

12

PROCEDURE BY-LAW NEW MUNICIPAL ACT

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, August 12, 2003, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Council amend Procedure By-law No. A-0300-2001-111, as amended, in accordance with the recommendations contained in this report.
2. Notice of Council's intention to pass a by-law to amend the Procedure By-law be published in the local newspapers and on the Region's web site in accordance with section 238(4) of the *Municipal Act, 2001*.

2. PURPOSE

The purpose of this report is to outline changes that are required to Council's Procedure By-law to make it consistent with the provisions of the new *Municipal Act*.

3. BACKGROUND

The provisions of the new *Municipal Act* ("the new Act") and of Council's Procedure By-law No. A-0300-2001-111 ("the Procedure By-law"), as amended, were recently reviewed, particularly in the context of their effect on Council's Inaugural Meeting. The review indicated that a number of housekeeping amendments to Council's Procedure By-law should be made.

4. ANALYSIS AND OPTIONS

4.1 The New *Municipal Act*

The new Act came into force on January 1, 2003. It contains a number of minor changes. Among other things, it has repealed the *Regional Municipalities Act*. The *Regional Municipalities Act* contained the provisions relating to holding Regional Council's Inaugural Meeting. In turn, these provisions were reflected in Council's Procedure By-law. Under the new Act, by-laws passed under the old *Municipal Act* can remain in place until January 1, 2006. It would be prudent, however, to change the Procedure By-law as soon as possible to reflect the provisions of the new Act.

4.1.1 Definitions and References

The definition of "Act" in the Procedure By-law refers to the *Regional Municipalities Act*. There are a number of references to the "Act" and to specific sections of the old *Municipal Act* throughout the By-law that would need to be changed.

The definition of "committee" in the new Act has been changed to mean any advisory or other committee, subcommittee or similar entity of which at least 50 per cent of the members are also members of one or more councils or local boards. This is meant to clarify the application of procedure, including the publication of agendas and the holding of closed meetings, to "committees" that are largely comprised of citizens.

It is recommended that the definition section of the Procedure By-law be amended to refer to the *Municipal Act*. It is further recommended that the By-law be updated to include references to specific sections of the new Act where necessary. It is also recommended that the definition of “committee” in the By-law be amended to make it the same as the definition in the new Act.

4.1.2 Declarations of Office

Sections 3.2 (b) and (d) of the Procedure By-law provide that the order of proceedings at the Inaugural Meeting shall include the filing of Members’ declarations of qualification and oaths of allegiance, and the signing of the Regional Chair’s declaration of qualification and oath of allegiance. The new Act has eliminated the requirement to take a declaration of qualification and oath of allegiance. In its place, it provides that no one can take a seat on Council until they take a declaration of office in the prescribed form. The new declaration of office includes a promise of allegiance to Her Majesty the Queen or the reigning sovereign.

It is recommended that Sections 3.2 (b) and (d) of the Procedure By-law be amended to refer to declarations of office.

4.1.3 Qualifications for Regional Chair

Section 4.5 of the Procedure By-law provides that a nominee for the position of Regional Chair must be at least 18 years old, a Canadian citizen, a resident of York Region, and not disqualified by any legislation. The new Act provides that a person is qualified to be elected or hold office as a member of the council of an upper-tier municipality if that person is entitled to be an elector in a lower-tier municipality under section 17 of the *Municipal Elections Act* and not disqualified under any legislation. Section 17 of the *Municipal Elections Act* provides that the qualifications to be an elector are that a person:

- resides in the local municipality or is the owner or tenant of land there, or the spouse or same-sex partner of such owner or tenant
- at least 18 years of age
- a Canadian citizen
- isn’t prohibited from voting by law

It is recommended that section 4.5 of the Procedure By-law be amended to reflect the provisions of the new Act and section 17 of the *Municipal Elections Act*.

4.1.4 Voting for Regional Chair

Section 4.12 of the Procedure By-law provides that no vote for Regional Chair may be taken by ballot or any other form of secret voting. Section 4.18 of the By-law contains a provision that the Clerk is to record the vote of each member on each vote. These sections of the Procedure By-law reflected provisions in the old *Municipal Act*. The new Act provides that the head of council may be appointed by secret ballot. The option of whether or not to vote by secret ballot would be available to Council at each Inaugural Meeting.

It is recommended that sections 4.12 and 4.18 of the Procedure By-law be amended to reflect the option of voting by secret ballot as contained in the new Act.

4.1.5 Appointment of Regional Chair by Lieutenant Governor in Council

Section 4.17 of the Procedure By-law provides that the Lieutenant Governor in Council shall appoint a Regional Chair if Council is unable to appoint a Regional Chair due to a

number of tie votes at the Inaugural Meeting and subsequently within one week of the Inaugural Meeting. This reflected a provision in the *Regional Municipalities Act*. The new Act does not contain a similar provision.

It is recommended that section 4.17 of the Procedure By-law be amended to delete reference to the Lieutenant Governor in Council appointing a Regional Chair.

4.1.6 Notice

Section 238(4) of the new Act contains a new provision providing that before passing a procedure by-law, a municipality shall give notice of its intention to pass the by-law. Section 251 of the new Act provides that where a municipality is required to give notice under the Act, it shall give the notice in a form and in the manner and at the times that the council considers adequate to give reasonable notice under the provision.

Section 5.3 of the Procedure By-law provides that notice of all meetings, agendas, agenda items, cancellations and postponements is to be provided to the public and media by posting a notice on the meetings board in the main lobby of the Regional Administrative Centre not less than 24 hours prior to the meeting. This notice is also provided on the Regional web site -- thereby giving better access to those who do not pass through the Regional Administrative Centre. Many municipalities also publish this notice in local newspapers for those who do not attend their municipal buildings or review agendas on their web site.

It is recommended that the Procedure By-law be amended to provide for the giving of notice by posting on the Region's web site and the publication of Council's intention to pass the by-law in local newspapers at least two weeks before the Council meeting at which the draft by-law is to be considered.

4.2 Relationship to Vision 2026

The Procedure By-law supports the Vision 2026 goal of Engaged Communities and a Responsive Region by engaging residents in decisions that affect their lives.

5. FINANCIAL IMPLICATIONS

Funds would need to be expended for the publication of notice in the local newspapers of Council's intention to pass an amendment to the Procedure By-law. These funds are available within the 2003 Budget.

6. LOCAL MUNICIPAL IMPACT

There is no local municipal impact resulting from the proposed amendments.

7. CONCLUSION

This report has recommended a number of changes to the Procedure By-law to make it consistent with the provisions of the *Municipal Act, 2001*. If these are approved, a by-law to put them into effect would be brought forward to the Council meeting of October 16, 2003.