

CORPORATION OF THE CITY OF NEW WESTMINSTER



UTILITY COMMISSION BYLAW NO. 8029, 2018

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UTILITY COMMISSION BYLAW, 2018

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The Council of the City of New Westminister, in open meeting assembled,
ENACTS AS FOLLOWS:

PART I – INTERPRETATION

1. Interpretation

1.1 This Bylaw may be cited as “Utility Commission Bylaw, 8029, 2018”.

1.2 Words or phrases defined in the British Columbia *Interpretation Act*, *Community Charter*, *Local Government Act*, or any successor legislation shall have the same meaning when used in this Bylaw unless otherwise defined in this Bylaw.

1.3 In this Bylaw:

“Chair” means the Chair of the Commission appointed under section 12.1 of this Bylaw;

“Chief Administrative Officer (CAO)” means a person designated as such by Council;

“City Hall” means the New Westminister City Hall;

“City” means The Corporation of the City of New Westminister;

“Commission” means the New Westminister Utility Commission established under section 2.1 of this Bylaw;

“Commissioner” means a member of the Commission;

“Council” means the Council of the City;

“Ex-Officio Commissioner” means the Commissioner referred to in section 4.1.d of this Bylaw;

“External Commissioners” means the Commissioners referred to in section 4.1.c of this Bylaw;

“General Manager” means the person appointed General Manager by the City from time to time, on the recommendation of the Commission;

“Mayor” means the Mayor of the City;

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- “Utility” means the electric utility owned and operated by the City at the time of adoption of this Bylaw.
- 1.4 In this Bylaw the singular shall include the plural and the masculine includes the feminine gender.
- 1.5 The headings contained in this Bylaw are for convenience only and are not to be construed as defining, or in any way limiting, the scope or the intent of the provisions of this Bylaw.
- 1.6 If any portion of this Bylaw is for any reason held invalid by any court of competent jurisdiction, the invalid portion shall be severed and the severance shall not affect the validity of the remainder.

PART II – THE NEW WESTMINSTER UTILITY COMMISSION

2. Establishment of the Commission

- 2.1 A Commission to be officially known as the “New Westminster Utility Commission” is hereby established and shall be comprised of seven voting and one Ex-Officio Commissioner appointed in accordance with section 4 of this Bylaw.
- 2.2 The Commission shall report to and be under the authority of Council.
- 2.3 The Commissioners shall not be liable in their personal capacity for any debt or liability of the Commission.

3. Duties and Powers Delegated to the Commission

- 3.1 Except as may be provided in this Bylaw, the *Community Charter* or the *Local Government Act*, and subject to:
- a. the Commission’s compliance with policies established by Council from time to time;
 - b. the Commission’s compliance with written instructions sent in the form of a memorandum from Council to the Chair from time to time; and
 - c. the Commission obtaining Council’s approval for strategies and long-term decisions to be implemented by the Commission,

the Commission shall have the authority to advise on the operation of the Utility for, and on behalf of the City, including the authority to:

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- d. undertake all actions required to achieve the policy guidance provided by Council;
 - e. monitor the performance of the Utility;
 - f. provide stewardship for the Utility;
 - g. provide guidance to the executive management of the Utility;
 - h. monitor and assess the performance of the executive management of the Utility;
 - i. ensure that the identification of risks and other risk management activities are carried out by management of the Utility;
 - j. ensure that industry-based knowledge and expertise is applied to the policy development and decision-making of the Utility;
 - k. participate in the recruitment of Commissioners and executive management of the Utility;
 - l. determine the strategic direction and oversee the development of strategic plans of the Utility;
 - m. oversee the development and implementation of a communications strategy between the Commission and the public;
 - n. oversee the development of business plans, operating budgets and capital budgets for the Utility;
 - o. review the operating statements of the Utility;
 - p. approve expenditures of the Utility in accordance with City policies and sections 3.4 and 3.5 of this Bylaw;
 - q. regulate its own procedures, provided that they do not contravene any City bylaw, the *Community Charter*, the *Local Government Act* or any other municipal, provincial or federal enactment; and
- 3.2 The Commission shall have input on the following duties and responsibilities in overseeing the Utility's operations:

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- a. internalizing the expectations, guidance and directives of Council and providing stewardship to ensure they are delivered;
- b. setting and approving high level policies needed to effectively guide the Utility, and setting Provincial and Federal standards on technical organizational conduct;
- c. ensuring a strategic planning process is in place and overseeing development of a strategic plan that takes into account opportunities and risks facing the Utility enterprise for presentation to Council;
- d. overseeing the development of annual business plans and budgets for presentation to Council;
- e. monitoring the performance of the Utility enterprise against agreed goals and objectives;
- f. within the powers conferred onto the Commission by Council, approving technical operating and capital expenditures and recommending to Council approval of any expenditures or proposed contracts beyond these authorities;
- g. reviewing candidates and making recommendations to Council with respect to the appointment of the General Manager;
- h. planning for General Manager succession;
- i. ensuring the Utility enterprise has an appropriate communications strategy and that suitable communication is provided to Council and stakeholder groups on important issues and developments on an ongoing basis;
- j. ensuring that appropriate risk identification and management processes and systems are developed and maintained;
- k. ensuring the Utility's compliance with legal and regulatory requirements;
- l. ensuring that reporting, monitoring and accountability obligations are met;
- m. ensuring that guidelines are in place governing ethical conduct, conflict of interest, environmental protection, personal and public safety, and employee safety ;

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- n. ensuring that financial and other information and systems for effective operation of the Commission and the Utility are in place and are maintained;
 - o. liaising with the City's Finance Department in regard to the integrity of financial statements, internal controls, financial information systems, forecasts and audited statements; and
 - p. in consultation with the selection committee maintained by the City for Commissioner recruitment, identifying the required competencies and personal attributes required on the Commission, and recommending to the City the orderly succession of Commissioners.
- 3.3 No act or other proceeding of the Commission shall be valid unless it is authorized by resolution at a meeting of the Commission.
- 3.4 The Commission shall not authorize any expenditures in excess of those provided for in the Utility's financial plan, as approved by Council, unless the excess expenditures receive Council's prior approval.
- 3.5 Despite section 3.4, the General Manager may approve emergency expenditures which exceed the amounts provided for in the Utility's financial plan, provided that as soon as possible following the emergency event:
- a. the General Manager reports the emergency expenditures to the Commission and Council; and
 - b. the Commission and Council ratify the said emergency expenditures.
- 3.6 In accordance with the City's budgeting cycle, policies and guidelines:
- a. the General Manager shall prepare the financial plan, consisting of an operating budget and a capital budget, for the Utility under the direction of the Commission; and
 - b. the Commission shall submit the financial plan referred to in section 3.6.a to Council.
- 3.7 The financial plan referred to in section 3.6 must not be inconsistent with:
- a. the funding to operate the Utility enterprise and implement the strategic initiatives on an annual basis; and
 - b. the priorities as set out in the Utility's business plan and strategic plan.

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- 3.8 The General Manager, under the direction of the Commission, shall:
- a. prepare a strategic plan for the Utility and submit it to Council; and
 - b. update the strategic plan of the Utility on or before the earlier of:
 - i. a date set by the Commission; or
 - ii. a maximum five years after the submission of the previous strategic plan to Council.
- 3.9 The strategic plan referred to in section 3.8 shall:
- a. take into account the opportunities and risks facing the Utility enterprise; and
 - b. be consistent with the City's strategic plan.
- 3.10 Annually as part of the budget development process for the Utility:
- a. the General Manager shall prepare a business/5 Yr. Capital plan for the Utility under the direction of the Commission; and
 - b. the Commission shall submit the plan referred to in section 3.10.a to Council.
- 3.11 The business/5 Yr. Capital plan referred to in section 3.10 shall:
- a. be consistent with the City's strategic plan;
 - b. support the Utility's strategic plan;
 - c. cover the goals, objectives and tactical plans that will be employed to meet the strategic direction of the Commission;
 - d. identify and allocate resources, set priorities and any contingency plans the Commission deems necessary;
 - e. show how business targets and the tactical plans contribute to the achievement of the strategic objectives of the Utility enterprise; and
 - f. serve as the main mechanism to track progress on the performance targets as set out in the Utility's strategic plan.

4. Appointment of Commissioners

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- 4.1 The Commissioners shall be appointed by resolution of Council as follows:
- a. one voting Commissioner shall be the person who, from time to time, holds the title of Mayor of the City, or the person who is a Councillor designated by the Mayor and one voting Commissioner who is elected as a City Councillor.
 - b. one voting Commissioner shall be the person who, from time to time, holds the title of Chief Administrative Officer; and
 - c. Four voting External Commissioners:
 - i. each of whom shall:
 - A. be a Canadian citizen;
 - B. be 18 years of age or more;
 - C. have been a resident of British Columbia for not less than six consecutive months immediately preceding the appointment;
 - D. not hold federal, provincial or municipal elected office;
 - E. not have the status of a bankrupt;
 - F. not have been found by a court to be mentally incompetent or of unsound mind;
 - G. not have been convicted of an offence in connection with the promotion, formation or management of a corporation, and
 - H. not be an employee of the City; and
 - ii. one of whom shall be recruited by the City to serve as Chair; and
 - d. one Ex-Officio Commissioner, who shall not have the right to vote at Commission meetings, and who shall be the person who, from time to time, holds the title of General Manager.

5. Quorum

5.1 A quorum of the Commission shall be four (4) voting members, having at least one member of Council as part of the quorum.

6. Terms of Appointment

6.1 The Commissioner being the Mayor or his or her Councillor designate and the one Commissioner who is elected as a City Councillor shall be appointed for the duration of his or her term of office as Mayor or Councillor, respectively.

6.2 The Commissioner being the Chief Administrative Officer shall be appointed for the duration of his or her employment with the City.

6.3 The External Commissioner appointments shall be for the following terms:

- a. all appointments shall be for two three-year terms.
- b. at the discretion of Council, a third three-year term may be granted.

6.4 Each External Commissioner shall be entitled to serve a maximum of two consecutive terms.

6.5 The Ex-Officio Commissioner shall be appointed for the duration of his or her employment with the City.

6.6 Despite sections 6.1 – 6.5 of this Bylaw, every Commissioner shall continue to hold office until a successor is appointed.

6.7 Council may, by an affirmative vote of the majority of Council, remove an External Commissioner from office at any time.

6.8 Upon the resignation, removal from office, or the death of any Commissioner during his or her term of office, Council shall appoint a successor in accordance with the provisions by which the vacating Commissioner was appointed, and the successor shall serve for the remainder of the term of the departed Commissioner.

6.9 The City shall pay each External Commissioner an annual stipend of \$3,500, which amount shall be recorded in the Commission's annual budget.

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- 6.10 In addition to paying the stipend referred to in section 6.9 of this Bylaw, the City shall pay the Chair an annual stipend of \$1,500, which amount shall be recorded in the Commission's annual budget.
- 6.11 The City shall reimburse the External Commissioners, based on the City's expense reimbursement policies and expense reimbursement schedule, for:
- a. expenses incurred for any activities approved by the Commission, other than expenses incurred in relation with the attendance of Commission meetings, planning and in-town education sessions by External Commissioners living within the Greater Vancouver Regional District;
 - b. reasonable travel-related expenses incurred on Commission business, provided that travel out of town was pre-approved by resolution of the Commission; and
 - c. reasonable expenses for travel to and from Commission meetings and official functions, provided that the External Commissioner to be reimbursed lives outside of the Greater Vancouver Regional District.

7. Remuneration for Commissioners

- 7.1 The Commission remuneration will be reviewed by the Human Resources Department every four years.

PART III – MEETINGS

8. Commission Meeting Agenda Preparation

- 8.1 Prior to each Commission meeting, the Chair and the General Manager must prepare an agenda of all items to be considered by the Commission at such a meeting, and the Commission must proceed in the order set out, unless that order is varied by the Commission.

9. Notice of Commission Meetings

- 9.1 At least one week prior to a meeting of the Commission, Commissioners will obtain from the Clerk's Office at City Hall a meeting agenda setting out all items for consideration accompanied by an information package.
- 9.2 At least 72 hours before a meeting of the Commission, the General Manager must notify the public of the time, place and date of the meeting by way of posting an agenda in the public notice posting place at City Hall.

10. Location and Time of Commission Meetings

- 10.1 Regular meetings of the Commission shall be held at least every second month during the third week of that month at City Hall, 511 Royal Avenue, New Westminister, BC V3L 1H9 and at least six times per year, or more frequently at the direction of the Chair.
- 10.2 The Commission will meet twice per year (Spring and Fall) with City Council or as required by the Chair.

11. Attendance of Public at Meetings

- 11.1 Except where the provisions of section 90 of the *Community Charter* apply, all Commission meetings shall be open to the public.
- 11.2 Where the Commission wishes to close a meeting to the public, it may do so by adopting a resolution in accordance with section 92 of the *Community Charter*.

12. Meetings

- 12.1 The Chair shall be appointed by the City from time to time.
- 12.2 The Chair, when present, shall preside at all meetings of the Commission using Roberts Rules of Order to govern the meeting.
- 12.3 Every question submitted to a meeting shall be decided by a majority of the Commissioners present.

13. Delegations

- 13.1 All delegations requesting permission to appear before the Commission shall submit a written request to the Commission, including a written synopsis clearly outlining their topic of concern.

14. Opening Procedures

- 14.1 At the hour set for a Commission meeting to commence, and provided that a quorum is present, the Chair shall call the meeting to order.
- 14.2 If, within fifteen minutes after the time appointed for the meeting to commence:

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- a. there is no quorum present; and
- b. the Chair was not notified that a Commissioner will be late for the meeting,

the Chair shall ask the General Manager to record the names of the Commissioners present and then adjourn the meeting.

15. Minutes

15.1 Minutes of the proceedings of the Commission shall be legibly recorded in a minute book. The minutes shall be certified as correct by the Chair or other Commissioner presiding at the meeting, or at the next meeting at which they are adopted. A copy shall be forwarded to the City Clerk to be included in the City records.

15.2 The minutes of each Commission meeting shall be open for inspection by any person who may make copies and extracts at all reasonable times on payment each time of \$0.25 per page.

15.3 Section 15.2 does not apply to minutes of a closed meeting of the Commission.

16. Ad Hoc Committees

16.1 The Commission may establish ad hoc Committees.

PART IV- BYLAW ADMINISTRATION

17. Electric Utility Commission Bylaw No. 7125, 2006 and all amendments is hereby repealed.

Adopted July 9, 2018