

Memo

TO: Chair, Advisory Planning Commission

FROM: Chief Administrative Officer

DATE: January 23, 2023

SUBJECT: Commission members, their responsibilities, and Conflict of Interest

Authority to Establish Advisory Planning Commission

The *Local Government Act* establishes the parameters for the establishment of an Advisory Planning Commission. Such a body may be established by bylaw where its responsibilities are spelt out. A copy of the establishing bylaw is attached for your information.

The number of members for an advisory planning commission is not defined in legislation, however at least two-thirds of the members must be residents of the municipality.

Certain people are not eligible to be a member of an advisory planning commission, however they may attend a meeting of the commission in a resource capacity:

- Council member;
- Regional board electoral area director;
- Local government officer or employee; or
- Approving officer.

As the APC is tasked with considering planning and land use management applications and then making recommendations to the Town on those matters, the APC meeting is the sole mechanism by which a commission or a member can provide its input or comments.

Members must be aware of real or perceived conflicts of interest during their discussions. As a public official, APC members are subject to the same rules of ethical conduct as municipal councillors and, therefore, must excuse themselves from meetings when that member has a direct or indirect pecuniary 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.

Definition of Conflict of Interest

A conflict of interest is any situation in which a member of the Advisory Planning Commission, either for himself/herself or some person attempts to promote a private or personal interest which results or appears to result in the following:

- a) either an interference with the objective exercise of his/her duties; or
- b) a gain or advantage by virtue of his/her position on the Commission.

Situations where Conflict of Interest may Arise

The appearance of a conflict arises when a reasonably informed person properly could infer that a member is making or attempting to make decisions that promote personal agendas or private interests.

A conflict of interest can also arise directly where personal gain is involved or indirectly where that of a friend, family member, business, or corporation in which a member has an interest is involved.

How to Avoid a Conflict of Interest Perception

- a) A member or staff member must avoid a "conflict of interest" when it first becomes known and must notify the Commission prior to a decision being made to avoid any perception that such person is promoting direct or indirect gain.
- b) Where there is doubt about a potential conflict of interest the member must so declare and vacate the meeting room.
- c) A member should not use for personal purpose properties or information available to the Commission or advance personal or private interests by virtue of his/her membership on the Commission.



Joseph A. Fernandez

TOWN OF LAKE COWICHAN
ADVISORY PLANNING COMMISSION
Bylaw No. 997-2017

WHEREAS pursuant to Section 461 of the *Local Government Act*, a bylaw may be enacted to establish an advisory planning commission to advise Council on all matters respecting land use, community planning or proposed bylaws or permits relating to land use matters;

AND WHEREAS it is deemed desirable to establish an advisory planning commission to advise council on such matters respecting land use;

NOW THEREFORE the Municipal Council of the Town of Lake Cowichan in open meeting assembled enacts as follows:

1.0 CITATION

1.1 This Bylaw may be cited as the "Town of Lake Cowichan Advisory Planning Commission Bylaw No. 997-2017".

2.0 ESTABLISHMENT OF COMMISSION

2.1 An Advisory Planning Commission is established to advise Council upon all matters regarding land use issues which may be referred to it by the Council.

3.0 MEMBERSHIP

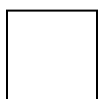
3.1 The Advisory Planning Commission shall be comprised of five members who shall be appointed by Council.

3.2 A member of council may be appointed to attend Commission meetings in a resource capacity.

3.3 The composition of the membership of the Commission shall be as follows:

- (a) No less than four (4) members shall be residents of the Town of Lake Cowichan pursuant to the *Local Government Act* which requires that at least 2/3 of the members must be residents; and
- (b) One (1) member may be a non-resident.

3.4 The members who are appointed by Council shall hold office at the pleasure of Council for a two-year term, commencing January 1st in the year they are appointed and terminating two years later on December 31st.



3.5 Notwithstanding Section 3.4, all members shall continue to hold office until their successors are appointed. In the event of a vacancy occurring in the membership of the Advisory Planning Commission, the Council shall appoint a person to fill such vacancy for the unexpired term of office of the member being replaced.

3.6 Advisory Planning Commission members can be removed by a 2/3 vote of Council.

4.0 VOTING

4.1 All matters before any meeting of the Advisory Planning Commission shall be decided by a majority of the members present.

4.2 No members serving in a resource capacity to the Advisory Planning Commission are entitled to vote on any matter but may act in an advisory capacity only.

5.0 ELECTION OF CHAIRPERSON

5.1 The appointed members of the Advisory Planning Commission shall, at the first regular meeting held after January 1st in each year, elect a Chairperson from among their number who shall preside at all meeting for the balance of the year.

5.2 If the chairperson fails to attend any meeting of the Advisory Planning Commission, the appointed members present shall elect one of their numbers to be Acting Chairperson and the member so elected shall preside at the meeting.

5.3 If the Chairperson ceases to be a member of the Advisory Planning Commission, the appointed members present at the next meeting shall elect one of their number to be Chairperson who shall preside at all meetings for the balance of the year.

5.4 Chairmanship is limited to a maximum of four years, unless an extension is recommended by the appointed members.

6.0 QUORUM

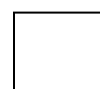
6.1 Three appointed members of the Advisory Planning Commission is a quorum.

7.0 MEETINGS AND ATTENDANCE

7.1 Meetings shall be conducted according to Canadian Parliamentary Procedure in accordance with Roberts Rules of Order.

7.2 Meetings of the Advisory Planning Commission shall be held monthly, on a regular day. Meetings may be cancelled due to insufficient agenda items, at the call of the Chairperson.

7.3 Notwithstanding Section 7.2, special meetings may be held at the call of the Chairperson, provided at least 24 hours notice of such meeting is given to all members.



- 7.4 If the Chairperson refuses or neglects to call a special meeting, at the request of not less than two members, within 48 hours of the receipt of such request, then such members may call a special meeting giving at least 24 hours notice of such meeting to all members.
- 7.5 Save with respect to matters expressly dealt with or provided for in this bylaw, the rules governing proceedings of the Advisory Planning Commission shall be those governing the proceedings of Council under the Procedure Bylaw, insofar as the said rules may be applicable.
- 7.6 The Chairperson may appoint such committees from within the members of the Advisory Planning Commission as may be deemed necessary for the efficient operation of the Advisory Planning Commission.
- 7.7 The Chairperson shall preside at all meetings of the Advisory Planning Commission, and shall preserve order and decide all points of order which may arise, subject to an appeal to the other members present. All such appeals will be decided without debated.
- 7.8 All appointed members of the Advisory Planning Commission may vote on all questions. In the event of an equality of votes, the question shall be decided in the negative. Any member of the Advisory Planning Commission who abstains from voting shall be deemed to have voted in the affirmative.
- 7.9 All questions put before a meeting of the Advisory Planning Commission shall be decided by a majority vote.
- 7.10 No act or proceeding of the Advisory Planning Commission is valid unless it is authorized by resolution at a regular or special meeting.
- 7.11 Any appointed member of the Advisory Planning Commission who is absent from three consecutive regular meetings, without leave or valid reason satisfactory to the Advisory Planning Commission, shall be deemed to have resigned.
- 7.12 If the Advisory Planning commission is considering an amendment to a plan or bylaw, or the issue of a permit, the applicant for amendment, or permit is entitled to attend meetings of the Advisory Planning Commission and be heard.

8.0 MINUTES

- 8.1 The Chairperson shall cause minutes of the meetings to be kept and such minutes shall be made available to all members of the Advisory Planning Commission and Council.

9.0 ANNUAL BUDGET

- 9.1 All items of revenue and expenditure relating to the activities of the Advisory Planning Commission shall be included in the annual budget.
- 9.2 No expenditure shall be made by the Advisory Planning Commission that is not provided for in the annual budget of the Town of Lake Cowichan or the annual budget as amended.



- 9.3 All monies received by the Advisory Planning Commission shall be paid into the hands of the Treasurer of the Town of Lake Cowichan for deposit to the credit of the Town in a general fund bank account.
- 9.4 Accounts for authorized expenditures of the Advisory Planning Commission shall be paid by the Treasurer of the Town of Lake Cowichan in the same manner as other accounts.

10.0 REPEAL

That upon adoption of the bylaw, Bylaw No. 898-2011 being the "Town of Lake Cowichan Advisory Planning Commission Bylaw" is hereby repealed.

READ A FIRST TIME on the 28th day of November, 2017.

READ A SECOND TIME on the 28th day of November, 2017.

READ A THIRD TIME on the 28th day of November, 2017.

RECONSIDERED, FINALLY PASSED and ADOPTED by the Municipal Council of the Town of Lake Cowichan on the 19th day of December, 2017.

Ross Forrest
Mayor

Joseph A. Fernandez
Corporate Officer

