

ONCE ELECTED...WHAT'S EXPECTED?

AMM / Municipal Relations 2019

AGENDA

9:30 – 9:50 a.m.	Minister's opening remarks
9:50 – 10:15 a.m.	MR - Council Meetings
10:15 – 10:45 a.m.	MR - Code of Conduct & Conflict of Interest
10:45 – 11:35 a.m.	MR - Finance & Assessment
11:35 – 12:00 p.m.	MR - Making Legislation & Enforcement
12:00 – 1:00 p.m.	Lunch
1:00 – 1:30 p.m.	Ombudsman
1:30 – 2:00 p.m.	GET - Fire Commissioner
2:00 – 2:15 p.m.	Coffee Break
2:15 – 2:45 p.m.	SD - Waste Disposal Sites
2:45 – 3:15 p.m.	SD - Wastewater and Water Management
3:15 – 3:45 p.m.	GET - Economic Development
3:45 – 4:00 p.m.	Closing remarks

Council Meetings



Council Meetings

- Quorum
- Open meetings
 - Roles
- Agendas
 - Petitions
- Voting
- Minutes
- Public Hearings



"There's no way we can come to a decision yet - this meeting has only lasted 30 minutes."

Council meetings

- Quorum
 - A majority of number of council members
 - If a council position is vacant, quorum is majority of remaining members
 - Minimum number for quorum is 3*
 - Abstention does not impact quorum*

* Abstention under *The Municipal Council Conflict of Interest Act* may reduce quorum to 2

Council Meetings

- Open Meetings
 - All council meetings are open to the public
 - Chair:
 - Facilitates orderly discussion and debate
 - Facilitates closure of subject
 - Councillors:
 - Come prepared
 - Participate to develop/evaluate policies/programs
 - Consider the whole municipality's interests
 - Respect decisions

Council Meetings

- Open Meetings (continued)
 - To close meeting to the public
 - *The Municipal Act* limits circumstances under which a meeting may be closed
 - Agenda - “in camera” and reason
 - CAO typically attends
 - Duty for members to keep matter **confidential**
 - Resolution (decision), if required, must be made at an open meeting

Council Meetings

- **Agendas** - Procedure By-law will set-out these details
 - Draft prepared by CAO
 - Deadlines for submissions and delegations
 - Deadline to issue to council, media, public
 - Items may be added at the meeting by a majority vote of members present, prior to adopting the final agenda
 - Establish a time to adjourn

Council Meetings



"This meeting of the Optometrist Association will now come to order."

Council Meetings

- Agendas (continued)
- Petitions under *The Municipal Act* that require formal response from council
 - Formation / dissolution of a Local Urban District
 - Request for local improvement / special service
- Any other petition treated same as correspondence from a citizen – action or receipt



"Would you like to sign a petition
against petition-signing scams?"

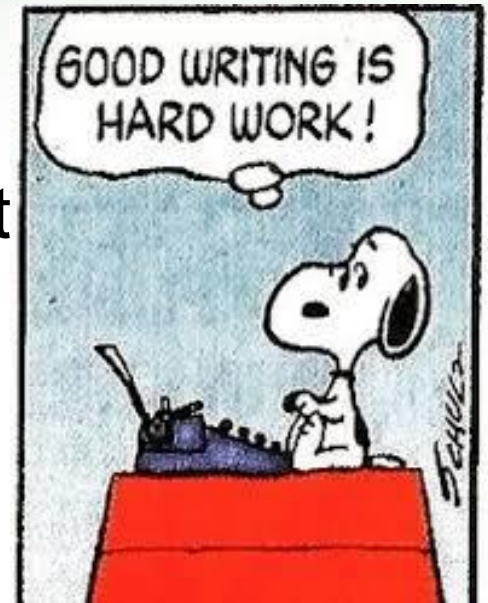
Council Meetings

- Voting
 - Each member of council has one vote
 - Head of Council must vote
 - Abstentions – member decides not to vote either in favour or against motion
 - Recorded vote required for 3rd reading of by-laws (abstentions and reasons also recorded)



Council Meetings

- Minutes
 - Required for all council meetings, committee meetings and hearings
 - CAO is responsible
 - Made without note or comment
 - Public record



Council Meetings

- Public Hearings
 - Required for certain decisions (financial plan, zoning by-laws)
 - All Council members are required to attend
 - Come prepared
 - Opportunity to provide information to citizens and obtain their input
 - Encourage public attendance

Council Meetings

Tips for Success!

- Open and transparent
 - All meetings open to the public
- Respect decision
 - Majority rule
- Participate
 - Consider whole municipality



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Council Meetings

QUESTIONS?



Council Code of Conduct



Code of Conduct

- Bill 2: The Municipal Amendment Act
 - Based on 2018 consultations with municipalities
 - AMM June district meetings
 - Online questionnaire
 - MMAA September district meetings

Code of Conduct

- Municipal leaders requested the Province to:
 - prescribe the content of the code of conduct
 - define the standards and values
 - implement mandatory training
 - prescribe the compliant process
 - maintain council autonomy with respect to the process for dealing with complaints and imposing sanctions

Code of Conduct

- Content and Standards and Values
 - Through a Provincial Regulation, a standardize code of conduct defining certain content and minimum standards and values
 - Municipalities will be required, by By-law, to establish a council code of conduct based on the Regulation

Code of Conduct

- Mandatory training
 - All elected officials must take training within 6 months of being elected
 - Any member who fails to undergo training will be suspended until training is completed
- Complaint process
 - Process to deal with complaints to be established

Code of Conduct

- Sanctions / remedial measures may include:
 - Censure (The Municipal Act s84.1(3))
 - Reduce or suspend remuneration up to x days
 - Letter of apology
 - Dismissal from position of chair on a committee
 - Mandatory training on ethics
 - Suspension or removal from council committees
 - Repayment of gifts/money

Code of Conduct

- Appeals process
 - Process to deal with appeals to be established
- Next steps
 - Consultations to continue in the coming months to develop regulations and mandatory training course

Code of Conduct

- Any questions or comments?



- Bill 2: <https://www.gov.mb.ca/legislature>

Council Conflict of Interest

Media Headlines

Municipal conflict-of-interest legislation proposed changes to create the post of independent commissioner who could investigate alleged breaches of unethical conduct

Ombudsman found Dan Garcea in conflict of interest on more than 20 West St. Paul council items

**conflict-of-interest
case dismissed**

These legal defence fees stem from the conflict of interest investigation into former Reeve Kevin Eberle. He was found to be in conflict of interest due to standing to make nearly \$58 million on the Wascana Plains residential development

Conflict of Interest

- *The Municipal Council Conflict of Interest Act*
- Defining “conflict of interest”
- Direct and indirect pecuniary (financial) interests
- Exceptions
- Statement of Assets and Interest
- Perceived Conflict

The Municipal Council Conflict of Interest Act

- Establishes the conflict of interest rules
- Helps ensure council's decision are made fairly, without being influenced by personal interests
- Applies to council member's direct and indirect pecuniary interests

Conflict of Interest

- Defining conflict of interest
- Rules apply to all council members and LUD committee members
- Pecuniary = financial interest
 - Financial interest may be a benefit (gain) or liability (loss)
 - Direct and indirect pecuniary interests

Direct and Indirect Interests

- Direct
 - Matters that a council member, their spouse/partner or dependent child has a direct financial benefit or liability
- Indirect
 - Matters before council pertaining to employers, partnerships, corporations (director, officer, shareholder)

Conflict of Interest Situations

- Do NOT participate in discussion
- Do NOT vote
- Do NOT attempt to influence council's decision



Identifying Potential Conflicts

- Responsibility of each council member to:
 - Understand the rules
 - Review meeting agendas for potential conflict of interest situations
 - Consider input from others – CAO, other council members, citizens
 - Decision to declare an interest

Disclosure at Meetings

- Disclose before the matter is discussed
- Withdraw from the meeting – do not vote or participate in debate on the matter
- Physically leave the room
- Do not attempt to influence the matter at any time
 - Disclosure noted in minutes

Types of Conflict

- Voting / participating when you have a financial interest
- Use of “insider” information
- Receiving compensation from individuals, businesses or corporations
- Use of position to influence a decision

Exceptions

- Council remuneration
- Committees that council members has been appointed to by council
- Interest in common with all other residents
- Less than \$500 value
- Employees of public bodies (federal, provincial, crown corporation or school board)
- Council member's have the right to represent own interests at variation application and conditional use hearings, assessment appeals

Annual Statement of Assets and Interests

- Complete each year by November 30th
- Update as changes occur
- Includes assets and interest of council member and member's dependents
- No disclosure of value of assets
- Public documents

Annual Statement of Assets and Interests

- Statements to include:
 - all real estate in Manitoba (owned and leased); excluding principal residence
 - Employers
 - Partnerships
 - Corporations (5% or more interest)
 - Investments (not RRSPs)
 - Gifts over \$250 from non-family

Role of the Courts

- Only the Court of Queen's Bench can declare that you have violated a provision of *The Municipal Council Conflict of Interest Act*
- Applications alleging violations of the *Act* may be made by council or by a voter within six years of alleged violation
- Penalties for violations are severe
 - Loss of your seat on council
 - Possible order of restitution

Perceived Conflicts of Interest

- A matter before council concerns the interests of a friend or relative
- Citizens may perceived a conflict in decisions where you have no financial interest
- Even if the matter before council would not be a conflict under the *Act*, consider declaring a conflict and withdrawing where the *appearance* or *perception* of conflict exists

Conflict of Interest

QUESTIONS?



Finance & Assessment



Council's Role - Finance

- Council's Role
 - Planning
 - Budgeting
 - Monitoring
 - Reporting



Financial Plan

- Annual Financial Plan (Budget)
 - Operating budget
 - General and Utility
 - Capital budget
 - Five Year Capital Expenditure program
 - Services – type, level and costs
 - Revenues – property taxes, grants, fees and impact on ratepayers

Financial Plan - Decisions

- Budget Decisions
 - Capital budgets
 - Purchase vs Lease
 - Regional vs Standalone
 - Build Reserves & wait; Borrow & buy today
 - Age, condition, number (miles of roads, graders)
 - Balance in reserve funds
 - Existing debt level, maturity dates
 - Grants - availability and timing
 - *Include operating costs of new capital projects in operating budget*

Financial Plan - Decisions

- Budget Decisions
 - Operating budgets
 - Required services vs optional services
 - Type, level, sustainability of services
 - Direct benefit vs indirect benefit
 - Services affordable and delivered efficiently and effectively
 - Grants – conditional and unconditional
 - Operating costs of new capital projects

Financial Roadmap

- Annual Financial Plan
 - Expenditures reflect council's priorities?
 - Municipality's financial position considered?
 - Tax tools utilized?
 - Tax level
 - Reasonable?
 - Reflect ratepayers ability and willingness to pay?
 - Comparative to previous year?



Financial Plan - Process

- Annual Financial Plan
 - Prepared by CAO / Department heads and Council
 - Adopt interim **operating** budget
 - Public Notice and Public Hearing
 - Adopt financial plan
 - Revenues = Expenditures (must balance)
 - Tax levy by-law - sets property tax rates, discount (if any) rate and penalty rate

Property Assessment

- Assessment

- All property is assessed at market value (MV)
- All property is grouped into classes, based on use
- Only a portion of market value is taxable
 - Commercial 65%
 - Pipeline 50%
 - Residential 45%
 - Farm 26%




Taxable or Portioned assessment

Finance & Assessment

- Taxation
 - Main source of revenue
 - One tax (mill) rate is applied to municipality's taxable assessment
 - ➡ General Municipal Mill Rate
 - Special service and local improvement taxes
 - Separate tax rate applied to specific properties
 - Rate may be mill rate, per parcel rate, frontage rate or a combination

Finance & Assessment

- Property Tax Rate (Mill rate) Calculation
 - Net expenditures / taxable assessment x1,000
 General Municipal mill rate

Example applying a General Municipal mill rate of 10 mills

- Farm property MV \$500k
taxable \$130k x 10.0 mill rate = \$1,300 taxes owed
- Residential property MV 300k
taxable \$135k x 10.0 mill rate = \$1,350 taxes owed

Financial Reporting

- Financial Reporting
 - Monthly financial reports
 - Prepared by administration
 - Resolution to adopt
 - Compare year-to-date expenses and revenues to budget
 - Report year-end operating surplus or deficit
 - Resolution for approval for deficits in-year
 - Public document

Financial Reporting

- Financial Reporting
 - Annual Audited Financial Statements
 - Responsibility of municipality to prepare for audit
 - Council appoints qualified auditor
 - Audit ensure accountability and transparency
 - Auditor opinion
 - Supplementary report
 - Consolidates all funds/organizations of the municipality
 - Disclosure of Council compensation
 - Public document

Finance - Key Dates

Key Dates – Financial Plan

Nov – Feb	Prepare Financial Plan Give public notice and hold public hearing Adopt Financial Plan (resolution)
Jan 1	Adopt interim operating budget
All year	Monitor expenses and revenues compare to budget; take action on unexpected expenses or deficits
May 15	File Financial Plan with Province
June 15	File Tax levy By-Law with Province
Dec	Review and evaluate year end results

Finance Key Dates

Key Dates – Financial Reporting

Dec	Determine annual operating surplus or deficit; request approval for any operating deficit (resolution)
Mar 15	Approve unaudited year-end financial statements (resolution); file with Province
June 30	File audited financial statements with Province
Aug 31	Appoint auditor (resolution) and file with the Province

Finance & Assessment

Tips for Success!

- Stewards of public funds and assets
- Responsible for the financial position of the municipality
- Financial plan is your road map
- Audited financial statements provide transparency and accountability



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Finance & Assessment

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MAKING LEGISLATION AND ENFORCEMENT



"OK, LET'S SEE YOUR BUILDING PERMIT"

Council - Decision Making

☐ By-Laws (legislation)

- Procedures
- Key By-Laws
- Enforcement

☐ Resolutions (decision)

☐ Policies

- Procedures

By-Laws

Required for matters that have:

- ☐ Continuing Application
- ☐ Long term Effects
- ☐ Enforceable

Create a By-Law

Requires:

- ☐ Pass at Council meeting
- ☐ 3 Readings and Votes
- ☐ At Least 2 Council Meetings
- ☐ Debate
- ☐ Recorded Vote on 3rd Readings
- ☐ May Require Public Notice and/or Public Hearing

(Name of Municipality)

By-law No. _____

Being a by-law to establish a reserve for the replacement of office equipment

WHEREAS Section 168(1) of *The Municipal Act* provides as follows:

“A council may by by-law establish reserve funds for any general or specific purpose”.

AND WHEREAS it is deemed necessary and desirable to establish an Office Equipment Replacement Reserve Fund for the replacement of municipal office equipment;

NOW THEREFORE the Council of The (insert name of municipality) enacts as follows:

(1) Purpose

The purpose of the Office Equipment Replacement Reserve is to finance the cost of replacing and upgrading municipal office equipment.

(2) Funding

This Reserve shall be funded annually from an authorized provision in the Municipality’s annual financial plan.

(3) Expenditures

This Reserve shall only be used for the replacement and upgrade of municipal office equipment including, office furniture, photocopiers, fax machines, telephone equipment and computers and associated hardware and software required to support corporate computer systems.

DONE AND PASSED as a by-law of (name of municipality) in the Province of Manitoba this (day) of (month) (year).

Head of Council

Chief Administrative Officer

Read a first time this the (day) of (month) (year).
Read a second time this the (day) of (month) (year).
Read a third time this (day) of (month) (year).



Example By-Laws

- Change the number of Councillors
- Borrowing of money
- Opening a Municipal Road
- Set and impose Property Taxes
- Establish Reserve Funds
- Establish an Organizational Structure
- Fire Protection
- Set Compensation and Expenses for Council (Indemnity)
- Unsightly property
- Fee Schedule
- Set Fees for Municipal Services

Key By-Laws

Procedure By-law

- Sets regular council meeting dates
- Rules on:
 - Conduct of meeting
 - Calling special meetings
 - Agendas
 - Voting
 - Delegations
 - Public Hearings

Key By-Laws

Organizational By-law

- Committees
- Deputy appointments
- Signing authority
- Reporting Structure
- Boards of Revision



Key By-Laws

Indemnity By-law

- Types, rates, conditions of payments
 - May include sanctions
- Council and committee members
- Canada's *Income Tax Act* changes
 - Effective January 1, 2019
 - Non-Accountable allowance will be taxable
- LUD committee sets own remuneration

Making Law

- Clear reason for the by-law
- Consider your options – prohibit, regulate, license, incentive
- Clear wording
- Must be for municipal purposes
 - Providing good government;
 - Providing services/facilities/other things that council views as desirable for all or part of community
 - Developing and maintaining safe and viable communities

Making Law cont'd

- Respect other governments' legislative authority
- Follow the process correctly
- May be challenged:
 - Outside council's jurisdiction
 - Bad faith
 - Discriminatory without reasonable justification
 - Passed incorrectly

By-Law Enforcement

- The Municipal Act

- Council may create by-laws to develop and maintain safe, viable communities
- **Designated officer** has authority to enforce
- Enforcement powers include inspections, seizing, removing and impounding, issuing compliance orders, filing application to Court of Queen's Bench for an order

- Provincial Offences Act (POA)

- Replaced the Summary Convictions Act - 2017
- Applies to all by-law contraventions, except those under MBEA
- Municipal by-laws must establish **pre-set fines** for offences
- Maximum fine \$5,000
- Courts impose fine if convicted

By-Law Enforcement

- Municipal By-law Enforcement Act (MBEA)
 - New, effective February 1, 2017
 - Municipalities, by by-law, may establish an administrative penalty scheme to enforce by-laws in a non-court setting
 - “Implementation” by-law to:
 - List all by-law contraventions
 - Create screening officer position and powers
 - Set the penalty amount for each contravention
 - Establish the adjudication process
 - Municipalities with **parking by-laws** must use this process
 - Only **By-law Enforcement** officer has authority to enforce
 - Maximum fine \$1,000

By-Law Enforcement

- MBEA (continued)
 - Screen officer
 - Appointed by the municipality
 - Hears persons who dispute penalty notice
 - May confirm, cancel or reduce the penalty amount
 - Adjudicator
 - Appointed by the Province
 - Hears persons appeals to the screening officer decision
 - May confirm, cancel or reduce the penalty amount
 - Decision is final, not open to appeal

Council's Role - By-Law Enforcement

Role of Council under The Municipal Act

- By by-law, creates “designated” officer positions – enforcement officer, building inspector, animal control, public works supervisor etc
- By-laws must set-out all the powers and duties to enforce, including:
 - Issuing penalty notices, conducting inspections
 - Issuing Orders to remedy a contravention and Penalties
- If a person requests, Council may review an Order to remedy a contravention
 - May confirm, cancel, change Order

Council's Role - By-Law Enforcement

Role of Council under the MBEA

- By by-law, create By-law Enforcement officer position
- Establish Implementation By-law
- By-laws must set-out powers and duties to enforce

→ Council has no authority to deem a person guilty of contravening a by-law under either process

By-Law Enforcement

<u>By-laws</u>	<u>Legislation</u>	<u>Enforced by</u>
Tax Levy	Municipal Act	CAO - Tax sale
Derelict building	Municipal Act/POA	Building Inspector
Unsightly property	Municipal Act/POA	Enforcement officer
Animal control	Municipal Act/MBEA	Animal Control officer
Noise control	Municipal Act/MBEA	Enforcement officer
Zoning, permits	MBEA	Enforcement officer
Parking	MBEA	Enforcement officer

By-Law Enforcement

Resources

On Manitoba Municipalities Online

<https://web22.gov.mb.ca/mao/subscriber/login.aspx>

- A Guide to The Municipal By-law Enforcement Act
Developed by Department of Justice

On AMM website www.amm.mb.ca

- Sample Implementation by-laws

Resolutions

Used for matters that are:

☐ One time

☐ Routine

Passing a Resolution

Requires:

- ☐ Passed at an Open Meeting
- ☐ Requires a Mover and Second
- ☐ Completed at one Meeting
- ☐ Debate
- ☐ Recorded vote may be requested prior to the vote

RESOLUTION

Moved by Councillor _____

Resolution No. _____

Seconded by Councillor _____

Date _____

WHEREAS, the council of the RM of anywhere.....

WHERAS, it is deemed.....

BE IT RESOLVED that accordance with section 365(2) of *The Municipal Act*, the Council of the R.M. of Anywhere hereby designates the year 2019 for tax sale purposes which thereby permits the R.M. to sell all properties that have taxes owing for any portion of 2017 and prior.

FURTHER the CAO is hereby directed to schedule the tax sale prior to December 31, 2017.

MOTION CARRIED

REEVE

Example Resolutions

- Pay invoices
- Cancel water invoice / bill
- Pay council indemnities
- Approve monthly financial statements
- Approve meeting agenda
- Approve council minutes
- Move to “in camera”

Policies

- Standardize processes or regular council decisions
- Promote fairness and good administration
- Set expectations
- Many should be publicly available

Example Policies

- **Finance:**
 - Community grants
 - Debt management and reserves
 - Financial reporting to council
- **Public Works:**
 - Snow clearing, graveling, dust control
 - Culverts and drainage works
- **Administration:**
 - By-law enforcement
 - Access to information
 - Complaint policy
 - Communications

Making Legislation and Enforcement

Tips for Success!

- Decision-making
 - Policy makers, Law makers
- Act by Resolution or By-law
- Enforcement
 - Designated officers
 - Two processes



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Resources

- Chief Administrative Officer
- Other elected officials
- Association of Manitoba Municipalities
- Council Members Guide
 - Once Elected...What is Expected? 2018
- Municipal Act Procedure Manual
- Municipal Services Officers
 - Phone: (204) 945-2572
 - Email: provimunicssupportserv@gov.mb.ca

QUESTIONS?

