

Township of McMurrich/Monteith
Special Council Meeting - Agenda
Tuesday, January 17, 2024 – 10:00am

Meeting to be held inside Municipal Office Building – 31 William Street, Sprucedale

1. Call to Order:
2. Declaration of pecuniary interest:
3. Presentation: Council and Staff Training Session offered by Fred Dean
4. Dates to Remember:
 - Recreation Committee – Thursday, January 18th – 7pm
 - Strategic Plan Committee – Monday, January 22nd – 7pm
 - Special Council Meeting – Friday, January 26th – 10am
 - Regular Council Meeting – Tuesday, February 6th – 7pm
 - Ad-Hoc Landfill Committee – Thursday, February 15th – 7pm
 - Sprucedale Winter Carnival – Sunday, February 18th
5. Adjournment:

An Effective Municipal Council

Presentation to Council and Staff of McMurrich Monteith Township



**Presentation by Fred Dean
January 2024**

Introducing Fred Dean

- **Municipal Coach**
- **Former Sudbury City Solicitor**
- **Works exclusively with local governments**
- **Former Chair**
 - ROMA Question Box Panel
 - OGRA The Last Word Panel
- **Amberley Gavel Ltd.**
 - Closed Meeting Investigations
 - Integrity Commissioner
 - Academy
- **Orientation for new Councils & Heads of Councils**
- **So You Want to Run for Council**
- **AMO Honour Role**



THE AGENDA ...

- Dialogue
- Municipal Basics
- Roles, Responsibilities
- Council Committees
- Meeting rules
 - Open / Closed
 - Procedure By-law
- Personal Conduct
 - MCIA
 - Codes
- Key Attributes of Successful Municipalities



Goals for this Session

- How Council members can stay out of the weeds and actually enhance services
- How to improve conduct of meetings
- How to function under ever increasing scrutiny
- How to make effective decisions



Municipal Powers

- **Powers come from the Province**
 - **Acts and Regulations**
- **Municipalities have no inherent jurisdiction**
- **Municipal powers shall be exercised by council by By-law**



Basic Principles

- **Municipal Powers**
 - **Complex, technical, multi-faceted**
 - **Section 5 Municipal Act**
 - **Shall be exercised by Council**
 - **Exercised by By-law**



How are Council Powers Exercised?

Powers are exercised at a duly constituted meeting

- ✓ **Notice to the public**
- ✓ **Open to the public**
- ✓ **Quorum**
- ✓ **Majority vote**



Accountable and Transparent Government

- **Dialogue**
- **Policies**
- ***Duly constituted meetings***
- **MFIPPA**
- **Code of Conduct**
- **Integrity officers**
- ***Open meetings***



Council Policies Section 270 MA

Council Policies that shall be adopted & maintained

- Notice
- A & T
- Delegation
- Sale & Disposition of Land
- Hiring of Employees
- Procurement
- Pregnancy & Parental Leave
- Relationship between Members & Employees



Notice

- Procedure By-law
 - Sets out requirements for Regular & Special Meetings
- Notice Policy
 - For specific subject matters
 - Every staff writing reports must determine if special notice is required



Council/Staff Relationship

- **Council is the Employer**
 - Makes decisions
 - Sets policy
 - No management role
- **Staff**
 - Primary source of information to Council
 - Provide services approved by Council
- **Sets tone for your relationship with community**
- **Policy required between Members & the Officers & Employees of the Municipality**
- **Also to be included in Code of Conduct**



Roles & Responsibilities

Knowledge, understanding and respect for the roles is critical to the success of the municipal organization

Council

- Responsibilities set forth in MA
- Exercises corporate powers
- Acts collectively, publicly & with advanced notice
- No management functions by
 - Council
 - Members of Council
- Limited individual powers

Head of Council

- ✓ Mayor, Reeve, Warden, Chair
- ✓ Leadership to council
- ✓ Advisor to council on key matters
- ✓ Effective chair
- ✓ Influence
- ✓ No management powers
- ✓ CEO
- ✓ Unique role



Chief Administrative Officer

- Council may appoint a CAO who reports to Council and shall be responsible for
 - exercising general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality
 - performing such other duties as are assigned by the municipality
- Critical position

Chief Administrative Officer

- Council may give position a different title -
- Administrator, Town Manager, Chief Commissioner
- Key – powers and duties in appointing by-law as prescribed by MA
- If Council does not appoint a CAO
 - Toronto & Sudbury
 - Council cannot assume duties of ACO

Municipal Staff

- It is the responsibility of Administration to
 - undertake research & provide advice to Council & Committees
 - implement council's decisions
 - establish administrative practices & procedures to carry out council's decisions
- Statutory Officers



Councillor

- Public Official
- Limited individual powers
- No management powers
- Member of Council that
 - Sets Policy
 - Makes decisions

Councillor

- Does not speak on behalf of municipality
 - Responsibility of Head of Council
- Cannot commit municipality

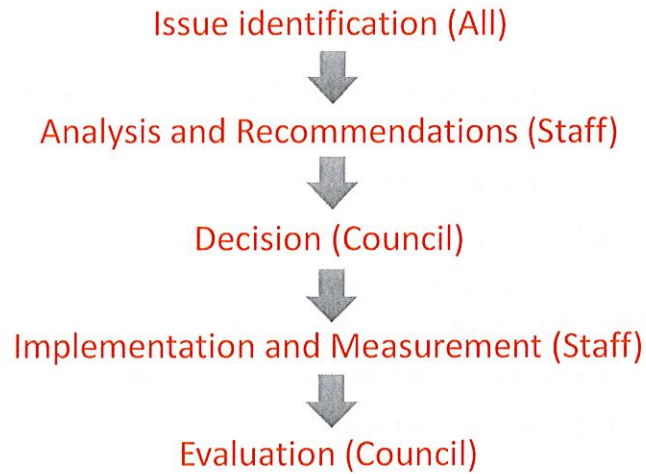
The Public

- Provide input to members
- Observe meetings of council
- Appear as delegation



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Roles Summary



Things to Consider...

- *Council Exercises Power*
- *Unique role of Head of Council*
- *Micromanaging*



Micromanaging

- *Single greatest factor for success of your organization*
- *It is never positive*
- *What is it?*
 - *Excessive monitoring of staff*
 - *Attempting to control workflow or assign work*
- *No one likes to be micromanaged*
- *It is not a level playing field*



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Examples of Micromanaging

- *Assigning work to clerical staff*
- *Directing work without council approval*
- *Doing the work yourself*
- *Acting as quality control supervisor on projects*
- *Calling / emailing or texting staff after hours*
- *As committee chair -*
 - *Creating committee agendas*
 - *Acting as department manager*
 - *Making decisions without committee approval*



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Citizen Enquiries

- *Best Practice*
- *System of tracking*
- *Your business cards*
- *"You should sue the municipality!"*



Meeting Defined

"meeting" means any regular, special or other meeting of a council, of a local board or of a committee of either of them, where

- a) A quorum is present, and
- b) Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee.



What is a meeting?

- Quorum?
- Advancing business or decision making?
- Social Gathering?
- Conference call?
- Single calls?
- Emails involving a group?
- On-line group discussion?

Meetings – Open or Closed?

- Key element of Accountable and Transparent Government
- Members and staff must know legislated rules for holding closed meetings
- Closed meetings
 - Limited ability to hold closed meetings
 - Subject to review by an Investigator

Closed Meetings

1 – 2 – 3 - 4

Rules governed by Municipal Act

1. Permitted Subjects
2. How to move into a closed meeting
3. Voting at a closed meeting
4. Reporting out



Basic Principles...

- All meetings of council, local boards and committees shall be open to the public
- Meetings may only be closed in circumstances set forth in section 239, Municipal Act
- Rules apply to council, committees and some local boards



Closed Meetings

- Transparency
- 50 % rule
- Errors to avoid
- FAQs – coffee shop, emails
- Investigations



Subject Matters at Closed Meetings Section 239

- Security of property
- Personal matter about an identifiable individual
- Acquisition or disposition of real property
- Labour relations or employee negotiations



Subject Matters at Closed Meetings Section 239

- **Litigation or potential litigation**
- **Advice that is subject to solicitor-client privilege**
- **Under another Act**
 - *Emergency Management Act*
 - *MFIPPA*



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Subject Matters at Closed Meetings Subsection 239 (3.1)...

- **Meeting may be closed if –**
 - **for the purpose of educating or training the members AND**
 - **no member discusses or deals with a matter in a way that materially advances the business or decision-making**



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Subject Matters at Closed Meetings Section 239 (New)

- information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
- a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization



Subject Matters at Closed Meetings Section 239 (New)

- a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.



2. Public Resolution Required

- Required before closed meeting can occur
- Must be passed at an open meeting
- The Resolution must
 - Acknowledge fact of closed meeting
 - Indicate the general nature of the matter to be considered
- No additional items!!



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3. Votes at Closed Meetings

- Votes are only permitted for the following -
 - Procedural Matters
 - Direction
 - Adjournment
- Why are written Resolutions important?



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4. Reporting Out

- Reporting out in public session
 - Considerations
 - Process
 - Best Practice
- Reporting out to public
 - By Head of Council if authorized by Council
 - Maintain confidentiality



Closed Meeting Investigations

- Any person may request an investigation whether municipality, local board or committee has complied with s. 239 or the procedure by-law in respect of a closed meeting
- Independent investigation



Procedure By-law

- Along with the annual budget it is the most important document in your municipality!
- Governance model
- Rules of procedure for all meetings
- Look to the Clerk for advice

Procedure By-law

- Defines relationships
 - with public
 - eg rules for delegations
 - With staff
 - With each other
- Review it every term



Procedural Issues

- Council, Local Boards & Committees speak by passing motions
- Debate only occurs after motion is introduced
- Motions require a mover & seconder
- Once passed a motion becomes a resolution



Agendas

- | | |
|------------------------------------|---|
| ➤ Prior to the meeting, Staff will | ➤ Review agenda with the Chair |
| ➤ Set the time for meeting | ➤ Agenda format set out in Procedure By-law |
| ➤ Prepare the reports | ➤ Adding items to an Agenda |
| ➤ Draft Motions | ➤ The importance of Notice to the Public |
| ➤ Draft by-laws | |
| ➤ Create the agenda | |

How do Members place items on the agenda?

- Talk to staff, or
- Notice of Motion
- Process must give notice to everyone



Predictable and Transparent Meetings

- Predictable meetings?
- Transparent meetings?
- No additions to published agenda
- How can you be surprised?
- A matter of trust



Delegations

- Purpose of delegations to Council
- Rules are in the Procedure By-law
- Time allocated for each delegation
- # per meeting
- Questions for clarification
- Members do not debate with delegation
- Hear delegations once on a topic

The Ambush!

- Avoid additions to agenda
- A question of fairness & trust
- Notice of Motion
- Avoid “Other” or “New Business”
- Questions / comments from the public
- “Town Hall” Meetings



Voting Sections 243-246

- Voting rules are in MA
- Everybody votes
- Secret votes are of no effect
- Tie votes
- Recorded vote
- Failure to vote is a negative vote



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Appeal the Decision of the Chair

- Whose Meeting is it?
- Any decision of Chair may be appealed
- Vote by Council



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Minutes

- Required for all meetings of council, local boards and committees, open or closed
- Duty of Clerk, recording secretary
 - “without note or comment”
- Minutes are a record of corporate acts, not a story.



Where to get advice...

- Clerk on all procedural issues
- Staff
- CAO



Council Committees

- Committees & subcommittees are established by Council by resolution or by-law
- Purpose of Committees is to make recommendations to Council
- Mandate of Committees set by Council
- Committee Members are appointed by Council
- Council may appoint chair



Council Committees

- Why have Committees?
- Provide advice to Council
- Increases your workload
- No spending authority
- All municipal spending must be in accordance with the Council Procurement Policy



Types of Council Committees

- Standing
- Ad hoc
- Advisory
- Committee of the Whole



Council Committees

- Committees recommend to Council
- Recommendations are Resolutions
 - Become effective when approved by Council
- The Procedure By-law Applies to Council and Committees
- Micromanaging by Committee Members



Committee Agendas & Minutes

Agenda

- Staff create the agenda
- The Agenda format set out in Procedure By-law
- Staff review the agenda with the Chair

Committee Minutes

- Prepared by the Recording Secretary under direction of the Clerk
- Council can either Adopt or Receive Committee Minutes



Committee Chairs

- Chairs meeting
- Preparation is key
- Review agenda with staff
- Start meeting on time
- Knowledge of Procedure By-law
- Maintain order

- Rule on procedural matters
- No authority to direct staff, to micromanage
- No spending authority unless authorized by Council and in accordance with Procurement Policy



Council Committees

- **Committees & committee members have no spending authority**
- **Procurement Policy (Purchasing By-law)**



Personal Responsibilities of Members

- ✓ **Code of Conduct**
- ✓ **Municipal Conflict of Interest Act**
- ✓ **Integrity Commissioner is responsible to train council & committee**
- ✓ **Increased scrutiny of your conduct**
- ✓ **Greater transparency**



Integrity Commissioner

- ✓ **Mandatory**
- ✓ **Independent officer**
- ✓ **Role includes -**
 - ✓ **Education, advisor, investigations**
 - ✓ **Reports & recommends to council**
 - ✓ **Written opinions**



Code of Conduct

- ✓ **Applies to members of council, committees and some local boards**
- ✓ **Mandatory**
- ✓ **Prescribed Matters**
 - ✓ **Gifts, benefits & hospitality**
 - ✓ **Respectful conduct including conduct toward officers & employees**
 - ✓ **Confidential information**
 - ✓ **Use of property of municipality or local board**



Code of Conduct

- ✓ Alleged breaches of Code investigated by IC
- ✓ IC reports to Council
- ✓ If IC finds a breach, may recommend a penalty of
 - ✓ Reprimand
 - ✓ Up to 90 days loss of remuneration
- ✓ Council makes decision



Confidentiality

- What does it mean?
- What might the consequences of a breach be?
 - For the corporation
 - For the person breaching



The Municipal Conflict of Interest Act

- ✓ Major changes in March 2019
- ✓ Your personal obligation
- ✓ Governs conduct of members
- ✓ Does not apply to staff



Conflict of Interest

- ✓ What are the requirements imposed on a member?
- ✓ What are the impacts of the 2019 changes
 - ✓ on members?
 - ✓ on the municipality?



Pecuniary Interest

- ✓ What is a pecuniary interest?
- ✓ Direct & indirect
 - ✓ Parent, spouse, child
 - ✓ Corporations
 - ✓ Member of a body
 - ✓ Employee
 - ✓ Partner



Member's Duties

If a member has a pecuniary interest:

- Declare the pecuniary interest
- State the general nature of the interest
- Do not:
 - Influence before, during or after the meeting
 - Participate
 - Vote



Declarations

➤ Verbal Declaration

- Verbally disclose a PI and the general nature at the meeting
- Make sure it is properly recorded in minutes

➤ Written Declaration

- Member must file a written declaration with Clerk
- Registry with verbal & written declarations maintained by Clerk
- Best practice...



"Do I have a Pecuniary Interest?"

"NO"

- ✓ Participate
- ✓ Influence &
- ✓ Vote
- ✓ "Business as usual"

"YES"

Does a section 4
Exception
Apply?

→ "YES"

- Participate,
Influence & Vote

→ "NO"

- Declare Pecuniary
Interest
- Do NOT Participate,
Influence or Vote



Conflict of Interest Exceptions

- user of any public utility service
- member being entitled to receive any service or commodity on same terms as others
- purchasing or owning a debenture of the municipality
- member making a deposit with the municipality or local board, which is or may be returnable to the member in like manner as such a deposit is or may be returnable to all other electors
- having an interest in any property affected by a work under the Drainage Act or relating to local improvements



Conflict of Interest Exceptions

- having an interest in farm lands that are exempted from taxation
- being eligible to fill a vacancy in the council or local board when the council to fill such vacancy
- being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of the member being a member of a board, commission, or other body as an appointee of a council or local board



Conflict of Interest Exceptions

- setting compensation for members of council
- setting compensation for members of a volunteer fire brigade
- an interest in common with electors generally
- interest which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member



Municipal Conflict Of Interest Act

- If Exception applies
 - business as usual
- Closed meetings
- Quorum
 - Can be reduced to 2 members
- Absence from meeting
 - Declare at next meeting



“Where do I find general advice?”

- **Educate yourself**
 - Read the Act regularly
 - Book and articles
 - Google Alerts
- **Staff may only assist with general advice**
- **Integrity Commissioner**



Written Opinion of IC

- **Members may request in writing an opinion from IC**
- **IC will respond in writing**
- **Request must offer full disclosure**
- **Member can rely on IC opinion**



Traditional Complaint Process

- **Court Application**
 - **By Elector**
 - **Within 6 weeks of knowledge**
 - **Up to 6 Years from alleged contravention**



Since 2019

- **Elector or a person demonstrably acting in the public interest may apply to IC**
- **IC investigates & reports to council**
- **IC may apply to court**



Application to Court

- By an elector, a person demonstrably acting in the public interest or the Integrity Commissioner
- Within 6 weeks but not during election period
- Why would IC apply to court?



Powers of Court

- Reprimand the member or former member
- Suspend remuneration for up to 90 days
- Declare seat vacant
- Disqualify member for up to 7 years
- Restitution



Court May Consider

- **Member took measures to prevent contravention**
- **Provided all relevant facts to IC when asking for opinion**
- **Followed advice of IC**
- **Inadvertance**
- **Error in judgment**



Making a Difference

Key Attributes of Successful Municipalities?



Making a Difference

- ✓ Know & Respect each other's roles
- ✓ Know and follow the Procedure By-law
- ✓ Well constructed agendas
- ✓ Comprehensive staff reports
- ✓ Come to meetings prepared
- ✓ No surprises at meetings



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Making a Difference

- ✓ Commit to accountability / transparency
- ✓ Create a culture of ongoing training
- ✓ Respect and decorum
- ✓ Have a well defined relationship with the public
- ✓ Public will be watching more closely
- ✓ Inappropriate behavior will cost the municipality and you personally



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Summing Up

- ✓ Chairs and members need to be prepared for every meeting
- ✓ Read everything
- ✓ Talk to staff in advance if you have questions
- ✓ Understand your personal responsibilities
- ✓ Conduct of everyone in municipality will be subject to increased scrutiny



Summing up

- Municipal government is complex and regulated
- Municipal Powers rest with Council
- Understand the role you are elected to fulfill
- Do your homework!
- Understand your personal obligations
- Have fun and don't forget your role is to "set the course"!



An Effective Municipal Council

Presentation to Council and Staff of McMurrich Monteith Township



**Presentation by Fred Dean
January 2024**