



# Staff Report to Council

---

**DATE: Monday, January 16, 2023**

**DEPARTMENT: Administration**

**SUBJECT: Tree Protection Bylaw No. 2117, 2023**

---

## **BACKGROUND AND COMMENTARY:**

On December 19, 2022, a Special Meeting of Council was held. At this meeting, Council gave the first three readings to City of Langford Tree Protection Bylaw No. 2115 and City of Langford Ticket Information Authorization Bylaw No. 2116. These Bylaws were then adopted at a Special Meeting on December 21, 2022. Subsequent to adoption, staff have received an inquiry from a local legal firm asking for further information about the notice that was given for the meeting.

Given the nature of this inquiry, staff reviewed all procedural steps, in consultation with the City's external legal counsel, for both meetings.

Section 126 of the *Community Charter* allows a Mayor or two Council members to call a special meeting. Notice of this meeting must be provided in accordance with section 127, including a requirement that notice be given 24 hours in advance of the meeting. The notice must also set out in general terms the purpose of the meeting. The notice period may be waived by unanimous vote of all council members.

While notice of the first Special Meeting was given in accordance with the legislative requirements, the initial notice did not include a description of the Tree Protection Bylaw and associated Ticket Information Authorization Bylaw, as these were being drafted as late items. This is allowable under the *Community Charter*, so long as Council unanimously waives the 24-hour notice period. The City's external legal counsel have advised that this requirement was implied on December 19<sup>th</sup> through Council unanimously adopting the Special Council agenda by adding the Tree Protection Bylaw and associated Ticket Information Authorization Bylaw as a late item (and before this, by the City providing notice of this change on the morning of the meeting on the City's website). However, the City's external legal counsel have also advised that the Corporate Officer did not advise Council to explicitly waive notice in the language of the resolution when adopting the agenda, which therefore could create a gray area if this matter were brought before the courts.

Given the above, staff have drafted this report to be fully transparent to not only Council, but to the public as well.

In consultation with external legal counsel, staff are recommending that the Tree Protection Bylaw associated Ticket Information Authorization Bylaw be re-enacted. This will ensure that all procedural requirements are explicitly met, and that the City will not be subject to a potential legal challenge to these bylaws on procedural grounds.

As the new Bylaw is being enacted, staff would also like to take the opportunity to add one amendment to make it clear that the exceptions in section 50 of the *Community Charter* have been considered and included.

The existing Bylaws will remain in force until the new Bylaws are enacted.

**FINANCIAL IMPLICATIONS:**

The recommended action will mitigate the effect of any potential legal action to challenge the validity of the Tree Protection Bylaw and associated Ticket Information Authorization Bylaw, saving the City potential legal costs.

**LEGAL IMPLICATIONS:**

The recommended action will ensure that the Tree Protection Bylaw and associated Ticket Information Authorization Bylaw are not subject to a court challenge on procedural grounds.

**OPTIONS:**

**Option 1**

THAT Council

Give First, Second and Third readings to City of Langford Tree Protection Bylaw No. 2117, 2023;

AND

Give First, Second and Third readings to City of Langford Ticket Information Authorization Bylaw Amendment No. 20, Bylaw No. 2118, 2023;

**Option 2**

OR

THAT Council

Do nothing at this time with respect to City of Langford Tree Protection Bylaw No. 2117, 2023 and City of Langford Ticket Information Authorization Bylaw Amendment No. 20, Bylaw No. 2118, 2023

**SUBMITTED BY:** Braden Hutchins, Director of Corporate Services

**Concurrence:** Marie Watmough, Deputy Director of Corporate Services

**Concurrence:** Darren Kiedyk, Chief Administrative Officer