

Affidavit of Ann Marsden
Regarding the Marsdens Request of Council to Postpone Approval and Enactment
of City of Burlington *Procedural Bylaw* governed by Section 238(2)
Of the *Municipal Act S.O. 2001*

I, Ann Marsden, also known as Anne Marsden of the City of Burlington, Region of Halton do take oath and swear this affidavit a document that is supplemental to the registered delegation of Ann and Dave Marsden at council on January 27, 2020:

1. On January 16, 2020 my husband known as Dave Marsden and I delegated before the City of Burlington Council Committee
2. The purpose of our second delegation was to bring to the attention of committee that insufficient notice had been provided to the residents and business owners of Burlington to properly engage with Council on these by-laws and asked that the committee delay their review of the proposed amended by-laws until sufficient notice was provided.
3. I informed the committee from the lectern that a Marsdens' delegation before the previous council had identified multiple issues with the present *Procedural By-law* that I would have gone on to challenge in the courts through a *motion to quash* if health issues had not prevented such.
4. My review of the posted unapproved minutes of the committee meeting show no indication of the expressed purpose of our delegation to delay the discussion until appropriate notice had been provided to the community.
5. My review of the posted unapproved minutes and webcast of the committee meeting confirmed my understanding that there was no discussion by committee of the purpose of our delegation to delay the discussion until appropriate notice had been provided to the community or any questions of staff to support the Council's reasons for their declaration:

"Whereas the Council of the City of Burlington deems it expedient to repeal and replace By-law 64-2016"

during an exceptionally busy cycle of Council business.

6. A request of Committee Clerk Georgie Gartside produced my submissions to the December 19, 2016 Council meeting and a copy of my delegation notes including a Public Notice that addressed changes to the *Procedural By-laws* while council was under the leadership of the Hon. Cam Jackson and during the tenure of Kim Phillips as City Clerk.
7. The Public Notice followed a format that gave ample notice to the community that I remember being set out in a past *Procedural By-law* but do not have the necessary filing system to support this.
8. My delegation request form processed at the City Clerk's office on Friday, January 24, 2020 provided a copy of the delegation notes, notice and report from the city files which I understand will have been provided to Committee and Council members in sufficient time to have them review the 18 amendments to the 37-2014 *Procedural By-law* that were not included in report CL-21-16 and were approved and enacted by Council without notice to the community.
9. I believe these documents that identify 18 *Procedural By-law* amendments without notice to the public should now be part of the posted Council material for the January 27, 2020 meeting along with this affidavit which constitutes the Marsdens notice to the 2016 Council members of the grounds for a motion to quash by-law 64-2016.
10. A hefty schedule and lack of a table of contents for the proposed enacted By-law has not permitted another 50 hr. review of the proposed amended by-law to determine which of the above continue to be part of the City's proposed *Procedural By-law* and thus become the grounds for a *motion to quash* the by-law once enacted.
11. Not long after the 2018 municipal election I learnt that an amendment had been made to the 64-2016 *Procedural By-law* that I believed over-rode the authority given to the Chief Executive Officer and Council and Committee Chairs by the *Municipal Act* to maintain order during their public meetings.

12. At a break in a meeting at a Region Council I discussed the matter with my Ward 2 Councillor Lisa Kearns who was unaware of the particular section and asked me to send the reference to her. The section referenced to Councillor Kearns is contained in 39.11 of 64-2016 and the proposed amended by-law.
13. The proposed amended by-law (Appendix A to report CL-01-20) recommended for approval by Committee amends section 39.11 to give authority to the clerk as well as the city manager to deny engagement with City Council on those they deem "*likely*" to engage in unreasonable behaviour.
14. I believe this amendment to 64-2016 and proposed amendment to 39.11 In 64-2016 documents does not reflect the commitment of this Council set out in Section 18 of the "Aspirational Commitments" of the 2018-2022 Council ". "*We will foster respect for the democratic-decision making process.*"
15. I believe an analogy of this unacceptable practice that sets respect for democratic decision-making aside is for a by-law enforcement officer to give out tickets based on the fact that someone is "*likely*" not to feed the parking meter when the allocated time for parking there has ended.
16. I swear this affidavit to ensure Council and the public are made aware of the issues with the proposed amended *Procedural By-law* and repeal of 64-2016 that constitute the reasons for a *motion to quash* the by-law once enacted and for no other purpose.

Sworn by me in the City of Burlington
In the Region of Halton on the twenty-seventh
day of January, 2020

A commissioner of affidavits (or as the case may be)



Ann Marsden

Peter Robert Turkington, a Commissioner, etc.,
Province of Ontario, for the Constituency
Office of Jane McKenna, M.P.P.
Expires October 11, 2022.

