SUBJECT: Proposed amendments to Procedure By-law 64-2016

TO: Committee of the Whole

FROM: Clerks Department

Report Number: CL-04-18
Wards Affected: n/a
File Numbers: 110-04-1
Date to Committee: February 26, 2018
Date to Council: March 19, 2018

Recommendation:

Approve proposed amendments to City of Burlington Procedure By-law 64-2016, attached as Appendix A to clerks department report CL-04-18; and

Direct the City Clerk to bring forward the amending by-law to the Council meeting of March 19, 2018.

Purpose:

An Engaging City
• Good Governance

Background and Discussion:

The City’s procedure by-law is required under the Municipal Act, S.O. 2001 c.25 and governs the proceedings of Council and Standing Committee meetings. The procedure by-law provides the rules of order and conduct and describes the municipality’s accountability, transparency and notice requirements with respect to Council and Committee meetings.

As a result of Bill 68, Modernizing Ontario’s Municipal Legislation Act, 2017, which was introduced in the provincial legislature on November 16, 2016 and received Royal Assent on May 30, 2017, two sections of the Procedure By-law require updating. The exact wording of the proposed amendments to the by-law is contained in Appendix A to
clerks department report CL-04-18 while an explanation of the sections to be changed is listed below.

Definitions
The definition of a “meeting” in Section 238 of the Municipal Act, 2001 has been revised to include any meeting of Members of Council where a quorum is present and Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Council or committee. Accordingly, the definition of “meeting” in Section 1 of the City of Burlington’s Procedure By-law is to be amended to include this wording, as outlined in Appendix A of clerks department report CL-04-18.

Closed Meetings – Additional Exceptions
Four additional clauses have been added to the list of matters for which a meeting may be closed to the public as follows:

- 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;
- 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.

The wording for the corresponding amendments to Section 22.1 of the City of Burlington’s Procedure By-law is included in Appendix A of clerks department report CL-04-18.

Electronic Participation in Meetings
The new Section 238(3.1) provides that a municipality’s Procedure By-law may permit Members of Council to participate in an open meeting via electronic means, but they shall not count towards quorum or take part in any portion of the meeting that is held in closed session. The update does not specify whether Members participating in meetings in such a manner would be permitted to vote on any items under consideration.
Given the small size of Burlington Council, including this provision in our procedure by-law could have a significant impact on the quality of debate and functioning of the meeting. In addition Council Chambers is not equipped with the technology that would allow for electronic participation in a consistent and functional manner. Finally, there is a lack of clarity in the legislation regarding electronic participation and voting. For these reasons, staff are not recommending Council include this provision in the by-law at this time.

**Financial Matters:**
There are no financial implications to this report.

**Public Engagement Matters:**
Notice to the public will be provided in accordance with Procedure By-law 64-2016. Notice of the report recommending approval of amendments to the Procedure By-law will be published in the Burlington Post and on the city’s website, stating the date, time and place of the Committee meeting where the report will be presented. The notice of intention to pass the proposed by-law will be published in the Burlington Post and on the city’s website, stating the date of the Council meeting at which the by-law is to be considered. Once approved by Council, the updated procedure by-law will be available on the City’s website.

**Conclusion:**
The proposed amendments to Procedure By-law 64-2016 reflect updates required as a result of Bill 68, *Modernizing Ontario’s Municipal Legislation Act, 2017*.

Respectfully submitted,

Jo-Anne Rudy
Committee Clerk
905-335-7600, ext. 7413

**Appendices:**
A. Proposed amendments to Procedure By-law 64-2016
Report Approval:

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.