



CITY OF
ST. CATHARINES

Corporate Report

Report from Economic Development and Customer Service, Office of the City Clerk

Date of Report: April 12, 2013

Date of Meeting: April 29, 2013

Report Number: EDCS 114-2013

File: 10.12.1

Subject: Advisory Committees: Simplified Rules of Procedure, Training and Terms of Reference Review

Recommendation

That Council approve the Simplified Rules of Procedure attached to this report as Appendix 1; and

That the City Solicitor be directed to prepare the necessary by-law to adopt the rules for use by all City of St. Catharines Advisory Committees.

Summary

This report proposes a number of recommendations intended to improve the efficiency of advisory committee meetings, and to ensure that committee meetings comply with the principles of openness, accountability and transparency.

Background

The City of St. Catharines has on record established or continued at least 23 advisory committees to Council during this term of Council. For the purposes of this report an advisory committee means a committee that is comprised of a mix of citizens and councillors or staff, or both, appointed by Council to provide advice or recommendations on matters set out in terms of reference provided by Council. Advisory committees do not exercise any independent or delegated power or authority.

It has come to staffs attention that many of the advisory committees struggle with proper meeting procedure and, in some cases, staff have received complaints regarding basic rules of conduct. There are currently no rules specifically designed for the meetings of advisory committees and no training for either the members of committees or the staff liaisons that assist them. In the absence of simplified rules for advisory committees, committee members and staff are referred to the Council rules of procedure and Code of Conduct which are complex and not very workable for the more informal structure and working of advisory committees that engage volunteer citizen participation.

Public notice of meetings, agendas and minutes has been sporadic and do not in every case live up to the City's commitment to open, transparent and accountable practices.

In staff's opinion this is a failure in process not intent. Advisory committees simply do not have the direction and support required to meet these high expectations.

In some cases advisory committees do not have formal terms of reference approved by Council at all, or have vague, incomplete or out of date terms of reference that do not clearly state the purpose or mandate of the committee, composition or reporting structure. Without clear terms of reference, it is difficult to determine what matters are properly in order for meeting agendas and when a committee has completed its mandate.

Accordingly, the recommendations of this report are intended to address current gaps and to assist advisory committees to conduct efficient meetings that comply with straightforward procedural rules and ethical conduct that support the principles of open, accountable and transparent decision making.

Report

Advisory committees are one way that Council receives important and valuable input from the community and stakeholders related to matters before Council. Thoughtful and constructive citizen participation improves Council decision making. However, to function effectively advisory committees need to follow basic procedural rules and conduct their meetings in a manner that reflects the values of openness, accountability and transparency that are expected of local government.

Public expectations of openness, accountability and transparency have significantly grown in recent years. This has produced a culture change in progressive municipalities and been reinforced by provincial legislation. Changes to the *Municipal Act, 2001* in place since January 2007, including mandatory policies related to accountability and transparency, public notice and mandatory closed meeting investigators and discretionary provisions for integrity commissioners, auditors, ombudsmen and codes of conduct, as well as new or amended legislation such as the *Accessibility for Ontarians with Disabilities Act, 2005* and *Municipal Elections Act, 1996* have placed significant emphasis on these issues which have increased the profile and workload related to ethical issues in local government. Citizen complaints, investigations and legal challenges have become increasingly common.

Accordingly, the time is ripe for a review of all procedures and policies at the City of St. Catharines for adherence to legislative requirements and best practices in these areas.

Members of Council receive orientation following the election and on-going support from the CAO, Clerk and City Solicitor, so they are well prepared to meet these challenges. However, advisory committees have not traditionally been as well supported and they are comprised largely of citizen volunteers who should not be expected to be familiar with either procedural rules or codes of conduct that apply to elected officials. As a first step in this process it is recommended that the rules of procedure for committees be simplified and that they be distributed to committee members and staff liaisons in the form of a handbook that is easy to understand and refer to. The existing rules of

procedure for Council work well for that more formal body. However, advisory committees that rely upon citizen volunteer participation do not require complex parliamentary procedures that can be difficult to navigate. The Council Rules of Procedure, as set out in By-law No. 2007-311 are intended to apply to Council, General Committee and special committees or ad hoc committees composed of councillors such as the Ad Hoc Budget Review Committee.

Attached as Appendix 1 of this report are Simplified Rules of Procedure that provide the essential toolkit for advisory committees to hold efficient meetings and avoid conduct that does not reflect the City's values. It is recommended that Council adopt these Simplified Rules of Procedure for the use of advisory committees and that the City Clerk will include these rules in a handbook to be distributed to all advisory committees together with samples for preparing agendas and minutes and a copy of the City's Code of Conduct.

Should Council approve the Simplified Rules of Procedure, the City Clerk will organize training and orientation sessions with all City of St. Catharines Advisory Committees and staff committee liaisons on their application.

As part of this process improvement, the City Clerk will review the status of all City of St. Catharines Advisory Committees in consultation with committee chairs and respective staff assigned to the committees. Once this review is complete, the City Clerk will report back to Council with recommendations regarding the continuation or dissolution of existing advisory committees.

Financial Implications

Not Applicable.

Conclusion

Adopting Simplified Rules of Procedure for advisory committees will be a first step in ensuring that the City improves the efficiency of committee meetings and meets public expectations and legislative requirements for openness, accountability and transparency.

Notification

It is in order to notify the Advisory Committee Chairs and Staff Liaisons.

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Approved by:

David Oakes, Director of Economic Development & Customer Service

Schedule A to By-Law No. 2013-XXX**SIMPLIFIED MEETINGS PROCEDURES****PART 1 - DEFINITIONS**

1.1 For the purposes of these procedures, the following terms have the meaning indicated:

- (a) “Ad Hoc Committee” – Any body, that Council establishes by resolution for the purpose of dealing with a special project or issue with a clear mandate and a start and finish date, which includes as Members persons nominated by other bodies, citizens or Staff.
- (b) “Advisory Committee” – Any body that Council establishes by by-law to provide advice or recommendations on broader matters as set out in the terms of reference provided by Council, which includes as Members persons nominated by other bodies, citizens or Staff. Advisory Committees established by by-law are continuing bodies that generally exist beyond a single term of Council.
- (c) “Chair” – The person presiding at a Meeting.
- (d) “Committee” – All advisory bodies established by Council, including an Ad Hoc Committee, Advisory Committee, or Legislated Advisory Committee and any Sub-committee.
- (e) “Clerk” – The Clerk of the City of St. Catharines or delegate.
- (f) “Deputation” – An oral submission made to a Committee at a Meeting of the Committee.
- (g) “Director” – The senior City department head with operational responsibilities for the matters within the terms of reference of the Committee.
- (h) “Legislated Advisory Committees” – Advisory Committees that carry out in whole or in part a mandate defined by provincial statute. The establishment of a Legislated Advisory Committee may be either mandatory or discretionary.
- (i) “Local Board” – A municipal service board, transportation commission, board of health, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board, police service board, public library board and a conservation authority.

- (j) “Meeting” – Any regular, special or other meeting of the Committee.
- (k) “Member” – A member of a Committee, including a member of Council who has been appointed to the Committee.
- (l) “Motion” – A Member’s formal proposal for consideration that may then be voted on or approved by unanimous consent. For example, by stating “I move that ...”.
- (m) “Quorum” – The minimum number of Members required to be present a Meeting in order to conduct business.
- (n) “Report” – A Staff report that makes recommendations to a Committee, including a report to be received for information.
- (o) “Secretary” – The person, who records the minutes of Meetings, distributes the agenda and material, keeps the records of the Committee and may provide procedural advice.
- (p) “Staff” – Employees of the City and may include any independent contractor, consultant or advisor retained by the City.
- (q) “Sub-committee” – A committee or working group established by a Committee with a clear mandate that has a start and finish date and reports directly to the Committee that established it.
- (r) “Terms of Reference” – The terms of reference adopted by Council for the Committee.
- (s) “Unanimous Consent” – When the Committee agrees to take action without a formal vote.

PART 2 - INTERPRETATION

2.1 All Committees are advisory only and do not exercise any power or authority. They do not have decision making powers.

2.2 It is the Terms of Reference, and composition of a body that determines if it is a Committee. The name of the Committee is not determinative and need not contain either the term “advisory” or “committee”.

2.3 In any case of conflict between this By-law and a Committee’s Terms of Reference as adopted by Council, the Terms of Reference govern.

2.4 In the case of conflict between this By-law or a Committee's Terms of Reference as adopted by Council and any provincial statute or regulation that applies to the Committee, the statute or regulation govern.

2.5 This By-law is to be interpreted in a manner that recognizes the right of the majority to decide, the minority to be heard, the public to have an opportunity to participate, and all participants being treated with courtesy and respect.

PART 3 - ELIGIBILITY TO SERVE ON COMMITTEE

3.1 Every Member on a Committee must be either a member of Council, Staff, a person nominated by another body specified in the Terms of Reference, or a citizen representative eligible to be elected as a member of the Council in accordance with the *Municipal Elections Act*. If a Member becomes ineligible during the term of their appointment they are automatically deemed to have resigned as a Member.

3.2 All appointments to Committees are made at the pleasure of Council and appointments may be terminated by Council at any time.

PART 4 - MAYOR AS EX OFFICIO MEMBER

4.1 The Mayor is ex officio a Member of all Committees but does not vote and is not counted towards quorum.

PART 5 - REMUNERATION

5.1 Committee Members shall serve without remuneration.

PART 6 - CHAIR AND SECRETARY

6.1 If the Committee's Terms of Reference do not provide for the appointment of a Chair, vice-chair, or Secretary the Committee will elect a Chair, vice-chair and a Secretary at its first meeting.

6.2 The Chair will preside at all Meetings of the Committee, follow the agenda, decide on whether Motions are in order, rule on all procedural matters and maintain decorum.

6.3 The Chair will ensure Motions and amendments are clearly expressed and, if there is no motion under consideration, summarize the discussion for the purpose of the minutes.

6.4 The vice-chair will perform the duties of the Chair in the Chair's absence or if the position is vacant.

6.5 If a procedural matter is not provided for in this By-law or the Terms of Reference, the matter shall be decided by the Chair, who may have regard to By-law 2007-311, "Council Procedure By-law", with necessary modifications. The Chair's decision is final.

6.6 Where the Chair is a member of Council, he or she may, at any time, report to the appropriate standing committee or Council on relevant Committee matters.

6.7 The Secretary will give notice of each regular Meeting of the Committee and prepare and distribute an agenda of the matters to be considered so that the notice and agenda will reach the Members, Staff assigned to the Committee and the Clerk at least five days, where feasible, in advance of the Meeting.

6.8 The Secretary will give notice of any special meeting of the Committee together with an agenda of the matters to be considered so that the notice and agenda will reach the Members and Staff assigned to the Committee as soon as reasonably possible in advance of the Meeting.

6.9 The Secretary will prepare and distribute minutes of every Meeting of the Committee by attaching them to the agenda for the next regular Meeting of the Committee, or as soon as possible.

6.10 The Secretary shall provide the Clerk with copies of all agendas when they are distributed to the Members, and copies of all minutes within five days after they are confirmed by the Committee.

PART 7 - AGENDAS, MINUTES, RECORDS

7.1 An agenda and minutes are required for every Meeting of a Committee.

7.2 A Committee as part of its agenda will consider only matters set out in its Terms of Reference.

7.3 Items to be included on an agenda for a Meeting must be submitted to the Secretary by 10 business days before the Meeting, whenever possible, or the Chair, in consultation with the Secretary, may establish a schedule of agenda deadline dates.

7.4 Members may submit items that are set out in the Committee's Terms of Reference for inclusion on the agenda by giving them to the Secretary by the agenda deadline date.

7.5 The Chair, in consultation with the Secretary and Staff assigned to the Committee, set the agenda, based on matters submitted prior to the agenda deadline.

7.6 The Chair will accommodate Member requests for inclusion of agenda items, whenever possible, but the Chair has the final decision about which items are included on the agenda.

7.7 The Secretary will make the agenda available to the public after delivery of the agenda to the Members and the Clerk.

7.8 Any communication or agenda item that is received prior to a Meeting but too late to be included in the agenda may be added to the agenda by the Chair, if it pertains to a matter listed on the agenda or is considered by the Chair to be urgent. Otherwise, it will be included on the agenda of the next subsequent Meeting.

7.9 In accordance with the principles of adequate notice, transparency and openness new substantive items should not be introduced on the Agenda during a Meeting as new business.

7.10 Confidential material will be distributed by the Secretary to the Members and Staff assigned to the Committee under confidential cover, and may also be provided to selected City officials.

7.11 The Minutes shall record who was in attendance, where the Meeting took place, when the meeting started and adjourned, who chaired the Meeting, whether any participants left or arrived while the meeting was in progress and if so, what time this occurred, any persons that appeared and addressed the Committee, a detailed description of the substantive and procedural matters discussed, including any specific documents considered, any Motions, including the Member moving the Motion, and all votes taken, and all actions approved or directions given.

7.12 The minutes of each Meeting will be submitted to the Committee for confirmation at the next meeting, or as soon as possible.

7.13 Committees shall keep all papers and documents pertaining to the business of the Committee, and all books, documents and files kept by the Committee shall be under the custody and control of the Clerk.

PART 8 - QUORUM

8.1 A quorum shall consist of a simple majority of the Members, including City Councillors who are Members.

8.2 A vacant position will not be counted to calculate quorum.

8.3 In the event quorum is not present 15 minutes after the time the Meeting is to start, or if quorum is lost during a meeting for a period of 15 minutes or the Member leaving the Meeting clearly indicates that they will not return to the Meeting, any Member present may ask the Secretary to call the roll and record the names of the Members present and the meeting will then stand adjourned until the next scheduled Meeting, or at the call of the Chair.

8.4 If neither the Chair nor vice-chair has arrived 15 minutes after the time the Meeting is to start and, if a quorum is present, one of the other members of the Committee may by unanimous consensus assume the Chair and preside at the Meeting until the arrival of the Chair or vice-chair.

8.5 In the event that there is no quorum or if quorum is lost during a Meeting, Members present may agree to proceed informally with the agenda and any proposals made at the informal gathering will be reported by the Secretary to the next scheduled Meeting for consideration. No Motions or votes can be taken at an informal gathering.

PART 9 - MEETINGS

9.1 A Committee may meet at the call of the Chair or may decide to adopt a schedule of regular meetings, unless the Terms of Reference provide otherwise.

9.2 Special meetings of the Committee may be called by the Chair, on 24 hours' notice, when exceptional or urgent circumstances require the Committee to meet. The notice of a special meeting shall include an agenda and indicate the exceptional or urgent circumstances that require the meeting.

9.3 If a written request is made by a majority of the Members to call a special meeting, it is the duty of the Chair to summon a special meeting on 24 hours' notice.

9.4 A regular meeting that is rescheduled is not a special meeting.

9.5 Members of the Committee are expected to try to attend every Meeting at the time established, be prepared for the Meeting by reading the Agenda in advance, and to be prepared to discuss agenda items.

9.6 Meetings of the Committee shall not conflict with regular meetings of Council or Council in General Committee, and shall have regard to Staff resources and availability.

9.7 Meetings of the Committee shall be held at City Hall, unless otherwise provided in the Terms of Reference or approved by resolution of the Committee.

9.8 Notice of Committee Meetings shall be provided to the public by posting notice of the time and place of the meeting on the City web-site, together with a copy of the agenda. The Secretary shall comply with the direction of the Clerk regarding procedures for public notice.

PART 10 - OPEN MEETINGS

10.1 All ordinary meetings of Committees shall be open, and no person shall be excluded from a meeting except for improper conduct.

10.2 Open Meetings, requires Members to discuss and debate the matters on the agenda at the Meeting held for that purpose. It is not appropriate for Members to discuss or deal with a matter that materially advances the business or decision making of the Committee outside of Meetings, including through electronic communications.

PART 11 - MEETINGS CLOSED TO THE PUBLIC

11.1 A Committee may meet in private only if the subject to be discussed relates to:

- (i) The security of the property of the City;
- (ii) Personal matters about an identifiable individual, including City employees;
- (iii) A proposed or pending sale or purchase of land for City purposes;
- (iv) Labour relations or employee relations;
- (v) Litigation or potential litigation including matters before administrative tribunals affecting the City;
- (vi) The receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; or
- (vii) A matter in respect of which the Committee is authorized by provincial statute to meet in private.

11.2 Committee Chairs or the Committee Secretary should consult with the Clerk or the City's legal counsel prior to meeting in private.

11.3 A Motion is required before meeting in private and the Motion must identify the general subject matter to be discussed and the reason for meeting in private.

11.4 Voting is not permitted in private. Any Motions must be moved and voted on in public.

11.5 Where a matter has been discussed in private, and where the matter remains confidential, Members must not disclose the content of the matter discussed or the substance of the discussions.

PART 12 - RULES OF DEBATE

12.1 The Chair decides the order in which Members speak or ask questions and makes sure that every Member indicating a desire to speak has an opportunity to speak to an item on the agenda.

12.2 When a proposal is made, the Chair may re-state the proposal to ensure that everyone understands the intent. The proposal may then be discussed and the discussion may include possible changes to the wording of the proposal. When the discussion is concluded the Chair may frame the resulting proposal as a Motion that can be voted upon.

12.3 A Committee may act by unanimous consent and a formal vote will not be necessary. The Chair may specify a proposed action and, if there is no objection, announce that the action is approved. If a Member disagrees with the proposed action, a formal Motion to approve the action and a vote is required.

12.4 A Motion requires a mover but does not need to be seconded.

12.5 A Motion relating to a matter not within the Terms of Reference of a Committee is not in order.

12.6 A Motion to approve the minutes of a previous Meeting is an opportunity for the Members to correct any errors or omissions in the minutes. It is not in order on a Motion to approve the minutes to re-open the discussion on any matter recorded in the minutes.

12.7 A Motion to reconsider any matter previously decided by the Committee may only be moved by a member that voted on the prevailing side, and requires a two-thirds majority of the Members present to pass. No matter may be reconsidered more than once during the term of the Committee that decided it.

12.8 A Committee cannot submit a recommendation to Council on an issue that has already been decided by Council during the previous 12 months of the current term of Council unless Council has re-opened the matter and authorized the Committee to do so.

12.9 A Committee may hear depositions from the public at its discretion and may set limits for speaking time. It is in order for the Committee to limit the maximum number of depositions on matters not on the agenda. The Chair may end a public deposition if there is disorder or a failure to observe decorum.

12.10 Members of the Committee may ask questions of speakers but should not engage in debate. The Chair shall instruct speakers to address their comments or questions through the Chair.

12.11 A Committee may invite specific persons, experts, organizations, or groups to make a public presentation to it on any matter within its Terms of Reference.

12.12 Members of Council that are not Members of the Committee may attend any open Committee Meeting and may speak once on any matter that is on the agenda, prior to the Committee discussion.

PART 13 - VOTING

13.1 Every Member, including the Chair must vote, unless they have declared a conflict of interest.

13.2 If a Member that has not declared a conflict of interest abstains from voting, it will be counted as a NO vote.

13.3 No Member shall be permitted to cast any vote by proxy.

13.4 A tie vote means that the Motion is defeated.

13.5 All votes will take place by show of hands and recorded votes are not permitted.

13.6 Upon the request of any Member, and when the Chair is satisfied that a matter under consideration contains distinct proposals, the vote upon each proposal may be taken separately.

PART 14 - CONFLICT OF INTEREST

14.1 Citizen Members should disclose any financial interest in a matter under consideration at a meeting, and should avoid taking part in any discussion of the matter or voting if their financial interest is not an interest in common with other persons interested in the Committee's Terms of Reference, and is of a sufficiently significant and personal nature that it could influence their participation.

14.2 Members of Council and Local Boards that participate on Committees shall comply with the same rules that are applicable to members of Council or Local Boards pursuant to the *Municipal Conflict of Interest Act*.

14.3 The Secretary will record all declarations of a financial interest in the minutes and whether or not the Member participated in the discussions and vote on the matter.

PART 15 - CODE OF CONDUCT

15.1 The City's Code of Conduct for Elected Officials, Local Boards and Advisory Committees applies to the conduct of all Members of Committees, with necessary modifications.

PART 6 - VACANCIES, REAPPOINTMENT

16.1 If a Member misses three consecutive Meetings, without cause acceptable to the Committee, the absences will be reported to the Clerk who will contact the absent Member to discuss the reasons for the absenteeism.

16.2 Upon confirmation that the Member will no longer be serving on the Committee, the Clerk will advise Council of the vacancy and the need for a replacement. If the Member indicates a desire to continue to serve, the Member will be advised that attendance is required or the Committee may request Council to declare the seat vacant and replace the Member.

16.3 In the case of a vacancy, for any cause, the member appointed to fill the vacancy shall hold office for the balance of the term of the member whose place is vacant.

16.4 Members shall be eligible for reappointment, unless the Terms of Reference provide otherwise.

PART 17 - ROLE OF STAFF

17.1 Staff are not Members and do not vote, unless the Terms of Reference provide otherwise.

17.2 Committees do not direct Staff. Any advice or recommendations of the Committee that require implementation, reports or other action by staff, that is outside the scope of work reasonably contemplated by the Committee's Terms of Reference,

shall be requested in a Motion to be considered by the General Committee and, when necessary, approved by Council unless otherwise delegated.

17.3 Committee Members shall not make or incur any liability for any operating expenditure.

PART 18 - ACTION TO BE TAKEN

18.1 Where a Committee approves an action to be taken that is within the authority of the Committee, the person authorized to take the action may do so immediately and does not need to wait for the minutes of the Committee to be approved.

PART 19 - SUB-COMMITTEES

19.1 Sub-committees shall be established by Motion and the Motion shall include the specific purpose of the Sub-committee, the Members of the Sub-committee, and a proposed time-frame within which it will make a final report to the Committee. When a Sub-committee has made its final report it is automatically disbanded.

19.2 Members of Sub-committees shall be Members of the Committee that established it.

PART 20 - ANNUAL REPORT

20.1 Every Advisory Committee shall provide an annual written report to Council, on or before May 01 in which it provides a brief summary of its work during the preceding calendar year.