

November 16, 2017

REPORT TO: Administration & Finance Executive Committee

FROM: Elizabeth (Lisa) Slomke, Clerk

SUBJECT: Part 3 of Modernizing Ontario's Municipal Legislation Act (Bill 68)

BACKGROUND INFORMATION

In November 2016, the Province of Ontario tabled Bill 68, the Modernizing Ontario's Municipal Legislation Act, which introduced a series of reforms to the Municipal Act, Municipal Conflict of Interest Act, as well as several other pieces of municipally-relevant legislation.

In August 2017, I provided Council with a report which highlighted many changes to be implemented with the passage of Bill 68 including Code of Conduct, Integrity Commissioner and the definition of meeting. Council's approval of my report gave Administration the direction to further analyze Bill 68 with particular attention paid to the effective dates once they were provided by the Province.

On November 14, 2017, Council approved my Part 2 report which recommended that work on Code of Conduct and Integrity Commissioner be pushed back into 2018 and higher priority be placed on the amendments needed to our Procedural By-law in order to reflect the updated meeting definition, provide for additional open meeting exceptions and to permit electronic meetings.

NEXT STEPS

Attached to this report is the consolidated version of our Procedural By-law 34/95, which includes amendments A (1996), B (1996), C (2007) and D (2015). Over the next year there will be amendments to this by-law in order for us to meet legislative changes which will come into effect in part on January 1, 2018 and March 1, 2019.

The first section that needs amending is the definition of meeting, which is found in Section 1. (6) of our Procedural By-law 34/95. The by-law should be amended to match the new legislated wording which reads as follows:

“meeting” means any regular, special or other meetings of council, or of certain local boards or committees, where a quorum is present and where members discuss or otherwise deal with matters in a way that materially advances the business or decision making of the relevant body.

The second section that needs amending is regarding Open Meetings, which is found in Section 10. (b). In this instance, I suggest that the by-law doesn't actually list each of the statutory requirements for a Closed Meeting, instead referring to the Municipal Act. This way if there are further changes or amendments to this section of the Act, it will simply become practice and additional amendments to this section will not be required. Council does not have the option to add or change any of this restrictive legislated wording.

Section 11 (e) outlines the format for our Agendas, which needs to be revised as we do not follow the format of having the In-camera portion near the end of the meeting, instead our practice is to have it at the beginning and the Procedural By-law should reflect that practice. Also, removal of the headings in both Agendas labelled Items Previously Considered, this is not a heading that is used, if a matter is going to be considered again it will be placed back under the heading it was originally found or under the division it belongs (i.e. Administration & Finance Division). Some other minor housekeeping should take place to match the list in this By-law to the agendas we use each and every meeting.

Section 14 of the Procedural By-law 34/95 speaks to Petitions and Communications. I think that this section should further be updated to include instructions that petitions will follow the established Provincial Guidelines, this provides consistency and clarity for what will and won't be accepted. This is not as a result of Bill 68, just a housekeeping item.

The sections related to Conduct of Members of Council and Guests (17, 18, 19 and 20) will become redundant once Council establishes a Code of Conduct which is expected to be in place by March 1, 2019 and will be worked on in 2018.

Finally, section 63 of the Procedural By-law should be amended to reflect the revised 'Boards & Committees By-law' that was passed and enacted in 2016. Again, this is not as a result of Bill 68, just a housekeeping item.

RECOMMENDATION

At this time, I suggest that an amendment be brought forward prior to December 31, 2017 that will reflect the above listed recommendations which will bring our Procedural By-law in line with Bill 68 – Modernizing Ontario's Municipal Legislation Act.

Further discussion and direction should be had related to the ability for Council to permit member participation electronically in meetings open to the public. Important points to consider include the fact that any member(s) participating electronically are not counted in quorum but are permitted to vote. This could pose a problem if multiple members decide they want to participate electronically, and not enough members physically attended the meeting site. Quorum would not be reached and therefore the meeting would not proceed. I think that in some instances the ability to permit electronic participation in emergency or exceptional circumstances would be beneficial to the democratic process. Some communities in Ontario are spread over a large geographic area and in these instances, electronic participation might be something they will consider. Please keep in mind that this new portion of the legislation is

a 'may' item, and as such Council can also decide not to take any action at this time and instead observe how other municipalities handle this option over the next several months and bring an additional amendment forward in the future.

Once all the required legislated amendments have come into effect (2019), I suggest that a new Procedural By-law be considered which will replace by-law 34/95 and all its amendments. Completing this step will permit Council, staff and the public with a simple version to view and refer to. This by-law is 20+ years old and some of the wording is dated and redundant.