NOTICE OF MOTION

MEETING DATE       June 26, 2018
FROM                Mayor Osborne
TITLE               Single-Use Item Regulation Bylaw

MOTION

THAT staff be directed to prepare a “Single-Use Item Regulation Bylaw” for Council’s consideration to regulate the use of items such as single-use shopping bags and plastic straws, with the aim to implement such a bylaw by January 1, 2019 and provide a six-month transition to enforcement beginning July 1, 2019;

AND THAT community, business, and stakeholder feedback inform the development of the bylaw.

COUNCIL STRATEGIC PLAN GOALS

Top 6 - #5 Natural Environment

1. Strategic Priority: Not Applicable

FINANCIAL IMPACTS

Staff time will be required to prepare the bylaw, as well as to provide education and enforcement after the bylaw is implemented (some of which can be mitigated through collaboration with organizations like Surfrider Pacific Rim and the Tofino-Long Beach Chamber of Commerce).

BACKGROUND

On May 14, 2007, Tofino Council passed a motion to “ban the distribution of petrochemical-based, single-use, plastic carry bags by all merchants within the boundaries of the District of Tofino” (Resolution 204-07). This resolution did not lead to the establishment of a bylaw to regulate plastic bags, in part due to lack of confidence in municipal authority to do so.

On April 22, 2018, Tofino Council received a delegation from Surfrider Pacific Rim with an update on their “Ban the Bag” campaign and a request to consider a plastic bag ban. Additionally, Surfrider Pacific Rim has led a very successful campaign with local businesses to virtually eliminate use of single-use plastic straws. The request was well-received, but it was generally agreed amongst members of Council that some time and research was needed to reflect and determine a path forward. This Notice of Motion and the attached document is the result of that time and research.
DISCUSSION

Reducing or eliminating single-use plastic bags has been discussed in Tofino for years, with the Tofino Pharmacy and the Tofino Consumers Co-op leading the way with introduction of a fee for single-use bags some years ago. More recently, Surfrider Pacific Rim has heightened community and business awareness about the impacts and costs of single-use items on solid waste and recycling management, the environmental impacts and costs of single-use plastic bags and straws, as well as the positive behavioral impacts of making decisions to reduce personal use of disposable items.

During the 2014-2018 municipal term, Tofino Council has shown support for reducing the negative impacts of plastic pollution, for example (1) by providing funding and in-kind assistance to Surfrider Pacific Rim for their education, pollution reduction campaigns, and beach cleanups, (2) by supporting MP Gord Johns’ motion calling on the federal government to adopt a national plastic pollution strategy, and (3) by considering a request from Clayoquot Cleanup for temporary space for marine debris sorting, storage, and recycling.

Tofino is not alone in being asked to regulate the way businesses use single-use or disposable plastic items. At least three Canadian municipalities (Wood Buffalo AB, Montreal, and Victoria) have passed bylaws that regulate the business use of single-use shopping bags, and Prince Edward Island just became the first province in Canada to enact legislation to regulate single-use shopping bags (see the attached summary of these bylaws and legislation). Each of these municipal bylaws provides specific definitions, prohibitions, and exemptions and while they are each tailored to the municipality’s needs, they share some common purposes: reducing environmental & municipal service impacts, and encouraging changes in business practice and personal behavior. Further, they provide for phased implementation.

Recycle BC and the Retail Council of Canada have recently launched a campaign to encourage the public to make the switch from single-use plastic and paper shopping bags to reusable bags. Interestingly, in a recent conversation with Recycle BC staff, it was explained to me that not only do plastic/biodegradable/compostable bags greatly disrupt the recycling process (“gumming up” machinery, and/or creating additional work in sorting) but recent changes in the export of mixed paper recycling to China in addition to the greater environmental impacts of creating paper bags (e.g., water use) point strongly to the need to simply eliminate disposable checkout bags no matter what they are composed of.

For Tofino, the primary reasons to establish a Single Use Item Regulation Bylaw are:

- to reduce the creation of waste and the associated costs and impacts to municipal services;
- to reduce waste and environmental damage caused by single-use items;
- to encourage a change in behaviour amongst residents and businesses regarding use of single-use items;
- to promote responsible and sustainable business practices.

After the April 22 delegation from Surfrider Pacific Rim, some concern was expressed about the District of Tofino’s authority to regulate use of plastic bags. On June 19, 2018, the BC Supreme Court ruled in favour of the City of Victoria’s single-use plastic checkout bag ban, dismissing a challenge by the Canadian Plastic Bag Association that claimed the City of Victoria did not have “the jurisdiction under its business licensing powers or otherwise to only permit paper and reusable bags or to compel businesses to charge a fee to its customers for the purpose of promoting ‘sustainable business and consumer habits’.” The court confirmed that municipalities do have the power to regulate business transactions (in this case, giving a bag to a customer to carry purchased goods). Further, in his reasons for judgment, Justice Smith wrote, “I find no evidence of bad faith in this case. Although some members of council may have been motivated by broad environment concerns, council’s attention was properly drawn to ways in which discarded plastic bags impact municipal facilities and services. Council decided that those issues could be addressed by prohibiting a specific form of consumer transaction.” This should provide considerable confidence in the District’ ability to establish a single-use item regulation bylaw.
Next Steps

After a very preliminary conversation with District staff, there is understanding that further Council conversation and direction is likely needed (e.g., further conversation at a COW meeting) as well as public and business feedback. This motion – if successful – will start that process. It would be expected that Council would provide direction on specific items to be regulated, and that public and stakeholder feedback will inform bylaw development. For example, staff and Council may wish consider exemptions such as the use of plastic straws for persons with disabilities. Other municipalities’ bylaws provide other examples of exemptions (see attached summary).

As of June 20, 2018, the Surfrider staff has confirmed in a survey of 117 mostly retail and restaurant businesses in Tofino that:

- 95% are not using plastic straws,
- 73% are not giving or selling plastic bags,
- 10% are giving or selling plastic bags,
- 13% are giving or selling only small plastic bags, plastic bags only on request, or only compostable plastic bags

Surfrider Pacific Rim has confirmed they are willing to assist the District of Tofino in public and stakeholder engagement, as well as in education about a regulatory bylaw.

Summary

With the considerable education and awareness building undertaken by Surfrider Pacific Rim, the volunteerism already shown by local businesses, and the increasing awareness across society about the impacts of single-use items, the District of Tofino is well-positioned to establish a single-use item regulation bylaw which can be amended over time to expand scope or application. The motion as written indicates that a period of time will be required for preparation of the bylaw, and that further discussion and engagement with the public and stakeholders can be incorporated.

Respectfully submitted,

Mayor Osborne

Appendices: Summary of plastic bag legislation in five Canadian jurisdictions.