



Staff Report

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| Report To: | General Government Committee | | |
| Date of Meeting: | May 6, 2024 | Report Number: | LGS-018-24 |
| Submitted By: | Rob Maciver, Deputy CAO/Solicitor, Legislative Services | | |
| Reviewed By: | Mary-Anne Dempster, CAO | Resolution#: | |
| Authored by: | June Gallagher, Municipal Clerk | | |
| File Number: | | By-law Number: | |
| Report Subject: | Procedural By-law Changes – Delegations and Strong Mayors Act | | |

Recommendations:

1. That Report LGS-018-24, and any related delegations or communication items, be received;
2. That the By-law attached to Report LGS-018-24, as Attachment 2, to amend sections of the Procedural By-law 2023-033 related to delegations and the Strong Mayors Act, be approved; and
3. That all interested parties listed in Report LGS-018-24, and any delegations, be advised of Council's decision.

Report Overview

This report responds to the Council direction to amend the Procedural By-law, specifically as it relates to delegations. In addition, it addresses changes arising from the Strong Mayors Act.

1. Background

- 1.1 Arising out of the Strong Mayors Act, Staff brought [Report LGS-024-23](#) to the General Government Committee of September 11, 2023. The Committee passed the following Resolution #GG-145-23 (excerpted):

“That Staff bring forward the Procedural By-law amendments noted in Section 14 of this report, directly to a future Council meeting.”

- 1.2 At the March 25, 2024, Council meeting, [Council passed the following Resolution # C-029-24](#):

That the Municipal Clerk be directed to prepare a report for possible wording changes to the Procedural By-law, as follows:

1. Require all requests for delegations to be accompanied by a written summary, to be included in the Agenda, outlining their subject, their address, their reason for delegating, their desired action requested of Council, and any supporting documentation.
2. For matters which are more properly within the responsibility of staff, the Clerk shall notify the proposed delegate that the delegation shall not be listed on the agenda and shall direct the proposed delegate to the appropriate department. The delegation shall not be listed on an agenda until staff has had the opportunity to address the matter.
3. Not allow delegations who are there for the sole purpose of generating publicity for an event.
4. Not allow candidates, or nominees, for a political party.
5. Regarding decorum, add the following clause as follows:
 - a. “No person shall make detrimental comments, or speak ill of, or malign the integrity of staff, the public or Council and Committee.”
 - b. Members of the public shall be respectful of Council, staff, delegations, and all attendees at the meeting by refraining from public outbursts, heckling, shouting, making comments, or behaviour intended to disrupt the debate, discussion and/or general proceedings.

- c. Attendees shall not engage in conversations, display placards or props.
6. Change the time limit for delegations from ten minutes to seven minutes, with a single extension of up to three minutes by majority vote. Should there be more than one individual that registers to speak as a group, the group shall be allotted up to ten minutes to delegate.
7. That the time limit for Members of the Public to speak at Public Meetings be changed from ten minutes to five minutes.
8. That the time limit for Staff and Consultant presentations at Public Meetings be added to the Procedural By-law as 20 minutes.

That all interested parties be advised of Council's decision.

2. Review of the Council Resolution's

Other Municipalities

- 2.1 Staff have surveyed the Durham Area municipalities regarding various aspects of delegations and their procedural by-laws. Attachment 1 shows the results of the survey.

Written Submission/Summary

- 2.2 Clarington's current [Procedural By-law 2023-033](#) does not include a requirement for a written submission/summary, other than the following subsections:
 - 7.5.6 Where a Delegation wishes to provide Members with written communication supporting the Delegation's comments, the communication shall be provided to the Municipal Clerk prior to the meeting. The written communication may be distributed to the Members at the discretion of the Municipal Clerk or designate.
 - 7.5.11 Where a delegation request is received after the Agenda Deadline and the matter is included on an agenda for a meeting, the request will be added to the addendum for the applicable meeting if written notice to the Clerk is received, **including the subject of their address and their desired action requested by Council, by the Agenda Update Deadline for the meeting.**

2.3 To address Council's direction, Staff recommend a new section be added to the beginning of the delegation section, and the subsequent sections be renumbered:

7.5.1 All requests for delegations shall be accompanied by a written summary, to be included in the Agenda, outlining their subject, their name and address, their reason for delegating, their desired action requested of Council, and any supporting documentation. Delegations will not be allowed if the Municipal Clerk, in consultation with the CAO, deems that the written summary is not sufficient to convey the topic and position of the delegation.

2.4 As a matter of housekeeping, Staff are also recommending that subsection 7.5.11 be changed to remove content details as they are addressed in the new section. Therefore, change from:

"if written notice to the Clerk is received, including the subject of their address and their desired action requested by Council, by the Agenda Update Deadline for the meeting."

TO:

"if written notice to the Clerk is received, by the Agenda Update Deadline for the meeting."

2.5 To facilitate the above, Staff will be changing their process and will be adding the "Delegation Request" to the delegation on the agenda (minus personal details – but leaving the person's municipality). This will include the above information that Council is requesting.

Matters Under Staff Responsibility

2.6 Subsection 7.6.2. touches on the matter of items that are the subject of a staff report:

7.6.2 Notwithstanding Sub-section 7.6.1, Delegations shall not be permitted to speak to a matter that was considered at a Standing Committee, or is the subject of a Staff report or matter included under Unfinished Business included on the Council agenda, where the Delegation spoke to the item at a Standing Committee meeting, including a Public Meeting, which is being reported to Council, unless a majority of the Members present vote in favour to hear the delegation.

- 2.7 As a housekeeping matter, Staff are seeking to clarify the wording, within subsection 7.6.2: “unless a majority of the Members present vote in favour to hear the delegation”. Although Council can always suspend the rules to hear a delegation, it puts Staff in a difficult position where we tell them that they are not permitted to speak “unless Council lets you” – then we have the difficulty of “do we add them to the agenda?” “do we tell them to show up and hope for the best?” “do we send them the link to appear electronically?” Therefore, Staff are recommending the removal of this wording in subsection 7.6.2.
- 2.8 In addition to Council’s concern above, Staff are also concerned about delegations which may come to Committee prematurely (i.e. the matter has been referred to Staff for a report which is not yet published). To address both concerns, Staff recommend a new section be added:
- 7.5.2(f) Speak to matters which have been referred to Staff for a report which is not yet on a published agenda or matters which are within the responsibility of Staff. For these inquires, the Clerk shall notify the proposed delegate that the delegation shall not be listed on the agenda and shall direct the proposed delegate to the appropriate Department. The delegation shall not be listed on an agenda until Staff has had the opportunity to address the matter.
- 2.9 Similarly, Staff recommend the following new section be added related to Communications, and subsequent sections be renumbered:
- 7.14.2 Communications which relate to a matter which has been referred to Staff for a report which is not yet on a published agenda or matters which are within the responsibility of Staff, shall not be placed on an agenda or the ECCIP and will be forwarded to the appropriate staff member for response to the author.

Agenda Restrictions

- 2.10 Subsection 2.6 of the Procedural By-law outlines Agenda Restrictions, which is directly referred to from the Delegation section, but does not currently include a restriction regarding publicity.
- 2.11 To address Council’s direction, Staff recommend a new section be added, and the remainder (existing (j)) of subsection 2.6.1 be renumbered accordingly:
- 2.6.1 (j) is solely for the purpose of generating publicity for an event;

2.12 Additionally, Staff have identified that the following agenda restriction also be added:

2.6.1 (k) Involves an active by-law investigation or prosecution.

2.6.1 (l) Involves other administrative, or operational matters, including but not limited to: contract awards and billing discrepancies/issues.

Candidates and Nominees

2.13 Subsection 2.6 of the Procedural By-law includes a restriction “where the subject matter involves political parties”. This does not speak particularly to nominees or candidates, or addressing candidates in a municipal election which would not be affiliated with a political party.

2.14 To address Council’s direction, Staff recommend that “candidate” and “political party” be defined and that the above section be replaced with the following wording:

2.6.1 (i) Involves candidates, political parties, or nominees for a political party.

Conduct

2.15 Subsection 7.9.1 of the Procedural By-law outlines the conduct for delegations and presenters who shall not:

a) speak disrespectfully of any person;

b) use offensive words;

c) speak on any subject other than the subject for which they have given notice to address Council/Committee;

d) disobey the decision of the Chair;

e) enter into debate with Members;

f) appropriate any unused time allocated to another Delegation or Presenter; or

g) deviate from answering directly when answering a question.

- 2.16 To address Council's direction regarding comments, Staff recommend that subsection 7.9.1 (a), regarding conduct of delegations and presenters, be replaced with the following wording:
- 7.9.1 (a) speak disrespectfully of any person or make detrimental comments, or speak ill of, or malign the integrity of staff, the public or Council and Committee.
- 2.17 To address the display of placards and props, Staff recommend that the following section also be added to Subsection 7.9.1:
- 7.9.1 (h) display placards or props.
- 2.18 Similarly, subsection 9.14.1 states that Members of the Public shall maintain order and quiet and may not:
- a) Address Council or Committee without permission;
 - b) Interrupt any speaker or action of the Members or any other person addressing Council or Committee;
 - c) Speak out;
 - d) Clap, except following award presentations;
 - e) Behave in a disorderly manner; or
 - f) Make any other noise or sound that proves disruptive to the conduct of the meeting.
- 2.19 To address Council's direction Staff recommend that the following subsections be replaced, with the addition of subsection 9.14.1(g):
- 9.14.1(c) Speak out and shall refrain from public outbursts, heckling, shouting, making comments, or behaviour intended to disrupt the debate, discussion and/or general proceedings;
 - 9.14.1(e) Behave in a disorderly manner or be disrespectful of Council, Staff, delegations, or any member of the audience.
 - 9.14.1 (f) Engage in conversations or make any other noise, or sound, that proves disruptive to the conduct of the meeting;
 - 9.14.1 (g) Display placards or props.

Time Limit

2.20 The matter of the delegation time limit has changed back and forth over the years. The following is a summary of the history of the delegation time limit (beginning in 2001):

- [Report CLD-017-01](#) and its [Addendum](#) recommended changing the time limit from 10 minutes to five minutes in By-law 95-55. Council referred it back to staff and ultimately it was decided to keep it to ten minutes.
- [Report CLD-041-07](#) recommended five minutes and Council approved five minutes ([By-law 2007-227](#)).
- In January, 2022, arising out of a delegation and correspondence, Council changed the limit from five minutes to ten minutes (Amending [By-law 2011-009](#)).
- [Report CLD-007-11](#) containing a new procedural by-law ([By-law 2011-016](#)) which kept the ten minutes.
- [Report CLD-006-15](#) containing a new procedural by-law which ([By-law 2015-029](#)) kept the ten minutes.
- [Report LGS-017-21](#) containing a new procedural by-law which recommended five minutes and Council changed it to ten minutes ([By-law 2021-054](#)).
- [Report LGS-017-23](#) was the most recent comprehensive Staff review of the Procedural By-law and Staff considered recommending a reduction from ten minutes to five minutes, but there did not seem to be an appetite for that, in discussions with individual Members of Council, so it remained at ten minutes with a single extension.

2.21 The current Procedural By-law contains the following time limits for delegations:

7.5.13 Each Delegation in respect of a particular matter shall be limited to 10 minutes in addition to the time taken by Council to ask questions of the delegate and to receive answers to such questions.

7.5.14 An extension of 2 minutes may be provided to a delegation by passing a motion with a simple majority vote. All other extensions require the suspension of the rules of procedure.

2.22 To address Council's direction regarding time limits for delegations, Staff recommend subsections 7.5.13 and 7.5.14 be replaced with the following:

7.5.13 Each Delegation in respect of a particular matter shall be limited to seven minutes in addition to the time taken by Council to ask questions of the delegate and to receive answers to such questions.

7.5.14 Should there be more than one individual who registers to speak as a group on the same matter, the group shall be allotted up to ten minutes to delegate.

7.5.15 A single extension, of up to three minutes, may be provided to a delegation by passing a motion with a simple majority vote. All other extensions require the suspension of the rules of procedure.

2.23 Regarding Council's direction to change the time limit for Members of the Public to speak at Public Meetings from ten minutes to five minutes, Staff have concerns about communicating the distinction between delegations (i.e. one is for seven minutes, and one is for five minutes) and presentations. However, if it is Council's wish to proceed with the original direction in the resolution, Staff recommend replacing the following subsection 7.10.3:

Members of the Public speaking at a Public Meeting shall be limited to 10 minutes, in addition to the time taken by Council to ask questions of the person and to receive answers to such questions.

With the following:

Members of the Public speaking at a Public Meeting shall be limited to five minutes, in addition to the time taken by Council to ask questions of the person and to receive answers to such questions.

2.24 Regarding Council's direction to add a limit of 20 minutes for staff and consultant presentations at Public Meetings, Staff recommend adding the following subsection 7.4.6:

"The time limit for Staff and Consultant presentations at Public Meetings shall be 20 minutes."

3. Changes Arising out of the Strong Mayors Act

Previously Identified Matters

- 3.1 The following matters were identified, in [Report LGS-024-23](#) regarding the Strong Mayors Act, as possible changes to the Procedural By-law:
- Add that the Procedural By-law may be subordinated to the Strong Mayors powers section (Part VI.1) of the Municipal Act.
 - Mayoral veto overrides must be by 2/3 majority vote as defined in Part VI.1 of the Municipal Act.
 - The Strong Mayors powers allows the Mayor to appoint the Chair and Vice-Chair of Committees wholly consisting of Members of Council (i.e. General Government Committee and the Planning and Development Committee).
 - Deputy Mayors do not have the Strong Mayor powers.
 - The logistics of Council overriding a Mayoral veto, i.e. if there is a Council meeting scheduled within the timeframe, a Councillor should be able to put the proposed override resolution on the agenda for consideration. The Procedural By-law however does not allow a Member to add new business to a Council meeting. NOTE: If there is no meeting scheduled within the timeframe, and the Mayor is not willing to call a Special Council meeting, the current procedural by-law provisions for the calling of a special meeting by a majority of members prevails.
 - Clarify the Mayor's power to introduce a matter or a by-law that could potentially affect a prescribed provincial priority and require Council to consider the matter, regardless of the Procedural By-law.
- 3.2 Although the resolution, arising out of Report LGS-024-23, directed Staff to bring the changes directly to a Council meeting, Staff felt that it would be appropriate to include it in this update to the Procedural By-law. Therefore, Staff are recommending that the following wording be added to the end of subsection 2.1.1, under the Applicability section:
- “unless specifically overridden by sections of the Municipal Act (i.e. Strong Mayor powers).”

3.3 Therefore, Staff are recommending that the following replace subsection 2.4.1(a):

“The majority of Members have the right to decide unless specifically noted elsewhere in this Procedural By-law, or by Statute.”

3.4 Staff are recommending that the following words be deleted from subsection 5.1.1(b):

“Each Member shall Chair the GG Committee meetings in accordance with the following schedule:”

And replaced with the following words:

“Unless the Strong Mayors Powers are invoked where the Mayor may appoint the Chair and Vice-Chair of Committees wholly consisting of Members of Council, each Member shall Chair the GG Committee meetings in accordance with the following schedule:”

3.5 Staff are recommending that the following wording be added to the end of subsection 3.2.1, under the “Appointment of Deputy Mayor” section:

“except the Strong Mayors powers as defined in Part VI.1 of the Municipal Act.”

3.6 Staff are recommending that the following sections be added:

7.16.1.1 Notwithstanding subsection 7.16.1, Members of Council are permitted to add an agenda item to the “Items for Separate Discussion” section of the Council agenda (not a Standing Committee) to override a Strong Mayors’ Mayoral veto by providing notice to the Clerk prior to the meeting, in accordance with the Council override provisions of the Strong Mayor powers within Part VI.1 of the Municipal Act.

7.16.1.2 Despite any provision in this Procedural By-law and subject to any prescribed requirements, if the Mayor is of the opinion that a particular matter could potentially advance a prescribed provincial priority, the Mayor may require the Council to consider the matter at either a Standing Committee or Council meeting, without notice, in accordance with the Strong Mayor powers within Part VI.1 of the Municipal Act.

- 7.20.1.1 Despite any provision in this Procedural By-law and subject to any prescribed requirements, if the Mayor is of the opinion that a by-law could potentially advance a prescribed provincial priority, the Mayor may propose the by-law to the Council and require the Council to consider and vote on the proposed by-law at either a Standing Committee or a Council meeting, without notice, other than notice prescribed in Statutes, in accordance with the Strong Mayor powers within Part VI.1 of the Municipal Act.
- 3.7 Regarding the Mayor's power to put items on an agenda, Staff are recommending that wording be added to clarify that the Mayor is the mover and does not require a seconder for Council to consider and vote on that by-law, but for a matter, Council may deal with it how they see fit through the normal course of the mover, seconder, and voting on a motion. These actions may include referring, deferring, dividing, or tabling, etc.
- 3.8 Therefore, Staff are recommending that the following subsections be added, renumbering subsection 9.12.4 to be 9.12.4(a):
- 9.12.4(b) Notwithstanding subsection 9.12.4(a), if the Mayor is invoking Strong Mayor powers within Part VI.1 of the Municipal Act for Council to consider and vote on a particular by-law, the Mayor shall be the mover and no seconder shall be required.
- 9.12.4(c) Notwithstanding subsection 9.12.4(a), if the Mayor is invoking Strong Mayor powers within Part VI.1 of the Municipal Act for Council to consider a matter, the matter may be dealt with as the Committee or Council sees fit through the normal course of a mover, seconder, and voting on a motion.
- 3.9 For clarity, Staff are recommending that the following be added:
- 3.3.3 Notwithstanding any requirement for the Mayor to leave the Chair to introduce a motion, this does not apply when the Mayor is introducing a motion under the Strong Mayor powers within Part VI.1 of the Municipal Act.

Confirming By-law

- 3.10 Section 11 of the Municipal Act states that municipalities may pass by-laws respecting matters prescribed in the section. A confirming by-law confirms all the decisions of Council and provides a by-law reference for all its decisions in the meeting, whether done by by-law or not. It ensures that the municipality complies with Section 11 of the Municipal Act.

- 3.11 The [Procedural By-law](#) includes a section for a Confirming By-law. The [current Clarington confirming by-law](#) makes no reference to the Strong Mayors Act. Further to Staff's initial review of the impacts of the Strong Mayors Act, Staff are recommending changes to the standard wording in the confirming by-law.
- 3.12 Staff have reviewed the confirming by-laws of other municipalities, and the legislation, and will be changing the standard template for a confirming by-law to that indicated in Attachment 3.

4. Financial Considerations

Not Applicable.

5. Strategic Plan

Not Applicable.

6. Concurrence

Not Applicable.

7. Conclusion

It is respectfully recommended that Council approve the draft by-law (Attachment 2) to amend the Procedural By-law.

Staff Contact: June Gallagher, Municipal Clerk, jgallagher@clarington.net

Attachments:

Attachment 1 – Summary of Durham Municipalities – Delegations & Procedural By-law
Attachment 2 – By-law to Amend the Procedural By-law
Attachment 3 – New Confirming By-law Template

Interested Parties:

Rege Harren
Libby Racansky