



TOWNSHIP OF NORTH HURON

REPORT

Item No.

REPORT TO: Reeve Vincent and Members of Council
PREPARED BY: Richard AI, Manager of Employee and Business Services/Deputy Clerk
DATE: 15/05/2017
SUBJECT: Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017
ATTACHMENTS:

RECOMMENDATION:

THAT the Council of the Township of North Huron hereby receive the report of the Manager of Employee and Business Services/Deputy Clerk regarding *Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017*, for information purposes.

EXECUTIVE SUMMARY

Bill 68, presently Ordered for Third Reading, will introduce a series of reforms to the *Municipal Act* and *Municipal Conflict of Interest Act*.

The purpose of this report is to provide council with a summary of the legislative changes associated with *Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017*.

DISCUSSION

On November 16th, 2016 First Reading was given to *Bill 68, Modernizing Ontario's Municipal Legislation Act*. The Act will introduce a series of reforms to the *Municipal Act* and *Municipal Conflict of Interest Act*. Those following the legislation note that changes include a revised definition of a "meeting", new rules around closed meetings and electronic meetings, a requirement for municipalities to adopt codes of conduct amongst others. The key highlights, as drafted by AMCTO are summarized below along with an assessment of the impact of this proposed Act on the Township of North Huron.

Codes of Conduct

A Code of Conduct for Council and staff will become mandatory for all municipalities.

Impact



The Township of North Huron established a Code of Conduct for Members of Council as By-law 73-2013, however this should be reviewed to ensure it complies with all new requirements. A Code of Conduct for staff exists in the Human Resources policy which is currently under review.

Closed, Open and Electronic Meetings

1. Bill 68 revises the definition of a "meeting" under the *Municipal Act's* open meeting provisions. The new definition requires there to be (1) a quorum of council members; and (2) that those present discuss issues in a way that "materially advances" the business or decision-making of council, for it to be formally considered a "meeting" that should be open to the public.

2. There will also be an expanded number of discretionary exemptions where council can meet in closed session. The new exemptions include:
 - (h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or Crown agency of any of them;
 - (i) 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;
 - (j) 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
 - (k) 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.

NOTE: exemption (k) has been somewhat controversial due to its broad scope.

3. Provisions are included to allow councillors to participate in meetings electronically so long as there is an in-person quorum of councillors present. The municipality must pass a by-law outlining the manner in which the electronic attendance would be permitted, and although a member connected via electronic means can vote, their attendance does not count towards quorum.
4. There is a new requirement for municipalities to report back on how they intend to address closed meeting investigations.

Impact



The Township of North Huron's Procedural By-law should be reviewed and amended to encompass the new definition of a meeting, the additional exemptions for closed meetings, the new date of the Inaugural Meeting (closer to the date of this coming into force), the procedures and means in which a councillor may attend electronically, and the process to address closed meeting investigations.

The definition of a meeting is such that circumstances may result in unintended meetings. E.g. A majority of council present to decorate a parade float, casually discuss an item that materially advances the decision-making of the municipality could be considered a meeting.

The inclusion of electronic participation in meetings may mean that councillors could be able to travel and still attend council meetings, so long as there is an in-person quorum present. This could be useful when Special Meetings are called to deal with time-sensitive items, however the technology to effectively support this type of participation would need to be investigated and procured.

Changes to the closed meeting exemptions may provide for more closed meetings in the future, however some of these new exemptions are strongly opposed by the IPC and Ombudsman so their use may be closely monitored.

Integrity Commissioners

All municipalities will need to provide their citizens access to an Integrity Commissioner either by appointing their own, keeping one on retainer, or working with local municipalities through a shared service agreement.

The role of the Integrity Commissioner has also been revised expanding authority to include items under the *Municipal Conflict of Interest Act* and giving the Integrity Commissioner

- the power to provide advice to councils and local boards about their codes of conduct and *Municipal Conflict of Interest Act* obligations;
- the power to refer investigations to the courts;
- broader responsibility for public education.

Impact



The Township of North Huron has not appointed an Integrity Commissioner and as such will be required to take steps to address this requirement. The expanded role of the Integrity Commissioner may be helpful for members of council, particularly as it relates to their ability to provide advice to council.

Staff-Council Relations Policy

All municipalities will be required to have a formal policy on staff-council relations, addressing the formal roles and responsibilities of public servants and members of council.

Impact



The Township of North Huron will need to enact a policy outlining the relationship between members of council and the employees of the municipality.

Municipal Conflict of Interest Act

The range of penalties for *Municipal Conflict of Interest Act* violations will be expanded, giving judges more latitude when dealing with these types of violations. Municipalities will also be required to create and make available to the public, a registry that tracks all registered conflicts of interest.

Impact



The Township of North Huron would need to create and make available to the public, a registry that tracks all registered conflicts of interest.

Fiscal Sustainability

- Municipalities will be given more investment options
- The *Municipal Act* will allow tax sales to start faster and be easier to complete (reduced from 3 to 2 years of property taxes owing)

- Municipalities will be given the authority to use administrative monetary penalties for a broader range of offences (beyond simply parking) if a person has failed to comply with a municipal by-law passed under the *Municipal Act*.
- Various amendments to improve property tax collection and administration provisions generally. For example, the proposed amendments address electronic delivery of property tax bills, broaden the range of fees and charges that can be added to the tax roll, and certain property tax relief processes.
- Municipalities will now be required to meet prescribed conditions before establishing small business programs, although the need for approval from the Minister will be removed.
- Municipalities will have the authority to initiate an expedited tax sale of properties that have vested in the Crown because of dissolution of a corporation, to facilitate bringing such lands into productive use more quickly.

Impact



The Township of North Huron does not rely on tax sale proceeds as a source of revenue, however there may be an opportunity to issue notices and registration of arrears letters sooner as a mechanism of motivating payment of outstanding taxes.


The ability to send a tax bill to the taxpayer electronically in the manner specified by the municipality if the taxpayer has chosen to receive the tax bill in that manner offers the opportunity for potential cost savings and improved customer service.

The ability to add an administrative monetary penalty to various fines may help to strengthen the municipality's by-law compliance. It is noteworthy however, that the new administrative monetary penalties must not be punitive in nature and must not be unreasonable for the purpose of promoting compliance (they are not intended to be a revenue generation tool, but instead designed to improve compliance). Also important to note, these penalties can be added to the tax roll as they are considered a debt owing to the municipality.

Climate Change


The *Municipal Act* will now give municipalities explicit authority to deal with climate change. While several municipalities are already doing so, this change will clear up any confusion about their authority in this area.

- Existing broad powers to clarify the power to pass by-laws respecting climate change; that municipalities may provide for or participate in long-term planning for energy use in the municipality.
- Provide additional powers to pass by-laws respecting the protection and conservation of the environment in accordance with regulations, including powers to require green roofs or alternative roof surfaces in circumstances specified by the Building Code (requires standards be established in the Building Code first).
- Require municipalities to adopt a policy with respect to the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.

 Impact
The province suggests this change will empower municipalities to address climate change in their communities through by-laws related to green construction in certain circumstances. The Municipal Act now also makes explicit mention of 'energy planning' for municipalities, authorizing that a municipality "may provide for or participate in long-term energy use".


Community Hubs

The Minister will gain the express authority to impose regulations on community hubs. AMCTO has explained that this provision will not likely be used in the immediate term, but is designed to give the ministry greater flexibility in the future.

 Impact
The impact of this change is unknown at this time.

Pregnancy and Parental Leave


Councillors will be guaranteed a minimum period of parental leave.

 Impact
This change may encourage more people to seek election in future years. The provincial government suggests that the proposed change will "increase fairness and reduce barriers for women and parents elected to municipal governments by allowing time off for pregnancy or parental leave".

Municipal Elections


There are a number of changes to the *Municipal Act* that will have an impact on municipal elections, including:

- The start of a new council term will be November 15th (instead of December 1st) for the 2022 term. The 2018 council term will remain as a December 1st start date.
- The lame duck period will be shortened (going into the 2022 term)
- The individual contribution limit is increased from \$750 to \$1,200
- New formula-based limits on self-financed campaigns, with a maximum limit of \$25,000

 Impact
*These changes are in addition to the numerous changes recently introduced by Bill 181, *Municipal Elections Modernization Act, 2016*. The Township of North Huron will need to adapt to these new regulations for the 2018 election.*

Temporary Replacements on Upper-tier Council

This change will allow lower tier councils to appoint an alternate member of the lower tier council to temporarily replace a person who is unable to attend an upper tier council meeting.

 Impact
This change could ensure that North Huron is represented at County Council if the regular representative is unable to attend.

Other items in Bill 68 include:

- Advertising devices (signs) – to no longer limit a municipality’s ability to pass by-laws regulating existing advertising devices, such as signs and provide for transition respecting existing municipal by-laws.
- Power of Entry – to enter private property adjoining municipal property to do maintenance on the municipal property, subject to certain conditions and limits.
- Site Alteration – to give municipal by-laws effect in areas under jurisdiction of conservation authorities
- Rental Housing – new authority to register on title an agreement required as a condition of demolition permit or conversion of residential rental properties, and enforce agreement.

FINANCIAL IMPACT

Although many of the amendments contained in Bill 68 are administrative in nature, requiring changes to policies or procedures, the potential exists for significant financial impact related to some of the revisions.

We cannot at this time precisely gauge the financial implications associated with Bill 68.

FUTURE CONSIDERATIONS

As of May 3, 2017, Bill 68 has been Ordered for Third Reading and various sources anticipate that the Act, or parts of the Act, may come into force as early as June 2017.

Given the breadth of amendments to policies and procedures contained within, staff have been monitoring Bill 68 for some time. In preparation, new and/or revised policies and procedures are being considered to address and comply with anticipated requirements. These policies will be presented for Council’s consideration after Bill 68 receives Royal Assent and all new requirements are fully realized.

RELATIONSHIP TO STRATEGIC PLAN

Goal 4: Our municipality is fiscally responsible and strives for operational excellence.



Richard Al, Manager of Employee and
Business Services/Deputy Clerk



Kathy Adams, Clerk



Sharon Chambers, CAO