the enacting of the by-law, the first of such notices to be published not less than twenty-one and not more than thirty days before the day fixed pursuant to paragraph (a), and the second not less than four days and not more than eleven days before such day.

68(2) A notice under paragraph (1)(b)

- (a) shall set forth a description of the area affected by the by-law, which shall where feasible, in the case of a zoning by-law or zoning provisions in a rural plan under subsection 27.2(1), refer to street names and civic numbers;
- (b) shall state a place where and the hours during which the by-law may be inspected by an interested person, and the time and place set by the council for the consideration of written objections to the by-law;
- (c) shall set forth the person to whom written objections may be sent; and
- (d) may, in the case of an amendment or repeal, state briefly the reasons for it or an explanation thereof.

68(3) Where a notice has been published under paragraph (1)(b) in respect of a proposed by-law, the council shall

- (a) make suitable provision for inspection of the by-law by the public at the time and place set out in the notice, and
- (b) before enacting the by-law, hear and consider written objections to it.

68(4) Any person who wishes to speak for or against written objections is entitled to be heard at the time and place fixed pursuant to subsection (1) for consideration of such objections.

68(5) Where, subsequent to the publishing of a notice under paragraph (1)(b), the council substantially amends the proposed by-law, the provisions of this section apply *mutatis mutandis* to the amendment.

68(6) The council is not required to vote on the by-law on the day fixed under subsection (1) for the consideration of objections to it, but the by-law shall not become valid unless, within six months after the day that the first notice was published under subsection (1), it is

- (a) enacted, and
- (b) except a zoning by-law, subdivision by-law, building by-law, deferred widening by-law, controlled access street by-law or amendment to the zoning provisions in a rural plan under subsection 27.2(1), submitted for the approval of the Minister.

68(7) Where it is proposed to amend a zoning by-law or a rural plan under subsection 27.2(1) for the re-zoning of an area of land, the council is not required to publish a second notice under paragraph (1)(b) if

- (a) the owners of land within the area and within one hundred metres thereof, other than a person applying for the re-zoning, are advised in writing of the proposed amendment, or
- (b) a notice of the proposed amendment is posted in a prominent place on the property proposed to be re-zoned.