

MUNICIPAL COUNCILLOR'S  
*h a n d b o o k*  
Second Edition

Province of Newfoundland and Labrador  
Department of Municipal and Provincial Affairs  
Honourable Oliver Langdon, *Minister*

Dr. Peter G. Boswell  
*Head, Department of Political Science*  
*Memorial University of Newfoundland*

**S e c o n d   E d i t i o n**



**MUNICIPAL COUNCILLOR'S**



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## **H A N D B O O K**

Dr. Peter G. Boswell  
*Head, Department of Political Science  
Memorial University of Newfoundland*

# FORWARD

by the Honourable Oliver Langdon  
*Minister of Municipal and Provincial Affairs*

Local government is very important to the development of our province and the maintenance and delivery of services in individual communities.

Municipal legislation in this province has received significant modifications in recent years, most recently with the new *Municipal Elections Act*. It is the third component of government's initiative to work with municipal stakeholders to modernize and enhance the legislation which governs municipalities. It was preceded by the *Municipalities Act, 1999*, and the *Urban and Rural Planning Act, 2000*.

This second edition of the Municipal Councillors Handbook, written by Dr. Peter Boswell, professor with the Political Science Department of Memorial University, has been revised and produced through the joint efforts of the Department of Municipal and Provincial Affairs and the Municipal Training and Development Corporation. It reflects the new legislation and the modern expectations of municipal representatives.

On behalf of the Government of Newfoundland and Labrador I would like to thank Dr. Boswell and all those who have contributed to this important collection of information.

I encourage all Mayors and Councillors to use the Municipal Councillors Handbook as a resource tool to assist them in providing effective representation and knowledgeable administration in their communities.

# INTRODUCTION

by Derm Flynn

*President, Newfoundland and Labrador Federation of Municipalities*

First of all - Thank-you. Thank-you for making a commitment to your community and your province. For standing and being counted among those who are trying to make a difference. The journey you have started will not be easy, but I know the rewards will far outweigh the costs.

The Newfoundland and Labrador Federation of Municipalities will be there to support you every step of the way. Through our many, valuable member services or in partnership with organizations like the Newfoundland and Labrador Association of Municipal Administrators, the Combined Councils of Labrador or the Department of Municipal and Provincial Affairs, the Federation Board and staff are working hard to ensure you have the tools you need to do the job.

The Municipal Training and Development Corporation is an excellent example of this partnership approach. We believe that effective training makes for effective Councillors - and better local government. That's why we are so excited about the MTDC partnership and the training programs being developed there. I encourage you to contact the MTDC if you haven't already and find out what courses might be of interest to you.

Finally - read this handbook. I guarantee it will make you a better Councillor by helping you handle the day-to-day aspects of the tough job you've taken on. But if you ever have a question, remember, you are not alone. Ask another Councillor. Ask your municipal administrator. Ask the staff of the MTDC. Ask the staff at the Federation. The answers you need are not far away.

Good luck and good reading.

## AUTHOR'S PREFACE

Congratulations and welcome to the world of municipal government. As a member of one of the nearly 300 municipal councils in the province of Newfoundland and Labrador, you have joined a select group of community leaders. Very few citizens are willing to devote their time and energy to the process of providing guidance and service to their communities as you have chosen to do. Yet, you are not alone. In the province of Newfoundland and Labrador, there are more than 2000 municipal councillors, and across the nation, the number is close to 30,000.

The first edition of this Handbook was published in 1987 with the aim of providing municipal councillors with an easily accessible guide to their duties and responsibilities. Judging from the many positive comments received, it would seem that the aim of transforming the legal language of municipal legislation into more understandable terms for everyday use, was achieved. However, successive amendments to the 1979 *Municipalities Act* and the major revisions contained in the 1999 *Municipalities Act* and the 2000 *Urban and Rural Planning Act* resulted in the Handbook becoming increasingly out of date. Fortunately, the Municipal Training and Development Corporation decided to arrange for the revision of the Handbook as part of their preparations for the 2001 municipal elections.

The purpose of this handbook is to offer a guide to your roles and responsibilities as a municipal councillor. It contains information about your relationship as a councillor to your community, council, province, and yourself. It also contains information about your liability as a councillor, both individually and collectively with other members of council. The special role of the mayor, the conduct of business at council meetings, and the interrelationships between council and its employees are some of the other topics which are covered. A complete listing is found in the Table of Contents.

Some of the matters dealt with in the Handbook you might not refer to very often; others you may use frequently. The main idea, though, is to provide a convenient reference book where the answers to the most-commonly asked questions concerning the working of a municipal council can be found. The Handbook should be viewed as a supplement to the *Municipalities Act*, not as a substitute for it. Together, the Handbook and the *Municipalities Act* should provide the answers for most of the questions about municipal government that may arise during your term as a councillor.

This Handbook would not have been possible without the support of the Department of Municipal Affairs and the Municipal Training and Development Corporation. A special debt of gratitude is due to the Editorial Advisory Board composed of: Dave Denine, Mayor of Mount Pearl; John Moore, Director of Policy Planning, Department of Municipal and Provincial Affairs; Cyril Power, Mayor of Torbay; and Wayne Rose, Clerk of the Town of Brigus. Thanks also goes to Jane Fitzgerald and Patricia Hempstead who served on the Editorial Advisory Board in its early stages. The contribution of Doris Penney, Director

of Finance, and Stan Clinton, Director of Planning, for their assistance with the sections on finance and planning is also gratefully acknowledged. A special thanks is owed to Gloria Grenning who volunteered to retype the first edition of the Handbook into a modern word processing format.

Finally, it should be noted that material contained in this Handbook is designed to be of use for town councillors in the province of Newfoundland and Labrador. Because of significant differences in legislation and operation, regional councils, city councils and local service districts are not covered.

I hope that you find the Handbook to be useful during your time as a municipal councillor and I would welcome any comments or suggestions for improvements that you might have.

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*Head, Department of Political Science*  
*Memorial University*  
*St. John's, Newfoundland*  
*July, 2001*



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# Chapter 1



## Introduction

### 1 A BRIEF HISTORY OF LOCAL GOVERNMENT IN NEWFOUNDLAND

Compared with the rest of Canada, local government in Newfoundland is still in its infancy. In central Canada and the Maritimes, municipal institutions were well established before Confederation in 1867. In Newfoundland, however, beyond the establishment of a few water companies and local roads boards, no steps were taken toward creating municipal government. St. John's was incorporated as a town in 1888, but did not obtain city status until 1921. In 1938, Windsor became the first municipality outside St. John's.

The incorporation of Windsor was the first of about 20 that occurred during the Commission of Government years. Although the first *Local Government Act* was passed by the Alderdice government in 1933, it was not until the Commission of Government passed the *Local Administration Act* in 1937 and, more importantly, adopted the policy in 1942 of passing a special act for each municipality, that municipal incorporations began a slow growth.

Following Confederation with Canada in 1949, a *Local Government Act* was passed, and in 1952, the *Community Councils Act* came into being. By 1955, a total of 53 municipal units had been incorporated. The real explosion in growth occurred over the next 15 years, and by the time the Royal Commission on Municipal Government in Newfoundland and Labrador (the Whalen Commission) was established in 1972, the number of municipalities had risen to nearly 300.

In part, the Whalen Commission was appointed because of the problems which had accompanied the rapid growth of municipalities. Among its findings, the Commission noted that many of the smaller municipalities had insufficient resources to finance the desired services and the existing system of government grants was inadequate. In order to deal with these deficiencies, the Commission included among its many recommendations: the introduction of mandatory real property tax in certain circumstances; a restructured system of provincial grants to municipalities; and the introduction of series of regional governments across the province. The Commission's recommendations were widely discussed following the Report's release in 1974, and many of the recommendations were included in the new *Municipalities Act* (1979) and the *Municipal Grants Act*.

### **a. Amalgamation**

Very little change in municipal structures or operations occurred during the next decade until the amalgamation initiative of 1989-1990. Aware that Newfoundland's ratio of municipal government to population was one of the highest in Canada, the incoming Liberal government was determined to reduce the number of municipalities in the province. While many municipalities, because of their geographic location, could not readily be joined with any other nearby community, 108 municipalities were identified as being capable of being reduced to 43. For a variety of reasons, including local opposition, many of the proposed amalgamations were abandoned. By the end of the amalgamation initiative, 33 councils had been reduced to 13, leaving the total number of municipalities in the province only slightly reduced.

### **b. Regionalization**

The perceived problem of too many small municipalities, each with their own councils, plans, and priorities remained. In 1996, the provincial government began to actively consider the process of regionalization. While regional government had been recommended by the Whalen Commission, had been legislatively provided for in the 1979 *Municipalities Act*,<sup>1</sup> and had been introduced in many other parts of Canada, only one regional council (that of Fogo Island) had been established in the province. In early 1996, the Minister of Municipal and Provincial Affairs issued a document entitled *The Time for Regionalization* which discussed the issues and concept of regional government and outlined two potential options: regional councils and regional service authorities.<sup>2</sup> Following a brief tour of major centres in the province by the Minister and department officials to introduce the regionalization initiative, a Task Force was appointed to undertake a province-wide public consultation

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<sup>1</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Municipalities Act, 1979* (St. John's: Queen's Printer, 1979), Part III.

<sup>2</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *The Time for Regionalization: Reforming Municipal Government in Newfoundland and Labrador*, 1996, 6-8.

process. The Task Force issued its final report in the Fall of 1997 and recommended that a series of Regional County Services Boards be established throughout the province to provide regional municipal integration and services.<sup>3</sup> Although the provincial government did not act on the Task Force's recommendations, a provision for regional structures was maintained in the new *Municipalities Act*.<sup>4</sup>

### **c. New Municipalities Act**

On July 6, 1999, the provincial government enacted a new *Municipalities Act* which came into force on January 1, 2000. This new *Act* not only consolidated the numerous amendments which had been made to the 1979 *Act*, but removed remaining restrictive provisions, expanded municipal authority and permitted a greater degree of local decision making. The *Act* also provided increased municipal autonomy in the areas of taxation, administration and financial management, new authority for economic development and new and expanded authorities for service delivery and municipal controls.

## **2 THE ROLE AND IMPORTANCE OF LOCAL GOVERNMENTS**

Although municipalities have not yet obtained any separate constitutional recognition, they are an important part of the Canadian structure of government. Their powers are devolved from provincial governments through a general piece of legislation, such as the *Municipalities Act*, or a specific charter, such as the *City of Mount Pearl Act*. And while municipalities can only do the things which they are specifically given the power to do under their governing act, the way in which they carry out their duties is not unlike the governing process at other levels.

There have been a variety of theories suggested as to why local governments are so important and are found in just about every country in the world. One of the most commonly held theories is that local government is the basis of democracy. It is at the municipal level that citizens can most easily contact their representatives or directly take part themselves in the governing of their own communities. It is argued that local government helps create a climate for democracy, thus providing the basis for democracy at higher levels of government.

Another theory suggests that local government provides a training ground for individuals who want to directly participate in the political process. Many

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<sup>3</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Final Report, Task Force on Municipal Regionalization*, 1997.

<sup>4</sup> See Part II, Sections 26-52.

Members of Parliament and Members of provincial legislatures won their first elected office at the municipal level, and the training that they received there may have helped them to prepare for life as representatives at the federal or provincial level. In particular, the experience of representing citizens and of deciding among conflicting demands for scarce Council resources can provide a most useful learning experience for an ambitious politician.

But the usefulness of local government in contributing to the nature of democracy or in providing a training ground for politicians is really secondary to the role of municipal government in the provision of services, for it is only at the local level that citizens can decide for themselves the nature and extent of services for which they are willing to pay. Local government allows for a much greater degree of flexibility than would be the case if decisions were made by a central agency of the provincial government. In addition, the citizens of an area inevitably know their own needs much better than does anyone else.

It is the role of a municipal council to identify those needs, to decide which of the needs are the most important, how best to provide for them, and how to raise the necessary money to pay for them. In doing so, the Council is making a political judgment - it is deciding how to allocate scarce resources. The majority of Canadian municipalities are not “political” in the sense of their members being identified with particular political parties, but they are political in the sense that difficult choices have to be made among a variety of worthy projects. The importance of municipal government is that these choices can be made locally by elected representatives who can easily be contacted by their constituents.

Municipal governments normally have only limited jurisdiction within specific boundaries. They are permitted to do only those things which are specifically authorized in their governing act (the *Municipalities Act*) and their authority extends only within the municipal boundary as determined by the provincial government. Sometimes, however, a municipality may be given limited jurisdiction over an area outside of its municipal boundary. Such is the case where a municipality adopts a municipal plan under the *Urban and Rural Planning Act*. When this occurs, the land use planning boundaries may be considerably larger than the municipal boundary, but in all cases, the municipal council has authority only within the area as defined by the provincial government.

### **3 THE ROLE OF LOCAL GOVERNMENTS IN COMMUNITY DEVELOPMENT**

Some of the more important roles that local governments have to perform are not mentioned in the *Municipalities Act* or in any other piece of legislation. These are the dual roles of community leadership and community development.

Well-run municipal councils can provide the nucleus around which a community can focus. In its brief to the Royal Commission on Local



Government, The Newfoundland and Labrador Federation of Municipalities referred to the “External” role of municipal government in representing the views of citizens before the federal and provincial levels of government and the business community.<sup>5</sup>

The Federation noted that local governments possess certain attributes through which citizens can collectively wield power and influence. Unlike an individual or a special interest group, local government is a “duly constituted public authority,” having permanence and an array of powers.<sup>6</sup> Municipal councils can therefore represent the interests of the community to the wider world.

A local government can also serve as a central facilitator in organizing community projects and developments. Under the provisions of the *Municipalities Act*,<sup>7</sup> municipal councils have a number of responsibilities concerning the facilities and environment of their communities. In addition to merely passing and trying to enforce regulations, a council may seek to enlist the active support of citizens in such projects as clean-up campaigns, provision of recreation facilities, and other activities designed to improve the town and to foster a community spirit. As a representative and elected body, a municipal council can take the lead in encouraging community projects in a way that service and other community groups cannot match.

Municipal councils also have a role to perform in encouraging community development by seeking funding through the various federal-provincial-municipal programs that are available from time to time. The details of these programs are beyond the scope of this handbook, but information about them is always sent to municipalities, and additional information and help is available for member councils from the Newfoundland and Labrador Federation of Municipalities.

Municipal government in Newfoundland is still relatively young and its principles and functions have not yet been fully accepted by all citizens. This is evident when councils resign in protest when their wants are not satisfied by the government; by the low voting turnout in many municipal elections; or by the plebiscites which have been held in some communities to see whether citizens wanted to abolish their councils. Actions such as these indicate that the “climate” of local government is not yet well established in the province. One of the responsibilities of Newfoundland’s municipal leaders must therefore be that of promoting an understanding and appreciation of the importance of local government - not only in providing essential services, but also in developing or maintaining a sense of community spirit. Municipal councils have a unique opportunity to provide community leadership and to seek to improve the quality of life for their citizens.

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<sup>5</sup> Newfoundland and Labrador, *Royal Commission of Municipal Government in Newfoundland and Labrador*, 1974, 388.

<sup>6</sup> *Whalen Report*, 388.

<sup>7</sup> See Sections 156-204 in particular.

# Chapter 2

## The Role of a Councillor

### 1 DUTIES AND RESPONSIBILITIES

Following his or her election, each councillor is required to take an oath of office.<sup>8</sup> In doing so, new councillors not only swear or affirm that they are “fully qualified” to sit on council, but that they will faithfully perform the duties of councillor.” This section of the Handbook will examine the wide range of duties and responsibilities which affect all councillors. Some of these are listed in the *Municipalities Act* and are therefore required; others, however, are not required by legislation, although they may be considered as useful both to the individual councillor or the community.

#### a. Duties to the Local Community

Just as Members of Parliament represent the citizens in their constituencies, municipal councillors are selected to represent the citizens in their communities.

##### *i. Representation: To Follow or To Lead?*

New councillors often ask what the term “represent” really means. Does it mean that you should always try to do what you think most citizens in your community want you to do? Or does it mean that you should try to use your own judgement about matters, regardless

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<sup>8</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Municipalities Act, 1999* (St. John’s: Queens Printer, 1999), Section 274.

of what most people think?

Probably, the best answer lies somewhere in between. It is generally next to impossible for a councillor to know what most of the people in a community think about any given issue. But even if a councillor did know what the majority of the citizens wanted, there are often many other factors to be taken into consideration before a decision is made. For example, most citizens generally want lower taxes and better services, but councils are often faced with rising costs, increasing debt charges, and other financial constraints. Consequently, councillors may have to increase taxes for the greater long-term good of the community, despite the protests of citizens.

Similar considerations are applicable to many other situations. Wise councillors will not deliberately or consistently ignore public opinion, nor will they always be trying to do what they think everyone wants them to do. A wise councillor will try to balance what most of the people seem to want with what is best for the community. Ideally, the two will not conflict, but when they do, the councillor must exercise the responsibility of judgement.

### ***ii. The Councillor as Communicator***

Part of being a representative means that a councillor must be available to listen to the ideas and concerns of citizens. As a neighbor and as a fellow-citizen, a councillor can serve as the link between the citizens and the municipal organization. A councillor has the responsibility to bring before council matters of general concern to residents and to act as a source of input for citizens. In so doing, though, the councillor must be careful not to interfere in administrative matters that are the jurisdiction of the municipal staff.<sup>9</sup>

The provision of services and of competent municipal government are two of the main duties of any council. In their roles as representatives, councillors can help citizens obtain the most suitable range of services and can provide information about council operations and policies. Councillors can thus act as two-way communicators providing citizens views to council and providing information about council to citizens.<sup>10</sup>

### ***iii. The Councillor as Businessperson***

Many councils today are multi-million dollar operations. Unlike businesses, councils are not expected to operate at a profit,<sup>11</sup> but

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<sup>9</sup> The distinction between policy and administration is dealt with further in Chapter 4.

<sup>10</sup> Sometimes councillors express reservations about providing information to citizens about council business. It should be remembered that, in general, council business must be conducted openly and that citizens have a right to be informed about council activities. This is covered in Chapter 3.

<sup>11</sup> In fact, Section 78 of the *Municipalities Act, 1999* requires that municipalities plan for a balanced budget.

councillors should ensure that council operations are as efficient as possible. As municipalities are increasingly squeezed for financial resources, it is imperative that councils seek ways to get the most value for the money. In order to do this, councillors must fully understand the financial operations of the municipality. They must ensure that the town staff provides regular reports of budgeted revenues and expenditures and the actual figures to date. And they must insist that over-expenditures or lower than expected revenues are fully explained, with any necessary corrective action being taken.<sup>12</sup>

As a political body, a municipality has different goals and responsibilities than does a business. But this should not prevent the municipality from being operated in a businesslike manner. Councillors must be aware that the actions they take will have ramifications for future generations. Heavy long-term debt loads will have to be paid off by tomorrow's citizens. Inadequate planning, zoning, or preservation of green spaces will make the community a less desirable place to live.

## **b. Duties to the Province**

### ***i. Comply with the Legislation***

The main duty that councillors have to the province is to ensure that the provisions of the various Acts that govern municipal activities are complied with. The Act which governs most council activities and from which council gets its powers is the *Municipalities Act*. One of the purposes of this Handbook is to ensure that councillors are familiar with the most important provisions of this *Act*. There are, however, a number of other pieces of legislation that govern the activities of municipal councils. Some of the more frequently encountered ones are the:

- *Assessment Act*
- *Emergency Measures Act*
- *Fire Prevention Act*
- *Highway Traffic Act*
- *Labour Standards Act*
- *Liquor Control Act*
- *Public Health Act*
- *Public Tender Act*
- *Taxation of Utilities and Cable Television Companies Act*
- *Urban and Rural Planning Act*
- *Waste Materials Disposal Act*

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<sup>12</sup> The importance of regular and accurate budget statements will be further discussed in the section dealing with finances in Chapter 3.

Sometimes, councillors tend to rely on the municipal staff to ensure that the provisions of Provincial legislation are complied with. While the staff are often able to advise on these matters, councillors themselves have a responsibility to understand and apply the relevant Acts, how they impact on municipal decision making, and to ensure that they are applied appropriately.

### ***ii. Maintain a Working Relationship***

A second duty that councillors have toward the province is that of helping to ensure that good provincial-municipal relations exist. All too often, councillors will resign or threaten to resign in protest over something that the province did or did not do. On occasion, councillors may unreasonably expect the province to pick up a deficit or to provide funds for something which the community wants but may be unwilling to pay for.

Misunderstandings do occur and sometimes provincial actions may seem arbitrary and not in the best interests of any one community. But it must be remembered that provincial departments and officials have to take a wider view of things and must enforce standards and procedures that apply to all municipalities.

## **c. Duties to Council**

A municipal council can be only as effective and efficient as its members. Just as each council has a collective responsibility to the community, each councillor has an individual duty to the council. Some of these duties include the following.

### ***i. Prepare for Meetings***

The first duty is to adequately prepare for council and committee meetings. Even before being sworn into office, a newly elected councillor should review the council minutes for the previous few months in order to become familiar with recent issues and routine business, as well as with the procedures by which the council operates.<sup>13</sup>

Prior to each council meeting, the Clerk will distribute or make available the agenda, minutes of the previous meeting, and a variety of background documents and information. Councillors should read this material before the council meeting so that they are fully prepared to deal with the issues and to engage in informed discussion. It is very frustrating for other members of council if one or more

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<sup>13</sup> This in no way would entail any breach of confidentiality since council minutes and other documents are considered to be public information and the *Act* stipulates (Section 215) that they must be made available to the general public. Municipal Clerks or Managers could help in this by having an information package available for new councillors. Such a package might contain not only the recent council minutes, but also a summary of existing regulations, policies and council's rules of procedure.

councillors come to meetings unprepared and cause needless delays by wanting documents read at the meeting or by asking questions which would have been unnecessary had they read the information beforehand.<sup>14</sup>

### ***ii. Attend Meetings***

The second duty is to regularly attend council and committee meetings. Section 206(1)(f)(ii) of the *Municipalities Act* stipulates that the office of a councillor who fails to attend regular public meetings of the council for three successive is automatically vacated. While this sometimes happens, more common is the situation in which councillors miss meetings on an irregular but habitual basis. This occurs most typically with committee meetings, but many councils occasionally experience problems in obtaining a quorum for council meetings. This can cause delays in attending to council business as well as wasting the time of other councillors. There are, of course, some occasions such as business travel, family emergencies, or personal illness when a council member cannot attend a meeting. The conscientious councillor will make every effort to be present at as many meetings as possible, and will let the Clerk know as far in advance as feasible when he or she cannot attend.

### ***iii. Follow the Rules of Procedure***

The third duty to council is to know and follow the rules of procedure and to observe proper decorum at all times. This does not mean that councillors are expected to become experts in Robert's Rules of Order, but that each councillor should read the rules of procedure which every council is required to adopt<sup>15</sup> and should follow them in council meetings.

### ***iv. Take a Position***

Elected members of council have the right and the responsibility, unless they are in a conflict of interest, to express themselves on all issues coming before council. Councillors also have a duty to represent the citizens of their community by voting on all issues. Section 212 (2) of the *Municipalities Act* requires all councillors to vote on each motion unless they are in a conflict of interest<sup>16</sup> or unless the other members of council have agreed by majority vote to allow a councillor

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<sup>14</sup> As discussed in Chapter 3, most councils no longer have the minutes or routine correspondence actually read at council meetings. Councillors are expected to have individually read the minutes and correspondence beforehand, and to be prepared to quickly deal with these matters at the meeting.

<sup>15</sup> Section 24(3) of the *Municipalities Act, 1999* requires every council to adopt rules of procedure. This is discussed further in Chapter 3.

<sup>16</sup> See below.

to abstain from voting on a particular motion. On those rare occasions when a councillor may really be undecided about the merits of a particular issue he or she must obtain the specific approval of council prior to abstaining from a vote on the motion. Further, Section 206(1)(h) states that the office of a councillor who fails to vote on a matter before council when required to vote is automatically vacated. It should also be noted that the provisions of Section 212 (3) effectively mean that an abstention counts as a negative vote. For example, in deciding a question at a meeting with 7 councillors present, if 2 councillors abstain, 2 vote against and 3 vote in favour, the motion will fail. The requirements of the *Municipalities Act* are designed to ensure that councillors have the political courage of their convictions and take a reasoned stand on each question as it comes before council. Unless a councillor is in a conflict of interest, an abstention is an abdication of his or her responsibility and should be avoided.

#### **d. Duties to Council Staff**

There is a significant potential for conflict between the elected members of council and the staff of council if their separate but interrelated roles are not clearly understood. This issue is so important that Chapter 4 is devoted entirely to it. Here, however, attention is focused only on the duties that councillors have toward council staff.

##### ***i. Know What the Staff Should Be Doing***

First, it is essential that councillors understand what it is that the staff do and what their responsibilities are. While the *Municipalities Act* outlines certain statutory duties of the town manager, town clerk, and department head positions that may be established, each council is required by the *Act* to establish written job specifications for these and any other employee positions.<sup>17</sup> All councillors should be aware both of the responsibilities and limits of authority of senior staff.

While council as a whole should ensure that the senior staff are conscientiously carrying out their duties, individual members of council should not interfere with the statutory responsibilities of staff or in the day-to-day administration. If council hires well-qualified individuals for each senior position, there should be less tendency or perceived need to interfere.

##### ***ii. Listen to the Staff, But Don't Let Them Run You***

Second, councillors have a duty to listen to the advice of the senior staff, but they also have a duty to make up their own minds on issues. Senior staff members generally have a wealth of experience that they would be only too glad to share with council. Also, since

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<sup>17</sup> Sections 53-65.

the staff tends to stay on while councillors come and go, they may have more of a long-term interest in the policies and operations of the municipality. Sometimes, they even think they know best. And maybe they do. But it is the elected councillors who must make the final decisions since they are accountable to the citizens and the province and must bear the responsibility. Listen to the advice of staff, but know the limits of their authority.

### ***iii. Pay Them a Fair Wage***

Salary guidelines for senior staff were introduced in 1983 and were revised periodically. The old *Municipalities Act* required that the town manager, clerk, and department heads be paid in accordance with these guidelines.<sup>18</sup> The salary guidelines had been carefully worked out over a period of years and were designed to promote equitable salary structures for senior municipal employees across the province. Councils were required to pay at least the minimum salaries on the appropriate scales and encouraged to increase salaries up the scales according to experience and training.

The requirement for councils to pay senior staff in accordance with set guidelines was dropped from the current *Municipalities Act*. However, it should be borne in mind that councils desiring high quality work from their senior staff should be prepared to pay them appropriate salaries.

Many councils now have unionized employees and it is important not only to bargain with them in good faith, but also to ensure that the collective agreement is adhered to. In municipalities where there is a town manager, it is essential that the day-to-day administration of the collective agreement is undertaken by the manager, not by individual members of council.

## **e. Duties to Yourself**

### ***i. Allocate Your Time Wisely***

Being a member of a municipal council can take a great deal of time. Not only are there council and committee meetings to attend, but there are papers and documents to read, and citizens' complaints and questions to be dealt with. While the amount of time spent on council business might differ greatly between municipalities and even among members of the same council, many councillors find that they are spending much more time than they had anticipated dealing with council matters.

There is no one formula for allocating time that would work for all councillors. Individually, councillors have to distinguish between the important matters that require detailed study and analysis and the

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<sup>18</sup> *Municipalities Act, 1979*, Sections 30(2), 43(2) and 51(2).



less important ones that can be dealt with quickly. Collectively, time can be conserved by ensuring that meetings are run efficiently and by having well-organized policy manuals and an indexed set of regulations.<sup>19</sup>

## *ii. Be Well-informed*

Not only is being well informed about council business part of councillors' duties to their council and constituents, but it is also part of councillors' duties to themselves. As discussed in the next section, councillors may be personally liable for their actions while on council. It is, therefore, important that each councillor be fully aware of matters that are being discussed and voted upon. Don't let something go by that you aren't sure about. Ask questions until you are satisfied in your own mind that council is making the best decision. By being familiar with the *Municipalities Act* and other legislation that governs council actions, you can ensure that you do not contravene or go beyond the legal power of council.

# 2 LIABILITIES

In your personal life as an individual citizen you are responsible for your actions. If you do something that is against the law, you are liable to prosecution and must face the consequences. If you are convicted of speeding, you will receive a fine; if you are convicted of robbing a grocery store, you will be sentenced to a term in jail. Such actions are breaches of the law and are considered criminal or illegal activities.

But there is a second sense in which individual citizens are responsible for their actions. If your dog bites a neighbor's child, or if someone breaks their leg on your property, you may be liable for damages through a civil action.

In the first case, you would be legally liable because you **had** done something that was against the law (speeding or robbing a store). In the second case, you would be legally liable because you **hadn't** done something (such as tying up your dog or fixing the steps to your house).

Similarly, as a municipal councillor you may be liable to prosecution either individually or collectively with other councillors for things that you or your council may or may not have done.

This Handbook can provide only a brief outline of some of the potential areas of liability. It is important to remember that municipal law is constantly evolving and that court decisions on similar issues may vary widely depending on a variety of factors including the location, local practice, circumstances,

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<sup>19</sup> See Chapters 3 and 4.

and specific details of each case. For information or guidance about a particular situation, be sure to seek the advice of a qualified municipal solicitor.

## **a. Personal Liability**

### ***i. Improper Use of Council Materials or Machinery***

An elected councillor has no more right to use town materials or machinery than does any other citizen. This does not, of course, apply to the appropriate use of pens, paper, telephones, or other material essential to performing your job as a councillor. But under no circumstances should town-owned lumber, gravel, sand, tools, or equipment be taken or “borrowed” for a councillor’s own private use. Similarly, members of council are not entitled to have town work crews or town equipment used to perform construction or maintenance on access roads to their private property unless such work is part of a regularly scheduled program.

Individual councillors stand liable to be charged with criminal offenses (such as theft) for the misuse or misappropriation of town property, equipment, materials or labour. Individual councillors may also face a civil lawsuit for damages by citizens seeking to recover the cost of the misappropriated materials.<sup>20</sup>

It may sometimes be difficult to draw a precise line between what is reasonable usage and what constitutes misuse or theft. There is nothing improper about the regular maintenance and repair of a public road on which a councillor happens to live along with a number of other taxpayers; but the construction or upgrading of a road to a councillor’s plot of land some distance beyond other houses may well be considered improper.

As the holders of public office, it is very important that councillors do not give the appearance that they are taking advantage of their positions. All council activities must be properly authorized by a resolution of council, and any circumstances which may be considered borderline should be referred to the town solicitor for an opinion.

### ***ii. Influence Peddling or Accepting a Bribe***

The question of bribery is not referred to in the *Municipalities Act* since it is covered under the *Criminal Code of Canada*. It is an offence for a municipal official to accept any form of loan, reward, advantage or benefit in exchange for abstaining or for voting for or against any motion before council or a committee, or for performing or failing to perform an official act.<sup>21</sup>

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<sup>20</sup> Ian MacF. Rogers, *The Law of Canadian Municipalities* (Toronto: Carswell, 1981), 214. Because councillors are in effect trustees for the citizens, they are personally responsible to them or the municipality if found guilty of fraud or misuse of municipal property or funds.

<sup>21</sup> *Criminal Code*, R.S.C. 1970, c. C-34, ss 112-114.

### **iii. Responsibility for Actions on Council**

Municipal councillors do not have the same degree of parliamentary immunity as do elected politicians at the federal and provincial levels.<sup>22</sup> This means that a municipal councillor may be sued for making defamatory statements about an individual or a group during a council meeting. Consequently, as a councillor, you should choose your words carefully to avoid making statements which might leave you open to a charge of defamation by a member of the public or even by a fellow councillor.

Another way in which individual councillors may be held liable for their actions is related to the act of voting on council. There are a number of things that the *Municipalities Act* requires a council to do. These required actions, listed in Appendix D, are indicated by the use of the word “shall” in the *Act*. Failure to perform any such statutory responsibility may result not only in proceedings under Section 419, but individual councillors may be held responsible for paying the costs of an action launched by a citizen to force council to meet its statutory responsibilities.<sup>23</sup> On the other hand, if council passes an illegal or *ultra vires* resolution, the councillors who voted in favour of it may be held individually liable for damages.<sup>24</sup> In addition, there are sections of the *Municipalities Act* which prohibit council from taking certain action, and councillors who vote in contravention of the *Act* may be legally liable for damages. Section 96, for instance, prohibits council from using money borrowed under section 94 for any purpose other than that which the minister approved. All councillors who, without the express approval of the minister, vote to use the money for any other purpose are personally liable to pay the money to council. Similarly, section 81 specifically forbids a council from overspending its budget without the minister’s approval. Councillors who vote in favour of any over-expenditure may be personally liable.

## **b. The Collective Liability of Council**

Since municipalities are corporations,<sup>25</sup> they can sue and be sued. Municipal councils are therefore subject to civil action for such things as the

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<sup>22</sup> An “absolute privilege extends to the deliberations” of Parliament and provincial legislatures, but “subordinate legislative bodies . . . such as a municipal council, may only enjoy a qualified privilege.” Jeremy S. Williams, *The Law of Defamation* (Toronto: Butterworth, 1976), 74-5. In general, this qualified privilege refers to statements which are made without malice and which do not imply the commission of a crime. Also, see Rogers, 214.7.

<sup>23</sup> Rogers, 214.7.

<sup>24</sup> Rogers, 214.7. An illegal resolution here refers to one that is either forbidden by the *Municipalities Act* or is beyond the powers of (**ultra vires**) a municipality as set out in the *Act*.

<sup>25</sup> Rogers, 1389.

inadequate enforcement of regulations or a breach of contract. Municipal liability may be grouped into two basic categories: misfeasance or non-feasance. **Misfeasance** refers to a positive act of wrongdoing. **Non-feasance** refers to a situation in which a council takes no action on a matter.

In general, a municipality will not be held liable for doing nothing in a situation in which it is not required to act by statute. For example, in cases where the *Municipalities Act* states that council “may” do something, council would not be held liable for damages if it chose not to do that thing. However, once council has chosen to exercise a particular power, it may become liable for negligence in the exercise of that power.<sup>26</sup>

For example, section 174 of the *Municipalities Act* permits a council to establish and operate recreational facilities. This is a permissive or discretionary power insofar as a council is not required to set up a playground or ball field, and cannot be found liable for refusing to do so. However, if a council does choose to establish a playground or ball field, it may well be held liable for damages if the grounds and equipment are not kept in good repair and a child is injured as a result.

On the other hand, section 414 of the *Municipalities Act* requires each council to make regulations concerning the construction, location, use, and maintenance of water and sewerage systems. These regulations are not optional but are mandatory and a council may be held liable for damages if it fails to pass and enforce the necessary regulations.

The area in which municipalities are most likely to find themselves being sued for damages is negligence.

**Negligence** refers to conduct which involves neglect. It implies “a failure to act with such care as would normally be expected in the circumstances.”<sup>27</sup> A municipality may be liable for damages due to negligence in a variety of circumstances such as the non-repair of municipal property or the actions of an employee in performing his duties.<sup>28</sup> Canadian courts have categorized actions permitted under discretionary authority as being either policy planning or operation. If an activity is categorized as policy planning, no liability can be imposed; however, where the activity is classified as operational, liability may result.<sup>29</sup> The principle behind this approach is that municipal councils should not be held liable for damages resulting from a policy decision and that the courts should not try to second-guess elected decision makers.

It must be emphasized that the above comments on liability are of a general

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<sup>26</sup> For example, municipalities have been held responsible for the active negligence of their employees in the performance of fire-fighting duties, although they have been held not liable for the non-performance of the discretionary (or permissive) power of establishing a fire department. See Rogers, 1382.

<sup>27</sup> G.H.L. Fridman, *Introduction to the Law of Torts* (Toronto: Butterworth, 1978), 44.

<sup>28</sup> See Rogers, 1410-7 and Stanley Makuch, *Canadian Municipal and Planning Law* (Toronto: Carswell, 1983), 140-72.

<sup>29</sup> Makuch, 154.

nature and are provided only as a guide to the potential legal difficulties which might face a municipal council. For specific application in any such situation, competent legal advice should always be sought.

### **c. Conflict of Interest**

As noted in the section on individual liability, a councillor has no special rights or privileges with regard to the use of council equipment or materials. Similarly, a councillor has no right to obtain benefits for himself or his family just because he is a member of council. In fact, there has been such a concern that elected officials do not use their offices for their own profit, that conflict of interest legislation has been passed at all levels of government in Canada.

#### ***i. What is Conflict of Interest?***

Section 207 of the *Municipalities Act* defines a conflict of interest as being where a councillor votes or speaks on any matter before council in which the councillor or any relative of the councillor (as defined in Sections 207(2)) has a monetary interest, or if he or she is an officer, employee, or agent of a company or association which has a monetary interest in the matter. The term “monetary interest” is defined in Section 2(o) of the Act as being “an interest or benefit (i) consisting of money, exacted in money, relating to money or of which money is the object, (ii) capable of being measured by its financial value, cost, benefit, advantage or disadvantage, or (iii) affecting or potentially affecting a person’s financial position or worth, his or her assets or asset value but does not include remuneration or a benefit to which a councillor is entitled under this Act.”

The *Act* makes clear that in order for a conflict of interest to exist, a councillor must have an individual or specific interest in the matter distinct from an interest arising from his or her functions as a councillor and distinct from an interest held in common with the other citizens or classes of citizens of the municipality.<sup>30</sup>

It is often relatively easy to know when a conflict of interest exists. For example, a councillor who owns land on which a subdivision is being built would be in conflict of interest if he or she took part in discussion or voting on any matter relating to the specific subdivision or subdivisions in general which came before council. Similarly, a councillor who owned a trucking business would be in a conflict of interest if he or she spoke to or voted on matters pertaining to the regulation of truck traffic or the awarding of tenders for hauling gravel.

Sometimes, however, it is a little more difficult to be sure whether a conflict of interest exists or not. Would a councillor, who voted in favour of a new arterial road to relieve traffic and who lived on an

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<sup>30</sup> *Municipalities Act, 1999*, Section 207(4).

adjacent street which would benefit, be considered to be in conflict of interest?<sup>31</sup> What about a councillor who voted to improve the access to a shopping centre in which her husband owned a store?<sup>32</sup> Or, would a councillor who owned land which would benefit by the expropriation of adjoining land for municipal services, have a conflict of interest if he or she voted or spoke on the matter?<sup>33</sup>

## **ii. How to Avoid It**

As a councillor, you will be required to file an annual disclosure statement which must include a list of all real property, corporate shares, and businesses owned or partially owned by you.<sup>34</sup> This disclosure statement can be used as a guideline to determine whether you might be in a conflict of interest on any matter coming before council or a committee of council.

The best policy to follow if you think that you may have a conflict of interest is to state the perceived conflict at the council meeting where the issue is first discussed. Section 209 of the *Municipalities Act* provides that where a councillor is unsure about whether a conflict of interest actually exists, the facts of the situation should be made known to council. Council can then decide the question by majority vote.<sup>35</sup>

In some circumstances, of course, there may be no doubt in the mind of a councillor that a conflict of interest does exist. In that case, the councillor must state the nature of the interest at the beginning of discussion on the matter.<sup>36</sup> If the mayor or presiding officer has such a conflict of interest, he must leave the chair. Further, a councillor who has declared a conflict of interest must leave the meeting while the matter is being discussed.<sup>37</sup>

Under the *Municipalities Act*, the onus is clearly on the individual councillor to declare a conflict of interest. It is therefore in a councillor's best interests to ensure that any such declaration is clearly

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<sup>31</sup> In an Ontario case, the councillor was found to be in conflict of interest. See: *Re Jackson and Wall* (1978), 21 O.R. (2d) 147 (Co.Ct.).

<sup>32</sup> A similar case in Alberta found the councillor to have a conflict of interest. See: *Wanamaker v. Patterson* (1973) 5 W.W.R. 193 (Alta. C.A.).

<sup>33</sup> A court in British Columbia decided that a conflict of interest did exist in such a case. See: *Molander v. Cranbrook* (1976), 11 L.C.R.13 (B.C. C.A.).

<sup>34</sup> *Municipalities Act, 1999*, Section 210.

<sup>35</sup> The decision by council is final and the vote of the councillor whose possible conflict of interest is being voted on is not entitled to vote.

<sup>36</sup> *Municipalities Act, 1999*, Section 208.

<sup>37</sup> *Municipalities Act, 1999*, Section 208(3).

recorded in the minutes as required by Section 208 (1).

**iii. What Happens if You Don't?**

A councillor who fails to disclose a conflict of interest may be subject to prosecution and may be removed from council. Section 419 of the *Municipalities Act* states that anyone who does not comply with any of the provisions of the *Act* is guilty of an offence and liable on summary conviction to a fine of up to \$1,000 or imprisonment for up to 3 months. Section 206 (2) provides that council shall declare vacant the office of an elected councillor who fails to disclose that he or she has a conflict of interest in any matter being discussed by council or discusses or votes on a matter on which he or she has a conflict of interest. It should be noted that this latter provision is mandatory and that by failing to remove a councillor who has not declared a conflict of interest, all members of council are subject to prosecution under Section 419.

Failure to declare a conflict of interest, or council's collective failure to remove a councillor who has neglected to do so, may also result in civil action to recover any benefits which the councillor who was in conflict of interest may have received unlawfully.

## 3 THE SPECIAL ROLE OF MAYOR

### a. Selection

The mayor may either be separately elected by the voters or elected by council from among their members at the first meeting following a general election.<sup>38</sup> There is a tradition in Newfoundland that where the mayor is to be elected by council, the person who received the highest number of votes for councillor should be chosen. There is, however, no statutory requirement that this be done. In fact, there are often very good reasons why some other member of council might be a more appropriate individual to hold the office of mayor. In any case, Section 18 of the *Municipalities Act* provides that where a mayor is to be elected by council, an election by secret ballot be conducted by the Town Clerk.

### b. Duties and Powers

#### i. As Leader of Council

The mayor is the presiding officer of council and is responsible for chairing all meetings of council.<sup>39</sup> The mayor is therefore required to be completely familiar with the rules of procedure and to apply

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<sup>38</sup> *Municipalities Act*, Section 17.

<sup>39</sup> *Municipalities Act*, Section 20 and 22.

them consistently and fairly.<sup>40</sup>

The mayor has a vote like any other member of council, although he or she should not speak on a subject unless he or she leaves the chair.<sup>41</sup> A mayor also has certain additional responsibilities. In a general sense, the mayor is charged with ensuring that the municipality's regulations are enforced and obeyed.<sup>42</sup> This statutory requirement provides a mayor with a greater administrative oversight responsibility than other members of council, although it must be noted that the mayor is subject to the direction and control of council and must abide by any decision of council.<sup>43</sup> In addition, the mayor has the right to call meetings,<sup>44</sup> to sign all cheques and financial statements,<sup>45</sup> to declare a state of emergency,<sup>46</sup> and to sign all deeds and documents.<sup>47</sup>

## ***ii. As Leader of the Community***

The mayor is the official head of the town for all ceremonial purposes, and is expected to advance and promote the aims and objects of the council.<sup>48</sup> As the chief public relations officer of the council, the mayor will be invited to attend a variety of functions and to represent the council on different groups. In this role, the mayor has a unique opportunity to promote civic awareness and to encourage citizens to be more aware of council activities and to participate in their community. The mayor will also be expected to be the chief public relations officer of the community and to do what he or she can to promote the community as a good place to work and live. In many municipalities the mayor will also act as an industrial development officer who tries to maintain and improve his community's economy.

To be a good mayor is a difficult task. Always subject to council's direction, the mayor must act as leader of the community and council. As the most visible member of council, the mayor is usually subject

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<sup>40</sup> See Chapter 3 A (1) and Appendix A.

<sup>41</sup> Although the mayor is not required to leave the chair when he or she speaks on a subject, Section 22(3) of the *Municipalities Act, 1999* appears to encourage it.

<sup>42</sup> *Municipalities Act, 1999*, Section 21(1).

<sup>43</sup> *Municipalities Act, 1999*, Section 21(2).

<sup>44</sup> *Municipalities Act, 1999*, Section 24(1).

<sup>45</sup> *Municipalities Act, 1999*, Section 76(2) and 86(2).

<sup>46</sup> *Municipalities Act, 1999*, Section 204.

<sup>47</sup> *Municipalities Act, 1999*, Section 217.

<sup>48</sup> *Municipalities Act, 1999*, Section 20 and 21.



to the greatest public criticism. Yet, the mayor also has a unique opportunity to provide wise guidance and leadership to his municipality.

# Chapter 3

## Meetings of Council and its Committees

### 1 COUNCIL MEETINGS

The main forum for the discussion of council business is at public council meetings. Not only are council meetings the occasions when different views are aired and decisions made; they are also the setting where all legislation must be passed. Thus, council meetings serve both a democratic function by providing the forum for open discussion and representation of citizen views, and a legislative function through the formal passage of resolutions and regulations.

The first part of this chapter will deal with the practical and legal requirements for the calling of council meetings and conduct at them.

#### **a. Calling of Meetings**

Section 24 of the *Municipalities Act* stipulates that every Town Council must have an open public meeting for the dispatch of general business at least once each month. This is a minimum requirement and additional regular or special public meetings may be held at any time.

The Clerk is responsible for calling for all council meetings at the request of either the mayor, the deputy mayor in the mayor's absence, or any two members of council.<sup>49</sup>

## **b. Notice of Meetings**

While the *Municipalities Act* does not provide any guidance regarding the period of notice required for regular public council meetings, it may be essential to the legality of the proceedings that proper notice be given.<sup>50</sup> Forty-eight hours is generally considered to be a reasonable period of notice, but individual councils may provide for a lesser or greater period in their Rules of Procedure.

It is particularly important to ensure that each member of council receives proper notice. This is normally done by delivering the agenda for the forthcoming meeting, along with any background material, to the councillor's place of residence or business. It might be agreed that in an emergency, adequate notice may be considerably shorter and may be given by telephone.

## **c. The Agenda**

One of the most important components of a well-run efficient council meeting is that of following an orderly and comprehensive agenda.

Many councils have a standard agenda included in their Rules of Procedure; others just use a regular agenda by habit or agreement. It is recommended that a standard agenda, along with the time limits for inclusion of items on the agenda, and the means and timing of notice of meetings, be included in the Rules of Procedure.

As secretary to council,<sup>51</sup> the Clerk is normally responsible for preparation of the agenda in coordination with the mayor and other members of council. The outline of a standard agenda might look as follows:

### **Town Council of Anywhere**

Meeting of Anydate, 20\_\_

#### **AGENDA**

1. Calling of meeting to order
2. Adoption of minutes:
  - a) Regular meeting of anydate, 20\_\_
  - b) Privileged meeting of anydate, 20\_\_
3. Business arising from minutes
4. Delegations:
  - a) Local service club re: donation
  - b) Taxpayers committee re: water supply

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<sup>49</sup> *Municipalities Act, 1999* (St. John's: Queen's Printer, 1999), Section 24(1).

<sup>50</sup> This is particularly the case with a special meeting of council. See Ian MacF. Rogers, *The Law of Canadian Municipal Corporations* (Toronto: Carswell, 1971, 1986), 47.9 and Cumulative Supplement to Volume 1, p. 31.

<sup>51</sup> *Municipalities Act 1999*, Section 61(1).

5. Committee reports:
  - a) Planning and works committee
  - b) Administration committee
6. Correspondence:
  - a) Pending/Action summary
  - b) Other matters
7. Finances:
  - a) Budget statement
  - b) Accounts for payment
8. Regulations:
  - a) Garbage Pickup regulations
  - b) Fence heights
9. General business
10. Notices of motion
11. Adjournment

Most of the items on this suggested agenda format are straightforward and require little explanation, although a few general comments may be useful.

### ***1. Calling the Meeting to Order***

This is always done by the chairperson of the meeting, usually the mayor. This is a good time to ensure that proper notice of the meeting was given and that a quorum is present.

### ***2. Adoption of Minutes***

All minutes should be adopted by council at the next regular public meeting. Adoption of the minutes does not mean that everyone present agrees with their contents, but merely that the minutes contain an accurate record of the proceedings and decisions taken at the meeting to which the minutes refer.

It is strongly recommended that the minutes not be actually read at council meetings, but circulated beforehand. This not only saves time at council meetings, but also allows councillors to read the minutes more carefully at their convenience.

The adopted minutes should be signed by the Clerk and the Mayor (or chairperson of the meeting) and must not be changed in any way after their adoption. The minutes of privileged meetings (provided formal minutes are taken at such meetings) must also be adopted by council at a public council meeting. In addition, any motions passed at a privileged meeting must be ratified individually at a public council meeting.<sup>52</sup> It is important to recognize that this requirement means that each motion passed at a privileged meeting must be re-introduced, moved, seconded, and passed at a public meeting in order to be valid.

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<sup>52</sup> *Municipalities Act 1999*, Section 213(3).

### **3. Business Arising from Minutes**

This is the time when councillors might ask for an update from the staff or mayor on the progress or outcome of items discussed at the previous meeting. Any major items of business held over from a previous meeting might better be discussed under general business.

### **4. Delegations**

While council meetings must normally be open to the public,<sup>53</sup> it is necessary to regulate the timing and extent of direct public input. The Rules of Procedure should have specific guidelines regarding the appearance of delegations before council, but in general, any delegation wishing to address council would be required to notify the clerk in advance, appoint a spokesperson, and to appear at a specified time.

Most councils find it useful to hear from delegations near the beginning of the meeting and then to deal with the delegation's request at a later point in the proceedings or, depending on the significance of the issue, at a future meeting. Council members may wish to ask questions of the delegation's spokesperson, but it is wise not to engage in argument or debate with the delegation. And while the members of the delegation have a right to sit through the rest of the council meeting, they have no right to address council at any time after their spokesperson has presented their case.

### **5. Committee Reports**

Many councils find it useful to set up committees to deal with specific parts of council business on either a temporary or ongoing basis.<sup>54</sup> Other councils find it more convenient to operate without committees.

If committees are used, it must be remembered that they can only act in an advisory capacity to council as a whole. Committees do not have any power to act on their own and all committee recommendations must be discussed and decided by council before becoming valid.

### **6. Correspondence**

Most correspondence addressed to a council is routine and need not actually be read at a council meeting. A number of councils have adopted some form of a reading file or summary report for correspondence.

A reading file can be set up by having the clerk place a copy of council correspondence in a file which is available for all councillors

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<sup>53</sup> *Municipalities Act 1999*, Section 213(1).

<sup>54</sup> Section 25(1) of the *Municipalities Act, 1999* provides that towns may set up special or standing committees. The nature and operation of committees is further discussed below.

to consult before the meeting. Alternatively, copies of the correspondence might be sent to each councillor along with the agenda and other background information for each meeting.

A correspondence and action report is even more useful. With this system, the municipal staff can act immediately on much correspondence as it is received and provide a report for council on what they have done. Other correspondence can be referred to council with a recommendation of what should be done. In all cases, the correspondence itself would not be read at council meeting unless specifically requested by a council member. An example of a correspondence and action report is set out below:

**TABLE 3-1**  
**TOWN OF ANYWHERE**  
**CORRESPONDENCE AND ACTION REPORT**  
November 15, 20\_\_ to November 30, 20\_\_

<b>FROM</b>	<b>REGARDING</b>	<b>ACTION</b>
Mrs. H. Noseworthy	Backed-up sewer	Repaired
Mr. J. Rideout	Objection to proposed gas bar on Main Road	Refer to Planning & Zoning Committee
Mrs. J. Taylor	Query on tax rate	Information sent
Mr. S. Tucker	Request for fill	Advised none available at present
Department of Municipal and Provincial Affairs	Reminder budget due December 31	Refer to Finance Committee
Residents of Rocky Road	Request for water and sewer	Discuss at next council meeting
XYZ Consulting	Proposal for study of computer needs	Discuss at next council meeting
Mrs. B. Russell	Request for lower speed limit on Main Road to 40 KPH	Refer to Traffic Committee
Smith & Jones	Application for subdivision development	Refer to Planning & Works Committee

## 7. Finances

Since financial matters are such an important aspect of municipal life, a separate place should be reserved on the agenda for their discussion. Council should always be fully aware of the municipality's financial position and should receive a monthly budget report from the staff.<sup>55</sup> This spot on the agenda would also be a good time to approve the accounts for payment. A summary list of the accounts to be paid might be circulated with the agenda in order both to save the time of reading the list at the council meeting and to permit councillors more opportunity to examine the list prior to council meeting. A sample list is provided below.

**TABLE 3-2**  
**TOWN OF ANYWHERE**  
**ACCOUNTS FOR PAYMENT**  
 Meeting of November 30, 20\_\_

<b>CHEQUE NUMBER</b>	<b>PAYABLE TO</b>	<b>REASON</b>	<b>AMOUNT</b>
767	A&H Construction	Gravel	\$567.89
768	B&M Paving Ltd.	Asphalt patching	917.35
769	Diamond Cabs	Freight( <i>water pump valve</i> )	56.00
770	P&R Auto Glass	Glass vestibule	4,995.00
771	Evergreen Landscaping	Trees and Shrubs	3,312.50
772	Newfoundland Power	Relocation of hydro pole	653.00
773	Nfld. Tractor & Equip.	Drive chain for grader	934.24
774	N&L Supply Co. Ltd.	Compressor for fire dept.	1,991.34
775	King's Garage	Truck rental	688.37
776	Irving Oil Ltd.	Gas for ambulance	471.20
777	Modern Printers	Office stationery	134.76
778	Waterworks Supplies	Pressure reducing chamber	74.86
		Total	\$14,796.51

<sup>55</sup> For further discussion of finances and financial reporting see Chapter 4.

## **8. Regulations**

Most councils will not normally be considering new or revised regulations at every council meeting,<sup>56</sup> however when they are to be considered, then they should be listed on the agenda so that all members will be able to prepare for their discussion.

## **9. General Business**

This is the spot on the agenda where any new or unfinished business would be discussed. It is the time when decisions might be made about matters raised by any delegations which had been heard from earlier in the meeting. Where possible, the items of general business should be indicated on the agenda so that councillors know how much work is scheduled for that meeting and can prepare accordingly.

## **10. Notices of Motion**

Although not required by the *Municipalities Act*, many councils include provision in their Rules of Procedure that notice of motion must be given prior to consideration of all regulations or amendments thereto and for the re-consideration of a previously adopted motion or resolution. Such notice of motion allows all councillors time to consider the regulation or amendment to be brought forward or the motion or resolution to be re-considered. It is strongly recommended that all councils adopt this procedure.

## **11. Adjournment**

There is no legal requirement that meetings adjourn at any set time, although some councils include a time of adjournment (say 11:00 p.m.) in their Rules of Procedure. It is normally wise not to let meetings go on too late, since the most prudent decisions are not usually taken late at night when most councillors are tired and want to go home.

### **d. Rules of Procedure**

The proper conduct of council meetings is essential for the efficient flow of business and for the accurate recording of what has taken place. Imagine a situation where a number of people are all trying to speak at once, where there is no fixed agenda, where no one seems in charge, and where discussion rambles from topic to topic. One of the first steps toward avoiding this type of situation and of ensuring an orderly flow of business during a council meeting is for council to adopt Rules of Procedure. Not only does this make good sense, but it is also required by Section 24(3) of the *Municipalities Act*.

A model set of Rules of Procedure is provided in Appendix A. These

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<sup>56</sup> Further discussion of regulations can be found in Chapter 4, Section 2.



rules may be adapted or modified to suit the needs of any individual council, or an entirely different set may be developed. The important thing is to keep the formal Rules of Procedure as simple as possible. There is little use in having Rules of Procedure if they are so complicated that members of council have trouble understanding them.

This is why it is not a good idea for a council to simply pass a resolution adopting Robert's *Rules of Order* as their Rules of Procedure. Not that there is anything wrong with Robert's *Rules of Order*; it is just too complicated for the conduct of business in most municipalities. It may, however, be useful to select a major work on procedure, such as Robert's *Rules of Order*, as a reference which can be consulted in any unusual situations or in cases of disputed rulings.<sup>57</sup>

Whatever format of Rules of Procedure is adopted, the main points which must be covered are:

- a set time and place for regular meetings,
- provision for calling special meetings,
- procedure for giving adequate notice of meetings,
- regular agenda format,
- procedure at meetings, including:
  - chairman's powers
  - precedence of motions
  - points of order and privilege
  - adjournment.

Once adopted, the Rules of Procedure cannot be ignored and must be followed in all proceedings of council and its committees. Amendments, however, can be made at any time in accordance with the provisions for amendment, and the rules can be temporarily suspended during a meeting, provided the proper procedure for suspending the rules is followed.<sup>58</sup>

### **e. Motions and Debate**

A council's Rules of Procedure will normally contain some provisions about which motions have precedence over others and when particular motions can be moved. The rules of order (such as Robert's, Bourinot's or Beauchesne's) will provide further guidance on these matters. It is desired here only to provide a brief listing of these matters as a handy reference.

In order to be discussed, a motion (other than certain procedural ones) must be moved and seconded. This is the normal procedure if no other motion is on the floor at the time. If another motion is on the floor, then only certain

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<sup>57</sup> As an alternative to Robert's Rules of Order (Glenview, Ill.: Scott, Foresman, 1970), A. Beauchesne, *Procedure at Meetings in Canada* (Toronto: Canada Law Book, 1954) or J.G. Bourinot, *Bourinot's Rules of Order* (Toronto: McLelland & Stewart, 1977) might be selected as an "in-house" authority.

<sup>58</sup> The most common reason for suspending the rules is to permit a less structured debate (such as allowing a member to speak more than once on a question) than is possible if the Rules of Procedure are in effect.

procedural motions can be moved as discussed below. If a seconder cannot be found, then the motion cannot be discussed and the meeting will move on to other items of business.

During discussion of the motion, an amendment may be moved at any time, subject to the normal rules of debate (such as not interrupting another speaker). An amendment may only modify the main motion and must not substantively change its intent.<sup>59</sup> An amendment must be seconded, but if no seconder can be found, then the amendment cannot be discussed and debate returns to the main motion. If an amendment is properly moved and seconded, then debate should be limited to the amendment. An amendment can be moved to an amendment by the same process as outlined above, but in order to avoid confusion, a wise chairman will prevent more than two amendments from being on the floor at the same time.

Voting is in reverse sequence to the order in which the motions and amendments were made. The most recent amendment is voted on first, then the one before that, and so on until the main motion is reached (as amended if one of the amendments passed).

The following procedural motions are normally in order during debate, subject to the general rule of not interrupting a speaker:<sup>60</sup>

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<sup>59</sup> For example, a motion which proposed giving \$200 to a charitable organization could properly be amended by changing the amount of the donation to \$100 or \$300. A proposed amendment to reduce the amount to \$0 would be ruled out of order, since it would change the sense of the motion by effectively giving no funds to the organization.

<sup>60</sup> This listing and discussion of procedural motions follows the general practice in Canadian municipalities. Some minor differences (such as whether or not debate is allowed on a particular motion) may occur from council to council. However, there are some potentially significant differences to be found between the various manuals of rules of order. Each council should therefore choose its ultimate authority (Bourinot, Roberts's, Beauchesne, etc.) with care and should consistently follow the interpretations and procedures set out therein.

**TABLE 3-3**  
**SUMMARY OF PROCEDURAL MOTIONS**

<b>MOTION</b>	<b>DEBATABLE</b>	<b>REQUIRES SECONDER</b>
Adjourn	No	Yes
Question of Privilege	No	No
Point of Information	No	No
Point of Order a	No	No
Lay on the Table	No	Yes
Previous Question	Yes	Yes
Postpone to a Certain Time	Yes	Yes
Postpone Indefinitely	Yes	Yes
Commit or Refer	Yes	Yes

Some of these procedural motions may be familiar to many councillors or self-explanatory, but it may be useful to briefly discuss each one.

### ***1. Adjourn***

A motion to adjourn may be made at any time, even if council's Rules of Procedure contain a set time for adjournment. The motion must be seconded, but is not debatable. It takes precedence over any other motion on the floor and must be voted on before debate can continue on some other matter.

Format: "I move that the meeting be adjourned."

### ***2. Question of Privilege***

Any member of council may raise a question of privilege. This procedural motion need not be seconded, is not debatable, and can be raised even if another member has the floor. The point of privilege may pertain to either council as a whole (such as temporarily suspending debate until the noise of a passing aircraft has subsided) or an individual councillor (if, for instance, one councillor makes an incorrect or offending remark about another councillor). The presiding officer rules on whether the point of privilege is admissible or not, and on the remedy (in the examples given, suspending debate until

the aircraft is out of earshot or asking that the incorrect or offending statement be withdrawn). Normally, no vote would be taken on a point of privilege.

Format: “Mr. Chairman, I rise on a point of (personal) privilege.”

### ***3. Point of Information***

A point of information can be raised at any time. It need not be seconded and is not debatable. Normally this motion is used to seek information from either the speaker or the presiding officer, although it could also be used to interrupt a speaker in order to supply or correct information. No vote is required on this motion.

Format: “Mr. Chairman, on a point of information . . .”

### ***4. Point of Order***

A point of order is normally used to bring the presiding officer’s attention to a matter which has apparently been overlooked. For example, if a vote requiring a two-thirds majority of councillors in office has been declared as carried when only a simple majority had voted in its favour, any member of council may stand on a point of order to bring this oversight to the attention of the presiding officer. A point of order can be raised at any time; it is not debatable, need not be seconded, and is normally not voted on.

Format: “Point of order, Mr. Chairman . . .”

### ***5. Lay on the Table***

This motion is used to postpone discussion on a particular item in order that a particularly pressing piece of business may be considered. For example, if a council became involved in a lengthy debate about some business arising from the minutes of the previous meeting, and a delegation of taxpayers was waiting to make a presentation, a councillor might move that the item under discussion be “laid on the table” until after the delegation had been heard from. At that point, discussion on the original business could resume through a motion to “take up from the table.” This is a very useful procedural motion which allows routine business to be temporarily interrupted for a more pressing item, and then to be resumed when the more urgent business has been dealt with. This motion should never be used as a delaying tactic, however, and should be ruled out of order by the presiding officer if this appears to be the intent. A motion to lay on the table must be seconded, but is not debatable, although it is usual for the mover to state the reason in the motion.

Format: “Because of . . . (state the reason) . . . I move that the motion be laid on the table.”

When it is desired to resume discussion of the motion which has been laid on the table (usually later in the same meeting), the following format is used:

“I move that the motion relating to . . . (name the item of business) . . . now be taken from the table.”

### **6. Previous Question**

The purpose of this procedural motion is to bring an end to debate and to force an immediate vote on the question under discussion. This motion must be seconded, but can be neither debated nor amended.<sup>61</sup> If this motion passes when voted on, all debate on the original motion ceases and it is immediately put to a vote. If the original motion has one or more amendments pending, then the motion of previous question should state whether it applies only to the most recently moved amendment or to the main question and all amendments. If the latter is intended, then each amendment is voted on in turn (starting with the most recent) and then the main question (as amended if any of the amendments have passed). If the motion of previous question fails, then discussion resumes on the original motion or amendment.

Format: “I move that the question now be put.”

### **7. Postpone to a Certain Time**

This procedural motion can be used to postpone further discussion of an issue until a certain time. For example, if council is discussing an item of business and it becomes clear that more information is needed, a motion might be made to postpone further discussion until the next meeting of council or until a particular date when the further information should be available.<sup>62</sup> The town clerk would be expected to keep track of such postponements and to place them on the agenda at the appropriate time. This motion must be seconded and may be debated and amended.

Format: “I move that further discussion and consideration of this question be postponed until . . . (a specific date).”

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<sup>61</sup> Robert’s *Rules of Order* states that a two-thirds majority is required to pass this motion and that it is not debatable, but Bourinot’s *Rules of Order* (in keeping with general Canadian practice) states that only a simple majority vote is required and that the motion is debatable.

<sup>62</sup> Robert’s *Rules of Order* stipulates that a question cannot be postponed beyond the next regular meeting, however, Canadian municipal practice allows more flexibility.

### ***8. Postpone Indefinitely***

The intent of this procedural motion is to indirectly defeat a question. It should not be used very often, but it can be useful in extricating a council from a situation in which to take a direct vote on a question might create a bad split or create an unwelcome precedent. For example, a motion to endorse a candidate in a forthcoming provincial election could place a council in a very difficult situation. If the presiding officer failed to rule the question out of order, to bring it to a vote could split the council or create potential difficulties in the future. It could also set an unwanted precedent. One way out of such a situation would be through a motion to postpone indefinitely. This type of motion must be seconded and is debatable, but cannot be amended. If the motion to postpone indefinitely carries, then the original motion is effectively killed and would not come before council again unless reintroduced at a later date. The motion to postpone indefinitely should be used sparingly and councils should not make a habit of using it to avoid making difficult decisions about matters properly coming before a meeting within council's jurisdiction and responsibility.

Format: "I move that the question be postponed indefinitely."

### ***9. Commit or Refer***

A motion to commit or refer is used in situations where council feels that further study is required on a matter before a decision is taken. A typical situation might be where a group of residents ask council to build a recreation facility in a particular area of the municipality. Before making a decision on the matter, council would want to know such things as the need, likely usage, alternative facilities and sites, and the estimated cost. The most common procedure in such a situation is to refer the matter to a committee. Many referrals to committees will be done informally at the time correspondence is dealt with or issues are first raised, but if a motion is already being discussed or if a motion is deemed appropriate, a procedural motion to refer or commit would be in order. Such a motion must be seconded, is debatable, and can be amended. The motion may also specify a time limit by which the matter should be reported to council.

Format: "I move that the question (or a particular matter) be referred to the . . . (specific name) . . . committee . . . (and that a report be prepared for council by . . .)."

## **IMPORTANT NOTE REGARDING THE ROLE OF THE PRESIDING OFFICER:**

The presiding officer has an important role to play in ensuring that council meetings proceed in an orderly and efficient manner, and that the Rules of Procedure are not used to obstruct, delay or thwart the business or wishes of council. It is for this reason that the presiding officer is given the power to rule on whether or not motions or amendments are in order. However, it is also important to note that Council can appeal a decision of the presiding officer. The precise method of appeal should be set out in the Rules of Procedure.

### **f. Voting Requirements**

A simple majority of councillors in attendance at a meeting and voting will suffice to pass most motions and resolutions coming before council. However, some confusion has arisen about the rules of voting and the effect of abstentions.

First, unless a 2/3 vote of the councillors in office is required, all motions or resolutions coming before council are to be decided by a majority vote of the councillors in attendance at the meeting.<sup>63</sup>

Second, all councillors are now required to vote on every motion or resolution coming before council. Section 212(2) of the *Municipalities Act* permits only two exceptions: first, if a councillor is required to abstain from voting because of a declared conflict of interest; second, if a councillor has been permitted to abstain by a majority vote of the other councillors in attendance at the meeting. In all other circumstances, each councillor must vote on every motion or resolution that comes before council. Failure to do so means automatic dismissal from council.<sup>64</sup>

Third, in cases where one or more councillors abstain from voting, that motion or resolution will fail unless the number of councillors voting in favour is equal to or greater than a majority of councillors in attendance at the meeting.<sup>65</sup> For example, consider a council composed of seven members, of which six are present at a meeting. One of the six councillors has declared a conflict of interest in a motion before council while another has been granted the right to abstain by a majority vote of council. In order for the motion to pass, each of the remaining four councillors at the meeting would have to vote in favour of the motion. If one councillor voted against, while three voted in favour, the motion would fail since the three votes in favour would not equal a majority of the six councillors in attendance at the meeting. In effect, the motion would be considered to be tied and would therefore fail.

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<sup>63</sup> *Municipalities Act, 1999*, Section 212(1).

<sup>64</sup> *Municipalities Act, 1999*, Section 206(1)(h).

<sup>65</sup> *Municipalities Act, 1999*, Section 212(3).

Fourth, where there is a tie vote, the motion or resolution is considered to be defeated.<sup>66</sup> The old provisions which required a motion that failed as the result of a tie vote to be raised at the next meeting, then not reconsidered again for at least three months if it failed due to another tied vote, is no longer in effect.

Fifth, a new provision which must be adhered to is contained in Section 212(4) of *The Municipalities Act*. This section requires the minutes of a council meeting to state the name of each councillor who votes for or against each motion or resolution, as well as the names of any councillors who abstain from voting.

Sixth, the mayor (or chairman of a meeting) has a vote just like any other member of council.<sup>67</sup> Although Section 22(3) of *The Municipalities Act* provides that the mayor may be replaced as the presiding officer when he or she wishes to speak to a motion on the floor, this in no way suggests that the mayor is relieved of the responsibility of voting on each motion or resolution.

Finally, certain motions require a 2/3 vote of the councillors in office in order to be passed. A summary listing of such motions is contained in Table 3-4 below, but it must be borne in mind that the 2/3 requirements in not merely the number of councillors at a meeting, but the number of councillors in office.

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<sup>66</sup> *Municipalities Act, 1999*, Section 212(5).

<sup>67</sup> With the exception of the City of St. John's, the mayor does not have a second (or double) vote.



**TABLE 3-4**  
**Motions Requiring a Vote of**  
**Two-Thirds of The Councillors in Office**

SECTION	CONCERNING
14(2) and (3)	Creation, change, or repeal of a ward system
17(2)	Separate election for mayor
53(1)	Position and appointment of Town Manager
59(1)	Appointment of Town Clerk
67(1) and (2)	Suspension of town manager, clerk, or department head
68(1)	Dismissal of town manager, clerk, or department head
111(1)	Exemption, remission, or deferment of taxes
111(2)	Tax agreements and tax incentives
205(1)	Remuneration for council members
220(1)	Holding of Plebiscites
227(1)	Agreement on compensation for expropriated land

**g. Minutes**

Every organization or business needs to have a record of what was decided at its meetings. For both practical and legal reasons, it is essential that municipalities maintain accurate and clear minutes.

From the practical viewpoint, accurate minutes are necessary since the human memory is fallible. People often forget exactly what took place or remember things in different ways. As time goes by, recollections tend to become more hazy and interpretations more varied. Therefore a clear and unambiguous record of what was decided, allows councillors to see what has been done in the past and helps them to avoid passing conflicting regulations.

From the legal perspective, minutes are required both by statute and for the possibility of legal action being initiated by or against the council. Section 61(1) of the *Municipalities Act* states that the town clerk is responsible for “recording the proceedings and decisions” of council. In addition, Section 212(4) requires that the names of councillors voting for or against every motion, as well as the names of any councillors abstaining from voting on a motion or resolution, must be recorded in the minutes.

In any legal action involving a council, one of the first documents to be required as evidence will be the minutes. Similarly any inquiry into the activities of a council will rely heavily on the minutes as to what decisions actually took place. The accuracy of the minutes as to the decisions that were actually taken by a council is therefore of great importance, as are all questions of the legality of the meeting, attendance at the meeting, which councillors were present during a vote, proper notice of motion if required, declarations of conflict of interest if applicable, and the exact recording of the vote itself.

The question of what should actually be recorded in the minutes is often raised, especially by new councillors. Under no circumstances should the minutes attempt to record all the discussion at a council meeting. Even a summary of the discussion should be avoided, not only because it is unnecessary, but also because of the possibility of misinterpretation in any subsequent legal proceedings. If, however, it is the wish of council to include brief summaries of the debates leading up to motions, or of any other business of council, then these may be included, but should be kept as brief as possible. Each resolution or motion should be numbered (by year and by motion as in #01-102) in order to make it easier to locate specific motions.

The minutes of a council meeting must include the following:

1. The date and place of the meeting.
2. The time at which the meeting was called to order.
3. A record of the attendance at the meeting, including the time when individual councillors arrived or left.
4. The exact wording of all motions and resolutions put before council.
5. The names of the mover and seconder of each motion or resolution.
6. In all cases, the names of councillors in favour, against, or abstaining on every motion or resolution.
7. A brief description of all reports or other documents presented to council, including presentations made by any delegations.
8. Any declaration of a conflict of interest by a member of council and a record of that councillor's leaving the meeting while the matter is under discussion.
9. The time of adjournment.

A model set of minutes can be found in Appendix B.

Since the minutes are the official record of council meetings, it is essential that they are kept in a safe place. The Municipalities Act stipulates that the clerk is responsible for the safekeeping of all documents of council, including the minutes.<sup>68</sup> This means that the clerk must have a secure place to keep the minutes, such as a fireproof safe or filing cabinet. At a minimum, the clerk

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<sup>68</sup> *Municipalities Act, 1999*, Section 61(1).

must be provided with a lockable storage area or office to which no other persons, including the mayor and councillors, have access unless the clerk is in attendance.<sup>69</sup>

Section 215(1) of the *Municipalities Act* lists a variety of council documents which are available for public inspection or copying. This list includes the minutes of council and all other documents tabled or adopted at a public meeting. The *Act* is explicit in stating that the documents outlined in this section, and all other council records and documents, are to be retained by the clerk. This means that members of council have no more right than any other citizens to take council documents from the clerk's office or to rummage around in the clerk's files. It also means that the minutes and motions of privileged meetings become available to the public once adopted by council, reinforcing the need for brevity.

As noted earlier in the section dealing with the agenda, it is strongly recommended that the minutes not actually be read at council meetings, but circulated beforehand.

## **h. Privileged meetings**

All meetings of council must be open to the public, unless a meeting is held as a privileged meeting or unless a motion is passed at a public meeting to declare that meeting, or portion of it, to be privileged.<sup>70</sup>

The term "privileged" simply means that attendance at a meeting is no longer a general right, but becomes a privilege whereby attendance is limited to elected members of council along with the town clerk and town manager.<sup>71</sup> The general public, media, and other council employees are not permitted to attend unless specifically requested by council.

Meetings can be declared or held as privileged for a variety of reasons. Normally such meetings would pertain to business which is best not discussed in public, such as personnel matters, or any other items of business about which council desires a more frank and free discussion than can occur with members of the general public and media present. Privileged meetings should be exceptions; they should not be used as a matter of course to regularly exclude the public from council deliberations.

There are two procedures for establishing a privileged meeting. First, a meeting of council may be held as a privileged meeting. This would normally be a special meeting at which a particular piece of business was to be discussed. The notice of meeting would indicate that it had been called as a privileged meeting and this would be noted as the start of the meeting by the presiding

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<sup>69</sup> There have been instances where town clerks have not been provided with such facilities and have been expected to work in a corner of a community hall without adequate privacy or security for council records. Such conditions are not acceptable.

<sup>70</sup> *Municipalities Act, 1999*, Section 213.

<sup>71</sup> The town clerk and town manager have the right to attend **all** meetings of council in accordance with Sections 56 and 62 of the *Municipalities Act, 1999*.

officer. Members of the public would be therefore excluded from the outset.

Second, a public meeting already in progress may be declared to be a privileged meeting. The procedure to do this is for a motion to be moved and seconded declaring the proceedings of the meeting from that point on to be privileged.<sup>72</sup> If the motion passes, the public would then be asked to leave the council chamber.<sup>73</sup> At the conclusion of the privileged business, a motion can then be passed declaring the rest of the meeting to be open.

It is most important to remember that any decision taken at a privileged meeting is not valid until it is moved, seconded, and passed at a public meeting of council.<sup>74</sup> It is not sufficient to merely adopt the minutes of a privileged meeting in order to validate any decisions emanating from a privileged meeting.

It should also be borne in mind that once the minutes of a privileged meeting have been adopted at a public meeting of council, they must then be made available to the public for inspection on request.<sup>75</sup> It is therefore wise, if minutes of privileged meetings are to be kept, that these minutes be as brief as possible to avoid including lengthy discussions or views which would counteract the purpose of holding the privileged meeting in the first place.

### **i. Special meetings**

Town councils are required to hold at least one public meeting each month for the dispatch of general business.<sup>76</sup> Many councils meet on a regular basis to discuss general business more frequently than this, such as once every two weeks or even once per week. Additionally it may be necessary from time to time for a council to hold a meeting between regularly scheduled meetings. Such a meeting would be a special meeting.

The *Municipalities Act* makes no specific reference to special meetings of town councils, but some general principles can be outlined.<sup>77</sup>

First, although the *Municipalities Act* does not contain a specific provision for the calling of special meetings, it would be reasonable to assume that the procedure of Section 24(1) would be applicable. For greater certainty, specific procedures for calling special meetings of council should be outlined in the Rules of Procedure. The provisions for notice of special meetings may be different from those for regular meetings, and care should be taken to ensure that the period required for notice is not too long. In an emergency situation, a 48-hour notice period could pose serious difficulties.

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<sup>72</sup> *Municipalities Act, 1999*, Section 213.

<sup>73</sup> This is required by the *Municipalities Act, 1999*, Section 213(2).

<sup>74</sup> *Municipalities Act, 1999*, 213(3).

<sup>75</sup> *Municipalities Act, 1999*, 215(1)(m).

<sup>76</sup> *Municipalities Act, 1999*, Section 24(1).

<sup>77</sup> A council's Rules of Procedure would normally contain all provisions and procedures relating to special meetings. See, for example, Section 18 of the Rules of Procedure in Appendix A.

Second, special meetings are normally called for a specific purpose and deal with only one item of business, usually a pressing matter which cannot wait until the next scheduled meeting. Only the business specified in the notice can be discussed, unless adequate public notice of the meeting has been provided.

Third, special meetings may be either privileged or public as required. If the meeting is to be privileged, this would normally be mentioned on the notice of meeting, although as noted earlier, the meeting could be declared privileged while in session.

Fourth, the normal Rules of Procedure and provisions of the *Act* as they relate to meetings of council apply to special meetings just as they do to regular meetings.

## 2 COMMITTEES

Section 25 of the *Municipalities Act* permits town councils to set up standing and special committees. This permissive legislation does not require that all councils have to establish committees; it merely provides the statutory authority for those councils which do wish to set up committees.

### a. Types of Committees

The *Municipalities Act* is quite general in stating the types of committees which a council may establish. In Canadian municipal practice, however, there is usually a distinction made between committees made up entirely of councillors and those on which some non-council citizens may serve. Standing committees always contain only members of council, while special committees may include some members of the general public. Citizens' advisory committees are, as the name implies, composed primarily of ordinary citizens, as are commissions, many of which may actually be separately incorporated under the *Corporations Act*.

#### i. Standing Committees

The term "standing committee" refers to the fact that the committee "stands" or continues to exist for the life of the parent body. In municipal practice, this generally means for the life of a particular council.

Some councils like to appoint members to committees on an annual basis. Thus, the members of a committee may change over a period of time, but the committee itself would remain essentially unchanged. In some municipalities, the chairman of each committee is appointed by council, in others, the choice is left up to the committee members themselves. The method and term of appointment, as well as the procedure for selecting a chairman, would be set out in the council's Rules of Procedure. Section 25(2) of the *Municipalities*

*Act* provides that the mayor may appoint members to committees if the council declines to do so.

The work of standing committees may be lessened when a municipality has a town manager. Where a town manger has not been appointed, standing committees are often given administrative responsibilities, such as ensuring that council policy is carried out by the staff. Where a town manager has been appointed, the administrative role of standing committees is often less.

The following is a list of some of the more common standing committees and their functions:

<p><b>Finance</b></p>	<ul style="list-style-type: none"> <li>• to review on a regular basis the budget reports and other financial information;</li> <li>• to make recommendations to council on financial policies and strategies;</li> <li>•in the absence of a town manager, to coordinate the preparation of the annual budgets;</li> <li>• to review the budget preparation by the town manager (if any) and to make recommendations to council on the budget and taxes;</li> <li>• to undertake any other policy recommendations on financial matters.</li> </ul>
<p><b>Works</b></p>	<ul style="list-style-type: none"> <li>• (sometimes called Planning &amp; Works or Engineering &amp; Works)</li> <li>• in the absence of a town manager, to oversee the implementation of council policy with regard to such things as garbage collection and disposal, water and sewerage facilities, street repair and maintenance, snow clearing, and ice control;</li> <li>• if there is a town manager, then this committee would be responsible for making policy recommendations to council on the above-mentioned matters.</li> </ul>
<p><b>Planning &amp; Zoning</b></p>	<ul style="list-style-type: none"> <li>• (may be combined with a Works committee)</li> <li>• to provide direction to the planning consultant in the preparation of a town plan and amendments thereto;</li> <li>• to review all requests for building permits and zoning variance and to make recommendations thereon to council.</li> </ul>

<b>Administration</b>	<ul style="list-style-type: none"> <li>• such a committee would only normally be found where no town manager had been appointed;</li> <li>• to oversee the municipal staff and to provide a link between staff and council;</li> <li>• to negotiate on behalf of council with unions representing town employees and to recommend to council the terms of an agreement;</li> <li>• to develop and recommend to council personnel policies, contracts and agreements.</li> </ul>
<b>Recreation</b>	<ul style="list-style-type: none"> <li>• as a standing committee of council, to act as a liaison between council and any external recreation committee or commission;</li> <li>• in the absence of a town manager, to oversee the administration of all town-owned recreation facilities;</li> <li>• to consider and make recommendations to council on all matters of recreation and recreation facilities.</li> </ul>

## ***ii. Special Committees***

Unlike standing committees, which continue to exist throughout the term of a council (and usually from council to council), special committees are established for a special purpose and when that purpose has been completed, the committee is disbanded. Special committees are often referred to as *ad hoc* committees; *ad hoc* being a Latin term which means “for this purpose.”

Special committees can be set up for any purpose, but they are especially useful for providing council with a comprehensive evaluation of a particular situation and the preparation of policy alternatives. Some typical situations in which special committees have been used include:

- the location and design of a new town hall
- the reorganization of office procedures
- obtaining funding for a public library
- determining the need for a community swimming pool
- the development of a personnel manual.

It is particularly important when appointing a special committee that its terms of reference be clear and not overlap with an existing standing committee. It is also important that the membership of special committees be restricted to members of council. If citizen input is desired, a citizens’ advisory committee can be set up or the special committee of council can hold public meetings and invite briefs and views from the general public.

### ***iii. Citizens' Advisory Committees***

The powers' given to councils under section 25 of the *Municipalities Act* are broad enough to permit the establishment of citizen advisory committees. Section 200(2) of the *Act* provides specific authorization to establish such a committee with regard to heritage areas.

Citizen advisory committees differ from committees of council insofar as they are made up primarily of members of the general public, whereas committees of council are composed exclusively of councillors. Frequently, one member of council sits on a citizen advisory committee to act as liaison between the committee and council.

As the name suggests, citizens' advisory committees have advisory powers only, and are usually set up to get the views of citizens in a particular matter. For this reason, it is important to ensure that the members of the committee are representative of the general public in the municipality as a whole.

Citizens' advisory committees may be ongoing (such as a Heritage Advisory Committee would be) or may automatically expire at the conclusion of the business for which it was established.

### ***iv. Commissions***

A number of municipalities have a recreation commission or an arena commission which is quite separate from council, even though one or more councillors may be members, and even though the functions which the commissions perform could be considered as falling under a municipal council's general legislative authority on matters of recreation.

These commissions are normally incorporated under the *Corporations Act* and cannot be considered as committees of council, even though a council may, under the authority of section 175 of the *Municipalities Act*, give grants or loans to such bodies.

Similarly, the economic development commissions which are to be found in some municipalities cannot be considered as being committees of council, especially if they are incorporated under the *Corporations Act*. Some councils, however, do have economic development committees and these should not be confused with privately-organized commissions.<sup>78</sup> With regard to the activities of such economic development committees, it is important that councils

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<sup>78</sup> Sometimes councils will appoint members of the general public to economic development committees. To avoid any confusion, it is recommended that if it is desired to have the advice of non-council members, a citizen advisory committee be established separately from the council committee. A member of council might be appointed to sit on the citizens advisory committee to act as a liaison between that committee and council.



do not get involved in any ventures which are not specifically authorized under the *Municipalities Act*, although Section 203 specifically authorizes councils to encourage economic development and to enter into agreements to that end.

## **b. Advantages and Disadvantages of Committees**

### *i. Advantages*

Committees can be a very useful means of handling council business for a variety of reasons. First, they provide an opportunity for council members to develop expertise in particular areas of council operations. Second, they provide the setting for a more comprehensive examination of questions than is possible in a full and open council meeting. This is particularly important in the ongoing development of policy. Third, in municipalities without a town manager system, they can be used to provide an administrative overview of staff operations.

### *ii. Disadvantages*

While committees can be very useful, particularly in municipalities without town managers, they can also have a number of drawbacks. First, there can be a duplication of work if matters discussed at length in committee are rediscussed at length in full meetings of council. Second, a council can avoid making a decision on a matter by referring it to a committee in the hopes that the committee will either bury the issue or by the time the committee reports, that the problem will have resolved itself. Third, committee members can sometimes become too involved in administrative details to the detriment of council-staff relations.

Overall, each council must weigh the pros and cons of having a standing committee system or of simply appointing special committees as the need arises. If a town manager has been appointed, there is usually less need for a standing committee system, since the administration of council policies is handled by the town manager. However, standing or special committees which limit themselves to the development and evolution of policy can be quite useful with a town manager system.

## **c. Functions of Committees**

What a committee does and how it does it, is very much a reflection of the circumstances in which it operates. For example, a finance committee in a small community with no town manager will have different functions than a finance committee in a large municipality with a town manager. While both committees will be concerned with finances, the committee in the smaller community will likely pay more attention to detail and supervision of the bookkeeping, while in the larger municipality the committee will be more

concerned with trends and the overall financial position. While both may be concerned about tax arrears, for instance, the smaller community's committee is more likely to discuss individual cases and to press the clerk to increase collection efforts, whereas in the larger municipality, the committee might compare the statistics on tax collections for the past few years and discuss certain changes in policy (such as introducing quarterly billing or increasing the interest rate on arrears).

It is impossible to draw a neat line between policy and administration, but the functions of council committees will tend toward an emphasis on one or the other depending on the administrative structure of the municipality. Where there is no town manager, the proportion of time spent discussing administrative matters (personnel hiring and supervision, implementation of council policy, etc.) will tend to be greater than in cases where there is a town manager and the committees can concentrate primarily on the review and development of policy.<sup>79</sup> While comparable subject matter may be discussed by similar types of committees, the content or focus may differ.

#### **d. Workings of Committees**

The internal working procedures of committees may differ from council to council. Generally, the working Rules of Procedure for committees are considerably less formal than are those for council as a whole. Such things as the procedure for the selection of members and chairman, quorum, rules of debate, terms of reference, and reporting mechanisms, should be set out in each municipality's Rules of Procedure.

With regard to membership, it is recommended that committees be kept fairly small. While a larger committee has the advantage of being able to include more diverse points of view, a smaller committee of two or three members is likely to be more workable and to be able to agree on a report more easily than would a larger committee of five or six members.

Committees may be delegated limited administrative powers by council, but Canadian municipal law and tradition prevents committees from being granted any legislative authority.<sup>80</sup> This means that while committees may be able to oversee the implementation of council policy, they have no power to make policy on their own. On policy matters, committees have the power only to make recommendations to council.

Both the town manager and the town clerk are given the right to attend committee meetings at council's discretion.<sup>81</sup> There may be certain circumstances when it is considered best to exclude all staff from a committee meeting, such as when salaries or performance are being discussed; but in

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<sup>79</sup> This is developed further in Chapter 5.

<sup>80</sup> Ian MacF, Rogers, *The Law of Canadian Municipal Corporations* (Toronto: Carswell, 1971, 1986) pp. 280.3-280.5. and Stanley M. Makuch, *Canadian Municipal and Planning Law* (Toronto: Carswell, 1983) pp. 16-18.

<sup>81</sup> *Municipalities Act, 1999*, Sections 56 and 62.

general, it is strongly recommended that in municipalities where there is a manager, both the manager and clerk (or their designates) be asked to attend all committee meetings. It is important that committee meetings have accurate records of their proceedings and recommendations for council. In addition, the advice from qualified and experienced senior municipal staff can be invaluable at the committee stage of policy development.

# Chapter 4

## Finances, Regulations and Planning

### 1 FINANCES<sup>82</sup>

In many ways, finances are the centre around which the business of local government revolves. Municipalities cannot operate without revenue, and the extent of services which can be provided is directly related to the amount of revenue which can be raised. The Municipalities Act requires that councils operate on a balanced budget. In order to keep within the budget amounts, councils must keep close track of their expenditures and must make hard choices about priorities. The raising of revenue and the allocation of funds is a crucial part of the political process of municipal government.

It was the recognition of this link between the financial and political aspects of local government that led the Whalen Commission to stress the need of local governments in the province to be self-reliant and responsible. The Commission's goals of self-reliance and responsibility were reflected in the *Municipalities Act*, 1979, as well as in the requirement that councils must repay a minimum percent of budgeted fixed revenues toward their water and sewer debt charges. While some councils have been reluctant to start paying a greater proportion of their own way, most have realized that if they are to

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<sup>82</sup> The author would like to gratefully acknowledge the assistance of Doris Penney, Director of Municipal Finance, in the preparation of this section.

have the freedom to make the political decisions about their own priorities, they must also take the responsibility for raising more of their own revenue and for operating with a balanced budget.

Municipal financing is no more complicated than that of a comparable size business. The main difference is that municipalities have two distinct sources of revenue and two separate budget categories:

**Sources of Revenue:**

- 1) **Local:** funds raised by municipalities themselves from their own citizens through taxes, fees and licenses.
- 2) **Grants:** conditional and unconditional grants from provincial and federal levels of government.

**Budget Categories:**

- 1) **Current:** expenditures for goods and services which will be used within one year.
- 2) **Capital:** expenditures on equipment and infrastructure expected to last for a number of years.

Both locally raised revenue and that transferred from other levels of government may be used for either current or capital expenditures. Conditional transfers from the provincial or federal government, however, can only be used for the purposes for which the funds were given. Similarly, any money borrowed for capital funding can be used only for the purposes for which it was borrowed, unless prior approval from the Minister is obtained.<sup>83</sup>

The average councillor is neither expected to develop the skills of a professional accountant nor to act as an internal auditor. However, in order to competently perform their jobs as councillors, each member should be able to understand the council's budget process and financial statements sufficiently to monitor the current financial position. In doing so, councillors must place a great deal of reliance on the staff, both for the provision of financial information and for ongoing advice; but it is the members of council themselves who are ultimately responsible for the financial affairs of the municipality. The following sections are designed to assist councillors in understanding the basics of municipal finance.

In addition, the Department of Municipal and Provincial Affairs supplies a standard Municipal Budget Submission Form to each municipal council around October of each year. The Department has also prepared a guide to assist municipal councillors and staff in preparing the budget. *The Municipal Government Budget Book* is available free from the Department and provides instructions and helpful hints for completing each section of the budget.

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<sup>83</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Municipalities Act, 1999* (St. John's: Queen's Printer, 1999), Section 96(1).

## **a. Current Operating Budget**

Each council is required, by December 1<sup>st</sup> of each year to prepare a current operating budget for the following year.<sup>84</sup> A copy of the budget must be sent to the Minister by December 31<sup>st</sup>. If desired, councils may also adopt a three-year budget.<sup>85</sup> This would have the advantage of encouraging councillors to plan projects from current revenue spanning more than one year, as well as providing citizens with known tax rates.

The Municipalities Act requires that the budget can have neither a surplus nor a deficit, and can include only locally raised revenue and government grants for which written authorization has been received.<sup>86</sup> With the prior written approval of the minister, councils may establish an operating reserve fund over a specified number of years for a specific purpose.<sup>87</sup> This provision allows a council to put aside money each year in order to purchase a piece of equipment or make some other expenditure at a future time by saving in advance rather than borrowing the money. The money contained in an operating reserve fund can be invested by council in order to earn interest.<sup>88</sup>

The preparation of the budget must be undertaken carefully and the budget must be as realistic as possible. It should neither overestimate revenue nor underestimate expenditures, since councils are prohibited from spending more than their budgeted estimates without the approval of the Minister.<sup>89</sup> However, if unexpected expenses are incurred or if there is an unanticipated shortfall in revenue, council may adopt a revised budget, a copy of which must be sent to the Minister within two weeks of its being adopted.<sup>90</sup>

### ***i. Local Revenue***

Local revenue consists of all revenue which is raised by the municipality from a variety of charges on its citizens and businesses operating within its boundaries. All revenue thus raised must be in accordance with the Municipalities Act and all taxes imposed must be authorized by a resolution of council before April 1 of each year and published in a newspaper and by public notice.<sup>91</sup> Taxes are

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<sup>84</sup> *Municipalities Act, 1999*, Section 73(1).

<sup>85</sup> *Municipalities Act, 1999*, Section 73(3).

<sup>86</sup> *Municipalities Act, 1999*, Section 78 and 79(1).

<sup>87</sup> *Municipalities Act, 1999*, Section 79(6).

<sup>88</sup> *Municipalities Act, 1999*, Section 79(7).

<sup>89</sup> *Municipalities Act, 1999*, Section 81.

<sup>90</sup> *Municipalities Act, 1999*, Section 80.

<sup>91</sup> *Municipalities Act, 1999*, Sections 101(1) and 109(1).

normally due and payable from the first of each year,<sup>92</sup> and council can provide a discount for early payment, charge interest for late payments, and allow the tax to be paid by the provision of services or materials to the council.<sup>93</sup>

### 1) Property Tax

All municipal councils may impose a real property tax which is fixed as a percentage of the assessed value of property in the municipality as set out in the current assessment roll.<sup>94</sup> The assessment roll is prepared by the Municipal Assessment Agency which determines the assessed value of real property in a municipality. The rate of tax is based on a **mill rate** which is calculated by dividing the amount of money to be raised by the total assessment within a municipality, then multiplying that by 1000.<sup>95</sup>

For example, a municipality which needed to raise \$285,000 through property tax would require a mill rate of 9.5 if its total assessed property were \$30,000,000.

$$\frac{\$285,000}{\$30,000,000} \times 1000$$

The property tax for each individual property would then be calculated by multiplying the assessed value divided by 1000 times the mill rate. If a property were assessed at \$85,000 and mill rate of 9.5 were applied, then the property tax payable would be \$807.50

$$\$85,000 / 1000 \times 9.5$$

The rate of tax (or mill rate) must be applied uniformly to all residential properties through the municipality, although a different rate of tax may be imposed on commercial properties.<sup>96</sup> Section 114 of the *Municipalities Act* permits a council, by resolution, to establish different minimum real property taxes for residential and commercial property. Where property is owned by more than one

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<sup>92</sup> Council may, however, set a later date for taxes to be due and payable, and if they are imposed more than three months after the start of any year, they cannot become due until the first of the following year unless council sets a later date in the current year. See *Municipalities Act, 1999*, Section 101.

<sup>93</sup> *Municipalities Act, 1999*, Sections 103(2), 107 and 108.

<sup>94</sup> *Municipalities Act, 1999*, Sections 112 and 113.

<sup>95</sup> A **mill** is defined as being 1/1000 of the assessed value of the land and buildings on a property.

<sup>96</sup> *Municipalities Act, 1999*, Section 112(2).

person, council may designate one person to be designated the owner for the purposes of imposing the real property tax.<sup>97</sup> Certain types of property, such as churches, hospitals, and schools are exempt from real property tax.<sup>98</sup>

## **2) Water and Sewage Tax**

Councils of municipalities which have a water or sewage system must impose a water and sewage tax.<sup>99</sup> All property owners who have buildings or land capable of being serviced by water or sewage systems must pay the tax, whether or not they are actually using the facilities.

Municipalities which impose a real property tax have four alternative ways of setting the water and sewage tax: a separate mill rate, a fixed amount, a fixed amount in addition to the mill rate, or a metered rate.<sup>100</sup> In municipalities where real property tax has not been imposed, councils may set the water and sewage tax at either a flat rate or, if meters are installed, at a metered rate.<sup>101</sup> Unlike the property tax, the rate of a water and sewage tax may differ between various types of property.<sup>102</sup> The rate for residential property, for example, may differ from that of a car wash which may differ from that of a fish plant. In the case of public buildings, such as a school or hospital, the rate must be the same as that charged to other similar properties in the municipality.<sup>103</sup>

## **3) Poll Tax**

In addition to the other forms of taxation available, councils may also impose a poll tax. This tax is payable by all residents 18 years of age or older, all employees 18 years of age or older who work in the town for at least 90 days each year, and all businesses and non-residents who own real property in the municipality.<sup>104</sup>

There are a number of exemptions from liability for poll tax that councillors should be aware of: first, anyone who is liable to pay a real property tax; second, nonresident workers who are liable

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<sup>97</sup> *Municipalities Act, 1999*, Section 112(3).

<sup>98</sup> *Municipalities Act, 1999*, Section 118.

<sup>99</sup> *Municipalities Act, 1999*, Section 130.

<sup>100</sup> *Municipalities Act, 1999*, Section 131(1).

<sup>101</sup> *Municipalities Act, 1999*, Section 131(2) and (3).

<sup>102</sup> *Municipalities Act, 1999*, Section 131(1) and (2).

<sup>103</sup> *Municipalities Act, 1999*, Section 131(7).

<sup>104</sup> *Municipalities Act, 1999*, Section 126.



to pay taxes in their home community (unless they own property in the municipality where they are working); and third, persons whose total income is less than the basic personal exemption for income tax purposes.<sup>105</sup>

Councils that impose a poll tax can request that employers provide the names of their employees to the council and deduct the poll tax on behalf of council from all liable employees in accordance with Section 128 of *The Municipalities Act*.

#### **4) Business Tax**

Section 120 of *The Municipalities Act* requires all councils to impose a business tax on persons and companies carrying on business within the municipal boundaries. Where council has imposed a real property tax, the business tax must be a percentage of the assessed value of the property used by the business.<sup>106</sup> In cases where the council has not imposed a property tax, business tax may be based on either a percentage of the business's gross revenue or a percentage of the assessed value of the property used by the business.<sup>107</sup> In cases where a business has no fixed place of business within the municipality, the business tax must be set at a percentage of the business's gross revenue. Whatever the method of calculation, council may impose different rates of business tax on different types of businesses and may set a minimum business tax for each type of business.<sup>108</sup>

#### **5) Local Improvement Assessments**

Section 149(1) of *The Municipalities Act* permits a council to levy a local improvement assessment on properties which have directly benefited by a public work such as the construction of water or sewer lines, the installation of curbs, gutters, or sidewalks, or the upgrading of streets. Individual assessments are based on the amount of frontage each property has in relation to the total amount of frontage over which the work is being charged. Once a council has decided to impose a local improvement assessment on one particular work, it must also impose assessments on similar works in the future.<sup>109</sup> Like the real property tax, unpaid local

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<sup>105</sup> *Municipalities Act, 1999*, Section 127(1).

<sup>106</sup> *Municipalities Act, 1999*, Section 123.

<sup>107</sup> *Municipalities Act, 1999*, Section 212.

<sup>108</sup> *Municipalities Act, 1999*, Sections 124 and 125.

<sup>109</sup> *Municipalities Act, 1999*, Section 152.

improvement assessments become a lien attached to the property involved.<sup>110</sup>

## **6) Service Levies**

Section 149(2) of *The Municipalities Act* permits a council to impose a service levy on property which is capable of being developed, which will have an increased density of development, or will have an enhanced value by virtue of council's development or expansion of municipal services. The amount of the service levy is based on the amount of real property benefited by the public work in relation to the amount of real property benefited as a whole, and the density of development made possible or increased by the public work.<sup>111</sup> As with local improvement assessments, unpaid service levies become a lien attached to the property involved.<sup>112</sup>

## **7) Direct Sellers Tax**

Councils may impose a fixed amount direct sellers tax on any direct seller as defined by the *Direct Sellers Act* that does business within the municipality and is not liable to pay a normal business tax.<sup>113</sup>

## **8) Licenses and Permits**

Section 414(2)(tt) of *The Municipalities Act* authorizes a council to charge a fee for a permit or license for anything that can be done under the Act. Most councils raise revenue by selling permits or licenses for a variety of things including sales from vehicles, operation of taxi cabs, the construction or renovations of buildings, removal of vehicles, or the keeping of domestic animals.

## **9) Grants in Lieu of Taxes**

Municipalities are not permitted to levy any form of a tax on the property of the provincial or federal governments.<sup>114</sup> Without some form of compensation, this would be unfair to municipalities which have a number of provincial or federal buildings within their boundaries, therefore a grant in lieu of (or instead of) taxes is given to the municipalities by the federal government and some provincial

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<sup>110</sup> *Municipalities Act, 1999*, Section 154.

<sup>111</sup> *Municipalities Act, 1999*, Section 150(4).

<sup>112</sup> *Municipalities Act, 1999*, Section 154.

<sup>113</sup> *Municipalities Act, 1999*, Sections 129.

<sup>114</sup> This is because anything owned by the provincial or federal governments is considered to be "Crown property" and is thus immune from any levy or charge. This is similar to the notion that the Crown cannot be sued.

agencies. The federal government pays this grant only to municipalities which have imposed property tax.

### **10) Tax Agreements**

A number of municipalities have tax agreements with major employers in their communities, such as fish plants, mining companies or pulp and paper mills. Such tax agreements are authorized under Section 111(2) of the *Municipalities Act*, but must be passed by a vote of 2/3 of the councilors in office.

### **11) Miscellaneous**

There are a number of other sources from which a municipality may gain revenue, such as a surplus on the operation of recreation facilities, or the sale of municipal-owned building lots. Councillors should explore all legitimate ways of increasing a municipality's revenue in their quest for a balanced budget.

## **A Note Regarding Tax Exemptions, Remissions, and Collection**

*The Municipalities Act* permits councils to grant an exemption, remission, or deferment of all or part of an individual's taxes and interest, but such action can only be taken after a two-thirds vote of the councillors in office.<sup>115</sup>

Since most of a council's locally raised revenue comes from a variety of taxes, it is very important to the financial health of the municipality that tax collection be kept up to date and that every effort be made to collect outstanding taxes. All taxes imposed by a municipality along with interest on the arrears can be collected as a civil debt through court action against the delinquent taxpayer.<sup>116</sup> Council may also seize the rentals payable by tenants of real property in order to collect tax arrears of the owner on that property.<sup>117</sup>

In addition, real property tax, business tax, and water and sewage tax attach as a lien against the property on which they are imposed. The total of up to six year's unpaid taxes is deemed to rank in priority over other liens, encumbrances, or mortgages and can be collected by sale at auction of the property involved.<sup>118</sup> However, a property which is occupied as a full-time residence by the owner cannot be sold by a council for tax arrears as long as it is occupied by the owner.<sup>119</sup> In the case of all tax arrears, council may also disconnect the water and sewer services to the property involved.<sup>120</sup>

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<sup>115</sup> *Municipalities Act, 1999*, Section 111.

<sup>116</sup> *Municipalities Act, 1999*, Section 133.

<sup>117</sup> *Municipalities Act, 1999*, Section 148.

<sup>118</sup> *Municipalities Act, 1999*, Section 134 to 147.

<sup>119</sup> *Municipalities Act, 1999*, Section 135.

<sup>120</sup> *Municipalities Act, 1999*, Section 132.

In order to reduce the necessity to borrow operating funds from the bank, it is essential to ensure that tax billings are sent out as early as possible in the financial year and collection efforts start as soon as taxes become overdue.

## ***ii. Grants From the Provincial Government***

Most of the funds transferred from the provincial government to municipal councils are done in accordance with a formula broadly based on the provisions of the former *Municipal Grants Act*.<sup>121</sup> The *Municipal Grants Act* came into being as a consequence of the Whalen Commission Report,<sup>122</sup> and was designed to ensure a high level of equity in the grants given to municipalities across the province. It was also designed to encourage accurate budgeting and responsible financial management by municipalities through the provision of operating grants according to a known formula and by linking certain grants to the efforts made by municipalities in raising their own revenue. These goals and provisions are continued under the new Departmental policy regulations governing municipal grants. Set out below is a summary of the various forms of grants and other financial programmes available to municipalities from the provincial government.

### **1) Municipal Operating Grants**

The existing system of municipal operating grants (MOG) began in 1991 and is designed to assist municipalities in meeting day to day operating expenses. The MOG, which is paid quarterly, has four components.

**a) Equalization Component:** is paid to councils which have lower property values than the provincial average. For councils which do not have property assessments, the grant is \$40 per household.

**b) Local Revenue Incentive Component:** is calculated as an amount per household based on the local revenues per household that are levied by a municipality.

**c) Household Component:** is a flat rate of \$85 for each household in the municipality.

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<sup>121</sup> The regulations passed under the *Municipal Grants Act* were terminated on June 30, 1996 and re-enacted in the form of Departmental policy.

<sup>122</sup> Newfoundland and Labrador, *Royal Commission on Municipal Government in Newfoundland and Labrador*, 1974, pp. 353-370.

***d) Road Subsidy Component:*** is calculated at \$500 per kilometer of road in a municipality.

The provincial government has been forced to place caps on the total amount of money available for municipal operating grants. While the formulas for each component remain the same, the amounts available to each municipality are therefore reduced proportionately.

## **2) Water and Sewer Subsidies**

The purpose of these grants is to help municipalities meet the principal and interest charges on their long-term debt resulting from the installation of water and sewer systems. The provincial government's assistance is based on the principle that municipal councils must make a fair contribution to the debt charges with the maximum annual contribution toward pre-1997 water and sewer debt being the greater of:

- a. \$500 per household;
- b. the municipality's contribution in the previous year; or
- c. 25% or the council's local revenues and municipal operating grant in the previous year.

All water and sewer loans approved since 1997 have been assigned a specific cost-sharing ratio.

## **3) Special Assistance**

A special assistance fund is available for municipal councils in genuine need of emergency funding, particularly in situations in which health or safety is threatened. The funds available for such funding, however, are very limited.

### ***iii. Expenditures***

The estimate of expenditures for the next fiscal year will normally be prepared by the town manager or town clerk in consultation with other members of the town staff and with council or its finance committee. The forecast expenditures will be calculated through a combination of the current and previous year's expenditure patterns, proposed changes in the level of services, and any proposed cost-cutting measures. Council may wish to consider two or three alternative budgets, each based on a different level of services. The section headings outlined below are those under which municipal government expenditures are organized.

## **1) General Government**

This section includes all expenses which are of a general nature and cannot properly be allocated to specific headings. The salaries and benefits of the town manager, town clerk, and general office employees would be included here; as would be expenses for office supplies, stationery, and the maintenance of typewriters or computers. Also, included under this heading would be funds for the remuneration of councillors and payment of their expenses incurred on council business.<sup>123</sup>

## **2) Protective Services**

Included in this section are the costs of fire protection, animal and pest control, and any costs associated with police protection and municipal enforcement.

## **3) Transportation Services**

This section covers the maintenance of roads, sidewalks and bridges, snow removal, street lighting, and public transit.

## **4) Environmental Health**

The expense covered by this section includes the costs of water supply, sewage collection and disposal, garbage and waste collection and disposal, and any other environmental health services.

## **5) Planning and Development**

The costs of planning and zoning, community improvement and development, and tourism and marketing are included here.

## **6) Recreation and Cultural Services**

The gross costs of operating any municipal owned recreation facilities, such as a stadium, swimming pool, community centre, or ball park, would be entered in this section along with contributions toward museums and libraries. Any revenue from such operations would be entered on the revenue side of the budget. Also, included in this section would be the municipality's contribution to recreation facilities operated by private groups or service clubs.

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<sup>123</sup> It should be remembered that remuneration of councillors and reimbursement of their expenses can only be done in accordance with the *Municipalities Councillor Remuneration and Reimbursement Regulations*. The *Regulations* stipulate the way in which remuneration is to be paid, the minimum attendance requirements, the limits for accommodation and transportation, and the circumstances in which payment for loss of wages or income may be provided. The *Regulations* also set the total limit for all remuneration and reimbursement of expenses on a scale ranging from 2% - 5% of total fixed revenue.

## 7) Fiscal Services

This major expenditure in this section would be the total amount of debt charges for the coming year. Since most capital works are paid for through long term financing, this cost includes both the capital cost of the work plus the yearly interest on the debt.

The term “debt charges” refers to a yearly amount which covers repayment of a portion of the capital together with interest charges. Since the province’s share of debt charges is entered on the revenue side of the budget, the net effect is that only the municipality’s share is taken into account in calculation of the taxes to be raised.

It should be noted that municipalities may borrow for their share of a cost-shared project, such as fire fighting equipment or waste disposal facilities, providing their bank is agreeable. Similarly, municipalities may borrow funds from their bank for the purchase of vehicles and construction equipment. However, all long term borrowing must be approved by the Minister.<sup>124</sup>

Also included in this section would be any capital expenditures out of current revenue,<sup>125</sup> provisions for uncollectible taxes, any deficits of previous years, interest on short-term borrowings, and bank service charges.

### b. Capital Budget

In addition to the current budget, which outlines a municipality’s estimated revenues and expenditures for a one-year period, each council is required to submit a five-year forecast of anticipated capital expenditures.<sup>126</sup> This is referred to as the capital budget.

As noted previously, the term “capital” refers to equipment, buildings, and works (such as road paving or water and sewer installations) which are expected to last more than one year. The general practice is to pay for capital works and equipment over a period of years, the number of years often being roughly equivalent to the estimated useful life of the capital asset. The theory behind this is that those who are receiving the benefit from the capital expenditures are the ones who should be paying for them.

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<sup>124</sup> *Municipalities Act, 1999*, Section 94. Section 93 permits councils to borrow up to 20% of their estimated fixed revenues for current account purposes, providing that the loan is repaid by the end of the year in which it was borrowed. With the prior written approval of the minister, Councils may also borrow more than 20% of their fixed revenue for current budget purposes and finance the loan beyond the year in which it is borrowed.

<sup>125</sup> While most capital projects are financed through long term borrowing, municipalities may choose to undertake some capital projects by paying for them out of current revenue in order to avoid incurring interest charges on long term debt. This is usually done for smaller items, such as vehicles or other equipment or by scheduling larger projects, such as the installation of sidewalks, over several years.

<sup>126</sup> *Municipalities Act, 1999*, Section 94(2).

<sup>127</sup> *Municipalities Act, 1999*, Section 79(2) and (3).

Long term financing, however, costs the taxpayers additional money through interest charges. Some municipalities therefore try to do as much capital work as possible out of the current budget. An alternative to paying for capital work year by year from the current budget or financing it over many years with the consequent interest charges, is to save up most or all of the funds. Such reserves must have the approval of the Minister and must be identified as being for a specific capital project.<sup>127</sup>

A most important consideration with regard to the capital budget is the need for advance planning. This is the rationale behind the five-year capital budget which must be submitted annually to the Department of Municipal and Provincial Affairs. This means that councils and their staff must plan ahead, and must assign priorities to the various capital works and purchases which they would like to undertake. It also means that councils must increasingly consider in advance how they are going to pay for capital expenditures.

### **c. Financial Planning and Management**

One of the key factors which contributes to a well-run municipality is that of sound financial management. In essence, sound financial management means that council plans ahead and is always in control of its finances. Listed below are some recommended steps which may be useful in developing sound financial management.

*i. Plan Ahead.* With a four-year term of office, councils have adequate opportunity to create workable plans for every aspect of municipal activity. Plans for the regular replacement of office machinery, vehicles, or playground equipment, for example, can help prevent unexpected expenses in a particular year.

*ii. Preventive Maintenance.* A regular program of preventive maintenance for all vehicles, equipment, and infrastructure can prolong the useful life of these items. The money saved by avoiding unnecessarily early replacement can be put to other uses.

*iii. Realistic Budget.* A budget is of little value if it is not realistic. The temptation to understate expenses and to overstate revenue in order to avert a potential tax increase should be avoided. A good guide to a realistic budget are the actual revenues and expenditures of the previous fiscal year, although changed circumstances and programs may make adjustments necessary.

*iv. Stick to the Budget.* Even the most realistic budget is of little value if it is ignored in practice. Council members should insist that they are provided with a monthly statement of revenue and expenses which includes comparative figures from the previous year and the current year's budget and balance remaining. Council can then watch



for the danger signs of over expenditure or insufficient revenue and take corrective action before it is too late.

**v. *Decrease Expenses.*** Council should always be on the lookout for ways of providing services more efficiently at lower cost. For example, the planned regular purchase of additional or replacement equipment out of the current budget will save the interest charges which would occur if the purchase had to be financed over a number of years. Bulk purchases of office supplies, road supplies, or other material with neighboring municipalities might result in a better price. Or the joint purchase of a major piece of equipment with other municipalities might be a way to cut costs. Larger municipalities might consider experimenting with a different form of budget preparation, such as zero base budgeting, which forces each department to fully justify the aim and method of each of its operations and of each employee.

**vi. *Increase Revenues.*** In addition to trying to decrease expenses, councils should try to find ways of increasing their revenues. Raising taxes is an alternative that most councils try to avoid, but increasing the level of tax collections may postpone a rise in tax rates. In order to improve tax collection, councils may, on the positive side, offer inducements (such as a 5% discount for early payment), or provide for monthly payments. On the negative side, councils can try to enforce payment by taking early action on arrears. Bringing delinquent taxpayers to court or shutting off water and sewer services may result in collection of tax arrears. It is up to councils to ensure that every effort is made in good time to collect all taxes owing.

**vii. *Invest Surplus Funds.*** From time to time municipalities will have more money than they need to meet current operating expenses. Such a welcome situation commonly occurs shortly after tax notices are sent out and a large percentage of the population makes their payments on time. Rather than leave the extra money sitting in a current bank account gathering no interest, council should direct that the extra funds be invested in Guaranteed Investment Certificates or short term notes in order to maximize the interest revenue until such time as the money is needed for expenses. Care should, of course, be taken that the surplus funds are invested only in the safest of securities.

The need for councillors to be engaged in financial planning and management cannot be overemphasized. As the trustees of the municipality's funds, council members have a responsibility to the citizens to ensure that the money is spent prudently and efficiently. Councillors also have a responsibility to ensure that taxes are collected. In order to meet these responsibilities councillors must be continuously

and fully informed about all aspects of their municipality's finances. Without this knowledge, financial planning and management is impossible.

## 2 REGULATIONS

A municipal council's ability to pass regulations is similar to the provincial or federal government's ability to pass laws. The process is simpler at the municipal level, but the legislative outcome is comparable. Within its boundaries, and within the authority granted under *The Municipalities Act*, councils can enact regulations which have all the force of law. Regulations can be enforced, and citizens can be taken to court for breaking regulations. Councils should therefore exercise great care in drawing up regulations to ensure that they are both necessary and can be reasonably enforced.

The purpose of regulations is to provide for the community the necessary rules to allow all citizens the greatest degree of freedom compatible with the common good. Regulations are designed to prevent some individuals from doing what they want, such as causing pollution to someone else's well or creating a noise or a nuisance, in order that the majority of citizens can more fully enjoy their life and property.

The well-being of an entire community and its reputation as being a good place in which to work and live, can be harmed by a council which fails to enact necessary regulations or by one which enacts overly-restrictive or unenforceable regulations. It is therefore very important to ensure that the following questions can be answered before regulations are passed:

- Why is a regulation needed?
- Will the passage of a regulation solve the problem?
- Does council have the authority to enact regulations in the subject area concerned?
- Does the wording of the proposed regulation clearly state what council hopes to achieve?
- Does council already have a regulation on the subject? If so, will the proposed regulation be in conflict?
- Does council have the means to enforce the regulation?

**TABLE 3-5**  
**SUBJECT AREAS OF REGULATIONS, CONTROLS, AND SERVICES**

<b>SUBJECT AREA</b>	<b>SECTION OF ACT</b>
Animal and dog control and regulation	414(2)(g) to (q)
Bicycles, bicycle helmets and safety equipment	414(2)(jj)(iii), (kk)
*Building controls	193-194
Business improvement areas	202
Cemeteries	192, 414(2)(qq)
Coasting, sliding, or skating on snow or ice	414(2)(jj)(i)
Connections to public water or sewage system	414(2)(y)-(cc)
Curfews for children	414(2)(uu)
Display of pornographic material	414(2)(d)
Disposal sites	414(2)(pp)
Drains, sewers, and water supply pipes	414(2)(x)
Economic development	414(2)(gg)
Fences	414(2)(hh)
*Fire protection and fire department	183-184; 414(1)(e-f)
Heritage areas	200, 414(2)(dd)
Libraries	191
Lighting of highways and areas	170
Municipal Enforcement Officers	179
Names and numbering of streets	171
Nuisances	404(1)(j)
Parking lots and garages	169, 414(2)(t)
Pellet and air guns	414(2)(ee)
Permits and licenses	414(2)(tt)
Places of entertainment	199, 414(2)(r)
Policing and jail agreements	180-182
Protection of public roads, bridges, sidewalks	414(2)(mm)
Property acquisition	201
Public transportation system	190
Recreational facilities	174, 414(2)(vv)
Recreational vehicles	414(2)(s)
Recreational and other non-licensed vehicles	414(2)(jj)(iv)
Road and sidewalk reservations	414(2)(ff)
Sales from vehicles and stands	198, 414(2)(c)
Signs	197, 414(2)(ii), (rr)
Skateboards, tricycles, etc. on sidewalks, roads	414(2)(jj)(i) and (ii)
Solid waste collection and disposal	176-178
State of emergency	204, 405
Storm drainage	196
Taxi numbers, licenses, fares, standards	414(2)(ss)
Vehicle movement and removal	172, 173
Waiting areas for public transportation	414(2)(b)
*Water and sewage systems	156, 195, 414(2)(a)
Water catchment areas	414(2)(u) and (v)
Winter controls on traffic and roads	414(2)(nn)

\*It should be noted that councils are **required** to make regulations governing water supply, water and sewage systems, building regulations, and, subject to the approval of the minister, fire prevention and firefighting operations. All other regulations are optional.

## **a. Distinction Between Regulations and Resolutions**

Any motion which is adopted by council becomes a resolution. While *The Municipalities Act* specifies that certain actions, such as the imposition of taxes,<sup>128</sup> must be taken “by a resolution of council,” most resolutions pertain to the internal decisions of council as part of council’s regular operations, particularly those of a housekeeping or routine nature.

A regulation is a more formal legislative action by council which is designed to affect the behaviour or actions of all citizens in the municipality. Regulations are the rules made by council which all members of the community must observe.

## **b. Recommended Procedure for the Passage of Regulations**

The Municipalities Act does not stipulate any specific procedure for the introduction, debate, or passage of regulations. However, since it is very important that regulations be carefully worded and their implications be thoroughly understood, it is recommended that the following procedures be observed.

- **Notice of Motion.** The introduction of a notice of motion will allow sufficient time before the next council meeting for the town clerk to advise council of any existing regulations on the subject and for any interested member of the public to make their views known.

- **Motion to Draft Regulation.** At the next meeting following the notice of motion, a motion to draft the required regulation should be passed. This motion should state the section of *The Municipalities Act* which given council the authority to pass a regulation on the matter, and should state as clearly as possible the provisions of the proposed regulation.

- **Obtain Legal Advice.** The motion to draft the regulation should then be sent to the town’s lawyer for preparation. Any existing regulations on the subject matter should also be sent. It is strongly recommended that councils receive advice from their lawyer with regard to the precise wording of the regulation.

- **Pass the Regulation.** Section 413 of *The Municipalities Act* states that all regulations must be passed by resolution of council. The complete regulation should be read at the council meeting or distributed beforehand, and care must be taken that the vote is properly conducted in accordance with Section 212 and that the results are clearly recorded in the minutes.

- **Advertise the Regulation.** While *The Municipalities Act* does not require that the public be advised of regulations, it is strongly recommended that

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<sup>128</sup> *Municipalities Act, 1999*, Section 101.

councils advertise the passage of all regulations and amendments in the most effective way possible. For some municipalities, this may best be done through newspaper ads, but for others a newsletter or posting the information in a public place may be better.

- **Send a Copy to the Minister.** Section 413(2) requires that copy of all regulations passed by a council be sent to the Minister within 14 days of their adoption by council. Such copies must be certified by the town clerk.

It should be noted that any regulations on the following matters require the approval of the Minister **before** coming into effect:

- To prevent pollution of watersheds outside the town boundaries: Section 414(2)(u);

- Control and management of the town fire department: Section 414(2)(e) and (f).

- **File in a Policy Manual.** In order that successive councils and council staff can have a clear idea of existing regulations, a policy manual should be kept in which regulations are summarized alphabetically and by subject area. The complete wording of regulations should be also included, and the manual should be kept up to date.

- **Enforce the Regulations.** A good rule to follow is: “If it can’t be enforced, don’t pass it.” Councils may be held legally liable for damages if they fail to enforce regulations.<sup>129</sup> Legal advice should always be sought in cases where council feels unable to enforce existing regulations. In addition, a council’s inability to enforce one particular regulation may bring all other regulations into disrespect, thus weakening the role of municipal government within the community.

## 3 PLANNING AND ZONING<sup>130</sup>

It is sometimes said that the greatest power of a municipal council lies in its ability to control the use of land within its boundaries. Whatever the truth of this, there is little doubt that the exercise of control over the use of land and

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<sup>129</sup> As discussed in Chapter 2, once council has chosen to exercise a particular power, for example by passing a regulation, it may become liable for negligence if it fails to properly exercise or enforce a regulation.

<sup>130</sup> The author would like to gratefully acknowledge the assistance of Stan Clinton, Director of Planning, in the preparation of this section.

buildings is one of the most important functions of a municipal council. The decision by a council of whether or not to permit a certain type of development in the face of considerable opposition, is also one of the most difficult any council has to make.

Very few people would want to live next door to an auto body repair shop, a waste disposal facility, or a noisy lounge. Nor would very many people welcome the pollution of their water supply through sewage leaking from residential or industrial developments near the town's water catchment area. And most people who purchase a home in a single family, residential area would be less than enthusiastic to see a large apartment complex going up nearby.

Local governments have been given the power under *The Urban and Rural Planning Act, 2000* to regulate the use of land and buildings within, and sometimes outside of, the municipality. In doing so, they must balance the interests of individuals against those of the whole community. Good planning and the enforcement of zoning regulations can help to keep down the cost of servicing, promote economic development, and assist in the proper management of resources.

#### **a. The Value of A Municipal Plan**

No council is required to adopt a Municipal plan, but there are a number of advantages to doing so. Without a Municipal plan, councils are relatively powerless to prevent undesirable or unaesthetic development. While the *Municipalities Act* gives councils the power to ensure that construction or renovations to buildings meet certain safety and health standards,<sup>131</sup> they have no power under that Act to require that certain types of housing or businesses be developed in particular areas of the community.

For example, without a municipal plan, council is relatively powerless to prevent multiple family housing being constructed in a predominantly single family housing area, or to prevent subdivisions from being developed on land which may be better suited to other purposes. Further, without a municipal plan with zoning and subdivision regulations, councils may be unable to direct development to areas which have already been serviced or which can easily be serviced. One potent result of not having a municipal plan is that development will occur in a haphazard fashion which can result in increased costs of servicing in the future.

While councils have the duty to refuse to issue building permits if the proposed building or alteration does not comply with the building regulations or National Building Code of Canada,<sup>132</sup> councils have no right to refuse a development permit when no municipal plan or interim development regulations are in place, unless provisions of the *Municipalities Act* would be

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<sup>131</sup> *Municipalities Act, 1999*, Section 194 and 414(1)(d).

<sup>132</sup> *Municipalities Act, 1999*, Section 194 and 414(3).

violated. Councils which have applied for a municipal plan and have been granted interim development regulation, have a discretionary power with regard to the issuance of development permits.

### **b. Procedure for Obtaining a Municipal Plan**

Section 10 of the *Urban and Rural Planning Act* provides that any council may, by resolution, propose to prepare a municipal plan. After passing the resolution, a council then applies to the Minister of Municipal and Provincial Affairs to define the area to be included in the municipal plan. The application must be accompanied by a certified copy of the resolution, a description of the area to be included, and a statement of arrangements for the preparation of the municipal plan.<sup>133</sup>

Section 11 permits the Minister to include in the subsequent municipal planning area, control of development beyond the municipal boundaries in order to enable the council to exercise control over development that may occur beyond its boundaries, control municipal water supply watersheds, and control the amenities of the municipality.<sup>134</sup>

### **c. Interim Development Regulations**

Once a council passes a resolution to prepare a municipal plan, the Minister may grant it control of development within the Municipal Planning Area through interim development regulations.<sup>135</sup> This effectively allows council to control development during the period when the Municipal plan is being prepared.

### **d. Preparation of the Plan**

The Municipal plan must be certified by a qualified planner who is a member of the Canadian Institute of Planners,<sup>136</sup> and it must include a statement of objectives, indicate the policies to be implemented, establish land class uses, include proposals for land use zoning regulations, provisions for non-conforming uses, and provide a 10-year development plan.<sup>137</sup>

While not mandatory, the plan may also:

- describe the physical, economic, and social environment;
- describe existing and proposed street and transportation networks;
- establish areas for comprehensive development;

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<sup>133</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Urban and Rural Planning Act, 2000* (St. John's: Queen's Printer, 2000), Section 10(3).

<sup>134</sup> This is particularly useful in a situation where there is a danger of development occurring just outside municipal boundaries in an attempt to get around the regulations and requirements of a council's Municipal Plan. It is also useful in the protection of watershed areas and resource lands.

<sup>135</sup> *Urban and Rural Planning Act, 2000*, Section 34.

<sup>136</sup> *Urban and Rural Planning Act, 2000*, Section 13(1).

<sup>137</sup> *Urban and Rural Planning Act, 2000*, Section 13(2).

- establish a programme of public works;
- provide for the protection of environmentally sensitive lands;
- provide for storm water and erosion control;
- provide for natural resource protection and development;
- require environmental studies prior to development;
- provide for economic activity; and
- provide for senior citizen housing.<sup>138</sup>

### **e. Adoption of the Plan**

During the preparation of the plan and development regulations, the council must provide an opportunity for public consultation,<sup>139</sup> following which the proposed plan and development regulations must be submitted to the department for review.<sup>140</sup>

Following review by the department and the incorporation of any recommended changes, the council may then adopt the proposed plan and development regulations by majority vote and submit the required number of copies to the department.<sup>141</sup>

Following the municipal plan's adoption by council, it must advertise the adoption and the time and place for representations and objections to the plan. Council must, of course, allow the inspection of the proposed plan and development regulations prior to the date fixed for the hearing.<sup>142</sup> The council will appoint a commissioner and, if desired, one other person to assist the commissioner at the public hearing.<sup>143</sup> The commissioner's remunerations, costs, and expenses will be borne by the council. If no objections or representations have been made within two days prior to the scheduled hearing, the council may cancel the hearing.<sup>144</sup> If objections or representations are received within the time limits, the commissioner must proceed with the hearing and submit a report to the council.<sup>145</sup> Council must then consider the report and may either make changes to the plan, withdraw it, or leave the plan as originally approved.<sup>146</sup> If changes are made, the council may schedule a further

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<sup>138</sup> *Urban and Rural Planning Act, 2000*, Section 13(3).

<sup>139</sup> *Urban and Rural Planning Act, 2000*, Section 14.

<sup>140</sup> *Urban and Rural Planning Act, 2000*, Section 15.

<sup>141</sup> *Urban and Rural Planning Act, 2000*, Section 16.

<sup>142</sup> *Urban and Rural Planning Act, 2000*, Section 17.

<sup>143</sup> *Urban and Rural Planning Act, 2000*, Section 19.

<sup>144</sup> *Urban and Rural Planning Act, 2000*, Section 21(1).

<sup>145</sup> *Urban and Rural Planning Act, 2000*, Section 22.

<sup>146</sup> *Urban and Rural Planning Act, 2000*, Section 23.



hearing or approve the plan as amended.<sup>147</sup> Two copies of the plan and development regulations, as submitted or amended, must then be sent to the minister along with the commissioner's report, objections, and representations<sup>148</sup>.

The minister will then review the plan and development regulations to determine if they are contrary to law or a policy of the government. If all is in order, the minister will then register the plan. If the plan is not acceptable, it will be returned to the council along with the reasons why the minister found it unacceptable. The council must then make the requested changes and resubmit the plan to the minister. After receiving ministerial approval, the council must, within 10 days, publish a notice of the registration.<sup>149</sup>

Once the Municipal plan is approved and brought into effect, it is binding on the council and on all other persons, and can only be amended by following the procedures set out for the original approval process.<sup>150</sup>

Within 5 years after the plan and development regulations have come into force, the council must review the plan and development regulations and revise them as necessary following the procedures for the original plan. If no revisions are required, the council may, by majority vote, retain the existing plan. In this case, a copy of the decision together with a report on the consultation process must be submitted to the minister for registration.<sup>151</sup>

## **f. Regional Planning Areas**

Provision is made in the *Urban and Rural Planning Act* for two or more municipalities or groups to ask the minister to define a regional planning area and to designate a regional planning authority to administer a regional plan.<sup>152</sup>

## **g. Relationship Between Building Controls and Development Controls**

The *Municipalities Act* confers on council the power to control a variety of matters concerning the construction, renovation, maintenance, occupancy, and demolition of individual buildings; whereas the *Urban and Rural Planning Act* provides the power to regulate the uses to which all land and buildings within council's jurisdiction are put.

Most new developments will require permits issued under both building controls (under the *Municipalities Act*) and development controls (under the *Urban and Rural Planning Act*). It is important for council to issue or refuse

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<sup>147</sup> *Urban and Rural Planning Act, 2000*, Section 23(3).

<sup>148</sup> *Urban and Rural Planning Act, 2000*, Section 23(4).

<sup>149</sup> *Urban and Rural Planning Act, 2000*, Section 24.

<sup>150</sup> *Urban and Rural Planning Act, 2000*, Section 25.

<sup>151</sup> *Urban and Rural Planning Act, 2000*, Section 28.

<sup>152</sup> *Urban and Rural Planning Act, 2000*, Section 6-9.

a permit under the proper regulations. Failure to do so could weaken council's position in any appeal by the applicant. As a matter of course, where both permits are required, it is best for an applicant to acquire a development permit first.

#### **h. Need to Enforce Regulations**

The best municipal plan and the most sensible set of development regulations are of little value if they are not consistently enforced. Councillors should remember that a decision to not either enforce or allow a variance in one case, may well form the basis of an appeal against council's decision in another case. Precedents set by either non-enforcement or variances from the plan or development regulations have a way of coming back to haunt councils. There is an ongoing need for consistency and for clear decisions. As Don Hurd, former Director of Urban and Rural Planning, once pointed out, "Planning problems are usually caused as the cumulative result over a considerable period of time of a series of bad decisions on small individual issues that seemed harmless or innocuous at the time."<sup>153</sup> Mr. Hurd's observations remain as true today as when he made them.

Although conflict of interest has been dealt with elsewhere in this Handbook, it is worth reiterating that any hint of conflict of interest should be avoided in matters of planning and development. Friends and relatives should get no special treatment or consideration in their applications for building or development permits. Care should also be taken by individual councillors not to make any verbal commitments prior to a decision by the entire council.

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<sup>153</sup> Interview with Dr. Peter G. Boswell, April 7, 1987.

# Chapter 5



## Council Staff

A smooth-running municipality requires a great deal of coordination and cooperation between the elected members of council and the appointed council staff. These are not always easy objectives to attain. When problems arise, the cause can frequently be traced to one or both of two common areas of difficulty in uncertainty of the distinction between policy and administration; and a misunderstanding of the appropriate roles of senior staff and their relationships with council. Both of these problem areas are covered in this chapter.

### 1 DISTINCTION BETWEEN POLICY AND ADMINISTRATION



The distinction between policy and administration is not always clear in theory, and is even less clear in practice. It is impossible to draw neat lines of distinction which have any practical value in an ongoing municipal organization.

During World War I the American humourist, Will Rogers, drew a rather stark distinction between policy and administration. He put forward a suggestion for getting rid of the German submarine menace. "All we have to do is heat up the Atlantic to two hundred and twelve degrees Fahrenheit. Then the submarines will have to surface and we can pick them off one by one. Now, some damn fool is going to want to know how to warm up that ocean. Well, I am not going to worry about that. It is a mere matter of detail, and I am a policymaker."<sup>154</sup>

Conscientious policy makers do not normally think in such cavalier terms, and the normal interaction between elected politicians and senior administrators necessarily produces an overlap between policy and administration. However, it is essential to establish a working distinction between the **policy** role of council and the **administrative** role of the council staff.

**Policy** may be thought of as being the collective decisions which council makes on a particular subject area over a period of time. Council may decide, for example, to grant senior staff between two and four weeks annual vacation depending on their length of service. Some time later, council may decide to pay the costs of the Clerk's enrolment in the municipal training program. At a later date, council may decide to increase the mileage rate for senior staff required to use their own cars on town business. Taken together, these individual decisions provide the beginnings of a personnel policy.

Most councils will regularly be making decisions on a variety of matters. It is of great benefit to everyone concerned (council, citizens, and staff) if council's decisions are made on a consistent basis. The possibility of this can be greatly increased if an updated record of council policy is maintained.

When a council makes a decision on any matter, it is making policy in an incremental manner. If council decides that the collection of garbage will take place only once a week instead of twice a week, or if council decides to offer a discount for the early payment of taxes, it is setting policy. And, ideally, councils should spend most of their time setting policy, leaving the administration to the council staff.

**Administration** refers to the putting into practice of council policy. This should normally be left to the council staff. If, for example, council has set a policy of shutting off the water supply to citizens who are in serious arrears on their taxes, then town staff should be able to take such action without further reference to council, other than perhaps providing a list for council's information.

The ability of councils to lease administrative matters to the staff is greatly enhanced by the appointment of a town manager. But, even in those councils where the position of town manager has not been created, most administrative matters should be left to the town clerk.

In summary, council should set the policy and the staff should carry out the directions of that policy. Council, of course, is ultimately responsible for ensuring that their policy is carried out, but the administrative details should be left to the discretion of the staff. If a council does not have faith in the ability of a staff member to carry out council policy correctly or efficiently, then council should replace that person.

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<sup>154</sup> Quoted in V. Seymour Wilson, *Canadian Public Policy and Administration: Theory and Environment* (Scarborough, Ont.: McGraw-Hill Ryerson, 1981), p. 292.

## 2 THE TOWN MANAGER

Section 53 of the *Municipalities Act* permits a council, by a two-thirds vote of the councillors in office, to appoint a town manager. The statutory duties of a town manager are found in Sections 54-58 of the *Act*. Listed below are the main duties and responsibilities of a town manager, organized by area of responsibility.

### **a. As Chief Administrator**

The town manager is the chief executive and administrative officer of council. As such, he is responsible to council for the proper planning, execution, conduct, and administration of the municipality in accordance with council policies.<sup>155</sup>

In carrying out these responsibilities, a town manager is expected to report to council and to make recommendations on the operation and costs of all activities of the municipality; to supervise all contracts; to make recommendations concerning the construction, maintenance, and development of all municipal property; and to ensure that all council decisions, regulations, and orders are carried out.

The town manager would normally be responsible, under council's direction, for the preparation of the municipal budget and for advising council or its committees on financial matters. The manager would also normally be responsible for the supervision of all revenue collection and for the control of municipal expenditures.

The town manager is responsible for the coordination, direction, and supervision of all municipal employees and departments, and has the authority to hire, discipline, suspend, or dismiss any council employee. It should be noted, however, that only council can hire, suspend, or dismiss the clerk or a department head.<sup>156</sup>

In negotiations with unions representing council employees, the town manager would normally supervise the conduct of negotiations and supervise the subsequent collective agreement. Council, or any committee of council, should therefore not undertake any union negotiations without the town manager being present or represented.

The town manager has all the powers and is required to exercise the duties of any department head, where no head has been appointed by council. In doing so, the town manager would be expected to obtain any necessary professional advice.

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<sup>155</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Municipalities Act, 1999* (St. John's: Queen's Printer, 1999), Section 54(1).

<sup>156</sup> *Municipalities Act, 1999*, Section 67-68.

## **b. Spending Authority**

Each council is required to set a specific limit as a maximum amount which the town manager may authorize expenditures without prior council authorization, providing that the funds are within the budget.<sup>157</sup> In an emergency, the town manager may spend more than the specified amount without prior council authorization, but the expenditure must be reported to council at its next meeting.<sup>158</sup>

## **c. As Advisor to Council**

The town manager, or designate, is required to attend all council meetings and, at council's discretion, to attend committee meetings. While the town manager has the right to speak at all meetings, he or she is not allowed to vote.<sup>159</sup>

The town manager is expected to advise council on all aspects of its operations and activities, and council is not permitted to spend more than amount stipulated as the town manager's expenditure limit in any one case until it has requested the recommendation of the town manager.<sup>160</sup> Council is not required, however, to follow the manager's recommendation, and may proceed without it if the recommendation is not received within a reasonable time.<sup>161</sup>

A town manager is required to always obey any decision of council, regardless of whether the manager disagrees with or has even recommended against that decision.<sup>162</sup>

## **d. Relation to Other Department Heads**

As head of council's administration, a town manager has the right to use the services of any council employee for the purposes of carrying out his or her duties. This right includes the supervision and deployment of department heads.<sup>163</sup>

The appointment of a town manager is normally undertaken in order to relieve council of the need for administrative oversight, leaving council more time to concentrate on its policy making role. It is normal for other department heads to report to council through the town manager. However, in order that the town manager not be able to block the views of a department head, the

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<sup>157</sup> *Municipalities Act, 1999*, Section 58(1).

<sup>158</sup> *Municipalities Act, 1999*, Section 58(2).

<sup>159</sup> *Municipalities Act, 1999*, Section 56.

<sup>160</sup> *Municipalities Act, 1999*, Section 58(3).

<sup>161</sup> *Municipalities Act, 1999*, Section 58(4) and (5).

<sup>162</sup> *Municipalities Act, 1999*, Section 55.

<sup>163</sup> *Municipalities Act, 1999*, Section 57(1).

*Municipalities Act* requires the town manager to report to the next meeting of council the disagreement of any department head with any plan, proposal, or appointment of the town manager.<sup>164</sup>

There should be a clear understanding between members of council, the town manager, and any department heads about reporting relationships. It is very important that members of council not undermine the authority of the town manager by dealing directly with department heads in such a way as to bypass the town manager.

## 3 THE TOWN CLERK

Unlike the appointment of a town manager, which is optional, councils are required under Section 59 of the *Municipalities Act* to appoint a town clerk. A number of municipalities have combined the positions of town clerk and town manager into the position of clerk-manager. This has the advantage of combining the two separate positions in one employee who would have the powers and duties of both positions.

The office of the municipal clerk has been traced back to biblical times, but the contemporary use of the title “town clerk” originated in Great Britain during the 13<sup>th</sup> century.<sup>165</sup> In Canada, the first municipal clerk was appointed in Upper Canada (now Ontario) during the 1790’s; but it was not until 1846 that municipal councils were given complete autonomy to appoint their own clerks.<sup>166</sup> The duties and responsibilities of a town clerk are set out in Section 61 of the *Municipalities Act*. Listed below is a summary of the clerk’s duties along with some comments which may be useful to members of council.

### a. As Secretary to Council

Section 61(1) states that the town clerk is secretary to council, and as such, “is responsible to it for recording the proceedings and decisions of council and for the safekeeping of all documents of the council.” Council may, however, delegate the responsibility for the safekeeping of documents to another employee of council.<sup>167</sup> It is important to note that since the clerk, or other designated person, is responsible for all council records, individual members of council have no right to enter the clerk’s office or go through the clerk’s files without the clerk’s permission. Similarly, no member of council should ever remove any official file or document from the clerk’s office.

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<sup>164</sup> *Municipalities Act, 1999*, Section 57(2).

<sup>165</sup> “Clerk: One of the Oldest Government Professions”, a pamphlet available from The International Institute of Municipal Clerks.

<sup>166</sup> Kenneth G. Crawford, *Canadian Municipal Government* (Toronto: University of Toronto Press, 1854): pp. 27, 31.

<sup>167</sup> *Municipalities Act, 1999*, Section 61(2).

The clerk would normally have custody of the corporate seal of the municipality and must affix it to documents as required by council. The clerk is also authorized to administer oaths and to take and receive affidavits for municipal purposes.<sup>168</sup>

Section 62 requires that the clerk, or designate, attend all meetings of council and, at council's discretion, meetings of council committees. Just as the town manager, the clerk is entitled to speak at meetings of council and its committees, but has no vote.<sup>169</sup>

In all of the above duties, the clerk reports directly to council. It should be emphasized that in municipalities where a town manager has been appointed, the town manager has no jurisdiction over the clerk's statutory duties to council and has no right to remove any files or official documents from the clerk's office unless council has appointed the town manager as the designated employee under Section 61(2).

### **b. As a Department Head**

In addition to the statutory duties listed above for which the clerk is responsible directly to council, the clerk has a number of other duties during the performance of which the clerk may better be considered as a department head. In the performance of these duties, the clerk would report to the town manager if one had been appointed.

### **c. As Returning Officer**

The clerk is designated under Section 13 of the *Municipal Elections Act* as the returning officer for municipal elections. As returning officer, the clerk is responsible for the preparation of voters lists, receiving nomination forms, publishing the list of candidates, holding the election, counting the ballots and announcing the results. In all duties under the *Municipal Elections Act*, the clerk is responsible to the Department of Municipal and Provincial Affairs.

## **4 OTHER DEPARTMENT HEADS**

Section 64 of the *Municipalities Act* provides for the appointment of other department heads at council's discretion. Written job descriptions, setting out the duties and qualifications required, must be established by council for each position.<sup>170</sup> The need to appoint department heads will depend mainly on the size and complexity of council activities. Most smaller municipalities would only be likely to appoint a fire chief in addition to the clerk. Listed below are the various department head positions which council may create, along with

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<sup>168</sup> *Municipalities Act, 1999*, Section 60.

<sup>169</sup> *Municipalities Act, 1999*, Section 62(2).

<sup>170</sup> *Municipalities Act, 1999*, Section 65(2).



some brief remarks on their duties.

#### **a. Engineer**

The town engineer is responsible for the design, construction, operation, and maintenance of all town works and equipment.<sup>171</sup> Many councils find it more economical to hire engineers on a consulting basis rather than to appoint one.

#### **b. Superintendent of Works**

A council may appoint a superintendent of works to be responsible for the operation and maintenance of town works and equipment.<sup>172</sup> If council has not also appointed a town engineer, the superintendent of works is considered a department head and reports to the town manager if one has been appointed; but if council has appointed an engineer, then the superintendent of works is not considered a department head and reports to the town engineer.<sup>173</sup>

#### **c. Treasurer**

A town treasurer is responsible for the financial management of the municipality.<sup>174</sup> If no treasurer is appointed by council, the town clerk would normally assume the duties and responsibilities of the treasurer. For these functions, the town clerk would report to the manager.

#### **d. Planner**

A council may appoint a town planner to be responsible for recommending to council long term objects and strategies as a guide to the future development of the town and for the preparation of plans to accomplish this.<sup>175</sup> Most councils cannot afford a full-time planner and prefer to hire planning consultants as required.

#### **e. Director of Recreation**

A director of recreation is responsible for planning and directing a municipal recreation program and for the operation and maintenance of municipal recreation facilities.<sup>176</sup> It should be noted that while the recreation director would normally consult with various community groups and committees interested in recreation, he or she is directly responsible to the town manager, or, if there is no town manager, directly to council.

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<sup>171</sup> *Municipalities Act, 1999*, Section 64(1).

<sup>172</sup> *Municipalities Act, 1999*, Section 64(2).

<sup>173</sup> *Municipalities Act, 1999*, Section 64(3).

<sup>174</sup> *Municipalities Act, 1999*, Section 64(4).

<sup>175</sup> *Municipalities Act, 1999*, Section 64(5).

<sup>176</sup> *Municipalities Act, 1999*, Section 64(6).

## **f. Fire Chief**

The fire chief is responsible for the organization, training, and operation of the municipal fire department, and for fire prevention and fire protection within the municipality.<sup>177</sup> It is important to note that a municipal fire chief has no independent authority of his own, beyond performing the duties set out in the Act. If a town Manager has been appointed, the fire chief must report to that person, as would any other department head. If there is no town manager, the fire chief must report directly to council from which he must get all spending authority.

All department heads must report to the town manager where one has been appointed. The only exception to this is where the clerk is performing the duties of secretary to council. If no town manager has been appointed, then all department heads report directly to council.

In order to avoid problems, it is recommended that a personnel policy manual be drawn up by each municipality. Such a manual should not only provide the job descriptions of each employee and department head, but should state to whom each individual is responsible.

## **g. Other Employees**

In addition to the town manager and the department heads, a variety of other workers may be hired by a municipality. In larger towns, there may be several departments each with a number of employees, whereas in smaller communities only one or two workers may be hired with no clear departmental distinctions.

In those municipalities where a town manager has been appointed, it is important that council members respect the authority which the *Municipalities Act* gives to the town manager with regard to the use and supervision of employees. In particular, council members must ensure that all direction to employees go through the town manager. Members of council should not take it upon themselves to give instructions to council workers.

As noted earlier with regard to department heads, it is a good idea to have a personnel policy manual listing every authorized position and giving a clear description of duties and responsibilities.<sup>178</sup> This manual should also describe the employee benefits and policies with regard to vacations, sick leave, and other absences.

Councils were formerly required to pay town managers and department heads in accordance with guidelines established by the Department of Municipal and Provincial Affairs. Under the provisions of the new *Municipalities Act*, councils can now establish salaries on their own.<sup>179</sup>

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<sup>177</sup> *Municipalities Act, 1999* Section 64(7).

<sup>178</sup> Section 65(2) of the *Municipalities Act, 1999* requires that written job descriptions be established for each position created.

<sup>179</sup> *Municipalities Act, 1999* Section 66.

The inside and outside employees of many councils are now covered by collective agreements. The town manager is normally responsible for supervising negotiations with unions and for making recommendations to council regarding the wages and working conditions of employees. During union negotiations, individual councillors should not interfere with the collective bargaining process by making promises or statements which do not have council authority or which may contradict or undermine the position of the town manager. Only council, of course, has the authority to make an agreement, but the town manager should be left to handle the negotiations within the parameters set by council.

In municipalities which do not have a town manager, council may wish to appoint a staff relations committee or an administration committee to handle union negotiations. In such cases, it is important that the committee act together and that other members of council refrain from interfering with the negotiations. Again, only council as a whole has the authority to approve an agreement.

A staff relations or administration committee may also prove useful even in municipalities which have a town manager. But any such committee should take great care not to be seen as undermining the manager's authority in any way.

## **5 SPECIAL CONSIDERATIONS FOR THE SMALLER MUNICIPALITY**

Nearly all municipalities have difficulty in raising sufficient revenue to meet all of their needs. This problem is often particularly acute in the smaller communities, some of which seek to save expense by hiring staff on only a part-time basis.

In many respects, the hiring of part-time staff is a reasonable approach to stretching limited revenue as far as possible. However, the position of town clerk should always be a full-time one. While it may be overstating the case a little to say that "if you can't afford a full-time clerk, you can't afford a municipal council," there is some truth to the underlying principle. The clerk is the pivotal staff member in a municipality, both in relation to council itself and to the citizens of the community.

A part-time clerk simply cannot have enough time to keep all council books and records up to date, prepare for council meetings, carry out council policy, issue the various licenses and permits, and collect taxes and other revenue. While a part-time clerk may seem to be a money-saving approach, in the long run it may cost council more than it saves. For example, if the auditors have to spend a lot of time doing the bookkeeping and reports which the clerk never had time to do, council will be billed for the auditors' time. Similarly, a part-time clerk is unable to spend enough time going after delinquent taxpayers. Thus, the tax collections fall behind. Again, council loses. It is therefore very strongly recommended that all clerks be hired on a full-time basis.

## 6 COUNCIL'S AUTHORITY TO HIRE, SUSPEND, OR DISMISS STAFF

### a. Hiring

The *Municipalities Act* provides the authority for council to hire a town manager, town clerk, and other department heads. In the cases of the town manager and town clerk, the appointments can only be made with a two-thirds vote of the number of councillors in office.<sup>180</sup> Other department heads may be appointed with a simple majority vote of council, although if there is a town manager, his recommendation must be sought before a department head is appointed.<sup>181</sup> Sections 53(4) and 59(3) permit council to appoint an acting town manager or acting town clerk if the office is vacant or if the incumbent is unable to carry out his or her duties. Other employees may be hired by council or the manager as required.<sup>182</sup>

### b. Suspension

The town manager, town clerk, or any department head may be suspended following a two-thirds vote of the councillors in office.<sup>183</sup> Any such suspension must be made on the grounds that council is of the opinion that the official is guilty of misconduct in the performance of duties or in the exercise of powers. The period of suspension is determined by council and may include periods with or without pay.

The town manager, if one has been appointed, may employ, suspend, or dismiss any employee of council, other than the clerk or a department head, after consultation with the head of the department concerned.<sup>184</sup> Council may also employ, suspend, or dismiss an employee of council. If a town manager has been appointed, council must first consult with him or her before taking such action.<sup>185</sup> Any such action, either by the manager or council, is subject to any collective agreement to which council may be a party.<sup>186</sup>

### c. Dismissal

The town manager, town clerk, and department heads can only be dismissed through a three-stage process. First, written notice of a meeting to discuss the matter must be signed by the councillors intending to make and second the

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<sup>180</sup> *Municipalities Act, 1999*, Section 53 and 59.

<sup>181</sup> *Municipalities Act, 1999*, Section 63(2).

<sup>182</sup> *Municipalities Act, 1999*, Section 70.

<sup>183</sup> *Municipalities Act, 1999*, Section 67.

<sup>184</sup> *Municipalities Act, 1999*, Section 70(1).

<sup>185</sup> *Municipalities Act, 1999*, Section 70(4).

<sup>186</sup> *Municipalities Act, 1999*, Section 70(2).

motion for dismissal. This notice must be deposited with the town clerk or mayor, and a copy of the notice must be given to the person whose dismissal is going to be considered. This must be done at least one week before the meeting.<sup>187</sup> Second, the motion to dismiss must be passed by a vote of two-thirds of the councillors in office. Third, the first vote must be confirmed by another vote gaining the support of two-thirds of the councillors in office at a second meeting held not less than 30 days after the first meeting.<sup>188</sup>

Other employees may be dismissed by council or by the town manager. If there is no town manager, then council itself may dismiss any employee. If there is a town manager, then council must consult with him before dismissing any employee. The town manager may also dismiss any employee, other than a department head, after consulting with the head of the department concerned.<sup>189</sup>

In all matters of dismissal, council should move cautiously. If there is a collective agreement in force, then the terms of that agreement must be followed in any dismissal. In the case of a town manager, town clerk, or department head, council would be wise to seek legal advice before proceeding with a dismissal in order to ensure that council is protected against a suit for wrongful dismissal.

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## STAFF TRAINING AND OTHER BENEFITS

Section 74 of the *Municipalities Act* empowers council to carry out staff training and to provide financial assistance to its employees for training purposes.

The value of a well-trained staff far outweighs the costs of training. Many councils can attest to the significant improvements in their operations as a result of staff training. A Municipal Certificate Program is offered through Memorial University in cooperation with the Department of Municipal and Provincial Affairs. This is a four-year program consisting of eight courses and the topics covered include: introduction to local government, accounting, municipal law, financial administration, municipal planning, communications, personnel management, municipal management, and municipal taxation.

Further information about these courses can be obtained from Memorial University or the Department of Municipal and Provincial Affairs.

Training courses for other employees are available from a number of sources, and all councils are urged to ensure that their staff is as fully trained as possible. There is a cost for this, and councils should be sure to include

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<sup>187</sup> *Municipalities Act, 1999*, Section 68(2).

<sup>188</sup> *Municipalities Act, 1999*, Section 68(1).

<sup>189</sup> *Municipalities Act, 1999*, Section 70.

funds in their annual budgets for training purposes. But the benefits of a well-trained staff can not only help the municipality in terms of efficiency and good administration, but also in providing greater value for the money which staff are paid.

In order to encourage municipal training and to develop training resources, the Municipal Training and Development Corporation was recently established. This is a combined initiative of the Department of Municipal Affairs, the Federation of Municipalities, and the Association of Municipal Administrators. The mandate of the Corporation includes the identification of training needs, the establishment of training priorities, and the development of delivery of training courses. A more complete outline of the Corporation's mandate is contained in Appendix G.

Sections 72 and 73 of the *Municipalities Act* authorize councils to provide pensions schemes and group insurance for council employees. Although this is not mandatory, the provision of such schemes will help attract good quality employees.

# Chapter 6



## Public Relations and Civic Awareness

Unlike commercial firms which need to sell corn flakes, automobiles, or televisions in order to stay in business, municipalities do not depend on consumer demand or satisfaction to maintain their survival. Individual councillors, or even an entire council, may incur the displeasure of voters and fail to get re-elected, but the municipal corporation itself continues. Because the municipality's existence does not depend on public acceptance, councils are sometimes not as aware as they should be of the importance of public relations.

In this concluding chapter, the need for good public relations will be discussed, along with the related issue of the public's right to information and the positive steps a council can take to increase civic awareness.

### **1** PUBLIC RELATIONS



All councils should constantly strive to improve their relations with the community and to increase public support for the council and its activities. Some of the strategies for increasing public support will be discussed below. First, however, it might be useful to briefly indicate some of the benefits which can accrue to a council and an entire community through good public relations.

If a council has legitimacy in the eyes of its citizens and is perceived to be doing the best it can in the circumstances, not only does council have the

support of the town's residents, but also this support can be translated into a positive attitude regarding the payment of taxes and other fees. This positive attitude toward council can also be reflected in the interest that citizens take in their community and in the interest that they show in municipal elections.

Such support, however, does not in most cases come naturally - it must be earned. In order to earn the respect of its citizens council must be perceived to be **honest, fair-minded, open, hard-working, and concerned about the community.**

As discussed in Chapter Two, councillors have a legal liability to **be honest.** But, in order to gain the respect of the town's residents, individual councillors and council as a whole must be seen to be above reproach. Few things are more damaging to a council's reputation than for townspeople to be saying that councillors are "just in it for what they can get out of it." Sometimes, unfortunately, this is true; but the vast majority of councillors are scrupulous in their council dealings. But no matter how principled councillors may be, it is also necessary that the public be aware of this. The old saying that "you must not only be honest, but must also be seen to be honest" is extremely important in council business. By following proper tendering procedures, by dealing with controversial matters in open council meetings, by avoiding conflict of interest situations, and by ensuring that all council business is above board, citizens will be less likely to impute unscrupulous motives to council members.

Council must also appear to be **fair-minded.** This does not, of course, mean that council must always grant every request which is made of it, but the process for making decisions must be fair and must be known to all citizens. There is nothing worse for a council's reputation than for it to be making the majority of its decisions on an ad hoc basis, deciding one day this way and another day that way. Such a practice leads to charges of unfairness and favoritism. One of the best ways of avoiding this is to have policy manuals which set out the guidelines for council decisions in most circumstances. In any event, council decisions should be as consistent as possible and should always be made openly.

The need for **openness** of council meetings is not only required under Section 213 of the *Municipalities Act*, but also is necessary for good public relations. While there are certain matters, such as personnel salaries or discipline, that are best dealt with in privileged meetings, all normal council business should be discussed openly. Even though very few citizens normally make any effort to attend a council meeting, the fact that they know they can attend is important. By contrast, a council which frequently meets in privileged sessions excluding the media and the public, is a council which invites rumor, distrust, and suspicion.

A council which shows that it is **concerned about the community** will be displaying the type of leadership to which every council should aspire. Municipal councils can play a role in building up a sense of community spirit so that residents are proud of their town and believe it a good place to live.



Councils should not leave it to local service clubs to lead the way in improving community facilities or in building up community spirit. Councils should take the initiative and work together with community groups in doing what they can to improve the physical, economic, and psychological well-being of the community. Municipal councils have a special role to play in representing the community to outside interests, particularly in seeking to attract business and industry to the town.

## 2 THE PUBLIC'S RIGHT TO INFORMATION

Not only must council meetings be open to the public as required by the *Municipalities Act*, but councillors should do their best to make sure that citizens are aware of the time and place of council meetings. On those rare occasions when citizens actually do attend council meetings, they should be made to feel welcome, and not as though they are intruding into business which was none of their concern. Council business is and should be the concern of every citizen.

Because of this, the *Municipalities Act* contains provisions for making council documents available to the public. Section 215(1) lists a number of documents which the clerk must make available for public inspection during normal business hours. Included in the list are: the adopted minutes of council; assessment rolls; regulations; municipal plans; opened public tenders; financial statements; auditor's reports; adopted budgets; contracts; orders; permits; and all other documents tabled or adopted by council at a public meeting. Not only can citizens see the documents at the council office, but they may also make copies of any documents.<sup>190</sup> Citizens, of course, are not permitted to remove any documents, nor to interfere with the work of council employees.<sup>191</sup>

## 3 CIVIC AWARENESS

In the face of citizen apathy, or even hostility, councillors may wonder just what, if anything, can be done to increase the civic awareness of their citizens and to encourage support for council. A few suggestions are outlined below. Members of council can undoubtedly come up with many more. The important thing to remember is that a municipal council must first have a base of respect by the residents through honesty, openness, and fairness before strategies of increasing public support will have much effect. Building on that base of

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<sup>190</sup> Newfoundland and Labrador. Department of Municipal and Provincial Affairs, *Municipalities Act, 1999* (St. John's: Queen's Printer, 1999), Section 215(2)(b). Council may charge a fee when copies are made, but this fee should be limited to cover the actual cost of copying and the time of staff members involved.

<sup>191</sup> *Municipalities Act, 1999*, Section 215(2)(a).

respect, here are a few ways councils might try to increase public support and participation.

- Make citizens aware of council activities through newsletters;
- Have street naming contests for new or unnamed streets;
- During the Christmas season, place and decorate a Christmas tree in front of the town hall and initiate community carol sings, perhaps in cooperation with local churches or service clubs;
- Sponsor career days in cooperation with local schools;
- Hold occasional “open houses” of the municipal buildings and facilities;
- Encourage residents to pay their taxes in person rather than through the mail, and make them welcome when they do visit the municipal office;
- Ensure that citizen complaints and enquiries are dealt with courteously and promptly; and if nothing can be done about a problem, ensure that a complete explanation is provided;
- If the town doesn’t have a crest or flag, sponsor a contest for designing one;
- Set up a citizen’s advisory committee to help plan future recreation facilities or a campaign to attract new business or industry;
- Try to get media coverage of council meetings if there is a local paper, television or radio facility;
- Hold semiannual public council meetings in some place other than the council chambers; and
- Participation in municipal awareness week activities.

These are only a few suggestions about things which a council could do to increase public support and awareness of municipal activities. Public relations should not be a one-shot undertaking or an occasional endeavour. It must be an ongoing activity. And if you don’t get immediate results, don’t get discouraged: peoples’ habits and attitudes often take a long time to change. But a municipal council which can get the positive support and active participation of its citizens, is a long way along the road to building a solid community spirit and to developing the community leadership role that an elected municipal council can best provide.

If you would like some help or advice in planning a program of public relations, try contacting other municipalities to see what has worked for them. Also, the Federation of Municipalities is always willing to provide advice and assistance to its member municipalities, not only on matters of public relations, but on all aspects of municipal activities.

# **Appendix A**



## **Sample Rules of Procedure**

# APPENDIX A

## SAMPLE RULES OF PROCEDURE

Municipality of Anywhere  
Rules of Procedure for the Conduct of Meetings

<i>Authority</i>	Whereas section 24(3) of the <i>Municipalities Act</i> requires that every council shall adopt rules of procedure for its meetings; Therefore, the Council of the Town of Anywhere enacts the following rules and regulations:
<i>Regular Meetings of Council</i>	1. Regular meetings of Council shall be held on the first and third Tuesdays of each month at 7:30 P.M. in the council chamber of the Town Hall, unless council, by resolutions, directs otherwise.
<i>Special Meetings of Council</i>	2. Special meetings of council may be called by either the mayor or any two members of council by giving written notice to the clerk.
<i>Notice</i>	3. Notice for all meetings of council shall be by way of the Agenda, which shall be provided to all members of council forty-eight hours prior to each meeting. Notice shall be deemed to have been given it is delivered by hand to a councillor or left at his place of residence. The failure of any councillor to have received notice shall not invalidate a meeting of council.
<i>Meeting on a Legal Holiday</i>	4. When the day fixed for a meeting of council falls on a legal holiday, the said meeting shall be held on the next day following which is not a legal holiday.
<i>Presiding Officer</i>	5. In accordance with Section 22 of the <i>Municipalities Act</i> , the mayor shall preside at all meetings of council. In his absence, the deputy mayor shall preside. In the absence of both the mayor and deputy mayor, the clerk shall take the chair, call the members to order, and if a quorum is present, a chairman shall

	<p>be appointed from among the councillors present. Such chairman shall preside during the meeting or until the arrival of the mayor or deputy mayor.</p>
<i>Quorum</i>	<p>6. In accordance with section 211 of the <i>Municipalities Act</i>, a quorum shall consist of a majority of councillors in office.</p>
<i>If no Quorum</i>	<p>7. If there is no quorum present within fifteen minutes after the time appointed for holding a meeting, the clerk shall call the roll and take down the names of the members then present. The meeting shall then stand adjourned until the next regular meeting.</p>
<i>Attendance</i>	<p>8. In addition to the mayor and councillors, the town clerk or designate and the town manager or designate shall attend all meetings of council.</p>
	<p>9. Department heads and other employees of council shall attend meetings of council when requested to do so by council or the town manager.</p>
<i>Meetings Open to the Public</i>	<p>10. In accordance with section 213(1) of the <i>Municipalities Act</i>, every meeting of council shall be open to the public, unless it is held as a privileged meeting or declared by a vote of the councillors present at the meeting to be a privileged meeting.</p>
	<p>11. Where a meeting is held as or declared to be a privileged meeting, all members of the public present at the meeting shall leave.</p>
	<p>12. In accordance with section 213(3) of the <i>Municipalities Act</i>, where a decision is made by the councillors at a privileged meeting, the decision, in order to be valid, shall be ratified at the next public meeting of council.</p>
<i>Minutes</i>	<p>13. Minutes of meetings of council shall be recorded by the town clerk or designate. Such</p>

	<p>minutes shall contain:</p> <ul style="list-style-type: none"> <li>• All motions and resolutions coming before council, including the names of the movers and seconders thereof;</li> <li>• The names of all council members voting in favour or against each motion, and the names of those abstaining;</li> <li>• The title or brief description of all reports, petitions, and other documents submitted to council. Reports accepted by council shall be attached to the minutes.</li> </ul>
<i>Correction of Minutes</i>	<p>14. If any member of council objects to any portion of the minutes of the preceding meeting, that member shall state the grounds of objection, and if council agrees, the motion adopting the minutes shall contain the necessary corrections.</p>
<i>Agenda</i>	<p>15. Prior to each regular meeting of council, the clerk shall prepare an agenda of all business to be brought before the council. As indicated in Rule 3, the agenda is to be distributed to councillors forty-eight hours prior to council meetings.</p> <p>16. Any member of council, up until noon of the Friday prior to the council meeting, may submit to the town clerk an item for inclusion on the agenda.</p> <p>17. The format of the agenda shall be as follows:</p> <ol style="list-style-type: none"> <li>a. Calling of meeting to order</li> <li>b. Adoption of minutes</li> <li>c. Business arising from minutes</li> <li>d. Delegations</li> <li>e. Committee reports</li> <li>f. Correspondence</li> <li>g. Finances</li> <li>h. Regulations</li> <li>i. General Business</li> <li>j. Notices of motion</li> <li>k. Adjournment</li> </ol>

<i>Agenda for Special Meetings</i>	18. When a special or privileged meeting is called for the consideration of some particular matter, the order of business as set out in Rule 17 shall not apply. Council shall proceed immediately to consideration of the business for which the meeting was called, and only the business specified in the notice calling the meeting shall be dealt with, unless otherwise decided by majority vote.
<i>Order and Decorum</i>	19. The presiding officer at any meeting shall preserve order during debate and maintain decorum at all times.
<i>Disorderly Persons</i>	20. The presiding officer may expel and exclude from a meeting any member of council or other person who is guilty of improper conduct at the meeting. In the case of the exclusion of a member of council, an entry shall be made in the minutes of the reason for such exclusion.
	21. Any member expelled from a meeting under the provisions of Rule 20 may be permitted, by a majority vote of councillors at the meeting in progress, to resume his place after making an apology to the presiding officer.
<i>Notice of Motion</i>	22. Every notice respecting the passing of a regulation shall be in writing and be placed on the agenda by moving a motion at the previous meeting.
<i>Motions during Debate</i>	23. When a question is under debate, the following non-written motions shall be in order: <ul style="list-style-type: none"> <li>a. To extend the time of the meeting</li> <li>b. To refer or commit</li> <li>c. To amend</li> <li>d. To lay on the table</li> <li>e. To postpone indefinitely</li> <li>f. To move the previous question</li> </ul>

<i>Motions to be Seconded</i>	24. Every motion shall be seconded before being put or debated.
<i>Withdrawal of Motions</i>	25. When a motion has been moved and seconded, it cannot be withdrawn except with the permission of council and the mover and seconder, and then only before a decision has been taken or an amendment made.
<i>Division of Motion</i>	26. Any motion or question which contains several distinct propositions may, by the direction of the presiding officer or upon the request of any member, be divided if the sense of the motion permits. The vote on each such division shall be taken separately. If a motion cannot reasonably be so divided, any request to do so shall be declared out of order by the presiding officer.
<i>Addressing the Motion</i>	27. Members of council shall address their remarks to the presiding officer and continue themselves to the question at hand.
<i>Entitlement to Speak</i>	28. If two or more members speak at the same time, the presiding officer shall determine which member is entitled to speak.
<i>Call to Order</i>	29. The presiding officer may call a member to order while debate is in progress. The debate shall then be suspended and the member called to order shall not speak again until the point of order has been decided.
<i>Appeal on a Point of Order</i>	30. The decision of the presiding officer on a point of order is subject to an appeal to council which is to be decided by majority vote without debate.
<i>Member Speaking not to be Interrupted</i>	31. When a member is speaking or a question is being put, no member shall hold any private discourse or make any noise or disturbance or interrupt a speaker, except to raise a point of order, explain, or ask a question.



<i>Length of Debate</i>	32. No member, without the consent of council, shall speak longer than five minutes at any one time, or more than once on any motion or amendment thereto. The mover of a motion, however, may speak twice. Debate shall be closed after this second occasion.
<i>Rereading of Motion</i>	33. Any member of council may require the question or motion under discussion to be read for information at any period during the debate, but not so as to interrupt a member speaking.
<i>Voting</i>	34. All decisions of council, unless otherwise specified either under the <i>Municipalities Act</i> or under these Rules, shall be by majority vote of the members present.
<i>Recorded Vote</i>	35. In accordance with Section 212(4) of the <i>Municipalities Act</i> , the clerk shall record the names of those voting in favour of the motion, those voting against the motion, and those abstaining.
<i>No Secret Ballot</i>	36. No vote shall be taken in council by ballot or by any other method of secret voting.
<i>Reconsideration</i>	37. Any question, except one of indefinite postponement, or one that has resulted in a tie vote, may be reconsidered, providing a notice of motion of reconsideration is given in accordance with Rule 22.
	38. If the motion to reconsider is carried by a majority of members present and voting, the main question shall then be read and will be open to debate the same as an original motion.
<i>Tie Vote</i>	39. In accordance with section 212(5) of the <i>Municipalities Act</i> , where there is a tie vote on a question, the question shall be considered to have been defeated.
<i>Motion to Adjourn</i>	40. A motion to adjourn is always in order except when: <ul style="list-style-type: none"> <li>a. A member is addressing the chair;</li> </ul>

	<p>b. A vote is being taken; and</p> <p>c. It has been decided that the previous question shall be taken.</p>
	<p>41. A motion to adjourn the council meeting or adjourn the debate cannot be amended and is not debatable. However, a motion to adjourn the council meeting or the debate to a given day may be amended and is open to debate.</p>
	<p>42. No second motion to adjourn the council meeting or the debate shall be made until some intermediate proceedings have transpired.</p>
<i>Previous Question</i>	<p>43. The “previous question” shall preclude all amendments of the main question and shall be put in the following words: “That the question now be put.” If the motion is resolved in the affirmative, the original question shall be voted on immediately without amendment or debate. If the motion is defeated, then the main question may then be debated and amended.</p>
<i>Motion to Postpone Indefinitely</i>	<p>44. A motion to postpone indefinitely shall not be amended, and when any question before council has been postponed indefinitely, it shall not be taken up again during the same meeting.</p>
<i>Motion to Lay on the Table</i>	<p>45. A motion to lay a question on the table shall not be debatable. However, a motion “to lay on the table” with addition, qualification or opinion, shall be subject to amendment and debate.</p>
<i>Motion to Suspend the Rules</i>	<p>46. A motion to suspend the rules requires a two-thirds vote of members present.</p>
<i>Privilege</i>	<p>47. Whenever a matter of privilege arises it shall be dealt with immediately by council.</p>
<i>Motion to Refer or Commit</i>	<p>48. A motion to refer or commit a matter under discussion shall preclude all amendments of the main question until it is decided.</p>

## COMMITTEES

<i>Authority to Form</i>	49. In accordance with Section 25 of the <i>Municipalities Act</i> , council may from time to time appoint committees. The mayor shall be an ex-officio member of all committees.
<i>Standing Committees</i>	50. Standing committees of council shall remain in effect for the life of the council, and members shall be appointed at the first council meeting of each year.
<i>Special Committees</i>	51. Special committees of council shall remain in effect only until the purpose for which they were set up has been accomplished. Special committees will automatically expire at the end of each year, unless struck again by council.
<i>Committee of the Whole</i>	52. Council may, by majority vote, resolve itself into a Committee of the Whole whereby it will operate under the rules for committees as set out hereunder. The deputy mayor will assume the chair, and if the deputy mayor is absent, another member of council shall be elected as chairman.
<i>Committee Membership</i>	53. Membership on all committees of council is limited to members of council.
<i>Quorum of Committees</i>	54. A majority of the members of any committee shall constitute a quorum.
<i>Committee Chairman</i>	55. When council appoints a committee, it shall also appoint one of its members to be chairman of that committee.
<i>Committee Secretary</i>	56. The town clerk (or designate) shall act as secretary to each committee of council.
<i>Committee Minutes</i>	57. Prior to the next meeting of the committee, the secretary shall prepare minutes of the previous meeting for submission to and confirmation by the committee.
	58. Following every committee meeting, the

<i>Committee Report</i>	secretary shall prepare for the chairman a report on all matters which require council action.
<i>Conduct of Business in Committees</i>	<p>59. The following rules and regulations shall apply to the proceedings in committees:</p> <ul style="list-style-type: none"> <li>a. The chairman shall preside at every meeting. In the absence of the chairman, one of the other members of the committee shall be elected by the members present to preside during the chairman's absence;</li> <li>b. The chairman may vote on all questions. In case of a tie vote on any motion, the question shall be deemed lost;</li> <li>c. No motion need be seconded;</li> <li>d. The previous question will not be allowed;</li> <li>e. There shall be no limit on the number of times a member may speak; and</li> <li>f. The votes of members on any question shall be recorded if requested by any member.</li> </ul>
<i>Minority Reports</i>	60. Members of a committee dissenting from a report which has been adopted by the majority of a committee, may make and present to council a minority report. Such report must be presented at the same meeting of council to which the majority report is submitted and must be signed by the dissenting member(s).
	<b>CLARIFICATION AND AMENDMENT PROCEDURE</b>
<i>Clarification of Rules</i>	61. In all cases where these rules and regulations do not make provision or adequate provision, then Robert's <i>Rules of Order</i> shall apply.
<i>Amendment of Rule</i>	62. Any motion to amend these rules must be presented to council in accordance with Rule 22, and must be passed by a two-thirds majority of members present.
<i>Effective Date</i>	63. These rules and resolutions shall become effective upon the date of enactment.

# Appendix **B**

## Model Set of Minutes

# APPENDIX B

## MODEL SET OF MINUTES

Town of Anywhere  
Regular Council Meeting, December 3, 20\_\_\_\_

Minutes of a regular meeting of the council  
of the Town of Anywhere, held in the  
Town Hall, December 3, 20\_\_\_\_ at 7:30 P.M.

*Members Present*

Mayor	G. Hall
Deputy Mayor	M. Dalton
Councillors:	D. Kelsey
	J. MacDonald
	T. Norris
	P. Scott
	J. Taylor

*Also Present*

Town Clerk	J. Graham
Town Manager	C. Black

*Minutes:  
Regular Meeting  
November 20, 20\_\_\_\_*

**Regular Meeting of November 20, 20\_\_\_\_**  
Mayor Hall asked if there were any errors or omissions to the minutes of the regular meeting of November 20, 20\_\_\_\_ which had been circulated with the agenda.

Councillor Taylor asked that her name be added to the list of those present.

Councillor Norris noted that voucher #1487 in the list of accounts to be paid should have been shown as \$418.00 not \$41.80.

Motion 01-173 - Dalton/Norris  
Resolved that the minutes of the November 20, 20\_\_\_\_ regular meeting of council be adopted as circulated and corrected.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors: D. Kelsey, J. MacDonald, T. Norris, P. Scott and J. Taylor.

Opposed: 0  
Abstaining: 0  
Motion Carried

*Minutes:  
Privileged Meeting  
November 25, 20\_\_\_\_*

**Privileged Meeting of November  
25, 20\_\_\_\_**

Mayor Hall asked if there were any errors or omissions to the minutes of the privileged meeting of November 25, 20\_\_\_\_ which had been circulated with the agenda.

Motion 01-174 - Taylor/Macdonald

Resolved that the minutes of the November 25, 20\_\_\_\_ privileged meeting of council be adopted as circulated.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors: D. Kelsey, J.  
MacDonald, T. Norris, P. Scott  
and J. Taylor.

Opposed: 0  
Abstaining: 0  
Motion Carried

*Business Arising*

**Motion from Privileged Meeting**

Mayor Hall reminded council that in accordance with Section 213(3) of the *Municipalities Act*, any decisions taken at a privileged meeting must be ratified at a public meeting in order to be valid.

Motion 01-175 - Kelsey/Taylor

Resolved that the salaries of the town clerk and town manager be increased by 4.5% effective January 1, 20\_\_\_\_.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors: D. Kelsey, J.  
MacDonald, T. Norris, P. Scott  
and J. Taylor.

Opposed: 0

Abstaining: 0  
Motion Carried

**Road Conditions**

The town manager reported that the road leading to the municipal park has been freshly graveled and graded.

**Emergency Funding**

The town clerk advised that no reply had yet been received from the Department of Municipal and Provincial Affairs regarding council's request for emergency funding.

*Delegations*

**Do-Good Service Club**

A delegation of 5 members from the Do-Good Service Club attended the council meeting. The spokesman, Mr. Albert Porter, outlined the club's activities and asked that council financially support the club's Christmas parade entry. Mayor Hall thanked the delegation and advised that matter would be taken up under general business.

**Mountain View Taxpayers Committee**

A delegation of about 20 residents of Mountain View subdivision attended. Their spokesman, Mr. J. Johnston, described the difficulties which residents were having as a result of the low water pressure. Mayor Hall advised the delegation that the matter would be referred to the Planning and Works committee for study and recommendation.

*Committee Reports:  
Planning*

**Planning and Works Committee**

Councillor J. Macdonald presented the report of the Planning and Works committee which recommended approval of a building permit to Mr. F. Whalen for renovations to his house on Carriage Road.

Motion #01-176 - Macdonald/Scott

Resolved that the report of the Planning and Works committee be received and



considered by council.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors: D. Kelsey, J.  
MacDonald, T. Norris, P. Scott  
and J. Taylor.

Opposed: 0  
Abstaining: 0  
Motion Carried

Motion #01-177 - Macdonald/Scott

Resolved that council issue a building permit to Mr. F. Whalen for renovations to his house on Carriage Road.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors: D. Kelsey, J.  
MacDonald, T. Norris, P. Scott  
and J. Taylor.

Opposed: 0  
Abstaining: 0  
Motion Carried

*Administration*

Councillor Norris advised council that the

Administration committee had almost completed its review of the town's administrative procedures and expected to have a report ready for the next regular meeting of council.

*Correspondence*

The following correspondence, which had been acted on by the town staff, was presented to council for information.

<b>From</b>	<b>Regarding</b>	<b>Action</b>
Mrs. H. Noseworthy	Backed-up sewer	Repaired
Mrs. J. Taylor	Query on tax rate	Information sent
Mr. S. Tucker	Request for fill	Advised none now available

The following correspondence was considered by council:

<b>From</b>	<b>Regarding</b>	<b>Action</b>
Mr. J. Rideout	Object to proposed gas bar on Main Street	Referred to Planning and Works Committee
Department of Municipal and Provincial Affairs	Reminder budget due December 31	Referred to Finance Committee
Residents of Rocky Road	Request for water and sewer	Referred to Planning and Works Committee
XYZ Consulting	Proposal for study of computer needs	Motion

At the beginning of discussion on this item, Councillor P. Scott advised council that since he owned A-1 Computer Solutions, he would be in a conflict of interest and left the meeting.

Motion #01-178 - Macdonald/Scott

Resolved that tenders be called to invite proposals for a study of the town's accounting operations with a view to determining the feasibility of converting to an updated computer system.

In favour: Mayor G. Hall  
Councillors D. Kelsey, and J. MacDonald.

Opposed: Deputy Mayor M. Dalton  
Councillors T. Norris, and J. Taylor.

Abstaining: P. Scott  
Motion Defeated

Upon notice by the clerk that that discussion on this item had concluded, Councillor Scott returned to the meeting.

**From**  
Mrs. B. Russell

**Regarding**  
Request to lower  
speed limit on Main  
Road to 40 KPH

**Action**  
Refer to Traffic  
Committee

Smith & Jones

Application for  
subdivision  
development

Refer to Planning  
and Works  
Committee

*Finances*

**Budget Statement**

The financial statements of the town up to October 31, 20\_\_\_\_ were distributed with the agenda. Councillor M. Dalton responded to a few questions concerning the town's financial position.

**Accounts for Payment**

Councillor Dalton reported on behalf of the Finance Committee and noted that the list of accounts for payment had been attached to the agenda.

Motion #01-179 - Dalton/Norris

Resolved that vouchers #1587-1613 inclusive totaling \$48,187.63 be approved for payment.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors D. Kelsey, J.  
MacDonald, T. Norris, P. Scott,  
and J. Taylor.

Opposed: 0  
Abstaining: 0  
Motion Carried

*Regulations: Garbage  
Pickup*

**Amendment to Garbage Pickup  
Regulations**

In accordance with a notice of motion which had been given at the previous council meeting by Councillor Scott, the following motion was put:

Motion #01-180 - Scott/Dalton

Resolved that Regulation #98-031 be amended by deleting the words “twice each week” in paragraph 2 and replacing them with “weekly.”

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors D. Kelsey, and J.  
MacDonald, and P. Scott.

Opposed: Councillors T. Norris and  
J. Taylor.

Abstaining: 0

Motion Carried

### *Fence Heights*

#### **Fence Heights Regulations**

As instructed by council at the previous meeting, the clerk presented a draft regulation which had been prepared by the town solicitor to regulate the height of fences in the municipality.

Motion #01-181 - Kelsey/Taylor

Resolved that Regulation #01-019, which is attached hereto, and establishes the maximum height for fences on property fronting any highway or road in the municipality be no greater than four feet, be now passed by council.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors D. Kelsey,  
J. MacDonald, T. Norris,  
P. Scott, and J. Taylor.

Opposed: 0

Abstaining: 0

Motion Carried

### *General Business*

#### **Convention Attendance**

Councillor D. Kelsey requested authority to attend the annual convention of Municipal Recreation Committee Chairpersons in Toronto during November 15-18 at an estimated cost of \$1,750.00.

Motion #01-182 - Morris/Dalton

Resolved that Councillor D. Kelsey be authorized to attend the annual convention of Municipal Recreation Committee Chairpersons in Toronto during November 15-18, and that his expenses be reimbursed up to the amount of \$1,000.00 in accordance with the guidelines for the remuneration of councillors.

Councillor Kelsey abstained from voting on the question.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors J. MacDonald,  
T. Norris, P. Scott, and  
J. Taylor.

Opposed: 0

Abstaining: Councillor D. Kelsey

Motion Carried

**Complaints about Garbage  
Dropped on Road**

Councillor P. Scott reported that he had received a number of complaints about garbage being dropped from the garbage trucks and left on the roads.

The town manager was directed to look into this and to report to the next council meeting.

**Funding Request from  
Do-Good Service Club**

Prior to discussion of this item, Councillor Macdonald stated that he would abstain from any discussion or voting on this question since he was a member of the Do-Good Service Club and he wished to avoid any appearance of a conflict of interest. He left the council chambers prior to discussion.

Motion #01-183 - Taylor/Scott

Resolved that the sum of \$100.00 be given to the Do-Good Service Club to assist with their Christmas parade.

Amendment - Kelsey/Dalton  
That the amount be \$200.00

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillor D. Kelsey  
Opposed: Councillors T. Norris, P. Scott,  
and J. Taylor.  
Abstaining: Councillor J. MacDonald

Amendment failed The amendment having failed, a vote was then held on the main motion allowing further discussion.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton  
Councillors D. Kelsey, T.  
Norris, P. Scott, and J. Taylor  
Opposed: 0  
Abstaining: Councillor J. MacDonald  
Motion Carried

Upon notice by the clerk that that discussion on this item had concluded, Councillor MacDonald returned to the meeting.

### *Notice of Motion*

Councillor J. Macdonald gave written notice that he will introduce at the next regular meeting of council a motion to amend Regulation #97-014 with the intent of increasing the fee for sales from vehicles from \$25.00 to \$100.00.

### *Adjournment*

Motion #01-184 - Scott/Norris

Resolved that council do now adjourn to meet again on Tuesday, December 17, 20\_\_\_\_ at 7:30 P.M.

In favour: Mayor G. Hall  
Deputy Mayor M. Dalton

Councillors D. Kelsey, J.  
MacDonald, T. Norris, P. Scott,  
and J. Taylor.

Opposed: 0  
Abstaining: 0  
Motion Carried

The meeting adjourned at 10:55 P.M.

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*Mayor*

---

*Clerk*

# **Appendix C**



## **Model Set of Committee Terms of Reference**



# APPENDIX C

## MODEL SET OF COMMITTEE TERMS OF REFERENCE

The committee structures outlined below should be used as examples only. The duties and responsibilities of these committees may be increased or decreased as desired. In addition, other types of standing or special committees can be established by a council at any time. It should also be noted that committee structures and operations differ significantly in municipalities which have appointed a town manager as compared to those which have no town manager.

### **Finance Committee**

1. Preparation of the annual budget. (The town manager, if one had been appointed, would be responsible for the budget preparation, but the Finance Committee would then review it and make recommendations to council.)
2. Preparation of the five-year capital budget for recommendation to council.
3. Review of accounts payable for presentation to council.
4. Review of monthly financial statements for presentation to council.
5. Supervision of the revenues and expenditures of the annual budget and responsibility to ensure that budget allocations are adhered to.
6. Any other matters assigned by council pertaining to municipal finances.

### **Public Works Committee**

1. To consider and make recommendations to council on all matters of publicworks including streets, sidewalks, water and/or sewerage systems, and municipal buildings and equipment.
2. To consider specifications for tenders on supplies, equipment, and all public works; to consider such tenders after they have been opened by council, and to make recommendations thereon.

### **Recreation Committee**

1. To make recommendations to council on all matters of recreation programs and facilities.

2. To act as a liaison between council and the citizen's advisory committee on recreation.

### **Administration and Personnel Committee**

1. To report to council and to make recommendations on all matters of administration including staff salaries, benefits, and working conditions.
2. If there is no town manager, to negotiate on behalf of council with the union(s) representing town employees, and to make recommendations to council for contract agreements.
3. If there is no manager, to supervise the implementation of the terms of any union contract.

# **Appendix D**



## **Summary of Required Council Actions**

## APPENDIX D

### SUMMARY OF REQUIRED COUNCIL ACTIONS

The following is a summary listing of actions which councils are **required** to take under the *Municipalities Act*. For your convenience, the list is arranged alphabetically with the relevant Section of the *Municipalities Act* provided in square brackets.

<i>Acting Clerk</i>	Where the office of clerk is vacant or the clerk is unable to carry out his or her duties, council must appoint an acting clerk [59(3)].
<i>Acquisition of Private</i>	If a council decided to acquire private drains, sewers, or water supply pipes and systems, and cannot reach agreement of compensation, the expropriation provisions of the <i>Act</i> must be followed [157].
<i>Systems</i>	The clerk must serve a notice of arrears on the owners and encumbrancers of real property on which taxes are owing [137]. If the owner cannot be determined, the arrears notice must be posted in a conspicuous place on the property [137(3)].
<i>Arrears of Taxes</i>	Council must appoint a qualified auditor by August 1 of each year and must advise the minister in writing of the appointment within 30 days [87(1) and (3)].
<i>Auditor</i>	Council must supply all documents and records requested by the auditor [90].
<i>Bank Account</i>	Council must open an account in a financial institution approved by council and deposit in it all money received by council [76(1)].
<i>Bonding</i>	Council must bond every employee whose duties include dealing with council money and must pay the premiums for the costs of such bonds [71].

<i>Books of Account</i>	Council must ensure that complete books of account are kept of the financial dealings of the council [85].
<i>Borrowing for Current Account</i>	Council must inform the minister within 30 days of any borrowing for current account purposes [93(2)] and must repay any amounts borrowed before the end of the fiscal year except with the prior written approval of the minister [94(4)].
<i>Budgets</i>	<p>Council must prepare and adopt a budget by the 1<sup>st</sup> of December each year [77(1)]. The annual budget must be balanced [78] and must show the tax rates which will be imposed [77(1)]. Council must also send a copy of the adopted budget to the Minister of Municipal and Provincial Affairs before December 31<sup>st</sup> of each year (77(2)).</p> <p>A council shall not, without the prior approval of the minister, exceed the total estimated expenditure approved in the annual or revised budget [81].</p>
<i>Building Regulations</i>	Council must make regulations to control the design, construction, alteration, reconstruction, minimum lot size, occupancy, demolition, removal, relocation and maintenance of buildings [414(1)(d)].
<i>Business Improvement District</i>	Before designating a business improvement area, council must give written notice of the intended regulations to all businesses within the area [202(3)]. Council must not proceed if 1/3 of those affected give written notice of objection [202(4)]. Where a business improvement area is designated, council must appoint annually a board of management [202(5)].
<i>Business Tax</i>	Council must impose an annual business tax [120]. The rate of the business tax must be calculated as either a percentage of the assessed value of the real property (mandatory where

	property tax is in effect)[123] or a percentage of the gross revenue of the business [121].
<i>Capital Budget</i>	Each year before December 31 <sup>st</sup> , council must submit a five-year capital budget to Department of Municipal and Provincial Affairs [94(2)].
<i>Capital Reserves</i>	All capital reserves must receive the prior written approval of the minister [79(2) and (3)].
<i>Cheques</i>	All cheques must be signed by the mayor or deputy mayor or, in their absence, by a councillor designated for that purpose by council, <b>and</b> by the town treasurer, or clerk if there is no treasurer [76(2)].
<i>Clerk</i>	All councils must appoint a town clerk by a vote of 2/3 of the councillors in office [(59(1)].
<i>Conflict of Interest Undeclared</i>	Council must declare vacant the office of an elected councillor if that person fails to disclose a conflict of interest in a matter being discussed by council or discusses or votes on a matter in which he or she has a conflict of interest [206(2)].
<i>Debenture Certificate</i>	A debenture issued by a council must contain wording as specified in Section 97(1).
<i>Deputy Mayor</i>	At the first meeting held after a general election, council must elect one member by secret ballot to be the deputy mayor [18(1)(b)].
<i>Disclosure Statement</i>	All councillors must complete annually a disclosure statement which lists real property owned within the municipality, corporate shares owned, and businesses owned [210].
<i>Employment, Suspension, and Dismissal</i>	Where a town manager has been appointed and where there is no collective agreement or other contract regulating procedures, council must, upon the written recommendation of the manager, establish written procedures

	governing the exercise of the manager's powers of hiring, suspension, or dismissal of an employee [70(3)].
<i>Expropriation</i>	Council must follow the provisions of both the <i>Municipalities Act</i> [222-246] and the <i>Urban and Rural Planning Act</i> [49-95] if it wishes to expropriate land or property.
<i>Financial Statement</i>	Council must prepare and adopt a financial statement before June 1 of each year. The statement must be signed by the mayor and treasurer, or clerk if there is no treasurer [86].
<i>Fire Department</i>	Council must make regulations, subject to the approval of the minister, for the control and management of its fire department, fire prevention, and the participation of its fire department in emergency activities not related to firefighting or fire prevention [414(1)(e) and (f)].
<i>Group Insurance</i>	If a council has agreed to provide a group insurance plan for its employees, it must be based on a plan of contributions by council and its employees, except for volunteer members of the fire department where all contributions shall be paid by council [73(2)].
<i>Inspection of Documents</i>	Council must make available for public inspection during normal business hours all documents tabled or adopted by council at a public meeting [215].
<i>Job Descriptions</i>	Council must establish written job descriptions for each position established by it. Each job description must set out the duties and qualifications required [65(2)].
<i>Local Improvement Assessments</i>	Where council decides to impose a local improvement assessment, it must be based on the frontage of the real property abutting the highways directly benefited by the public work and must be based on the ratio which each

	property bears to the total frontage to be assessed [150].
<i>Manager (Expenditure)</i>	Where a manager has been appointed, council must set by resolution a maximum amount which the manager may spend on town business without the prior authorization of council [58(1)(a)].
<i>Manager (Recommendation)</i>	Where a town manager has been appointed, council must request his recommendation on any expenditure in excess of the amount set as the manager's spending limit without prior authorization of council [58(3)].
<i>Mayor (Election)</i>	Councillors must elect a mayor from amongst their number by secret ballot at the first council meeting after each general election, unless there has been a separate election for mayor [18(1)(a)].
<i>Mayor (Vacancy)</i>	Where a vacancy occurs in the office of a mayor who originally elected in a separate election, the council must fill the vacancy by either having the deputy mayor assume the office of mayor for the remainder of the term or until a by-election is held, or by electing, by secret ballot, one of the remaining members of council to fill the mayor's office for the remainder of the term [19(1)(c)]. Where a vacancy occurs in the office of a mayor who was originally elected by the town council, the vacancy must be filled by either having the deputy mayor assume the office for the remainder of the term or by electing, by secret ballot, one of the remaining members of council to fill the mayor's office for the remainder of the term [19(3)].
<i>Mayor (Absence)</i>	In the absence of the mayor, the deputy mayor shall preside at all meetings of council. Where both the mayor and deputy mayor are absent, the other councillors shall appoint a temporary chairperson [22(1) and (2)].



<i>Meetings</i>	<p>The first meeting of council following a general election must be held within 14 days of the election [23(1)].</p> <p>Town Councils must hold an open, public meeting at least once each month [24(1)].</p>
<i>National Building Code</i>	<p>Councils must adopt the National Building Code of Canada and keep a copy at the council offices available for public inspection [414(4) and (4)].</p>
<i>National Fire Code</i>	<p>If council adopts the National Fire Code of Canada, a copy must be kept at the council offices available for public inspection [414(5) and (6)].</p>
<i>Pensions</i>	<p>If a council has agreed to provide a pension scheme for its employees, it must provide for the payment of council contributions [72(4)].</p>
<i>Private Services</i>	<p>Council must not contract to supply works, goods, or services not authorized under the <i>Act</i> if by doing so it would be in competition with a non-council entity located in the municipality [221].</p>
<i>Privileged Meetings</i>	<p>Council must separately ratify at a public meeting each decision taken at a privileged meeting [213(3)].</p>
<i>Property Acquisition</i>	<p>Council must obtain the prior written approval of the minister before acquiring real and personal property which is not necessary for the operations of the council [201(2)].</p>
<i>Public Tenders</i>	<p>The execution of public works, acquisition of goods and services, and leasing of space must be done in accordance with the <i>Public Tender Act</i> [214].</p>
<i>Regulations</i>	<p>All regulations must be adopted by resolution of council and a copy of all regulations must be sent to the Minister within 14 days of their adoption [413].</p>

<i>Revised Budget</i>	If the estimates of revenue or expenditure contained in the annual budget seem during the year to be substantially wrong, council must prepare and adopt a revised budget, a copy of which must be sent to the minister within two weeks of its adoption [80(1) and (2)].
<i>Right of Entry and Construction</i>	Before council enters private property to construct, repair, or inspect water, sewage, drainage, or other systems under authority of Sections 158 and 159, it must give reasonable notice to the property owner [160] and must provide compensation for any damage [162].
<i>Rules of Procedure</i>	Council must adopt rules of procedure for its meetings [24(3)].
<i>Sale of Property for Tax Arrears</i>	After the expiration of the time limit indicated on the notice of arrears, the council shall, by resolution on the application of the clerk, direct that the real property be sold [139]. Notice of the sale must be published once a week for at least 30 days prior to the sale [140]. Any taxes, interest, and expenses owing to the municipality shall be deducted from the proceeds of the sale before any balance is paid to the person entitled to it [144].
<i>Service Levies</i>	Where council decides to impose a service levy under Section 149, it must be assessed on the amount of real property benefited by the public work related to the total of the real property that is benefited and the density of development that is made capable or increased [150(4)].
<i>Taxes</i>	All taxes to be imposed or varied must be passed by a resolution of council before April 1 of each year [101(1)]. A copy of the tax structure must be published annually. [109].
<i>Training</i>	If a council agrees to participate in staff training, it must also arrange, financially and otherwise, to assist its employees to take such programs [74].

<i>Voting Abstention</i>	Councillors must not abstain from voting on any motion or resolution before council unless in a conflict of interest [212(2)].
<i>Wards</i>	Where a council has created 2 or more wards and fixed the number of councillors to be elected for each ward, council must also fix the number of councillors to be elected at large. The number of councillors to be elected at large must not be less than the total number of councillors elected for the wards plus one councillor [14.4].
<i>Waste Collection</i>	Council must provide for the collection and disposal of solid waste [176].
<i>Water and Sewerage Regulations</i>	Council must make regulations controlling the construction, location, maintenance, and use of sewer systems, privies, septic tanks, wells, and water supply systems [414(1)].
<i>Water and Sewage Tax</i>	If a town is served by a water or sewage system, council must impose a water and sewage tax [130]. Where a real property tax has been imposed, the water and sewage tax must be based on a fixed amount in addition to the mill rate, a separate mill rate, or a metered rate [131(1)]. Where a real property tax has not been imposed, the water and sewage tax must be a fixed amount [131(2)]. The amount charged for buildings owned by the Crown or an agency of the Crown must be the same amount or rate as charged to similar properties [131(7)].

# **Appendix E**



## **Newfoundland and Labrador Federation of Municipalities**

## **APPENDIX E**

### **NEWFOUNDLAND AND LABRADOR FEDERATION OF MUNICIPALITIES**

The Federation of Municipalities was formed in 1951 as a voluntary association of incorporated municipal governments in Newfoundland and Labrador. The Federation's Statement of Purpose list several primary roles:

- To provide programs and services of common interest to the members.
- To provide a united approach on issues affecting local governance.
- To advance the ambitions and goals of its member communities by developing a shared common vision of the future.
- To effectively serve as a local government spokesperson and to represent its members in matters affecting them or the welfare of their communities.
- To further the establishment of responsible government at the community level.

The Federation membership meets annually in Convention to elect the Board of Directors and to develop policy through resolutions adopted by the Convention.

The Board of Directors consists of a President, Vice-President, Urban Municipalities Director, City of St. John's Director, Small Towns Director, and six Regional Directors. The Board is charged with carrying out the policy objectives established by Convention and with developing new policy objectives to address municipal concerns as they arise.

The Board is assisted in this task by its committees (whose membership is not necessarily limited to Board members) and by the staff of the Federation secretariat.

# **Appendix F**

## **The Newfoundland and Labrador Association of Municipal Administrators**

## **APPENDIX F**

### **THE NEWFOUNDLAND AND LABRADOR ASSOCIATION OF MUNICIPAL ADMINISTRATORS**

In the early 1970's a group of Town Managers and Town Clerks, concerned about the lack of training facilities, standardized pay and benefit packages and feeling the need to band together to build a united group, formed the body now known as the Newfoundland and Labrador Association of Municipal Administrators.

The Association's aim is to promote professionalism, provide a united voice in dealing with the Federation of Municipalities and the Department of Municipal and Provincial affairs, and to create a pool from which its members may draw information and advice from more experienced administrators.

At the Association's annual convention, an executive is elected, consisting of a President, Vice-President, Treasurer, and five Regional Directors. These officers, together with the Immediate Past President, hold office for two year(s) and are eligible to be re-elected in the same office for a subsequent second term(s). Funding is provided by a grant from the Department of Municipal and Provincial Affairs, membership fees and the Annual Convention.

The Association is frequently called upon by the Federation of Municipalities and the Department of Municipal and Provincial Affairs to assist in various research and committee activities. Some examples of this cooperation may be seen in the adoption of a province-wide municipal Health, Pension and Benefits package, and the four-year municipal administrators training program.

# **Appendix G**



**The Municipal Training  
and Development  
Corporation**



## **APPENDIX G**

### **THE MUNICIPAL TRAINING AND DEVELOPMENT CORPORATION**

The Municipal Training and Development Corporation was formed in November 1999 in recognition of the need for effective development and delivery of municipal training to elected and appointed municipal officials.

The partners in the Corporation include:

- The Department of Municipal and Provincial Affairs;
- The Newfoundland and Labrador Federation of Municipalities (NLFM);
- The Newfoundland and Labrador Association of Municipal Administrators (NLAMA); and
- The Combined Councils of Labrador (CCL).

The Corporation is managed by an eight-member Management Committee which includes the Executive Directors of the NLFM, NLAMA, and CCL, the Manager of Municipal Training for the Department of Municipal and Provincial Affairs, and one additional representative of each Partner.

The mandate of the Corporation is to:

- Identify training needs of appointed and elected municipal officials;
- Establish training priorities;
- Prepare strategic municipal training plans;
- Ensure that appropriate courses and materials are developed;
- Research and develop training standards;
- Develop and recommend training programs as required;
- Research and develop alternate methods of delivery;
- Develop communication mechanism to coordinate training with other groups;
- Schedule and deliver training courses;
- Conduct course and overall program evaluations;
- Identify and manage appropriate resources, including those external to the Corporation; and
- Undertake any other relevant municipal training and development activity.

MUNICIPAL COUNCILLOR'S

*handbook*

Second Edition



**Municipal Training  
and Development Corporation**

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