Town of Deep River

Council Orientation 2018 - 2022



CAO Department

>Clerk's Planning & Development ➢ Building **By-Law Enforcement** Human Resources

<u>CAO Department</u>

Recreation Services **Fire Services Public Works** Finance ►Legal



Organizational Chart - 2017

Fire	6.33		Corporation of the Town of Deep River								
Recreation	5.35			Organizational Chart - 2017							
CAO	6.66				_						
inance	4.00				1 - Mayor,						Double Line
acilities	4.20 8.00				1 - Reeve				Library		Budget
Public Works					5 - Councillors				Services		Accountability
ibrary.	5.60								5.6 FTE		Relationship
Police	10.00			+							
otal FTE's:	50.14										Solid Line -
					Chief				Police		Direct
					Administrative				Services		Reporting
					Officer/				10 FTE		Relationship
					Clerk 1 FTE						relationship
											Non
											Union
			Recreation								Position
						Traccurat			Director of		FUSILION
	Deputy Fire		Program		Deputy	Treasurer			Director of		
	Chief		Coordinator		Clerk	1 FTE			ublic Works		Marian
	.33 FTE		1 FTE		1 FTE				1 FTE		Moving to Non
						A			Assistant		Union
	Fire		Pool		Administrative	Accounts			Facilities		Position
	Captain		Supervisor		Assistant	Payable Clerk			Supervisor		FUSILION
	n/a		1 FTE		2 FTE	1 FTE			2 FTE		
	IVa		1116		2116	1116			2116		Union
						Accounts					Position
	Firefighter		Pool Staff		Receptionist	Receivable			Facilities		1 001001
	6 FTE		3.35 FTE			Clerk			Workers		
	0112		0.00112		1 FTE	1 FTE			n/a		
			Chief		Initiatives						
			Building		Management	······			Arena		Facilities
			Official		Analyst	Accounts			Workers		Custodians
			.66 FTE		1 FTE	Clerk			n/a		1.2 FTE
						1 FTE					
			Public Works		Public Works						
			Workers		Foreman						
			7 FTE		1 FTE						
											1
lote: These r	umbers do not incl		mmer students wint	ar etud	ents or crossing guar	de					
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Service Partners





Laboratoires Nucléaires Canadiens











Service Partners





K & T Trucking







Insurance as individual as you are.

Support Partners





George W. LeConte

Barrister and Solicitor



Municipal Boards



Deep River Public Library





Legislation



>Municipal Act ►MFI&PPA Planning Act Conflict of Interest Act Procedural By-law Council Code of Conduct

Procedural By-law Council Meeting Agenda

- 1. Call to Order
- 2. Adoption of Closed Agenda
- 3. Disclosure of Interest
- 4. Closed Session

5.

6.

7.

8.

Call Open Session to Order

- Adoption of Open Agenda
 - Disclosure of Interest Matters from Closed Session

- 9. Public Information
- 9.1 Presentations
- 9.2 Notices & Information
- 9.2.1 Staff
- 9.2.2 Members of Council

Notices of Motion 9.3 10.0 Deputations **10 Minutes** 2 Speakers Maximum 5 Maximum

- 11. Consent Matters
- 11.1 Correspondence
- 11.2 Minutes
- 11.3 Reports
- 11.4 Items Extracted

- 12. Committee Minutes
- 13. By-laws
- 13.1 By-laws by Consent
- 13.2 By-laws Extracted
- 14. Closed Session (if required)
- 15. Matters from Closed

- 15. Confirmatory By-law
- 16. Adjournment

Minutes



>

>

Official Record Without Note or Comment **Recorded Vote** Errors & Omissions

Committees

Report to Council Recommendations to Council May Not Refer to Other Committees No Direction to Staff

Open Files – ongoing

Laurentianview Dairy TSH Developments Zoning By-law Update Corporate Policies

BREAK



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Council / Staff Relations Town of Deep River

Presented by: Bruce M. Beakley, CHRE, CMO Director of Human Resources County of Renfrew January 9, 2019

is an influence process. It is working with people

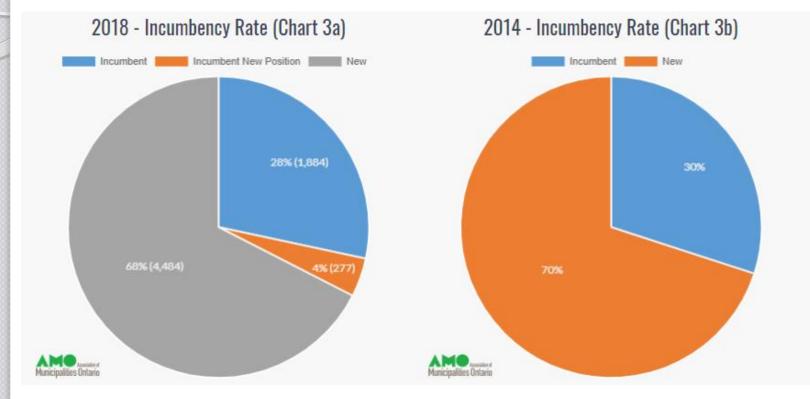
Leadership

to accomplish their goals and goals of the organization.



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2018 Election Results Candidates





New Councillors -So You've Made Some Promises....





Elected Official; Member of Council

Characterized in law as fiduciary

Fiduciary:

This is the highest duty known under Canadian law.





Conflict of Interest

- The Warden (or designate) has *neither the duty nor the right* to compel a member to declare a conflict
- The staff of the Corporation of the County of Renfrew has *neither the right nor the duty* to compel an Elected Official to declare a conflict





Conflict of Interest

- There is *no right* in the Corporation, in the Council, or in the staff to remove a person from elected office because of perceived conflicts of interest; the elected member is answerable to the electorate, and ultimately, to the courts
- Closed (5.2) leave







Conflict of Interest: Process

Only an **elector** can bring forth a charge of conflict of interest





Conflict of Interest

The onus to declare a conflict-of-interest is on the individual elected official



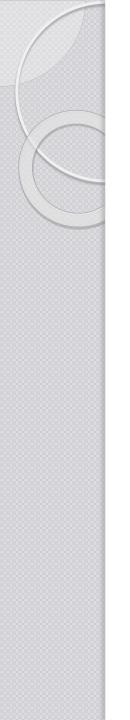


Conflict of Interest Declaration: Three Steps

Municipal Conflict of Interest Act, Section 5

- (1) Where a member...
 - (a) shall, prior to any consideration of the matter at the meeting, disclose the interest **and the general nature thereof**;
 - (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
 - (c) shall not attempt in any way whether *before, during or after the meeting, to influence* the voting on any such question





Pecuniary Interest: Three Pillars





Indirect Direct Deemed Interest Interest Interest



Conflict of Interest: Definitions

Pecuniary Interest:

- Not defined by statute
- Dictionary definition is "to relate to money"
- Includes direct, indirect and deemed pecuniary interest





Conflict of Interest: Indirect Pecuniary Interest

The Act defines *indirect pecuniary interest* which captures pecuniary interests of ones' partners, employer, spouses and children.





Conflict of Interest: Definitions

Deemed:

The pecuniary interest (direct or indirect) of a spouse or child of a member is **deemed** to be the interest of the member, if known to the member

Direct:

Is considered self-explanatory



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Municipal Elections December 1, 2018 – New Day, New Council

Staff & Elected ; traditional



Staff & elected 2019





Council Meetings

Meetings open to public

• <u>239. (1)</u> Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).





Council Meetings



Resolution

- (4) Before holding a meeting or part of a <u>meeting that is to be closed to</u> <u>the public</u>, a municipality or local board or committee of either of them shall state by resolution,
- (a) the fact of the holding of the closed meeting and <u>the general nature of</u> <u>the matter to be considered</u> at the closed meeting;



Council Meetings: Closed Session

Exceptions

- (2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,
- (a) the <u>security of the property</u> of the municipality or local board;
- (b) personal matters about an <u>identifiable</u> <u>individual</u>, including municipal or local board employees;
- (c) a proposed or pending <u>acquisition or</u> <u>disposition of land</u> by the municipality or local board;





Council Meetings: Closed Session



Exceptions

- (d) labour relations or employee negotiations;
- (e) <u>litigation or potential litigation</u>, including matters before administrative tribunals, affecting the municipality or local board;
- (f) <u>advice that is subject to solicitor-client privilege</u>, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting <u>under another Act</u>. 2001, c. 25, s. 239 (2).



Council Meetings: Closed Session Exceptions

Other criteria

- (3) A meeting or part of a meeting shall be closed to the public if the subject matter being considered is,
- (a) a request under the *Municipal Freedom of Information* and Protection of Privacy Act, if the council, board, commission or other body is the head of an institution for the purposes of that Act; or



Information and Privacy Commissioner of Ontario

Commissaire à l'information et à la protection de la vie privée de l'Ontario



Educational or Training Sessions



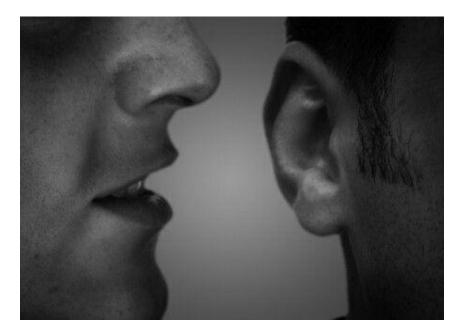
(3.1) A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

- 1. The meeting is held for the purpose of educating or training the members.
- 2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2006, c. 32, Sched. A, s. 103 (1).



Council Meetings: Closed session; Upper/Lower tier

 A matter discussed in a closed session at the County Level can be discussed at a closed session of each township but only if the matter related to sections 239 (2) and (3)



(Janet Bradley BLG)



Paul Dube' Ombudsman Report: Leeds and Thousand Islands; municipal meeting definitions

Background; excerpts from the September 2018 ombudsman's investigation

- 13 The township has a practice of publishing emails exchanged between council members and township staff in information packages on its website. These emails are called <u>"quorum emails"</u> because they are sent to a quorum of councillors, and include emails that discuss council business as determined by township staff.
- 18 The township's procedure by-law (By-law No. 13-002) was amended in December 2014. The <u>definition of meeting was amended to include email</u> <u>exchanges amongst members of counci</u>l:





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19 No other provisions of the procedure by-law, such as with respect to notice, account for meetings over email. We were advised that the township sought legal advice regarding its procedure by-law prior to enacting it, and was told that email meetings do not comply with the open meeting requirements.



Who needs legal advice???



The public has the right to be present and observe local government decision-making in process, rather than read about it after the fact.





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The *Municipal Act, 2001* defines a "meeting" as "any regular, special or other meeting of a council, of a local board or of a committee of either of them."[5] In a 2008 report,[6] in accordance with the underlying objectives of open meeting legislation and relevant case law, my Office developed a working definition of "meeting" to assist in the interpretation of the definition contained in the Act:

Members of council (or a committee) must come together for the purpose of exercising the power or authority of the council (or committee), or for the purpose of doing the groundwork necessary to exercise that power or authority.[7]





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A meeting of council is not limited to a physical gathering of its members. Instead, a meeting may occur whenever council exercises its authority, including over email.





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In a February 2009 investigation, my Office considered whether sequential phone calls between the Mayor and individual councillors for the Township of Nipissing could be considered a "meeting" for the purpose of the open meeting requirements. [8] In that case, a quorum of council was never present in the same room or on the phone during any of the conversations.

However, as a result of the calls, council collectively came to a consensus to approve additional costs related to the purchase of a fire vehicle. Our report notes:

It is not necessarily the form that a meeting takes that should be determinative, but its substance. In my view, a meeting of council is not limited to a physical gathering of its members. Sequential telephone conversations of council members, "for the purpose of exercising the power or authority of the council or for the purpose of doing the groundwork necessary to exercise that power or authority," may constitute a meeting.[9]



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Ombudsman Report: Leeds and Thousand Islands



In the 2015 decision, *Bracken v. Regional Municipality of Niagara*, the Ontario Superior Court found that <u>the right of the public to</u> <u>attend and participate in open public council meetings</u> is protected by the right to freedom of expression in Canada's Charter of Rights and Freedoms:

I do not accept... that the Applicant still being entitled to simply watch the Region council proceedings on television or to contact Region Councillors by telephone or email to ask questions would be an acceptable restriction on his Sections 2(b) and 7Charter rights. In my view, his <u>s. 2(b) right is to actually be</u> <u>able to attend and participate in open public Council meetings if he is not violent</u> or threatens violence and abides by the applicable rules.[14]





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The <u>Act does not provide for digital or virtual council</u> <u>meetings</u>. Subsections 236(1) and 238(2) of the Act speaks to the physical location of a meeting:

Section 236(1): The council of a municipality shall hold its meetings and keep its public offices within the municipality or an adjacent municipality at a place set out in the municipality's procedure by-law; however, in the case of an emergency, it may hold its meetings and keep its public offices at any convenient location within or outside the municipality.

Section 238(2): Every municipality and local board shall pass a procedure by-law for governing the calling, place, and proceedings of meetings.





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In 2006, the legislature considered Bill 130, the *Municipal Statute Law Amendment Act*. The original version of the bill included a provision permitting electronic participation of council members in council meetings. The provision did not survive the committee stage and was not included in the enacted version of the bill.

However, the *City of Toronto Act* expressly permits electronic participation in meetings, although members participating electronically do not count towards quorum.[15]



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Maintaining the proper relationship between elected officials and staff is one of the most important and at times one of the most difficult tasks in a democratic political system.









- The roles of the two groups are not precisely defined
- Personalities and personal relationships play a major role in how well the internal system functions
- Relationships at their core can be problematic at all levels of government





- Staff do not report to any one individual councillor, rather to Council as a whole
- The CAO and through the CAO the Department Heads may develop a somewhat closer relationship to the Mayor as the Chief Executive Officer, and while the Mayor may be a strong and capable leader, this closer relationship should never be allowed to supplement the legislated relationship which the CAO and Department Heads are to have to Council as a whole



Elected Officials; dynamics/system challenges

- Councillors run for election as independents not as members of a political party
- Any teamwork achieved at the council table is offset by the knowledge that at the next election councillors may be competing against each other
- The need for teamwork is balanced against the need to be re-elected
- Elections by their nature are competitive; to win an election therefore one must be competitive









Facts:

 Professional staff, unlike many elected officials, are not subject to "term limits" and these staff may have "institutional history"......corporate memory.....





Municipal Council's Political Weaknesses

- Limited powers of head of council
- Lack of cohesion among councillors







- At federal / provincial level staff advice is provided in closed sessions in the parliamentary systems
- At the municipal level staff advice is very public in the form of reports and opinions in open council or committee meetings
 - Disagreements on these opinions are very public
 - Staff members can frequently be drawn into conflicts between council members





Factors Influencing Municipal Effectiveness

- The size and complexity of the municipality:
 - the types of services they provide (policy)
 - whether its councillors are full or part time
 - whether they are elected by ward or general vote
 - and the extent to which they see their roles as "hands-on".







Staff Function

"Modern muncipal government thus became a great business enterprise calling for administrative ability and leadership as a high order and a greater variety of skilled technical workers than found in any private enterprise of similar size...the theory that democracy depended upon the diffusion of power among many elected officials for a short time became increasingly impractical and gradually disappeared with the rapid growth and complexity of urban life in general and municipal services in particular." (Ridley and Nolting)



Factors Influencing Municipal Effectiveness

 The extent to which the local municipal culture supports the risk taking which is inherent in greater delegation of authority to staff, which, in turn, is influenced by the extent of public – and particularly media – scrutiny a municipality receives.







Pressures of Change: Politician

- Increased more complex service demands
- Increasingly political milieu;
 - From caretaker role to arbiter of conflicting, controversial issues
- Increasingly complex network of relationships
 - With the provincial and federal levels of government
 - With the public, taxpayers and ratepayer groups
 - With senior staff and conflicting priorities
- Excessive demands for scarce resources available
 - Budgeting and finances
 - Administrative staff
 - Time





Political Impact Arising From These Pressures

- Improved priority setting and long term planning
 requires stronger political leadership and executive direction
- Improved, more comprehensive research and analytical capability
- Greater administrative coordination of municipal activities
- Increased public participation, and more responsiveness and accountability





Factors Influencing Municipal Effectiveness

• The extent to which council has trust in the professionalism and competence of the municipal staff, and especially the senior staff.

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Factors Influencing Municipal Effectiveness

• The extent to which councillors understand their role with respect to the management of the municipality.



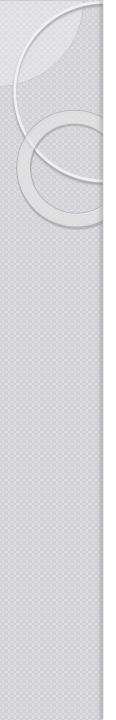


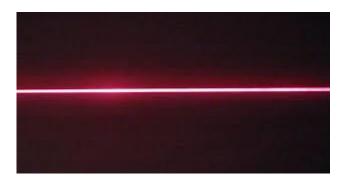
Local Council Dynamics

- The relationship between staff and Council at the local level may vary from election to election
- In a CAO system Elected Officials need to ensure that staff direction is only provided at the senior level. This is done with the expectation that senior staff will allocate staff resources appropriately.









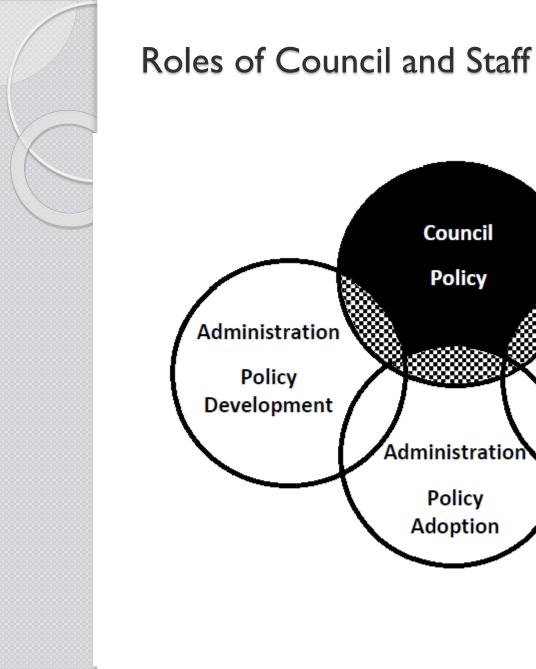
- Many newly elected officials may have an "imperfect understanding" of the division of labour between Council and Staff
- There is a historical argument that Council's role is to define service policy and staff's role is to deliver that policy
- These are not however distinct and separate functions, there must be a "continuum" of these functions. All municipal councils at a local level will establish how they will choose to conduct municipal business...

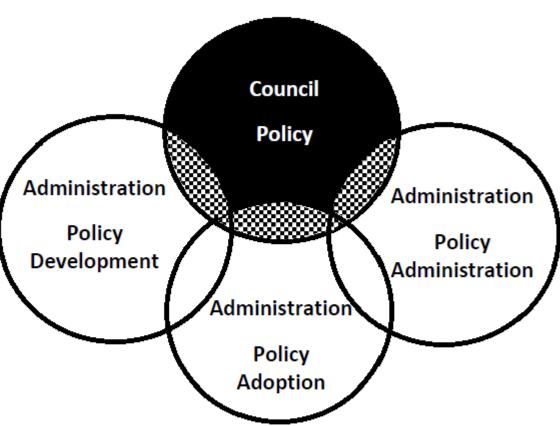


- In theory, sound democratic governance requires politicians to be in charge of all aspects of municipal governance; staff are responsible to carry out the collective wishes of council
- This neat separation of responsibilities is virtually impossible to maintain in practice

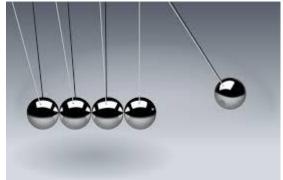












<u>Elected:</u> ENERGY- advocating for change and proposing new approaches to municipal services

Staff: EQUALIBRIUM- focus on stability, ensuring change happens in an orderly fashion to balance any negative impact to the administrative system





- Municipal services are very complex this has led to a sharing of power between the elected and staff
- "the tricky part of the sharing is that democratic principles require that <u>elected politicians must maintain the predominant position</u>. Any revised paradigm must recognize both the sharing of power and the fact that the sharing cannot be equal." (David Siegel)





Dysfunctional Municipality Public Perception when elected and staff are in conflict

Staff

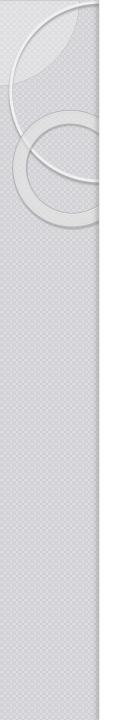




- "Cheshire Puss," she began, rather timidly, as she did not at all know whether it would like the name: however, it only grinned a little wider. "Come, it's pleased so far," thought Alice, and she went on. "Would you tell me, please, which way I ought to go from here?"
- "That depends a good deal on where you want to get to," said the Cat.
- "I don't much care where " said Alice.
- "Then it doesn't matter which way you go," said the Cat.
 - Lewis Carroll, from Alice in Wonderland







Sources

- City of St. Albert
- George B. Cuff, Municipal World
- Tom Wood
- Carl H. Neu Jr.
- Richard & Susan Tindal
- Municipal Affairs and Housing
- Office of the Ombudsman

Presentation by Bruce Howarth

Recreation Department Christine Armstrong Recreation Program Coordinator







What is Recreation

- Recreation is about activities and experiences which are freely chosen and produce feelings of well being
- Recreation provides opportunities to express creativity, achieve and master new things and feel good about doing so
- Community based recreation offers an opportunity to meet people while enjoying a range of social, cultural and physical activity.

Why is Recreation Important?

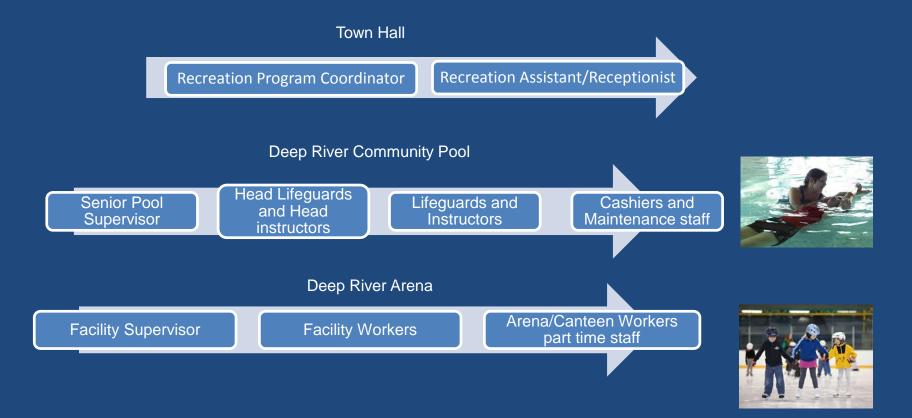
- Recreation is important in promoting the quality of Life and maintain a healthy lifestyle
- ➢ Recreation…
 - increases self esteem and confidence
 - enables us to become involved and feel part of the community
 - increases the opportunity to gain and develop new friendships.
 - \succ allows us to be challenged, take risks and experience new things.
 - permits people to contribute their skills and feel a sense of belonging and accomplishment.

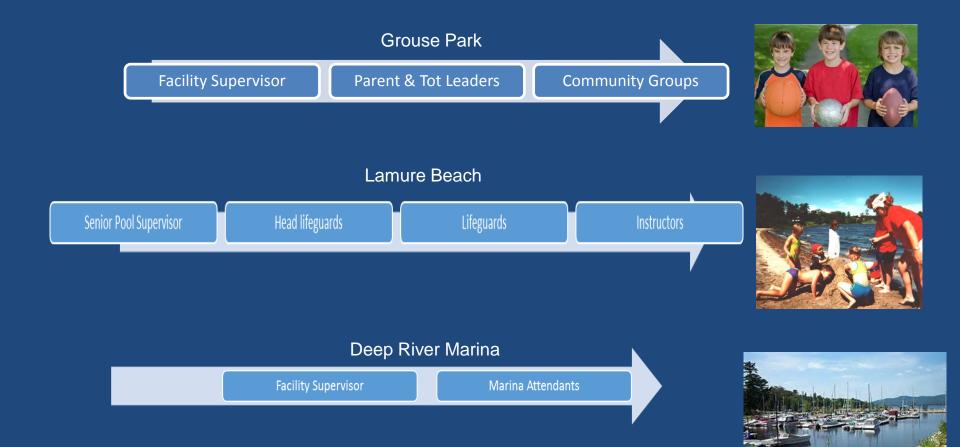
Other benefits of recreation include:

- physical health benefits
- psycho-social benefits
- help to break the cycle of poverty

Recreation is a wise financial investment

Recreation Department & Facilities





Primary Areas of Responsibility



Recreational Programs

Aquatic Programs

Swim lessons (Spring, Summer Fall and Winter) After school aquatic programs Adult aquatic programs Leadership programs (First Aid, NLS, WSI etc....)

Spring Programs Ball Hockey Parent & Tot Soccer Summer Programs Sports Camps Art Camps Playground program Science Camps

Other Community Programs Community Registration Spring & Fall Christmas Holiday sponsored swims and skates Additional P.A. and Holiday swims Additional P.A and Holiday skates Walk in the Halls

Special Events

- Deep River Winter Carnival February 9th
- March Break Fun Days March 11th-15th
- Canada Day July 1st
- Deep River Triathlon August 4th
- Deep River Christmas Tree lighting Light Up The Night (all day event) – Dec 7th
- Deep River Santa Claus Parade Dec 7th

Recreational Memberships

- Seasonal Skating Memberships
- Adult Pool Memberships
- Family Pool Memberships
- Student Pool Memberships
- Early Bird Pool Membership
- Marina Seasonal Launching Pass

Daily Admissions

- Public Skates
- Senior Skates
- Public Swims
- Adult Swims
- Aquafit
- Innertube Water Polo (new aquatic drop-in program)
- Toddler Swim (new aquatic drop-in program)
- Adult/Student 10 swim card
- Daily Marina Launching pass

K.P.M.(Facility Rental Comparison)

All Facilities	Total Hours/Facility Use	Amount	HST	Totals
2015 Grand Total	10,551.17	\$185,475.41	\$23,621.21	\$209,096.62
2016 Grand Total	9,070.83	\$172,211.35	\$22,385.65	\$194,597.00
2017 Grand Total	11,393.92	\$185,907.22	\$24,092.28	\$209,999.50
2018 Grand Total	17,549.17	\$189,921.66	\$24,544.63	\$214,466.29

\$5,369.67 increase

\$1,782.74 increase

Deep River Community Pool - Facilities - Entire Pool 2015		Hours	Amount	HST	Total
	Report Total	4,380.50	\$35,458.05	\$4,161.68	\$39,619.70
Deep River Community Pool - Facilities – Entire Pool 2017		Hours	Amount	HST	Total
	Report Total	4,120.00	\$36,024.13	\$4,658.57	\$40,682.70
Deep River Community Pool - Facilities – Entire Pool 2018		Hours	Amount	HST	Total
	Report Tota	4,067.58	\$36,691.96	\$4,770.48	\$41,462.44

K.P.M (2018 Registration Comparison)

Interna	al Registration Fees	- January 1-D	ecember 31, 2	2014		
822	Total Enrollments	Grand Total	\$51,791.09	\$1,541.96	\$53,333.05	
Internal Registration Fees - January 1-December 11, 2018						
784	Total Enrollments	Grand Total	\$54,313.87	\$1,675.53	\$55,989.40	\$2,656.35
Online	Registration - Janu	ary 1-Decemb	oer 31, 2014			
251	Total Enrollments	Grand Total	\$18,812.78	\$269.58	\$19,082.36	
Online	Registration - Janu	iary 1-Decemb	oer 31, 2018			\$28,374.07
674	Total Enrollments	Grand Total	\$47,110.93	\$345.50	\$47,456.43	
Member	ship Rate Summary R	eport - 2014	Grand T	otal	\$31,741.95	
Member	ship Rate Summary R	eport - 2018	Grand T	otal	\$50,792.26	\$19,050.31

Note: Payment may or may not have been received.

Strategic Priorities/Plan

Goal	Key Action	Work Plan
Goal 1: To be an attractive and prosperous community	Completed - Implement the Community Development Grant Program	Continue to support and provide financial assistance to volunteer organizations and clubs. Provide recommendations for the annual operating budget to determine the amount of funds to be allocated to the grant program. Continue to monitor and evaluate applications.
Goal 2: To enhance our economic environment	On-going - Seek partnerships to support community development including new facilities Renfrew County District School Board – Mackenzie Campus/Soccer pitch and Football field Ski Hill Parking Lot	Continue to pursue and develop partnerships with a diverse group of individuals, groups, committees including those who are directly affected.
Goal 3: To enhance our social environment	On-going - Update the Accessibility Plan that promotes inclusion for all	Establish a check list, continue to monitor and provide recommendations. Advise management team with updated findings and process.
Goal 5: To be fiscally sustainable	Completed- Initiate Marina Comprehensive Review and Financial Plan	Conclude consultation and present Comprehensive Marina Review document to Council
Goal 8: To continually improve our programs and services	On-going - identify funding for ongoing parks renewal and new development projects through annual budget process New Unity Playground	Continue to pursue funding opportunities with full support from community partners, local businesses and communal champions. Continue to advocate the importance and benefits of a healthy environment, play time in parks and natural areas to secure buy in from public.



Deep River Fire Department

January 09, 2019

Fire Protection and Prevention Act (FPPA)



 Defines the powers and duties of the Fire Marshal on a provincial scale as well as the responsibilities of municipal council for fire related services at the local level.

Fire Protection & Prevention Act

Definitions 1.(1)

 "fire protection services" includes fire suppression, fire prevention, fire safety education, communication, training of persons involved in the provision of fire protection services, rescue and emergency services and the delivery of all those services.

Establishing & Regulating By-law

Town of Deep River By-Law #27-2014

A By-law to Establish & Regulate a Fire Department



2 (1) Every municipality shall,

(a) establish a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention; and
(b) provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances.

Mandates of the OFMEM and Municipalities are Defined in the FPPA

Province *monitors* and supports the delivery of fire protection services

Municipalities fund and deliver fire protection services based on needs and circumstances

3 Lines of Defence

Public Education



Fire Prevention



Emergency Response



Public Education

• 2 (1) Every municipality shall,

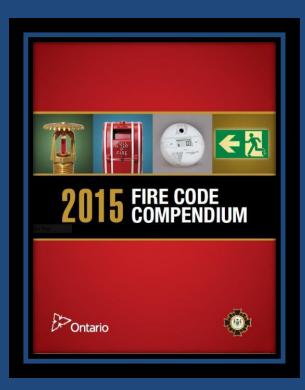
 (a) establish a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention;

Fire Prevention

Inspections

- On request
- Complaints
- Program

Fire Investigations



Emergency Response

- Fire Suppression
- Extrication
- Medical Aid
- Hazardous Materials
- Ice/Water Rescue
 - Land based
- Training
- Communications
- Public Assistance





P1 (9668) – 2013 Pierce Freightliner Waterous 1250 gpm fire pump 850 gal. On board water tank Fire Profoam system



T1 (9734)-2007 E-One Navistar Hale 500 gpm fire pump 2000 gal. On board water tank

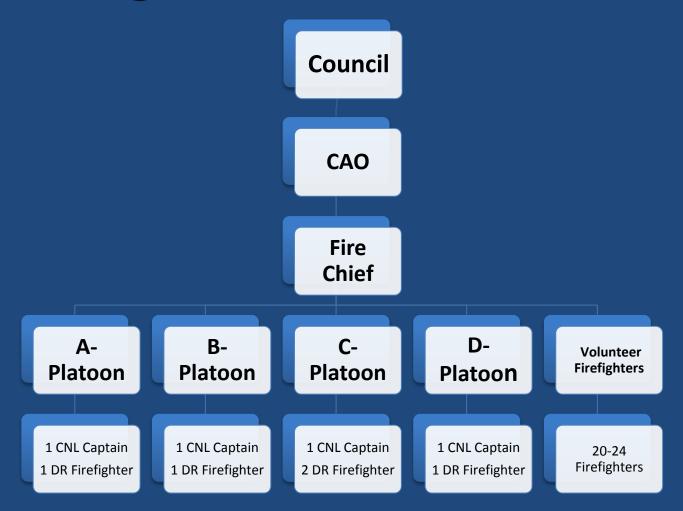


P2 (9657)– 1997 Fort Garry Freightliner
 Hale 1050 gpm fire pump
 FoamPro system
 1,000 gal. On board water tank



TR1 – 2013 Dodge RAM 1500 Hemi Utility vehicle

Deep River Fire Department Organizational Structure



CNL/Deep River Fire Service Agreement - Personnel



CNL/Deep River Fire Service Agreement

- By-law Number 19-2018.
- Term May 28, 2018 to March 31, 2021.
- Fees -\$64,975.00 monthly.





Council Orientation

Town of Deep River January 9, 2019

Ministry of Municipal Affairs and Housing Municipal Services Office - East

Disclaimer

- These slides are provided by the Ministry of Municipal Affairs and Housing for convenience only.
- The slides should not be relied on for legal or official purposes and are not meant to replace provincial legislation.
- As local facts and circumstances are variable, users may wish to consider obtaining their own legal advice when particular legal issues arise.
- For more specific information, please refer to the relevant legislation and regulations which can be found online at: <u>www.ontario.ca/laws</u>



Minister of Municipal Affairs and Housing

The Honourable Steve Clark

MPP for Leeds – Grenville – Thousand Islands and Rideau Lakes



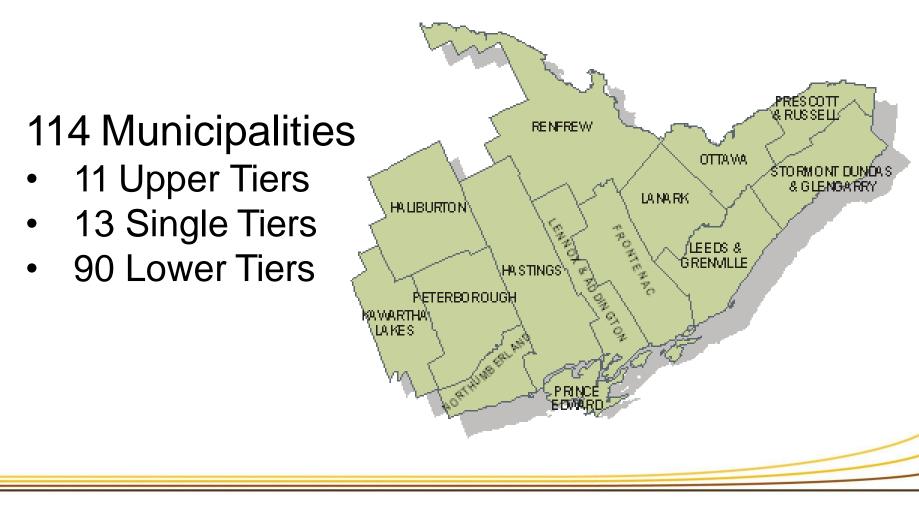


Ministry Legislation

- MMAH administers approximately 50 statutes including:
 - Municipal Act, 2001
 - Planning Act
 - Housing Services Act, 2011
 - Building Code Act, 1992
 - Residential Tenancies Act, 2006
 - Line Fences Act
 - Municipal Elections Act, 1996
 - Municipal Conflict of Interest Act



Municipal Services Office – East Kingston

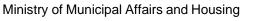




Municipal Services Office: Our Role

- Your primary point of contact with the Ministry
- Build municipal capacity by:







Focus of the Presentation

- 1. Role of Council, Councillor and Staff
- 2. Accountability and Transparency
- 3. Meetings
- 4. Municipal Government
- 5. Municipal Organization
- 6. Changes to Council Composition
- 7. Councillors as Law Makers
- 8. Exercising Municipal Powers
- 9. The Fiscal Context
- 10. Land Use Planning
- 11. Building Regulation
- 12. Emergency Management and Disaster Financial Assistance
- 13. Affordable and Social Housing
- 14. Resources



Section 1: Role of Council, Councillor and Staff



Council and Staff Roles

Council

Represent the public and to consider the wellbeing and interests of the municipality

Councillor

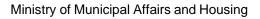
Play several roles including representative, policymaking and stewardship role in the municipality

Head of Council

Act as the Chief Executive Officer of the municipality and provide leadership to council

Staff

Implement council's decisions and establish administrative practices and procedures





Council and Staff Roles: Council

- The Municipal Act, 2001, sets out the role of council as follows:
 - represent the public and to consider the well-being and interests of the municipality
 - develop and evaluate the policies and programs of the municipality
 - determine services the municipality provides
 - ensure administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council
 - ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality
 - maintain the financial integrity of the municipality
 - carry out the duties of council under this or any other Act

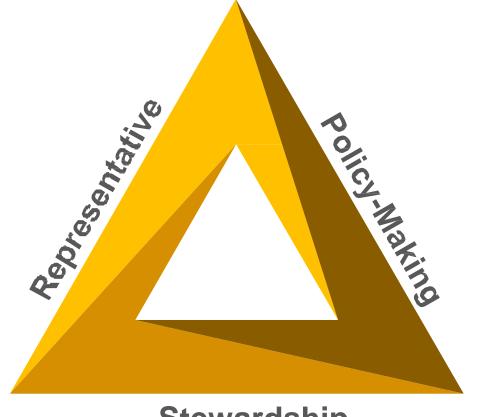


Council and Staff Roles: Head of Council

- The Municipal Act, 2001, sets out the role of the head of council as follows:
 - provide leadership to the council
 - preside over council meetings so that its business can be carried out efficiently and effectively
 - act as the chief executive officer
 - provide information and recommendations to the council with respect to the role of council:
 - ensuring both administrative and controllership policies, practices, and procedures are in place to implement the decisions of council
 - ensuring the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality
 - represent the municipality at official functions
 - carry out duties of the head of council under this or any other Act

11

Council and Staff Roles: Councillor



Stewardship

Ministry of Municipal Affairs and Housing

11 4 tario

Representative Role

- Elected by your constituents to represent their views
 - many views/opinions
 - cannot represent all of them all of the time
- Election to office requires a broad understanding of the issues
 - You may have to consider:
 - opposing interests
 - making decisions that may not be popular with everyone
- You should make decisions in the best interests of the municipality as a whole



Policy-Making Role

Policies provide direction for municipal operations by establishing general principles to help guide actions



Ministry of Municipal Affairs and Housing



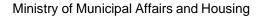
Stewardship Role

- Council's objectives are to ensure financial and administrative resources are used efficiently
 - council monitors implementation of approved policies and programs
 - practical aspects of implementation and administration rests with staff
- Council may wish to develop processes to help ensure:
 - policies adopted by council are being implemented
 - staff are administering services and programs as council intended
 - rules and regulations are being applied correctly and consistently
 - funds are being spent only as authorized, and the municipality's resources (financial and otherwise) are being used appropriately and as efficiently as possible



Stewardship Role (continued)

- Council monitors and measures municipality's administrative effectiveness and efficiency
- Working with staff, council can determine if policies are functioning well or if changes are necessary. To do this, council may wish to:
 - define corporate objectives and set goals and priorities
 - establish clear administrative practices
 - provide specific guidelines and directions to staff on the applications of those policies
 - delegate appropriate responsibilities to staff (subject to legal authority)
 - establish a personnel management policy
 - ensure that policies with respect to most operations of the municipality are in place
 - develop communication protocols; and
 - consider establishing a protocol for working with other local governments and Indigenous communities that share a common interest in community health, culture and economy. Relationship building early with Indigenous communities is the key to effective partnerships down the road.



11

Role of Staff

- The Municipal Act, 2001, sets out the role of the officers and employees of the municipality as follows:
 - implement council's decisions and establish administrative practices and procedures to carry out council's decisions
 - undertake research and provide advice to council on the policies and programs of the municipality
 - carry out other duties required under this or any Act and other duties assigned by the municipality
- Some officers of the municipality have statutory obligations

ClerkTreasurerChief Building OfficialFire Chief



Council - Staff Relationship and Roles

- All municipalities should recognize the importance of council-staff relations
- Some councils have established programs that require employee input into operational policies and procedures
- This practice recognizes staff experience and expertise and encourages communication





Strategic Planning

- Strategic planning:
 - Is a process an organization uses to define a strategy or direction, and make decisions about allocating its resources (financial and staff resources)
 - Helps council develop strategies, goals, objectives and action plans to achieve the future it desires
 - Is forward-thinking and proactive
 - Can be a guide to decision making, project planning and budgeting
- The first step to develop a strategic plan is to identify the current state of the community through a SWOT analysis STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS
- Once adopted, the success of the plan should be measured over time and reviewed periodically to ensure that it aligns with current issues, challenges and realities.



Succession Planning

- Process of identifying an organization's current and long-term staffing needs and developing internal talent to help meet those needs.
- Allows a municipality to predict where critical staffing requirements will be
- Provides time to adjust programs, training and recruitment to meet staffing requirements as efficiently and effectively as possible
- Can offer challenging and rewarding career possibilities and empower employees
- It can be linked to the municipality's strategic plan and be consistent with organizational objectives.



Helpful Considerations – Section 1

- Familiarize yourself with:
 - the policies/protocols that are in place in your municipality for handling issues such as public inquiries and complaints
 - the reporting relationship between staff members and members of council
 - your responsibilities for matters relating to personal privacy and other confidentiality issues, including relevant legislation and policies
- Remember that the relationship between staff and council is intertwined; it is important for council members and staff to respect one another's roles
- A municipal strategic plan can be an important part of municipal governance
- All municipalities are encouraged to create an employee succession plan that is aligned with their strategic plan



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Section 2: Accountability and Transparency



Ministry of Municipal Affairs and Housing

Accountability and Transparency

- The *Municipal Act, 2001* requires municipalities to have policies related to:
 - sale and other disposition of land
 - hiring of employees
 - the relationship between council and municipal officers and employees*
 - procurement of goods and services
 - the circumstances in which the municipality shall provide notice to the public and, the form, manner and times notice shall be given
 - delegation of its powers and duties
 - protection of the tree canopy and natural vegetation in the municipality*
 - pregnancy leaves and parental leaves of members of council *

* The requirement for council to develop these policies comes into effect on March 1, 2019.



Codes of Conduct

- Effective March 1, 2019 municipalities will be required to adopt a code of conduct for members of council and certain local boards
 - Mandatory subject matters that must be included: gifts, benefits and hospitality; respectful conduct; dealing with confidential information; and use of municipal or local board property/equipment
- Considerations when developing and reviewing codes of conduct:
 - working with local boards when developing local board codes of conduct
 - reviewing and updating existing codes of conduct, including consulting with the Integrity Commissioner
 - establishing standards of respectful conduct what is considered to be harassment or bullying?
 - establishing a local process for handling complaints about a councillor's conduct
 - work with the Integrity Commissioner to establish an accessible and open complaints process for codes of conduct
 - review how the code fits with the other aspects of the local accountability regime (e.g. an existing council-staff relations policy)

12

Accountability Officers

 To help ensure integrity and accountability in public office, the Municipal Act, 2001 allows municipalities to pass by-laws to establish:



• Effective March 1, 2019 municipalities will be required to ensure that the public has access to an Integrity Commissioner

12

Municipal Conflict of Interest



The Municipal Conflict of Interest Act

sets out what may be regarded as a primary set of ethical rules for council and local board members

 These rules apply, with some exceptions, to council and local board members if they have a pecuniary (financial) interest in a matter that is before a council (or a local board) at a meeting



Municipal Conflict of Interest

The legislation requires a member with this kind of interest – again with certain exceptions – to, among other things:



- **disclose the interest** and its general nature before the matter is considered at the meeting
- not take part in the discussion or voting on any question in respect of the matter
- not attempt to influence the voting before, during, or after the meeting; and
- **immediately leave** the meeting, if the meeting is closed to the public
- Potential penalties for contravention of the Act include removal from office. The courts decide whether or not a contravention of the Act has taken place



Municipal Conflict of Interest (Continued)

- As of March 1, 2019, the MCIA will:
 - generally prohibit members of council or of a local board from using their office to attempt to influence decisions or recommendations being considered by municipal or local board employees if the member has a pecuniary interest in the matter
 - require a member who discloses a pecuniary interest at a meeting to file a written statement of their interest
 - require municipalities and local boards to establish and maintain a registry of statements and declarations of interests of members; must be available to the public
 - include a broader range of penalties for contraventions



Municipal Conflict of Interest (Continued)

- As of March 1, 2019, under the *Municipal Act, 2001*, Integrity Commissioners will have a new responsibility:
 - could investigate a complaint concerning an alleged contravention of MCIA rules
- After completing an investigation, the Integrity Commissioner could decide to apply to a judge for a determination as to whether the member contravened the MCIA
 - person who made the complaint may apply to a judge (as long as certain conditions are met) if the Integrity Commissioner does not



Ontario Ombudsman



Since January 1, 2016, the Ontario Ombudsman has a role with respect to municipalities.

- may investigate municipalities on complaints or on own initiative
- they cannot compel municipalities to take action
- may make recommendations to council and the municipality as part of their report
- municipality determines whether and how to address any recommendations made by Ombudsman
- Ontario Ombudsman does not replace and locally established complaint mechanism or act as Integrity Commissioner for municipalities



Privacy and Confidentiality

- The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) is the primary statute for privacy and confidentiality
 - Sets out rules for collection, use and disclosure of personal information
 - Regulates confidential information of other kinds (in addition to personal information)
- Other statutes and laws including local by-laws also regulate personal and other kinds of confidential information
- Councillors may have responsibilities if receiving confidential information in the course of their duties (e.g. protecting and safeguarding the information)
 - check with municipal staff about appropriate measures and the municipality's practices (e.g. providing for physical security)



Helpful Considerations – Section 2

- Familiarize yourself with:
 - municipal policy manuals
 - municipality's code of conduct for council members
 - changes to local accountability and frameworks, starting March 1, 2019
 - Municipal Conflict of Interest Act
 - role of the Ontario Ombudsman
 - protection of personal privacy and other confidentiality issues



Section 3: Meetings



Ministry of Municipal Affairs and Housing

Procedure By-law

• Every municipality and certain local boards must pass a procedure by-law to govern the calling, place and proceedings of meetings



- The by-law describes how meetings are to be conducted
- The by-law's contents are generally up to the municipality
- The by-law may be considered a transparency and accountability tool
- Regular review of the by-law ensures it effectively facilitates decision making
- The by-law shall provide for public notice



Definition of a Meeting

- Meeting (as defined in the Municipal Act, 2001)
 - any regular, special or other meeting of a council, of a local board or of a committee of either of them, where,
 - (a) a quorum of members is present
 - (b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee



Meeting Considerations

- When deciding about whether a gathering is a "meeting" for the purposes
 of the meeting rules in the Act, council may wish to consider:
 - is the subject matter something traditionally municipal or something municipalities make decisions about?
 - how many members are present?
 - did the attendees take a position on, or agree or disagree with, an item of council business?
 - are municipal resources being used?
 - are municipal staff present and what is their role?
 - is the municipal decision-making process transparent?
 - how are members participating (e.g. in person, email, teleconference)?
- In addition, it is possible that a gathering of council or board members may be a "meeting" for the purposes of the meetings rule in the Act whether or not the gathering:
 - was called a "meeting" or some other term (e.g. "'workshop")
 - followed formal procedures
 - took place on municipal premises or happens within or outside the municipality

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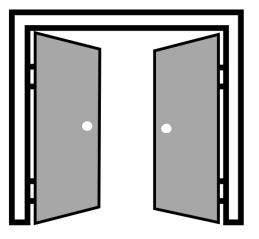
Meetings

- Powers of a municipality are generally exercised by by-law occurs at council meetings
- Quorum is generally required to conduct council business
- Committee (as defined in the Municipal Act, 2001)
 - any advisory or other committee, subcommittee or similar entity of which at least 50% of the members are also members of one or more councils or local boards
- Electronic participation in meetings:
 - Municipalities may provide for members to participate in meetings electronically through their procedure by-laws
 - Members participating electronically cannot be counted in quorum



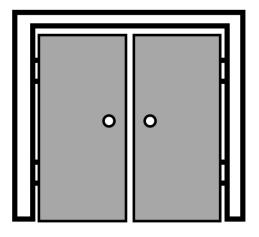
Open and Closed Meetings: Public Business

Open Meetings



- Transparent decision-making processes are seen as part of the foundation of good municipal governance
- Most municipal council and local board meetings shall be open to the public

Closed Meetings



- There are only a limited number of exceptions, for consideration of matters in closed session
- A resolution is required to be passed before going into closed meetings



When A Meeting May Be Closed

A meeting or part of a meeting may be closed to the public if the subject matter being considered is:

- security of municipal or local board property
- personal matters about an identifiable individual
- proposed or pending land acquisition or disposal
- · labour relations or employee negotiations
- litigation or potential litigation
- advice subject to solicitor-client privilege
- a matter that can be closed under the authority of a statute other than the Municipal Act, 2001
- · education or training sessions that meet certain conditions
- information explicitly supplied in confidence to the municipality or local board by Canada, a
 province or territory or a Crown agency,
- a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons or organization,
- a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value,
- a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.



When A Meeting Shall Be Closed

- A meeting or part of a meeting <u>shall</u> be closed to the public if the subject matter being considered is:
 - a request under the Municipal Freedom of Information and Protection of Privacy Act, if the council, board, commission or other body is the head of an institution for the purposes of that Act; OR
 - an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ontario Ombudsman, a municipal Ombudsman, or meeting investigator.



Minutes - Record of Meeting



Record without note or comment all:

- Resolutions
- Decisions
- Other proceedings at a meeting, whether open or closed



The record shall be made by the:

- **Clerk** (for meeting of council)
- Appropriate officer (for meeting of a local board or committee)



Closed Meeting Procedures

- Before holding a meeting closed to the public the council, local board or committee must adopt a resolution stating:
 - the fact of holding the closed meeting
 - the general nature of the matter to be discussed
- Generally, votes at a closed meeting may take place only in limited circumstances. These may include:
 - to give instruction to staff
 - procedural matters (example adjournment)
- Minutes are required of all meetings, whether closed or not



Closed Meeting Investigation

- A person may request an investigation of whether a closed meeting complied with the Act or a municipality's procedure bylaw
- The municipality may appoint an independent meeting investigator who may report with recommendations to council
- If the municipality does not appoint a meeting investigator, by default, it is the Ontario Ombudsman



Helpful Considerations – Section 3



- Remember generally, the powers of your municipality must be exercised by council through by-law
- Procedure by-laws govern the calling, place and proceedings of meetings
- Required to record, without note or comment, all resolutions, decisions and other proceedings of the council, regardless of whether the meetings is open or closed to the public
- Meetings must be held in open session with limited exceptions
- Public can request for investigation by meeting investigator if they believe a meeting was closed improperly



Section 4 : Municipal Government



Ministry of Municipal Affairs and Housing

Municipal Government



- The Municipal Act, 2001 provides that municipalities are:
 - a geographic area whose
 inhabitants are incorporated
 - created by the Province of Ontario
 - responsible and accountable governments within their jurisdiction
 - given powers and duties under the Act and many other Acts for the purpose of providing good government with respect to those matters



Municipal Roles and Responsibilities

- The Municipal Act, 2001, establishes the basic framework for municipal government
- Authority for important municipal activities can also be found in other statutes:
 - Examples include: Planning Act, Building Code Act,1992, Police Services Act, Fire Protection and Prevention Act, 1997, Safe Drinking Water Act, 2002, Ontario Works Act, 1997



Service Managers

- Municipalities can be designated as service delivery agents for Ontario Works, childcare, and affordable and social housing
- Municipalities may also have special responsibilities in connection with land ambulance and other matters
- There are 37 municipal Service Managers and 10 District Social Services Administration Board Service Managers delivering certain social services.
 - In southern Ontario, Service Managers are upper-tier or single-tier municipalities.
 - In northern Ontario (other than the City of Greater Sudbury), Service Managers are District Social Services Administration Boards.



Municipal Restructuring

- The restructuring process is set out in sections 171-173 of the Municipal Act, 2001 and Ontario Regulations 204/03 and 216/96
- Principal forms of restructuring include:
 - annexation; and
 - amalgamation
- Most restructuring proposals are locally developed
- Restructuring can be implemented by a Minister's order or special legislation
- You may wish to contact your municipal advisor early in the development stage for assistance when considering a restructuring proposal.



Committees, Local Boards and Other Special Purpose Bodies

 Considerable variety of committees, local boards and special purpose bodies, which can be provincially and municipally established

Committees

(may be part of local governance structure)

- May include standing committees or advisory committees
- Municipalities decide on composition
- Can draw on members' areas of expertise, perspectives, or experiences

Local Boards (may carry special

legal status)

- Particular rules/rights and responsibilities
- Not all special bodies are local boards
- Each needs to be looked at individually

Municipal Services Boards

- May be used by one or more municipalities to help manage a broad range of municipal services such as utilities, waste management, transportation, parking
- Can be established by an individual municipality or by two or more municipalities



Committees, Local Boards and Other Special Purpose Bodies

• Examples include:

municipal service boards school boards police services boards boards of health hospital boards transit commissions library boards conservation authorities children's aid societies planning boards land division committees



Council-Committee Relations

- Municipalities may have standing committees of council, or other committees that focus on particular areas of community interest
- Generally councils decide on the make-up of committees and members often include members of council, municipal staff and citizens.
- Usual role of municipal committees is to provide advice and guidance to council on matters related to the committee's mandate and provide opportunities for volunteers to bring views and ideas from a range of perspectives
- Provides opportunity for collaborative decision making and/or integrated municipal service delivery



Helpful Considerations – Section 4

- Consider deepening your knowledge of municipal functions and becoming familiar with the programs and services that your municipality does or does not provide
- If part of a two-tier structure, familiarize yourself with the responsibilities of the upper-tier and lower-tier municipalities in your area
- Consider local circumstances when creating municipal committees and boards
- Increase your knowledge of Indigenous communities and peoples in and near your municipality, and consider how their interests may be represented in the various bodies that make recommendations to council
- Become familiar with the scope and nature of the work done by local boards, and other local bodies in your municipality. If appointed as a member of a local body, familiarize yourself with the responsibilities of the position
- Rely on municipal staff to provide guidance and expertise on possible governance structures for program and service delivery

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Section 5 : Municipal Organization



Ministry of Municipal Affairs and Housing

Municipal Organization

• The Municipal Act, 2001 provides for 3 types of municipalities:

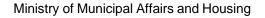


Ministry of Municipal Affairs and Housing



Local Government and Indigenous Peoples

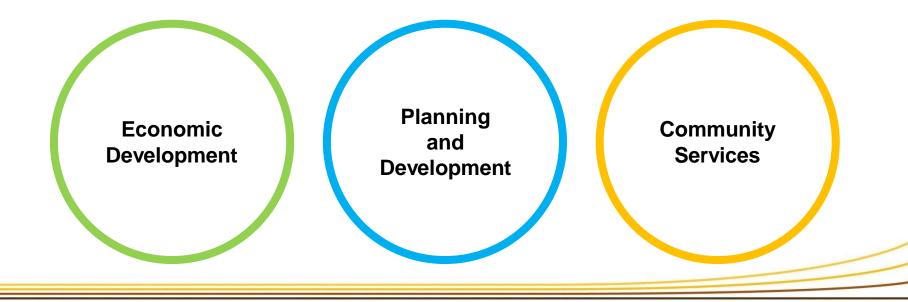
- First Nation and Métis communities can be located adjacent to and/or within municipal boundaries
- Need to be aware of Indigenous history, culture and interests as well as asserted and established Aboriginal rights in your geographic area
- Much of Ontario is covered by treaties between the Crown and First Nations
- Ensure municipal decision-making considers commitments made in treaties, established or asserted Aboriginal rights and Indigenous interests, along with the needs and perspectives of urban and rural off-reserve Indigenous communities



15

Engaging With Indigenous Communities

- Look for opportunities for collaboration between municipalities and Indigenous communities on matters of mutual interest
- Engaging/consulting with Indigenous communities who share your municipality's interests may create stronger communities in areas such as:





Helpful Considerations – Section 5

- Understand the broader roles, responsibilities and interests of councils, including both upper- and lower-tier municipalities, as well as the respective communities
- Consider local circumstances when creating municipal committees and boards
- Seek municipal staff guidance and expertise on possible governance structures for program and service delivery
- Refer to terms of references for your municipality's local boards, other local bodies, and committees, to understand the scope and nature of their work
- Seek out collaborative opportunities with local stakeholders to solve complex issues facing the community
- Make efforts to foster strong municipal-Indigenous relationships in decision-making processes for your municipality

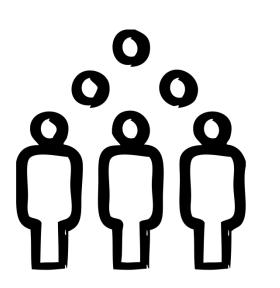


Section 6 : Changes to Council Composition



Ministry of Municipal Affairs and Housing

Changes to Council Composition



- Council has authority to alter its composition including:
 - council size
 - members' titles
 - certain methods of election or selection of members
 - These changes are made through a local by-law



Changes to Upper Tier Council Composition

- An upper-tier municipality making changes to its council composition must receive "triple majority support" to complete council composition changes
- A triple majority consists of:
 - a majority of all votes on upper-tier council
 - a majority of all the lower-tier councils having passed resolutions consenting to the by-law, and
 - the total number of electors in the lower-tier municipalities that have passed resolutions consenting to the by-law from a majority of the electors in the upper-tier municipality



Filling a Vacancy on Council

- If a municipal council seat becomes vacant, council must declare the council seat vacant at its next meeting
 - Exception: In the case where the vacancy is due to death, the declaration may be made at either of the next two meetings
- Council must decide whether to fill the vacancy through a byelection or by appointment for the remainder of council term within 60 days of declaring seat vacant
- If an office becomes vacant after March 31 in a regular election year, the seat may only be filled by appointment
- A vacancy must be filled unless it occurs within 90 days before voting day of a regular election



Filling a Vacancy on Council (Continued)

- If selecting appointment, council is able to decide what process it will use to choose the person it appoints
 - Appointee must consent to the appointment and be eligible to hold office
- If council decides to hold a by-election, council must pass a by-law to have a by-election
 - The municipal clerk is responsible for conducting the by-election and fixing nomination day
 - Voting day is 45 days after nomination day



Temporary Replacements for Upper-Tier Council

- In the event that a person who is a member of both the lower-tier and its upper-tier council is unable to act as a member of those councils for a period exceeding one month, a local council may appoint one of its members to act as an alternate member of the upper-tier council until the original member is able to resume their duties
- A lower-tier council may also appoint one of its members as an alternate member of the upper-tier council to attend a meeting of the upper-tier for any reasons



Pregnancy and Parental Leave

- The *Municipal Act, 2001* provides the opportunity for members to take pregnancy and parental leave
- Council member seats do not become vacant due to absences for a period of 20 consecutive weeks or less related to the member's pregnancy or the birth or the adoption of the member's child.
- Councils may decide to extend this period and provide for a longer leave for councillors
- As of March 1, 2019, municipalities will be required to establish policies regarding pregnancy and parental leave



Helpful Considerations – Section 6



- Familiarize yourself with the provisions of the Municipal Act, 2001
- When reviewing council composition, you may wish to consider:
 - the principle of representation by population
 - geographic criteria
 - social criteria, such as communities of interest
 - projected population growth, voters' lists and federal census population data



Section 7 : Councillors as Law Makers



Ministry of Municipal Affairs and Housing

Councillors as Law Makers



- Municipal by-laws have a significant impact on residents in the municipality
- Municipal policies will shape the long-term health and well-being of your community.
- There are various legal limitations on your municipal powers.

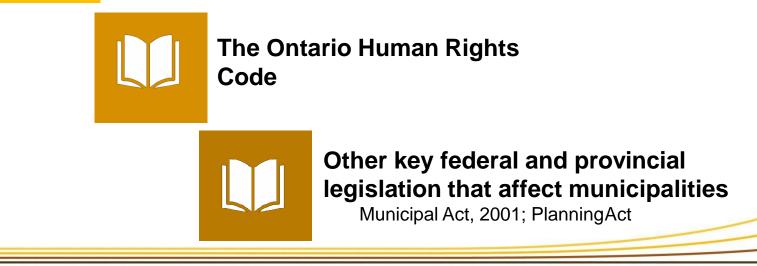


Legal Considerations on Exercising Power



The Constitution Act, 1982 (formerly the British North America Act, 1867)

The Canadian Charter of Rights and Freedoms



Ministry of Municipal Affairs and Housing



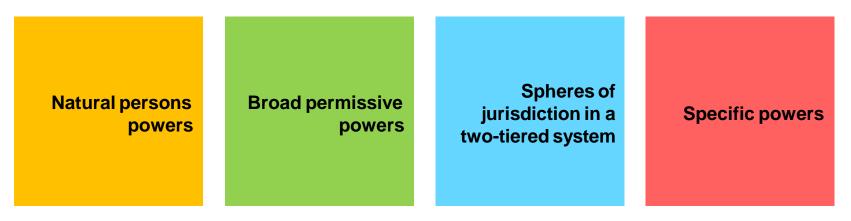
Sources of Law

- As a councillor it is important to consider the statutory authority for your actions
 - Statute law
 - Municipal Act, 2001
 - other general acts: e.g. *Planning Act, Building Code Act*
 - acts specific to municipalities: e.g. City of Hamilton Act, 1999
 - private acts
 - regulations
 - federal statutes: e.g. Canada Mortgage and Housing Act
 - Administrative law
 - decisions made by boards and tribunals
 - Boards and tribunals
 - examples include: Local Planning Appeal Tribunal (LPAT), Ontario Labour Relations Board, Workplace Safety and Insurance Board, Assessment Review Board
 - Case law
 - court decisions



Municipal Powers

- *Municipal Act, 2001* and other provincial legislation gives municipalities a variety of powers
- Powers under the Municipal Act, 2001 fall into various categories:



 Given the complexity of municipal powers, seek advice from municipal staff and/or municipal solicitor



Municipal Powers

- Natural person powers gives municipalities similar flexibility to that of individuals and corporations in managing their organizational and administrative affairs without the need for more specific legislative authority.
- Powers may include:
 - the hiring of staff
 - entering into agreements
 - acquiring land and equipment



- Broad Permissive Powers include, subject to certain limits:
 - governance structure of the municipality and its local boards
 - accountability and transparency of the municipality and its operations and of its local boards and their operations
 - financial management of the municipality and its local boards
 - public assets of the municipality acquired for the purpose of exercising its authority under this or any other act
 - economic, social and environmental well-being of the municipality
 - health, safety and well-being of persons
 - services and things that the municipality is authorized to provide
 - protection of persons and property, including consumer protection
 - Animals*
 - structures, including fences and signs*
 - business licensing*

*For two-tier municipalities these powers are spheres of jurisdiction and not broad permissive powers

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- Spheres of jurisdiction in two-tiered systems:
 - Municipalities are also provided with spheres of jurisdiction (areas where municipalities have authority) to address the division of powers between upper-tier and lower-tier municipalities
 - Spheres include rules about whether the upper-tier or lower-tier municipality (or both) may pass bylaws within all or part of each sphere
 - highways, including parking and traffic on highways
 - transportation systems, other than highways
 - waste management
 - public utilities
 - culture, parks, recreation and heritage
 - drainage and flood control, except storm sewers
 - structures, including fences and signs
 - parking, except on highways
 - Animals*
 - economic development services*
 - business licencing*

*For two-tier municipalities these powers are spheres of jurisdiction and not broad permissive powers

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- Licensing
 - Municipalities have authority to license and regulate many businesses
 - Examples include:
 - taxicabs
 - tow trucks
 - adult entertainment establishments
 - trailer camps, etc.
- Municipalities may:
 - impose conditions on a license
 - suspend a license



- Specific Powers:
 - Are powers given to municipalities under any act other than the broad permissive powers and the spheres of jurisdiction
 - could include specific powers under the *Municipal Act, 2001* or many other statutes
- Some limits are placed on municipal powers. Generally,
 - bylaws cannot conflict with federal or provincial statutes or regulations
 - broad permissive powers and the spheres of jurisdiction are subject to procedural requirements and other limitations existing in specific powers
 - except where expressly authorized, a municipality can only exercise its powers within its municipal boundaries
 - and the province may, by regulation, further limit the powers of a municipality



Helpful Considerations – Section 7



- Familiarize yourself with
 - Constitution Act, 1982, Canadian Charter of Rights and Freedoms, Human Rights Code
 - *Municipal Act, 2001* and accompanying regulations
 - any municipal specific private acts
- Remember: municipal powers may be complex
- Understand the spheres of jurisdiction in a twotier system and the implications for upper-tier and lower-tier municipalities



Section 8 : Exercising Municipal Powers



Ministry of Municipal Affairs and Housing

Delegation

- Municipalities have the authority to delegate some powers and duties, subject to certain rules
- Streamlines council decision-making by delegating minor matters
 - permits council to focus on larger issues
- Builds on authority to create local bodies (e.g. advisory committees) to assist with local decision-making
- Powers that cannot be delegated:
 - appointing or removing statutory officers required under the Municipal Act, 2001
 - imposing taxes
 - incorporating corporations
 - adopting or amending official plans
 - passing zoning by-laws
 - passing certain by-laws related to small business counselling and municipal capital facilities
 - adopting community improvement plans which authorize bonusing
 - approving and amending municipal budgets
 - other powers as prescribed



By-laws and Resolutions

• By-laws

- The powers of your municipality shall be exercised by by-law unless the municipality is specifically authorized to do otherwise.
- · Generally, by-laws must be:
 - signed both by the head of council or presiding officer of the meeting at which the by-law was passed and by the clerk
 - under the seal of the corporation
- Additional requirements may apply before passing a by-law (public meetings, public notice, provincial approval)
- When passing by-laws, municipalities should consider how they will be enforced

Resolutions

- an expression of an opinion of council
- municipality's position on various issues or concerns about existing government policy, regulations or funding

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Procedural Requirements

- Proper procedures are important when passing or amending by-laws
- Some councils pass by-laws on the day they are first presented, while for others, a longer time may be needed for practical or legal reasons
 - the procedural by-law may require advance notice of the introduction of certain by-laws
 - Statutory rules require two readings of certain by-laws (e.g. section 75 of the Drainage Act)



Legal Considerations

- Municipalities are responsible and accountable governments and many important legal considerations may apply to their actions
 - Hearings
 - for some actions council may decide it needs to hold a hearing for legal or other reasons (e.g. fair treatment of people involved, such as an individual license holder)
 - Good faith, reasonableness and the courts
 - generally, municipal decision must not be based on fraud, oppression or improper motive
 - courts decide about good faith and other legal issues on a case-by-case basis



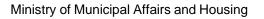
Enforcement of By-laws

- By-laws will have little value unless a municipality has the determination and means to enforce them
- Before passing a by-law, may be helpful to consider its intended purpose and outcomes
- Implications of passing a by-law may include issues such as:
 - how the by-law will affect the community?
 - will it impose restrictions or hardships on particular areas or groups of people?
 - what public reaction will be and how council will respond?
 - what it will cost to administer the by-law?
 - can existing staff take on additional responsibilities or will more staff be required?
 - is municipality prepared to enforce the by-law and enforce it consistently?



General Responsibility for Enforcement

- Municipal enforcement personnel (e.g. by-law enforcement officers) hired by council
- Action by the public through the courts if dissatisfied with the level of enforcement provided by the municipality
- Action by police by the public where there is a municipal police force or Ontario Provincial Police
- Offences and penalties
 - Municipal Act, 2001 provides that municipalities may establish a system of fines for offences under a by-law of the municipality
- Administrative penalties
 - are a civil mechanism for promoting compliance with municipal by-laws
- Other by-law enforcement powers
 - Municipal Act, 2001 provides for other powers related to by-law enforcement including: powers of entry, search and seizure, applications to courts, etc.



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Actions Against the Municipality

Ultra Vires	Civil Action for Damages
Any person may apply to the Superior Court	Municipality may be sued for failure to carry
of Justice to quash a by-law, in whole or in	out, or negligence in the conduct of, its legal
part, for illegality.	duties.
Appeals Individual may appeal municipal decisions to the courts and to certain quasi-judicial bodies (e.g. Local PlanningAppeal Tribunal and the Assessment Review Board).	Judicial Review Limited to situations where it is alleged that the municipality proposes to act, or has acted, without power or beyond its powers, or has refused to exercise a mandatory power. Individual may take action to bring matter before the courts for a legal remedy.

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Helpful Considerations – Section 8



- Be aware of the legal framework
- Familiarize yourself with provincial legislation
- Consult a lawyer for legal advice
- Does your municipality have adequate insurance coverage to protect both staff and council?
- Learn how to access federal and provincial statutes, regulations and orders on-line
- Support the development or enhancement of a basic municipal library that includes various municipal documents such as:
 - minutes, by-laws, resolutions, policies
 - official plans, strategic plans, studies
 - budgets and other financial documents
 - inventories, registries
- Consider options to enforce municipal by-laws, such as offences and administrative penalties

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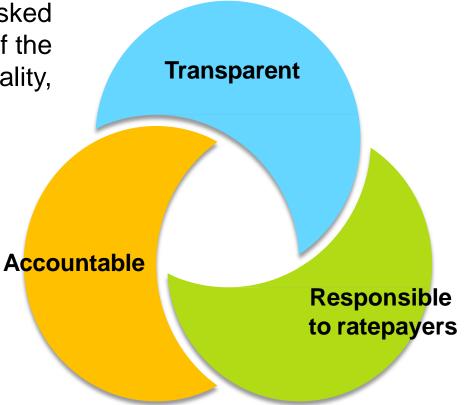
Section 9: The Fiscal Context



Ministry of Municipal Affairs and Housing

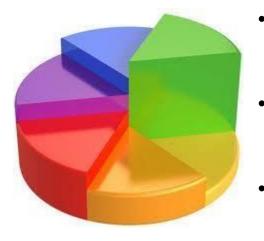
Fiscal Context

As municipal council, you are tasked with governance and oversight of the financial well being of a municipality, that is:





Budgeting



- Budgets are powerful management tools.
- Municipalities are required to annually prepare and adopt a balanced budget.
- Budgets are a reflection of what you plan to do for the year.
- The budget process includes elements of planning, coordination amongst municipal departments and budget committee, and controllership.



Budget Preparation

- Budget cycle
 - Timing varies amongst municipalities as to when budgets are started and finalized. However, the steps usually taken include:
 - establishing a budget timetable
 - initiating a budget plan, gathering supporting data and guidelines
 - evaluating/reviewing draft estimates
 - compiling an overall budget document
 - approval of the budget and levying by-law(s)
 - budget implementation and budgetary control.
 - Staff will be able to advise as to your municipality's process.



Operating and Capital Budgets

OPERATING

- Operating budgets reflect your municipality's day-today expenditures, such as salaries, wages, benefits, heat, hydro, maintenance of buildings and infrastructure.
- They may act as an operations guide, a financial plan, a policy document and a communications tool.

CAPITAL

- A capital budget typically provides for existing infrastructure, such as water treatment plants, storm sewers, recreation centres, parks, and roads maintenance or new infrastructure.
- Through capital budgets, in conjunction with an asset management plan, the municipality can plan important future spending including debt repayment, and reserve fund contributions.



Financial Reporting to the Public



For Municipalities

- 1. Audited Financial Statements
- 2. Financial Information Return (FIR)



For Service Managers

Service Manager Annual Information Return (SMAIR)



Financial Information Return (FIR)

- The FIR is an invaluable resource for both the province and the municipality
- The province uses it for many purposes including:
 - calculating grant amounts
 - developing policies and programs
 - monitoring the financial status of municipalities
 - preparing municipal debt limit reports
 - requests for financial and statistical data



Financial Information Return (FIR)

- From a municipal perspective, the FIR is an integral tool with many applications including:
 - preparation of year over year comparisons, trend analysis, forecasting
 - performance measurement and for comparative purposes with other like municipalities on key indicators (for example, debt and reserve levels)
 - supporting land use planning, strategic planning, and asset management planning.

https://efis.fma.csc.gov.on.ca/fir/



Data Based Analysis

- Some questions to consider:
 - How do your tax levels compare to other similar municipalities? What factors does your council consider when setting your tax rates? How does your council communicate tax rate or budget changes to your taxpayers?
 - Does the municipality have policies or practices in place to address the pressures from outstanding assessment appeals (e.g. tax stabilization reserves, reserves to help address changes or decreases in tax revenue)?
 - Is the level of tax arrears in your municipality increasing or decreasing? What factors in your community have affected the level of tax arrears? How does your municipality compare to others?
 - Is your municipality's level of long-term debt increasing? How does its long-term debt level compare to other municipalities? Are debt servicing costs increasing or decreasing? Is this consistent with any debt management policy?



Sources of Municipal Revenue

Municipal revenue may be broadly categorized as tax and other revenue.



Tax Revenue

Examples: Property tax, Special area rates, payments-in-lieu of taxes



Other revenue

Examples: Conditional and unconditional grants, User fees for services, Licensing fees, Investment income, Development charges, Fines and penalties, Local improvement charges



Capital Financing Sources

Main sources of capital funding

Internal sources

- transfer or use of funds from or identified in the current-year operating budget
- existing reserves and reserve funds.

External sources

- Government grants
 (federal and provincial)
- Fundraising or donations
- Payments to a municipality through public-private partnership arrangements

Debt, lease or other kinds of financing

- External borrowing
- Long-term leases
- Other financing involving long-term payment obligations for the municipality

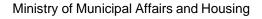


Debt Management





- Generally, a municipality may not commit more than 25% of its total own-purpose revenues to service debt and other long-term obligations without prior approval from the Local Planning Appeal Tribunal (LPAT).
- This limit is known as the annual repayment limit (ARL)
 - The ARL is calculated using the data that municipalities submit annually through the FIR
- There are indicators municipalities can use to figure out its ability to service its debt
- Pay-as-you-go financing versus use of debt is a municipal decision.





Property Taxes

- Assessment/tax base:
 - Municipal Property Assessment Corporation (MPAC) regularly assesses all properties based on current value
 - cumulative value of all assessment in the municipality is the tax base.
- Tax rates are applied to taxable assessment to determine the amount of taxes to be paid
 - · separate municipal tax rate for each property class within municipalities
 - provincially established rates for education purposes.



Property Taxes

Residential Tax Rate =

Amount to be raised through taxes Total weighted ssessment a

- Generally, to determine tax rates of other classes, the residential rate is multiplied by the respective class' tax ratio.
- For the purposes of this practical calculation, weighted assessment means the assessed value of property (as determined by MPAC) multiplied by the tax ratio for its class.



Tax Billing and Collections

- Billing:
 - Tax bills are issued on the basis of the returned assessment roll as provided by MPAC
 - Lower and single tier municipalities issue tax bills
 - Council determines whether taxes are to be paid in installments and how many, when due, and penalties for late payment.
- Collection:
 - There are options as to how to collect unpaid taxes, for example:
 - court proceedings
 - seizure of chattel
 - rent attornment
- Tax sale process



Shared Service Arrangements

- Invaluable tool to maintain, expand or add services that may have otherwise been beyond the municipality's capacity (financially and resource wise)
- It is not new to municipalities, a majority of municipalities have shared service arrangements
- Benefits of shared services:
 - cost savings from economies of scale
 - service enhancements and expansions
 - access to specialists, skilled labour and/or better quality equipment
 - tap into new revenue streams that require many users or inputs
 - seamless service integration across a region





Municipal Asset Management Planning

- Asset management planning is the process of making coordinated decisions regarding the building, operating, maintaining, renewing, replacing, and disposing of infrastructure assets.
- Ontario Regulation 588/17 came into effect on January 1, 2018.
- Asset management plans continue to be a requirement for provincial infrastructure funding.



Overview of Asset Management Regulation

Strategic Asset Management Policy (by July 1, 2019)

Requires municipalities to outline commitments to best practices and continuous improvement

Asset Management Plan: Phase 2 (by July 1, 2023)

Builds out the Phase 1 plan to include all assets

Additional Information

- Municipalities under 25,000 not required to discuss detailed risk analysis or growth.
- Plans would be updated every 5 years; annual progress update given to council.

Asset Management Plan: Phase 1 (by July 1, 2021)

For core assets:

- Inventory of assets
- Current levels of service measured by standard metrics
- · Costs to maintain levels of service

Asset Management Plan: Phase 3 (by July 1, 2024)

Builds on Phase 1 and 2 by adding:

- Proposed levels of service
- Lifecycle management and Financial strategy

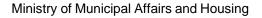


Ministry of Municipal Affairs and Housing

Helpful Considerations – Section 9



- Public input is essential in the municipal budget process. Public input promotes trust in the municipality and ensures council is aware of residents' opinions.
- Before voting on the adoption of a budget, as a municipal councillor you may wish to have a in-depth understanding of:
 - the significant costs the budget document is committing the municipality to,
 - the revenues required to meet these obligations and, more importantly,
 - how the budget will help the municipality achieve longterm financial sustainability.
- Ensure that the reporting requirement timelines are met to help ensure access to capital programs and receipt of provincial grants on time.



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Helpful Considerations – Section 9 (Continued)



- Take advantage of the opportunity to use the breadth of FIR data to support evidence-based decision-making
- Become familiar with your FIR, and use it!
- Review your municipality's asset management plan to understand the infrastructure priorities and needs within your community.
- Ensure your asset management plan is supported by a finance strategy and that the plan is integrated into the long-term financial plan.
- Integrate climate change adaptation best practices into your municipality's asset management planning.



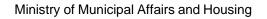
Section 11: Building Regulation



Ministry of Municipal Affairs and Housing

The Building Code

- The Building Code Act, 1992 (BCA) is the legislative framework governing the construction, renovation and change of use of buildings
- The Building Code is a regulation made under the BCA:
 - establishment of standards for public health and safety, fire protection, structural sufficiency, energy conservation, water conservation, environmental integrity, and barrierfree accessibility
 - there are exceptions for septic systems (particularly in the north and east regions) where
 public health units or conservation authorities do those
- Generally, municipalities are responsible for the enforcement of the Act and the Building Code within their jurisdiction
- Councils must appoint a chief building official (and building inspectors, as necessary) to enforce the BCA and Building Code within their jurisdiction.
- Municipalities must establish and enforce a code of conduct for their chief building official and building inspectors
- Building services are cost-recoverable under the BCA and that fees can be set to cover the cost of building department operations (but cannot be used for other purposes)





Property Standards Bylaws

- The Building Code Act, 1992 gives municipalities the power to adopt a municipal property standards bylaw to:
 - establish standards for the maintenance and occupancy of properties within all or part of the municipality
 - require properties that do not confirm to the standards to be brought into conformity
 - establish a Property Standards Committee to hear appeals from property owners and occupants who have received orders to comply with the bylaw
- To adopt a property standards bylaw, a municipality must have policies relating to property conditions in their municipal official plan or seek the Minister's approval of a bylaw that sets out a policy statement containing provisions relating to property conditions
- Property standards bylaws enable municipal property standards officers to inspect properties and issues order to enforce property standards
- Municipal discretion to decide who delivers this function it does not have to be Chief Building Official
- A municipality may also establish a system of administrative penalties to assist the municipality in promoting compliance with its property standards by-laws.

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Helpful Considerations – Section 11



- Municipalities can enter into cost sharing agreements with neighbouring municipalities, or procure the services of a Registered Code Agency, to help mitigate costs of enforcing the Building Code if needed
- Familiarize yourself with the code of conduct that outlines appropriate standards of behaviour and practices governing activities of chief building officials/inspectors
- Remember the building department is to help ensure the health and safety of the public
- Building officials operate independently and without interference from council or individual members of council when exercising the powers and duties assigned under the Building Code Act

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 Building permit revenue can only be used for costs of delivering services related to administration and enforcement of the *Building Code Act*

Questions????

Ministry of Municipal Affairs and Housing Municipal Services Office - East

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