



Meeting Date: October 4, 2023

Submitted by: James Hutson, Manager of Legislative Services/Municipal Clerk

Report No: CLK-09-2023

Subject: Procedural By-law Review

Recommendation:

THAT Report CLK-09-2023, re: Procedural By-law Review be received;

AND THAT the draft Procedural By-law 2023-0xx attached as Appendix 'A1' be approved;

Purpose:

The purpose of this report is to present Council with a comprehensive procedural by-law for consideration and approval.

Background:

All Ontario municipalities are required to implement a procedural by-law to govern the proceedings of Council, Committee and Local Board meetings in accordance with Section 238 of the Municipal Act, S.O. 2001 (hereinafter 'the Act').

The procedural by-law represents a foundational document for the corporation which underpins and provides guidance on how Council, staff and the public interact through formal meetings. These established procedures help to ensure consistency and fairness surrounding the management of meetings while also fostering respectful conduct for participants.

The Municipality of Middlesex Centre adopted Procedural By-law 2017-0156 in December of 2017. This by-law was subsequently amended in 2020 to incorporate provisions required to facilitate meetings electronically during a declared state of emergency. Municipalities were authorized to adopt amendments to their existing procedural by-laws in accordance with the flexibility provided under Bill 187, the Municipal Emergency Act, 2020.

These changes allowed for business continuity during the COVID-19 Pandemic and specifically allowed the Municipality to permit members to participate electronically and count towards quorum in both open and closed meetings.

The ability to facilitate meetings electronically or in a hybrid format was made permanent following the lifting of the state of emergency and the requirements for a municipality to permit electronic meetings were codified in the Act.

In an effort to ensure consistency with legislation and to encourage modernization of the current by-law, staff initiated a review of the existing meeting procedures beginning in late 2022. This review identified a number of comprehensive updates and changes which are proposed as part of the revised by-law.

Through the review process staff have incorporated existing knowledge, reviewed best practices across the municipal sector, and have consulted with agency partners including the Ministry of Municipal Affairs as well as groups such as the Association of Municipal Clerks and Treasurers of Ontario (AMCTO) and the Association of Ontario Municipalities (AMO).

In addition to conducting a comprehensive review of area municipal procedural by-laws and municipal comparators, a review of recent case law pertaining to municipal procedural matters has been conducted.

Of note, from this review, best practise recommendations with respect to meeting notice provisions, electronic participations and submissions to Council have been incorporated into the proposed by-law.

Throughout the by-law, changes have been made to the general language in order to reflect gender-neutrality and to correct any existing text errors.

Analysis:

The following analysis will provide a general summary of the significant alterations, additions and deletions contained in the revised by-law:

Section 2 - Definitions and General Provisions

Additions were made to the by-law to define key terms which are used throughout. Key updates include defining the various staff and Council roles (such as Chair, Chief Administrative Officer and Clerk). Specific definitions have also been added to provide clarity on meeting types – including inaugural, special and electronic meetings of Council. Additional definitions respecting electronic participation are included and are detailed further in this report.

Section 3 – General Provisions

The general provisions section of the by-law has been largely retained from the existing version of the procedural by-law. Importantly, a clause has been added to assert that the provisions of the procedural by-law are applicable to local boards and committees, in addition to meetings of Council.

Section 4 - Meetings

Inaugural Meeting

This section has been updated to clarify the date of the Inaugural Meeting of a new Council. Legislation requires that a procedural by-law must contain provisions which state the timing of an Inaugural Meeting. The proposed timing aligns with best practices for scheduling these meetings.

Regular Meetings

Revisions are proposed to the regular meetings section, in order to clarify meeting timing, location and participation.

Of note the start time for regular evening meetings of Council is recommended to be moved to 5:30 p.m.

Public Meetings

The Public Meetings section is proposed as a new meeting category. The purpose of this section is to outline and provide for specific provisions related to the conduct of public meetings required under various statutes, including the *Planning Act, S.O. 1990*. This section will give clarity to the notice and submission requirements for this type of meeting. A Public Meeting can be held in conjunction with a regular meeting as is the current practice of Council.

Special/Emergency Meetings

This section contains the addition of a provision that allows for emergency meetings when there is an urgent or extraordinary reason that threatens life or property. Wording has been added to confirm that these meetings may be called for by the Mayor, or upon receipt of a petition by the majority of Council members.

Electronic Meetings and Participation for Members

In accordance with amendments to the *Municipal Act, S.O. 1990* which were initiated in 2020. Municipalities are authorized to permit councils, local boards, and committees to hold meetings electronically if allowed by their procedure by-law. This change was made in response to the COVID-19 pandemic, but has remained in the Act, giving municipalities more flexibility in their meeting styles.

Many Ontario municipalities, including Middlesex Centre, have received feedback which indicates that both members of Council and other meeting participants are appreciative of the option to participate in meetings electronically.

As evidenced in Middlesex Centre, the move to meetings being held fully or in part via electronic means has led to increased access to open meetings of Council and increased levels of participation. This is a benefit to all, particularly when meetings are held in a 'hybrid' format allowing for in-person attendance or electronic participation. Offering choice to participants is an opportunity to encourage engagement, and as such the proposed procedural by-law contains the appropriate provisions to permit electronic

meetings and to allow members to participate fully, including exercising their voting rights.

Importantly, meetings which are held in part or by fully electronic means must provide for appropriate notification of this format in advance. Similarly, should individuals wish to participate in a meeting electronically, this section provides guidance on how and when to notify staff of this request.

Provisions related to member participation are proposed, which provides authority for members to participate in meetings and count toward quorum. A limitation of (5) meetings per year whereby electronic participation is permitted is proposed.

Notice of Meetings

The Notice of Meetings section has been significantly to clearly establish the process and timelines associated with giving notice of meetings as well as to define the requirements for what information is included within a meeting notice. The requirement to give notice of a meeting through the municipal website has been set at a minimum 72 hours for regular meetings and 24 hours for special meetings. Typically, meetings will be set out in advance via the meeting calendar.

Quorum and Commencement

The quorum section of the by-law has not been altered and only minor wording additions are proposed. Of note, a majority of all members shall be determined as four (4) members of Council for the purpose of establishing quorum.

Section 5 - Closed Meetings

The closed meeting section has been updated to reflect the additional legislative exceptions permitting closed meetings to be held Subsection 239 of the Municipal Act. These include a a request under the Municipal Freedom of Information and Protection of Privacy Act, an ongoing investigation respecting the municipality by the Ombudsman or education and training sessions.

Wording related to penalties for members respecting the sharing of closed session information have been removed. Penalties related to member conduct are reflected in the Council Code of Conduct and must align with legislation.

Finally, a clause has been added confirming that Council will provide a general summary of confidential matters which were discussed in a closed session upon rising and returning to the open meeting.

Section 6 - Agendas Minutes and Proceedings

Agenda Preparation and Posting

This section of the by-law sets out administrative requirements for the preparation and publication of meeting agendas. Wording has been added to address the addition of

items received following the publication of a meeting agenda. The Consent, By-law and Minutes sections remain unchanged save for minor edits.

Section 7 - Communications, Delegations and Presentations

Public Presentations

The Public Presentations section has been created to distinguish between other ways to appear before Council and participate in meetings, such as delegations or staff presentations. Specifically, this section addresses presentations from groups, agencies or organizations which may be affiliated with Council or wish to present on a topic of interest. Examples include local partners such as Conservation Authorities or local groups such as the Middlesex Centre Archives.

Staff Presentations

Similar to the above, this category is being proposed to define and clarify the requirements and parameters for presentations from staff and consultants. The time limit for these presentations has been fixed at 10 minutes and where a presentation relates to a matter on the agenda, Council shall proceed to consider the item following the presentation.

Delegations

The delegations category has been modified in an effort to provide clarity around the registration process and which matters of municipal business an individual may participate as a delegate in. The deadline for delegate registration has been extended to the Monday afternoon on the week of a regularly scheduled meeting to allow the maximum time for the public to make submissions.

The time limit for delegations has been reduced from ten minutes to five minutes with an option for council to extend by majority vote. A clause allowing additional time up to ten minutes for group presentations is proposed. The purpose of these time limitations are to ensure meeting efficiency and allow for multiple delegations to be heard on matters of interest.

A process for consideration of delegation requests for matters not listed on an agenda is included. Finally, provisions to allow for electronic delegate participation are codified.

Written Submission and Petitions (incl. correspondence)

The existing procedural by-law contains limited provisions surrounding written submissions to Council. This section has been established to implement guidelines for written submissions, including petitions, which align with privacy principles and ensures that individuals who may sign a petition do so with a knowledge of the matter Council is being asked to consider.

The by-law clarifies that electronic and paper based petitions are accepted; however, those submitted via an external petition website (e.g. change.org) will not be accepted

as a formal petition but may be included as correspondence on a Council agenda if the subject is related to an upcoming agenda item.

Section 8 - Procedural Matters

Disclosure of Pecuniary Interest

An additional provision has been added to the disclosure of pecuniary interest section to establish that in a case where the majority of Council has declared a conflict on a given item, the remaining members necessary for quorum shall be deemed to be not less than two. This ensures business continuity in decision making should such a scenario arise.

Motions and Voting

In order to comply with procedural best practises, wording has been put in place to confirm that a motion is to be moved/seconded and properly placed on the floor for consideration, before debate on the item may commence.

In addition, wording has been incorporated to identify the order and precedence of secondary motions when a matter is under consideration – those commonly being amendments or deferrals. The by-law addresses which of these motions are open to debate and when one takes precedent over another. The basis for this are set out in Robert's Rules of Order, being the standard on which parliamentary meeting proceedings are based upon.

Any motion on which there is a tie vote shall be deemed to be defeated, except where otherwise provided by any act.

Notice of Motions

The standard rules which are currently observed with respect to Notice of Motions are clarified by the addition of wording in this section.

Reconsideration

The timing for when a motion to reconsider a matter previously decided upon is defined in this section.

A clause confirms that a motion to reconsider must be carried in the affirmative by a vote of two- thirds of the entire Council as well as the next steps should a matter be re-opened.

Rules of Debate

In order to structure debate on a given item, members are limited to speaking for a maximum of five minutes on a particular matter as well as speaking twice to a given motion. Council may waive this via a majority vote of the members present at that meeting.

Point of Order

Wording has been added to identify that a Point of Order can be raised at any time and the decision of the chair is appealable. A Point of Order is when a member raises a question as to whether correct procedure is being followed.

Point of Privilege

Similar to the Point of Order section, wording has been added to clarify that a Point of Privilege can be raised at any time and the decision of the chair is appealable. A Point of Privilege means a matter that a member considers to question their integrity and/or the integrity of Council.

In both the above instances, the wording and function is set out within Roberts Rules of Order and the by-law has been designed to align with those provisions.

Conclusion and Staff Recommendation

The comprehensive review of the current procedural by-law has resulted in a substantive number of changes which taken together help to ensure legislative compliance, modernization and clarity of application. The revised by-law is intended to act as a guide – for staff, council and meeting participants alike. As such staff are recommending that Council adopt the by-law enclosed as Appendix 'A' to become effective immediately. The Clerk's division is prepared to support any additional requests for training, and to ensure proper application of the by-law.

Financial Implications:

There are no significant financial implications associated with the procedural by-law. Expenses related to Council meetings are considered as part of the annual operating budget.

Strategic Plan:

This matter aligns with following strategic priorities:

- Responsive Municipal Government
- Engaged Community

The procedural by-law provides a framework for public participation at Council meetings and ensures structure and organization for the meeting process.

Attachments:

A1 – Draft Procedural By-law 2023-0xx

A2 – Draft Procedural By-law 2023-0xx (Red-line Version)