

Municipality of Lakeshore – Report to Council

Strategic & Legal Affairs

Civic Affairs



To: Mayor & Members of Council

From: Brianna Coughlin, Division Leader – Civic Affairs
Kristen Newman, Corporate Leader-Strategic & Legal Affairs

Date: June 5, 2023

Subject: New Procedure By-law

Recommendation

Direct Administration to prepare a draft Procedure By-law for consideration which includes the recommended changes described in the report presented at the June 27, 2023 Council meeting.

Background

Section 238 of the *Municipal Act, 2001* states that every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings.

The current by-law for the Municipality of Lakeshore is By-law 94-2017, A Comprehensive By-Law to Provide Rules Governing the Proceedings of the Council of the Town of Lakeshore and the Conduct of its Members (the “Current By-law”). The by-law was amended several times since it was passed in 2017. The amendments are as follows:

1. By-law 4-2019 passed January 15, 2019 to add Schedule C relating to the procedure for election of an alternate member to County Council.
2. By-law 118-2019 passed October 22, 2019 to replace Sections 3.5 and 8.3 and to replace Section 10.1(f) and add Section 10.1(g).
3. By-law 123-2019 passed November 5, 2019 to replace Section 4.1 Order of Business.
4. By-law 30-2020 passed March 19, 2020 to amend Sections 1.1, 3.6 and 13, to replace Sections 8.2 and 9.1 and to add Schedule A.1.
5. By-law 48-2020 passed June 16, 2020 to delete Section 7.11(b).
6. By-law 70-2021 passed November 9, 2021 to repeal and replace Sections 1.1 n.1), 3.2(a), 3.6.1, 7.2 and 7.3.

7. By-law 18-2023 passed February 14, 2023 to repeal and replace Sections 1.1, 3.2, 3.6.1, 7.3.1, 7.3.2 and 9.1.

Administration undertook a process of review and feedback with Civic Affairs staff and members of the former Council to review the efficacy of the Current By-law and to review best practices relating to procedure by-laws. In doing so, Administration also consulted *Robert's Rules of Order, 5th ed.* which is the preeminent guide to parliamentary procedure used throughout Canada. This is also the guide to which the by-law refers persons interpreting a situation in the event that the by-law itself is silent on a matter.

Comments

In preparation for the by-law review, Administration first requested input from current Council Members in 2021. Specifically, Council Members were asked to provide comments relating to:

- Which aspects of the current by-law should be preserved;
- Which aspects of the current by-law do they find problematic;
- Ideas to make meetings more efficient;
- Suggestions for meeting start/end times, closed meetings prior to/after the open session, and timing of reconsiderations.

Individual consultation sessions were offered to all Council members who wished to provide input in that manner, and Administration met with the Council Members that wished to participate in meetings on an individual basis.

Consistent themes emerged from the feedback from Council Members that participated in the review: extensive time taken to conduct meetings, speakers speaking multiple times during meetings, the order of agenda items (when by-laws are presented for consideration), and the timing of closed meetings were emphasized.

The current term of Council has had the opportunity to participate in meetings for 6 months and gain experience with the Current By-law giving time to consider the practices established under the Current By-law. Council, should it wish, may direct other items to be included in the draft to be presented, or direct other items to be researched.

Opening of the Meeting

A number of other municipalities in Essex County participate in the singing of "O Canada" at the commencement of the meeting. Administration recommends adopting this practice.

Meeting Location

The portions of the Current By-law addressing meeting location were significantly revised as a result of the COVID-19 pandemic. The changes permitted electronic meetings to occur. No significant changes are recommended at this time. Electronic and/or hybrid meetings are an accepted practice in Ontario municipalities, permitted by the *Municipal Act, 2001* for regular meetings (not just in emergency circumstances). Electronic meetings permit members of the public to participate in a manner convenient to them and in a manner that is more accessible to people unable to easily attend Lakeshore Town Hall, the site of the Council Chamber. Furthermore, electronic participation encourages efficient use of municipal funds as consultants no longer need to travel to Lakeshore to present matters to Council or seek direction from Council.

Regular Meetings

Meetings are typically scheduled on the 2nd and 4th Tuesday of each month with the exception of 1 meeting per month in July and August (also typically in December as well due to proximity to Christmas) with variations approved by Council to address statutory holidays and regular municipal conferences. The practice of a reduced summer schedule is consistent with many other municipalities and other levels of government and is recommended to continue in order to enable summer vacation scheduling for members of the public, Council Members, staff members and consultants. Administration recommends minor changes to the scheduling provisions to enshrine the practice of staff preparing a schedule to address scheduling conflicts with conference and vacations. This will codify the current practice in the New By-law.

Administration recommends introducing an additional meeting to accommodate Planning matters during the following periods:

- September – November,
- January – March, and
- April – June.

Meeting Times

A practice had emerged over time whereby closed sessions occurred at the end of the meeting. However, that practice was revisited because the Current By-law states that the open session of the meeting is scheduled to commence at 6 PM with closed sessions typically commencing at 5 PM prior to the open session. Notice for statutory public meetings are issued with a start time of 6 PM to coincide with the start of the open session. This provides Council with the opportunity to return to closed session in the event that it is unable to complete the business in the closed session that commences at 5 PM.

Administration recommends including a 30 to 45 minute monthly education and training session for Council Members during 1 of the 2 meetings per month during the non-summer meeting months (September through June). This session would be scheduled at 4:15 or 4:30 PM on the day of a regular Council meeting which will allow a 5 PM start time for a closed meeting.

Administration recommends including a provision that enables the scheduling of 4 days of Council Orientation in the first 2 months following the commencement of the new Council's term following a regular municipal election. These dates can then be communicated to Council candidates in the candidate election packages for their planning purposes.

Administration recommends including a 5 hour time limit on regular Council Meetings (including time spent in closed session but excluding time spent on education and training). This reflects the current practice where a closed session begins at 5 PM, the open session commences at 6 PM and Council passes a resolution to meet past 9:30 PM. However, the recommended changes would remove the requirement for a motion to go past 9:30 PM (meeting is deemed adjourned at 10 PM).

Special Meetings

Special meetings may be called by the Mayor with 5 days of notice or by petition of a majority of Council Members as scheduled in the petition. Administration recommends that the New By-law include modifications to this language which requires 3 days of notice to Council Members in both instances.

Reporting to the Public about Activities in Closed Meetings

Over many years, a practice emerged whereby closed meeting reporting occurred 1 time per year. While this is a good practice, Administration also recommends reporting on activities in closed meetings at each meeting. The Chair commenced this reporting in this current term of Council and recommends that the reporting to the public (in general without waiving any privilege or confidentiality) be codified in the New By-law.

Reconsiderations

A reconsideration of a vote on a matter that has already been voted upon is permitted under the Current By-law. However, it is a best practice to only permit a reconsideration in the following circumstances:

- Where notice of the motion to reconsider is provided in advance of the meeting at which the motion for reconsideration is to take place (in current by-law),
- Where the motion to reconsider is brought by a member from the prevailing side of the motion to be reconsidered (not in current by-law),

- Where a motion to reconsider is passed with a 2/3 majority vote (in current by-law).

There are constraints on motions for reconsideration because reconsiderations are not to be entered into lightly since a municipal council is considered to already have turned its mind to the matter and engaged in a serious consideration in order to make a final determination. It is important to note that if a Council is not prepared to make a decision when a matter is initially placed before it, Council has other options available to it aside from making a hasty decision—it can defer and/or seek additional information.

The Current By-law does not require that a notice of motion be moved by a member from the prevailing side. Administration strongly recommends that this provision be included to enable Administration to carry out operations understanding that it has clear direction from Council.

The Current By-law provides that a notice of a motion to reconsider shall be introduced 10 days prior to the meeting at which the motion will be considered. Administration recommends that this provision be modified to require notice of reconsideration. Furthermore, Administration recommends modifying the current language to ensure it's clear that a reconsideration of a matter shall only take place 1 time per Council term. This enables stability in the implementation of Council direction and avoids the need for changing direction once a Council direction is being implemented.

The New By-law should also include a provision that states that a report for information, once received for information, requires a reconsideration should Council wish that further action be taken.

Statutory Public Meetings

Administration recommends including provisions relating to the procedure for statutory public meetings/hearing in order to differentiate that part of the meeting from the regular business portion of a Council meeting. During the review of the Current By-law, concerns were identified regarding the opening and closing of public meetings and when members of the public may present during the consideration of items requiring a statutory public meeting (for example, zoning by-law amendments under the *Planning Act*). These matters were reviewed with meeting chairs and queues provided for the meeting chair to ensure consistency in the opening and closing of the meetings. Administration recommends establishing a framework for the presentation of matters during statutory public meetings in the New By-law that codifies the process currently followed.

Recent changes to the *Planning Act* have reduced the need for statutory public meetings (for example in the case of subdivision approvals). Also, a practice emerged in Lakeshore whereby a public meeting was held prior to Council's consideration of the removal of a holding provision. Administration recommends the discontinuation of this

practice in order to hold statutory public meetings only as required in accordance with the *Planning Act* (notice will still be provided to the public as required by the Act).

Reading of Motions

Motions, once tabled, are often amended and much discussion takes place regarding the meaning of a motion. Administration recommends that the Clerk read the motion prior to the vote being taken in order for Council Members to have a clear understanding of the motion upon which they are voting and to have an opportunity to hear the entire motion. This ensures transparency for the public as well.

Order of Business

The Current By-law states that business shall be conducted during a meeting as follows:

1. Call to Order
2. Moment of Reflection
3. Disclosures of Pecuniary Interest
4. Recognitions
5. Public Meetings under the *Planning Act*
6. Public Presentations
7. Delegations
8. Completion of Unfinished Business
9. Consent Agenda
10. Reports for Information
11. Reports for Direction
12. Announcements by Mayor
13. Reports from County Council Representatives
14. Report from Closed Session
15. Notices of Motion
16. Question Period
17. Non-Agenda Business
18. Consideration of By-laws
19. Closed Session
20. Adjournment

Administration recommends revising the order of business to reflect changes proposed in this report in addition to the following:

- Include the Land Acknowledgment in the Order of Business after the singing of “O Canada” and before the Moment of Reflection;
- Include Announcements by the Mayor after Recognitions;
- Including a distinct item for the approval of meeting minutes; and

- Moving the Consideration of By-law to an earlier time in the agenda to ensure that necessary by-laws are approved prior to the deemed end of the meeting at 10 PM. This would have the effect of having Non-Agenda Business at the end of the evening.

Eliminate Question Period and Merge with Non-Agenda Business

Council Members and members of staff have often commented that it is difficult to know the difference between Non-Agenda Business and Question Period. Questions are typically associated with non-agenda business (otherwise they would be ask during the deliberation on an agenda item). As such, Administration recommends removing Question Period as questions can be directed to Administration during Non-Agenda Business.

In order to effectively manage meeting times, Administration recommends introducing a limit to the number of questions to be asked by each Council Member to two questions and to restrict questions to matters of that are of municipal jurisdiction, matters that are of an immediate nature, and matters that are not dealt with previously during the meeting.

Questions of Administration

In keeping with a good governance model, the New By-law include a provision that state that any requests for information or reports made by a Council Member that, in the opinion of staff, will require more than two hours of Administration's time must be directed by Council resolution.

Civic Petitions

Administration recommends removing petitions from being submitted as part of departmental reports. Instead, Administration recommends that petitions be filed by members of the public with the Clerk for inclusion in the agenda with the proper privacy precautions in place (removal of phone numbers and specific addresses—just road names).

Authority to Correct Clerical Errors

Administration recommends that a provision be included in the Procedure By-law to permit the Clerk, in consultation with the municipal legal counsel, be authorized to correct clerical errors/typos in by-law passed by Council.

Miscellaneous Items

During the course of drafting the New By-law, Administration will be seeking to modify language to clarify definitions and clarify what is a public presentation and a delegation. Administration will also make revisions to clarify electronic voting provisions in relation to the alternate County Council Member selection process.

Financial Impacts

The costs associated with this report include additional staff time associated with meeting preparation and the cost of additional meeting meals (approximately \$1,000 based on the recommendations above). In July 2023, the cost of Council meetings will be reduced as Lakeshore transitions to electronic-only agendas by eliminating printing (\$0.05 per sheet averaging approximately \$6,100 per year in printing costs) and courier costs (\$150 per meeting). This transition reduces staff time spent on agenda production (significant reduction due to time spent printing) and is environmentally friendly since the agenda is paperless and there is no automobile courier required.

Report Approval Details

Document Title:	New Procedure By-law.docx
Attachments:	
Final Approval Date:	Jun 23, 2023

This report and all of its attachments were approved and signed as outlined below:

Prepared by Kristen Newman

Approved by Truper McBride