

Town of Whitby Staff Report

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Report Title: Procedure By-law Review

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: CLK 04-24

Department(s) Responsible:

Office of the Town Clerk

Submitted by:

Christopher Harris, Town Clerk

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

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1. Recommendation:

1. That the Clerk be directed to bring forward a revised Procedure By-law, as appended to Report CLK 04-24 as Attachment 1, which provides improved formatting, structure, and ease of reference;
2. That the revised Procedure By-law contain the following substantive revisions versus the current rules of procedure, based on feedback from the consultation sessions held with Members of Council:
 - a. an increased submission deadline for notices of motion, requiring Members to provide the Clerk with the topics of proposed motions 10 days in advance of meetings to allow the topics to be shared with all Members of Council prior to agenda publication;
 - b. revised meeting start times of 5:30 p.m. for Committee of the Whole, 6:30 p.m. for Planning Public Meetings, and 7:00 p.m. for Regular Council to be effective following the 2024 Council Summer Recess, noting that between 5:30 and 7:00 p.m. prior to Regular Council meetings will be reserved for Special Council meetings;

- c. defined meeting adjournment times, requiring Chair review at 10:30 p.m., with all meetings ending at 11:00 p.m. with no further ability to debate or extend the adjournment time, noting that matters not considered prior to the adjournment will be deferred to the next applicable meeting instance;
- d. hearing of delegates only at Committee of the Whole meetings, unless a matter is being considered at a Regular Council meeting that was not previously considered at a Committee of the Whole meeting, or in instances where the effect of the Staff recommendation is altered by Council at Committee of the Whole;
- e. a registration deadline for delegates of 8:00 a.m. on the day of a meeting, allowing members of the public to review agendas over the weekend prior to a meeting and to accommodate the revised Rules of Procedure that only allow delegations at Council for new matters or where the Staff recommendation was altered;
- f. clarification regarding the role of the Chair, noting that the Chair has the responsibility to summarize discussion points raised by delegates, refer questions from delegates to Staff at the appropriate point of a meeting, and has overall responsibility to manage questions from Members to delegates;
- g. clarification regarding the types of questions Members may pose to delegates, noting that questions may only seek to clarify discussion points raised by delegates that are unclear, and not expand the scope of a delegate's remarks or to summarize their comments;
- h. food shall continue to be prohibited in Council Chambers, however Members of Council shall be permitted to consume water and other drinks (e.g., coffee, tea, pop, etc.) noting that beverages consumed on the dais shall be in the provided drinkware;
- i. a general seating plan for Members of Council for Committee of the Whole and Council meetings, as detailed in Attachment 2 to Staff Report CLK 04-24; and,
- j. that the past practice of requiring Members to Stand while speaking at Council meetings be eliminated.

2. Highlights:

- Further to Council's direction at the March 18, 2024 Regular Council meeting, this report introduces proposed revisions to the Council and Committee Rules of Procedure ("Procedure By-law") for Council's consideration with the goal of

improving meeting efficiency, enhancing public participation, and clarifying existing rules and practices.

- A comprehensive review of the Town's current Procedure By-law # 7462-18, as amended, was conducted, including an environmental scan of comparator municipalities and consultation with Members of Council ("Members").
- The proposed Procedure By-law (Attachment 1) includes substantive revisions as identified in the Report recommendations. Other administrative and minor revisions to the by-law are as noted within this Report. Changes to the current Procedure By-law are shown in the proposed By-law in marked-up text, noting that changes to formatting and structure are not shown for ease of review.

3. Background:

Section 238 (2) of the Municipal Act, 2001, S.O. 2001, c. 25 ("Municipal Act") requires every municipality to pass a procedure by-law for governing the calling, place, and proceedings of meetings.

On March 18, 2024, Council directed a comprehensive review of the Procedure By-law through Resolution #49-24:

"That the Clerk be directed to undertake a comprehensive review of the Procedure By-law and report to Council prior to summer recess 2024 with recommended amendments based on an environmental scan of comparator municipalities and consultation with Members of Council; and,

That the procedural matters to review include but not be limited to Council remuneration, appointments to advisory boards and committees, assigned seating in Council Chambers, delegations, meeting start and end times, notices of motion, speaking limits, and the appointment of a Deputy Mayor, with the goal of addressing meeting efficiency and enhancing public participation."

As part of the comprehensive review, Members of Council were interviewed based on their experiences in meetings to obtain feedback on the current Procedure By-law and proposed changes. Additionally, an environmental scan of comparator municipalities took place, including the review of the Procedure By-laws for the Region of Durham, Town of Ajax, City of Oshawa, City of Pickering, Town of Newmarket, and City of Burlington.

4. Discussion:

The proposed Procedure By-law revisions are summarized in Sections 4.1 to 4.6 below. The draft By-law identifies proposed changes and includes notes that highlight where strong mayor powers, as prescribed by Part VI.1 of the Municipal Act, intersect with the Procedure By-law provisions.

4.1. Notices of Motion

The current Procedure By-law states that a Notice of Motion must be submitted to the Clerk with finalized wording by noon on the Wednesday prior to the meeting date, which is generally the day Council meeting agendas are published. The proposed By-law includes a provision requiring Members to identify the topic of a Notice of Motion 10

days in advance of a meeting to allow the Clerk to share the topic of the motion with all Members for their awareness in advance of the publication of a meeting agenda. 10 days in advance would be two Fridays before a Monday meeting. There is no proposed change to when a Notice of Motion needs to be finalized. The deadline for finalized Notices of Motion will remain at noon on the Wednesday prior to the meeting. This change will allow Members to be aware of the topics of Notices of Motion prior to agendas being published and receiving inquiries from constituents who may review meeting agendas shortly after publication, prior to Members having capacity to review themselves. A 10-day notice period for Notices of Motion aligns with the current practices at the City of Pickering and Town of Ajax.

Staff have not recommended any changes to the provisions around introducing a motion for urgent business. Members may continue to introduce a motion under New and Unfinished Business, with the consent of Two-Thirds Majority of Members, which due to its urgent nature cannot be properly presented at a Meeting of Council in accordance with the notice provisions discussed above.

4.2. Meeting Start and End Times

Members of Council and Staff have expressed a desire to commence and conclude Council and Committee meetings at times that allow for coherent and productive discussions and decision making. The current Procedure By-law does not speak to meeting start times, which have historically been set at 7:00 p.m. through the annual Council approval of the following year's meeting schedule. The current Procedure By-law requires a majority vote to continue meetings past 11:00 p.m. and a Two-Thirds vote to continue past 11:30 p.m. Except for one meeting in late 2023, the Clerk's Office is not aware of any other instances in recent memory where Council has not voted to extend a meeting's adjournment past 11:00 p.m. and 11:30 p.m.

The proposed Procedure By-law includes meeting start times of 5:30 p.m. for Committee of the Whole and 6:30 p.m. for Public meetings, while Council meetings would continue to be scheduled for 7:00 p.m. From 5:30 p.m. to 7:00 p.m. on the day of a Regular Council meeting will be reserved for scheduling Special Council meetings for education and training or closed session matters. The recommendation provides that the 2024 Council and Committee Calendar be republished to include the revised start times effective following the 2024 Council Summer Recess.

A review of historic trends from 2021 to present was conducted to determine the average number of Special Council meetings held prior to regularly scheduled 7:00 p.m. Committee of the Whole or Regular Council meetings. On average, a Special Council meeting was held prior to 50% of Committee of the Whole meetings and 70% of Regular Council meetings, meaning that Council business generally begins at 5:30 p.m. or 6:00 p.m. for the majority of meeting instances.

It is not anticipated that changes to meeting start times will significantly impact existing schedules for Members and Staff who are currently required to attend Special Council meetings prior to Committee of the Whole and Regular Council meetings. Earlier meeting start times will improve Council's ability to address Committee of the Whole agenda items in a timely manner so meetings may conclude earlier in the evening. The

start time for Regular Council meetings is proposed to remain unchanged at 7:00 p.m. in order to have time available for education and training or closed meetings, but also because Council meetings are generally not as lengthy given that most delegations along with the initial discussion of a matter occurs at Committee of the Whole.

A number of comparator municipalities commence their Council and Standing Committee meetings at various times in the morning or afternoon; however, many Members of Council have existing commitments during the daytime that precludes meetings during these times. Given that local Councillor positions are considered part-time positions, some Members have other employment responsibilities that prevent attendance at daytime meetings.

A majority of Members provided feedback regarding challenges with engaging in productive discussions and decision making when meetings continue late into the evening, which has become a more common occurrence in recent years. Further, Members noted challenges for Staff and barriers to public participation when meetings run late. To address this, defined meeting adjournment times for Council and Committee of the Whole meetings have been included in the proposed By-law. The proposed By-law indicates that the Chair will be responsible for reviewing outstanding agenda items at 10:30 p.m., and then presenting a plan to Members for how remaining items of business may be considered prior to adjournment, with meetings automatically adjourning at 11:00 p.m. with no ability to extend the adjournment time. At the discretion of the Mayor or Chair, and subject to the consensus of Members, all or select remaining business may be presented to Members as Consent Items to be considered without debate. Matters not considered prior to adjournment will be deferred to the next applicable meeting instance. The proposed Procedure By-law provides that a motion to suspend the rules to waive the automatic adjournment would not be in order.

4.3. Delegations

The following recommended changes to the Procedure By-law concerning delegations aim to balance community engagement and meeting efficiency.

Delegation Speaking Limits

Most comparator municipalities align with the Town's current provisions providing a 5-minute speaking limit for delegates with the ability to extend the time limit through a vote of Council.

Members were generally supportive of maintaining the five-minute speaking limit with the continued ability to extend through a Two-Thirds Majority vote, with an individual Member suggesting limiting the ability to extend to a one-time extension of two minutes.

No proposed changes to speaking limits for delegates are proposed.

Permitted Meeting Types

Delegations will continue to be permitted to speak only to items that are listed on an agenda with a proposed change that delegations only be heard at Committee of the Whole meetings and not at Regular Council. An exception to this will allow delegates to address Council with respect to an item on a Council meeting agenda that was not

previously considered at Committee of the Whole, or in instances where the effect of the staff recommendation has been altered by Committee. The importance of allowing delegates at Council when a staff recommendation presented at Committee is modified was raised by several Members who referenced a similar scenario with a recent planning application. In that instance, it was observed that members of the public did not register to speak to the planning application at Committee of the Whole as they had reviewed and were in favour of the staff recommendation. However, when the staff recommendation was modified in a way that some residents were no longer in favour, Members felt that those residents should have the ability to appear at Council despite not having addressed Committee.

Feedback from Members of Council varied on this topic, with some Members feeling strongly that delegations should continue to be allowed at Committee and Council, while others identified that hearing the same delegates again at Council was unnecessary as the same or very similar opinions and viewpoints were often expressed. With the goal of the Procedure By-law review being to balance community engagement and meeting efficiency, Staff have recommended the proposed changes to hearing delegations for the following reasons:

- After addressing Committee, the public is still able to contact Council outside of the formal meeting process by correspondence, which is circulated on the correspondence agenda, or by phone or email directly to their Member of Council should they wish to further engage their representatives on the matter;
- The public appearing at Committee and Council to state the same or very similar views twice is not aligned with the stated goal of improving meeting efficiency; and,
- The proposal to allow delegations at Council for new items not previously considered at Committee of the Whole, or when the recommendations presented at Committee are altered, aligns with the intended purpose of Council meetings ensuring a 'sober second thought' of decisions adopted at Committee while acknowledging that the public is less likely to speak to an item if they have no concerns with the recommendation presented.

Registration Deadlines

Currently, Committee of the Whole delegates are requested to register by 10:00 a.m. on the day of the Meeting and those wishing to delegate at a Regular Council meeting are requested to register by noon on the Wednesday prior to the meeting.

A standardized registration deadline for Council and Committee meetings of 8:00 a.m. on the day of a meeting is proposed. This standardized change will improve clarity for members of the public regarding registration deadlines and allows interested parties to review the agenda over the weekend prior to the meeting. Additionally, the proposed change will help ensure that the agenda is republished in a timely manner on Monday morning, allowing Members to see the list of registered delegates earlier in the day. The proposed deadline also aligns with the revised procedures that only allow delegations at Council for new matters and where the Staff recommendation was altered at Committee.

Questions from Members to Delegates

The revised By-law seeks to clarify the types of questions Members may pose to delegates and aims to ensure that questions are stated succinctly. Questions may only seek to clarify discussion points raised by delegates that are unclear, and not expand the scope of a delegate's remarks or to summarize their comments. For example, questions such as "are you aware", "do you agree", or "wouldn't you say" will not be permitted as they do not seek clarification. The proposed changes closely align with the current practices of several comparator municipalities, many of which provide specific examples of prohibited question types.

During the consultations with Members, some indicated a desire to provide the Chair greater authority to address questions from Members that are out of order. The proposed by-law seeks to clarify the role of the Chair, indicating that the Chair has the responsibility to summarize discussion points raised by delegates, refer questions from delegates to Staff at the appropriate point of a meeting, and has overall responsibility to manage questions from Members to delegates.

4.4. Speaking Limits for Members of Council

The proposed Procedure By-law does not include any changes to speaking limits for Members of Council. Members will continue to be permitted to speak to the same item or motion, or in reply, for no longer than 5 minutes at both Committee of the Whole and Council meetings. Additionally, Members will continue to be limited to speaking once to items at Council, with no limit applied at Committee of the Whole.

4.5. Deputy Mayor

Provisions concerning the method of appointment and roles and responsibilities of the Deputy Mayor will be considered by Council through a separate Staff Report which will propose the adoption of a standalone Deputy Mayor policy. The Procedure By-law provides that the Deputy Mayor, regardless of how Council chooses to appoint going forward, will be the presiding officer when the Mayor is absent. Further, Section 2.3 of Procedure By-law # 7462-18, which provides that every Regional Councillor shall serve one calendar year during the term as Deputy Mayor, will continue to apply until Council considers and approves the standalone policy regarding the appointment process for the Deputy Mayor.

4.6. Miscellaneous***Permitted food and beverage in Council Chambers***

Staff recommend that food continue to be prohibited in Council Chambers, however, Members of Council shall be permitted to consume water and other drinks (e.g., coffee, tea, pop, etc.) noting that beverages consumed on the dais shall be in the provided drinkware. Maintaining the current practice of prohibiting food will alleviate concerns regarding disruptions caused by food consumption during a Council or Committee meeting, while permitting other beverages in addition to water, but within provided drinkware, provides greater flexibility while maintaining the professional appearance of the dais.

Assigned seating in Council Chambers

As depicted in the diagrams included as Attachment 2, Staff are recommending the following Procedure By-law provisions regarding assigned seating for Members of Council:

Council Meetings: Ward Councillors seated on the west side of the dais, in order clockwise from Ward 1 through Ward 4. Regional Councillors seated on the east side of the dais, in order clockwise based on the order of votes received in the last municipal election, from highest to lowest. Mayor and Deputy Mayor seated on the north side of the dais.

Committee of the Whole Meetings: Ward Councillors seated on the west side of the dais, in order clockwise from Ward 1 through Ward 4. Regional Councillors, including the Deputy Mayor (unless appointed as a Chair) seated on the east side of the dais, in order clockwise based on the order of votes received in the last municipal election, from highest to lowest. Mayor and Chairs seated on the north side of the dais.

The effect of this suggested amendment improves clarity for seating around the dais in Council Chambers. The Mayor would have the ability to alter seating for Members in the event an accommodation is required.

Appointments to Advisory Boards and Committees

The Mayor will continue to be responsible for appointing Council designates to Advisory Boards and Committees. While most Members were agreeable to the current procedures, some expressed support for the practices of the Town of Newmarket and Municipality of Clarington. The Council of the Town of Newmarket appoints Members and other representatives to committees, boards, and organizations by vote of Council, while the Municipality of Clarington appoints Members through a vote of Council based on a Member's interest in being appointed to a board or committee.

Composition of the Audit Committee

Staff recommend the following changes to the composition of the Audit Committee to ensure the Committee maintains a three Member composition in the absence of an appointed Budget Chair:

The Audit Committee shall be composed of the Mayor, Deputy Mayor, and the Councillor designated as Chair of Finance/Budget by the Mayor. If the Mayor does not appoint a Chair of Finance/Budget or, if the Deputy Mayor and Chair of Finance/Budget are the same Member, then the Mayor may appoint an alternate Member to serve on the Audit Committee in order to achieve the three Member composition.

Special Powers and Duties of the Mayor

The draft by-law includes notations to account for special powers and duties of the Mayor as prescribed by Part VI.1 of the Municipal Act. These include the Mayor's ability to establish or dissolve Committees and assign functions to Committees consisting solely of Members of Council.

Standing during Council Meetings

The requirement to stand during a Council meeting has been a historical practice. During the consultation, a majority of Members indicated that they are agreeable to eliminating this practice. This change will allow the auto-follow cameras in Chambers to be reprogrammed for tighter shots of each Member as a wider zoom to accommodate both sitting and standing positions will no longer be required. Tighter camera angles will also avoid capturing individuals seated in the background or adjacent to the active speaker. The microphones in Council Chambers are also designed to capture audio from a close, seated range so audio quality will be improved. Additionally, this change will improve the ability for Members to reference their iPad agenda and notes and eliminates barriers to the perceived formality of Council meetings.

Announcement Period

During interviews with Members, a request was received to include a standing heading on the Regular Council meeting agenda to designate an announcement period. It was suggested that Members be allocated a short period of time (perhaps one or two minutes) to provide relevant updates about their Ward, community achievements, local events, and other matters not included on an agenda. An announcement period has not been included in the draft by-law as this proposal was not included in the direction provided to Staff to undertake this review and considering only one Member raised the matter.

Other

Additional amendments have been captured in the proposed By-law to improve clarity and readability and delete reference to inaccurate or outdated information. Notable amendments include:

- Adoption of minutes – The Clerk will not be required to read aloud an entire set of Council minutes prior to their adoption. The proposed By-law also clarifies that Committee minutes are not signed by the Mayor or Clerk, and therefore are not adopted by Council.
- Powers and duties of the Clerk – The Clerk's authority to undertake administrative corrections to any By-law, Motion, Resolution, minutes, or other Council document has been expanded provided that such corrections do not materially alter the intent of the document.
- Quorum and Call to Order – A new provision has been added stating that if quorum is not present within fifteen minutes after the time appointed for a Meeting, the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next regular Meeting or other Meeting called in accordance with the provisions of the by-law.
- Clarification regarding tabling, deferral, referral, and postponement of motions.
- General principles have been added to the by-law and those principles can be referenced to inform procedural rulings. The principles are found in other municipal Procedure By-laws, including the Region of Durham and the City of Toronto.

5. Financial Considerations:

N/A

6. Communication and Public Engagement:

The revised Procedure By-law will be included on the Town's website. Council and Committee meeting agendas will be revised to reflect the updated registration timelines for delegates. The 2024 Council Calendar will be republished with the revised meeting start times pending Council approval.

7. Input from Departments/Sources:

Members of Council were interviewed to obtain feedback on the current Procedure By-law and proposed changes.

8. Strategic Priorities:

The recommendations contained in this report advance pillar four of the Town's Community Strategic Plan, being Whitby's Government – Accountable & Responsive, by identifying opportunities to improve Council and Standing Committee meeting efficiency.

9. Attachments:

Attachment 1 – Draft Procedure By-law

Attachment 2 – Council and Committee Seating Plans