

Proposed Amendments

Councillors and VFD Executive were invited to submit amendments before December 6. Here are the amendments suggestions received from Councillors in advance of the meeting, grouped into similar topics (which I suggest may be voted on as groups), and the CAO's recommendation against each group.

Notable: Councillor Eric Gilbert noted that he had met with the Fire Chief, and that the Fire Chief and the department have looked over the Fire Services Bylaw and are for the most part pleased with it and are happy to see this bylaw getting passed. The two amendments he submitted were ones that the department members had unanimously agreed upon.

APPOINTING MEMBERS & OFFICERS:

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APPOINTING MEMBERS & OFFICERS:

Appointing/dismissing Fire Chief

5.2(b) Appointing a Fire Chief.

Adjust language to "*after receiving a recommendation from the CAO, which shall consider and fully disclose nominations and recommendations of Fire Department members.*" (Submitted by Mayor Martin Ruben)

5.2(c) Revoking appointment of Fire Chief. May revoke or suspend by resolution the appointment of a person to the position of Fire Chief "*after receiving advice of the CAO, should it be demonstrated that the Fire Chief is unable to meet the requirements of this bylaw.*" (Submitted by Mayor Martin Ruben)

CAO comment: I recommend these two amendments as a pair. This respects the chain of accountability (Council-CAO-Fire Chief), and takes into account FD input and also allows flexibility in case there is no local candidate for Chief. It also outlines bylaw compliance as the appropriate criteria for revocation/suspension, to remove subjectivity (e.g. if a majority of Councillors just 'don't like' the Fire Chief, that's not grounds for removal - it must be based on the bylaw requirements).

Appointing/dismissing Deputy Chief and Members

Delete 5.2(d) Appointing Deputy Chief and Members and 5.2(e) Revoking appointments. Move both of these from Section 5 (role of Council) to section 8 (Powers of the Fire Chief), as Council doesn't need to have an operational hand in appointing FD members. The Fire Chief is accountable to the CAO on appointing and revoking members in line with this bylaw, and the CAO in turn is accountable to Council.

Wording to Insert as **a new 8.1**, instead of under 5.2(d&e):

8.1. The Fire Chief:

- a) *Shall appoint qualified persons to the positions of Deputy Chief, officers and members of the Fire Department, in accordance with the requirements of this bylaw;*
- b) *May revoke or suspend the appointment of a person to the positions of Deputy Chief, officers, and members of the Fire Department, should ;*
- c) *Shall report to the CAO within 7 days of any successful application, permanent appointment, or revocation or suspension of appointment, of any Deputy Chief, officer or member of the Fire Department.*

If this is to pass, it will also be necessary to **amend 7.7 (end of probationary period)** as follows:

*"Upon completion of the probationary period, the Fire Chief shall review the applicant's performance and make a **decision on recommendation to the Council regarding** the permanent appointment of the applicant, ~~by the Council~~, as a Firefighter of the Fire Department. (Submitted by Mayor Martin Ruben)*

And it will also be necessary to delete 6.6d, "6.6 The Fire Chief and CAO will work together to prepare and recommend for Council approval... **a list of qualified members for appointment to the Fire Department.**"

(Submitted by Mayor Martin Ruben)

CAO comment: I recommend this set of amendments. They empower the Fire Chief to act more independently and reduces Council bureaucracy in appointing firefighters. Ultimately, the Fire Chief knows best who is suitable to serve on their department. New item 8.1c ensures transparency and accountability, so Council can exercise its oversight role, without getting involved in staffing/operational decisions.

Section 5.2 (d). Appointment of Deputy Chief and FD members. Add "after receiving nominations and recommendations from FD members". (Submitted by Councillor Linda Gilbert)

CAO advice: If the above amendments are passed (shifting appointment of members from Council to the Fire Chief), then this amendment is unnecessary. If the above amendment is not passed, I would still not recommend that FD members give recommendations on the nomination of the Deputy or other FD members – the clause already required the recommendation of the Fire Chief and CAO, and the selection is criteria-based rather than opinion-based. FD members have opportunity for input to the choice of Chief, and it is usual that the Chief would choose their Deputy, as the two will require a close working relationship.

Minimum criteria for application/membership

Replace Section 7.5 with:

7.5 Applicants to the Fire Department shall:

- A. Be **at least** 18 years of age;
- B. Physically fit and of good character; **and**
- C. Reside within the fire district or the neighbouring fire district. (Submitted by Councillor Eric Gilbert)

CAO advice: I've added 'at least' and 'and' above to reflect what I believe the intent of the proposal is. I also deleted the word 'Victoria Volunteer' from the heading for consistency with the rest of the bylaw and the definitions (pg 2).

I note that the previous draft has item B as being "not hold any criminal record". The new requirement of 'physically fit and of good character' is in criteria B is now quite subjective, although 7.4 allows for fitness requirements to be further defined.

I recommend that 'Applicants' should be changed to 'Applicants and members of', as I believe that these requirements should be met continuously while in active service, not only when applying to join the Department.

Further, I **would recommend replacing 'physical fitness' with simply 'fitness'** as a broader term that encompasses not only physical health, but also mental health and general competency for the role.

Finally, I would like more detail on how 'good character' is defined, and would prefer to see language like ***"of good character, and willing to provide a criminal record check upon application to the Department, or upon request while actively serving"***.

I am aware of circumstances where a person may have a criminal record, and yet also be a person of good character suitable to serve in a Fire Department (for example, I have personally worked with activists who have undertaken ethical civil disobedience for climate action or in the peace/women's movement, and who therefore have an explainable criminal record fully compatible with service in a Fire Department). Additionally, others with criminal records who nonetheless demonstrate responsibility for their past actions and ability to perform the work may be able to be accepted into FD service, without bringing the FD and municipality into controversy or disrepute.

Those responsible for appointing Fire Department members should be able to make such a judgement-call, but I recommend including a requirement for provision of a criminal record check so that these issues can be transparently discussed, as part of the decision-making process.

Removing duplication in the bylaw

7.3 appointing members - delete as this duplicates the items from sec 5.2, so is unnecessary. (Submitted by Mayor Martin Ruben)

CAO comment: I recommend this amendment. Regardless of whether the changes to 5.2(d) and 5.2(e) are made, it is duplicative.

BUDGETING:

Add a clause in section 6 stating:

“All funds allocated by Council for the Fire Department are to be used only for Fire Department purposes. At the end of the fiscal year any budget surplus is to be rolled over into a reserve fund* for Fire Department needs (Equipment, training, facility maintenance and upkeep).” (Submitted by Councillor Eric Gilbert)

CAO advice: I find this recommendation to be very helpful, and recommend adopting an amendment with this intent. However, for specific language to better meet the intent, I recommend changing the second sentence to read as follows, because I’ve learned that a ‘reserve fund’ typically means a separate bank account, which would add administrative complexity unnecessarily. The example we heard from Kensington (and which I recommend we follow) was separate accounting, not separate bank accounts.

So I recommend this language, as a new 6.19:

“At the end of each fiscal year, any departmental surplus or deficit shall be separately accounted for, shall be disclosed in annual financial statements, and shall be either budgeted for future years’ Fire Department operations, or transferred to a capital budget for Fire Department equipment.”

Add 6-23 - add an item that commits the community to providing administrative assistant time (perhaps a dedicated number of hours) to assist the Fire Chief in completing the extensive requirements of this section. (Submitted by Linda Gilbert)

CAO advice: I find this to be a reasonable request, however I wouldn’t recommend including it in the bylaw itself, as I consider this an allocation-of-resources decision more appropriate for a budget than a bylaw.

For example, 40% of staff time is currently billed to the W&S Corporation, and this is not defined by bylaw, but in the municipal budget. Similarly, for the FD, a certain percentage of staff time (I’d suggest 5-10%, it’s not a lot) could/should be counted in the budget line for the Fire Department, to reflect the full costs of doing the work.

If it *is* to be included in the bylaw, I would simply name ‘staff time’ to assist the Fire Chief, rather than specifying which staff member should do it, as which staff member undertakes the work is ultimately an operational decision of the CAO, and staff titles may change during the life of this bylaw. (MGA Sec 88 states that Council can only delegate powers to the CAO, and other parts of the MGA are clear that Council cannot instruct staff other than the CAO.)

Linda’s suggestion prompted me to offer my own amendment suggestion:

Amendment to Sec 5.5 (under authority of the MGA Sec 135(2)(c) to read “Council may establish or alter by resolution, as a schedule to this bylaw, an honorarium or other remuneration to active members of the Fire Department, with different rates set for members, officers, and the Fire Chief and Deputy.” (Submitted by the CAO)

CAO comment: I believe that the annual budget should include a Fire Chief honorarium that reflects the level of responsibility & administrative work that this bylaw requires of the Chief. I’m not yet sure what an appropriate level would be.

This should be included as a schedule to the bylaw, once the appropriate amount is agreed at budget-time. Including it as a schedule to the bylaw means it can be established and amended by a single resolution of Council, rather than requiring First and Second reading if it were in the main-text of the bylaw.

Suggest the following to be inserted as a new 6.21 (renumbering the subsequent clauses)

“Funds raised by the not-for-profit association of members for the purpose of purchasing fire equipment shall be transferred to the Municipality at the end of the year and maintained in a separate bank account for this purpose. All payments from this account shall be jointly authorised by the Fire Chief and CAO.” (Submitted by Mayor Martin Ruben)

CAO comment: I recommend this amendment. This will allow for the CAO and Fire Chief to properly and jointly plan for capital purchases, and will allow for the Municipality to:

- Receive an additional 10% via the Municipal Capital Expenditure Grant on any equipment purchased in this way
- Understand the full cost of operating the fire service, rather than having an unknown portion of the full cost of the service being borne by the Association, and not publicly accounted for.
- Issue the Association a receipt for a charitable donation to the municipality.

5.2 (g) Council sets annual budget. Delete. Is redundant because this is covered by the MGA. Process for budget setting is also covered under 6.6 (Submitted by Mayor Martin Ruben)

6.18 financial record keeping. Adjust language to: *“The municipality shall maintain financial books and records related to the operation of the Fire Department, and the CAO may delegate to the Fire Chief spending and procurement authority within the budget approved by Council.”* (Submitted by Mayor Martin Ruben)

CAO comment: I recommend the above two amendments, finding them clarifying rather than substantive changes.

SERVICE AGREEMENTS

Delete sections 5.8, 5.9. and 5.10 -- this section appears to allow council to disband the Victoria Fire Department and contract another department or private contractor. I think this decision should not be councils - it is something that should be brought to the community. (Submitted by Councillor Linda Gilbert)

CAO advice: I would advise against deleting these sections. They should be maintained as Council should always have the ability (as does every municipality on PEI) to choose the right provider for services, whether that is an in-house department, or via another municipality or private FD. These clauses would also allow for Council to contract *some but not all* services to another municipality or fire district. Further, Council is the elected representative body for community decision-making, so if ‘the community’ is to make the decision, then Council is the correct body where that decision should be made.

However, I do acknowledge the intent behind the comment ‘it should be brought to the community’. A provision could be added to section 5.9 requiring Council to conduct a public meeting to receive comments from community members before making the decision, for example: “A service agreement referred to in section 5.8 will be in writing and set out the

terms and conditions of the agreement and the services to be provided, **and may be entered into only after Council has hosted a formal Public Meeting on the topic of the service agreement, of which notice has been circulated by regular community newsletters and on community noticeboards at least 2 weeks in advance, at which community members may present their comments and have them recorded in the minutes.**"

ADMIN & CHAIN OF COMMAND:

6.3 Direction of the Fire Department/chain of direction & accountability. Amend language as follows: *"All direction and information required by Council of the Fire Department and Chief shall be through the CAO."* (Submitted by Mayor Martin Ruben)

6.6. (c) Fire Chief and CAO recommend a budget. Amend to read *"the operational and capital budget for fire services, and a 5-year capital forecast, and"* (Submitted by Mayor Martin Ruben)

6.8. Organizational/Operational Strategy. Amend to read "The Fire Chief shall establish an ~~organizational~~ operational strategy that will:" (Submitted by Mayor Martin Ruben)

CAO comment: I recommend the above 3 minor and clarifying amendments. They name that the relationship flows both ways: direction/ policy flows 'down' and accountability/ information flows 'up'; that the budget is more than simply the operational budget, and that the FD serves the Municipality in an operational way, not as a separate organization.

6.13 Inventory: amend to read "The Fire Chief shall keep an updated inventory of all fire equipment in a form that is approved by the CAO." (Submitted by Mayor Martin Ruben)

CAO comment: I recommend this amendment, based on the experience of the last year, where FD members have claimed to have provided 'an inventory', but the information has not been useful because the value and projected usable lifetime of each piece of equipment has not been recorded. In addition, it was provided on paper, which is much less efficient to work with than a digital format. I've offered to sit with department members to complete the inventory, and the offer still stands. (We had a 2-hour working meeting and got about 25% of the way through the work back in August... another 6-8 hours of joint work and the department should have a clear and detailed record that is very easy to maintain in future years, and which can be used to forecast capital budget requirements very accurately.

6.17 Performance Review: "The CAO, after consulting **at least every 3 years** with the Fire Chief **and provincial Fire Marshall**, shall advise..." (Submitted by Mayor Martin Ruben)

CAO comment: I recommend this amendment. The provincial Fire Marshall does have responsibility to advise municipalities under the provincial Fire Prevention Act, Sec 6(2)(d).