

COW, Sept 9 2024
CL-20-24
Delegation presentation from Jim
Thomson

ADR Ombudsman Investigation Report CL-20-24

To : CoW
September 9, 2024

Conclusion and Recommendation

- I recommend that the City update its Procedure By-Law to reflect the Pipeline to Permit Committee as a Standing Committee of the City, and note its meeting schedule therein. This is to aid consistency in how the Procedure By-Law treats the City's Standing Committees, but doesn't arise from any binding legal requirement to do so.

Weasel Words

- but doesn't arise from any binding legal requirement to do so.
- I believe this statement is incorrect and unnecessary.
- But it is of no consequence as the standard isn't what is legal but what promotes Good Governance.
- Anybody who believes that it is okay to violate the Municipal Act because there are no legal consequences shouldn't be a City Councillor.

Members of Council- Procedure Bylaw

- 6.1 It is the role of the members of Council to:
 - (a) carry out the responsibilities of their roles as described in section 224 of the Municipal Act;
 - (b) uphold the by-laws and policies of the Corporation of the City of Burlington;
 - (c) deliberate on the business submitted to Committee and Council;
 - (d) vote on all motions before Council;
 - (e) respect the rules of procedure at all meetings.

Role of Council – Municipal Act 1

- 224 It is the role of council,
- (a) to represent the public and to consider the well-being and interests of the municipality;
- (b) to develop and evaluate the policies and programs of the municipality;
- (c) to determine which services the municipality provides;

Role of Council – Municipal Act 2

- (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- (e) to maintain the financial integrity of the municipality; and
- (f) to carry out the duties of council under this or any other Act. 2001, c. 25, s. 224; 2006, c. 32, Sched. A, s. 99.

Role of Clerk – Procedure Bylaw

- 7.1 It is the role of the Clerk to:
 - a) carry out the responsibilities of their roles as described in section 228 of the Municipal Act;
 - b) provide procedural advice to the Chair and to members on agenda business and on preparing motions
 - C) ensure notice of meetings is provided as set out in this by-law;

Clerk – Municipal Act

- 228 (1) A municipality shall appoint a clerk whose duty it is,
 - (a) to record, without note or comment, all resolutions, decisions and other proceedings of the council;
 - (b) if required by any member present at a vote, to record the name and vote of every member voting on any matter or question;
 - (c) to keep the originals or copies of all by-laws and of all minutes of the proceedings of the council;
 - (d) to perform the other duties required under this Act or under any other Act; and
 - (e) to perform such other duties as are assigned by the municipality. 2001, c. 25, s. 228 (1).

Staff Direction- CM-15-23

- "Should Council approve the Terms of Reference, staff will also review to ensure the appropriate by-law amendments are made in a timely manner."

A Timely Manner

- That would have been in December 2023 as stated by the previous Clerk to the Ombudsman Investigator on Nov 10 2023
- Or January 2024 as stated by the Deputy Clerk who replaced him on the file on November 23, 2023.

Code of Good Governance

- Preamble
- The Council of the City of Burlington is committed to achieving excellence in governance. and doing so in a way that maintains and ensures public trust and confidence in the City's decision making. The elements of this Code that are subject to a formal complaint are intended to act as a Code of Conduct as required under the Municipal Act.
- Purpose
- To provide clarity to the public as to the behaviour they can expect from members of Council. and the governance responsibilities that go beyond those in the Municipal Act

Code of Good Governance

- ASPIRATIONAL COMMITMENTS (NOT SUBJECT TO A COMPLAINT)
- 7. We will strive to ensure expansive transparency and robust accountability.
- 8. We will exemplify the responsibilities and role articulated for members of Council in the Municipal Act.

Summary

- Council directed Staff to Update Bylaw in a Timely Manner.
- Staff failed to follow Council direction
- Council failed to have mechanism in place to ensure staff followed direction.
- Everyone failed to follow the Procedure Bylaw
- Council didn't achieve their Aspirational Commitments
- This is not “Good Governance”
- Council needs to do better.
- Staff needs to held accountable.