

Procedure Bylaw Review- Comments Bylaw-59-2024

CL-01-24

To : CoW September 9,2024

Sequence

- This report was due Q3 2023
- On Nov 10 2023 the former Clerk told the Ombudsman investigator it would be delivered in December 2023
- When the Deputy Clerk took over the file, the report was supposed to be due January 2024.
- In April 2024, Council directed it to be complete no later than Q2 2024.
- Here we are at end of Q3 2024 and the residents of Burlington are given a day and half to review and prepare delegations on what is one of the most important documents the City produces.

Vision to Focus Alignment

- Building more citizen engagement, community health and culture
- How were the citizens engaged?
- A survey held in the summer from June 1 to August 14 in 2023.
- Where are the results of the survey?
- How did the survey results inform the review?

Strategy Process Risk

- Ombudsman complaints.

But they aren't really a problem as they are not legally binding.

- What about Reputation Risk?

Good Governance comes from following the Procedure Bylaw and the Municipal Act. Burlington doesn't aspire to the low standard of legally binding.

Problems with Report

- The Closed Meeting Protocol has no place in a By-law.

It wasn't drafted as a bylaw.

It has the name of individual in it rather than a position.

What is in the current bylaw should be updated to reflect changes needed to make it conform to the protocol.

Is it to be Closed Meetings or Closed Sessions? It needs to be consistent.

The Bylaw to be passed still uses the Closed Meeting Protocol which specifically states that it is not meant to replace the

This Protocol is intended to support and enhance the provisions of the Municipal Act, 2001 and Council's Procedure By-law, as amended from time to time, and is not intended to be separately enforceable

Problems with Report

- Deputy Mayor with Portfolio.

Wasn't the Policy supposed to be reviewed after 1 year?

Has it been reviewed?

Are any changes needed?

This review hasn't happened yet. There are 47/77 Corporate Policies and Procedures that have passed their review by date.

Problem

- Council Workshop
 - Can't be a standing committee it doesn't receive delegations and is usually a Closed Session
 - There is no voting in workshops.
 - Should have special rules section in bylaws.
- Some attempt was made to fix this but there are still references to calling for votes at standing committees.
- Is there a terms of refence for the Council Workshop

Problem

- 7.1 (e) Ensure notice of meetings is provided as set out in this Bylaw

Why is there a P2P on Thursday? This Bylaw isn't in effect.

- 7.2 The Clerk will be present at all meetings of Committee and Council.

Probably should be The Clerk or a Deputy Clerk

No change

Problem

- 26.8 the use of electronic devices to record proceedings of a closed session is Prohibited
- Ontario Ombudsman recommends as best practice that closed sessions recorded.
- The Changes says attendees aren't allowed to record, Are the closed meetings actually recorded? The AV Technicians leave Chambers for closed sessions.

Problem

- 35.4 At Committee of the Whole, any item pulled from the consent agenda will be placed at the beginning of the appropriate section agenda.

Should be at the end of the appropriate section so as not mess up the numbering of items.

Why are consent items discussed at the start of the section? Why not at the end to keep the agenda clean.

Problem

- 40.5 Quarterly a full listing of outstanding staff directions will be issued by Clerk and the list will be circulated by way of a memorandum in the Council Information Package.

Why have there been none issued this year?

Still no listing of Outstanding Staff Directions.

Problem

- 43.4 The Chair may exclude or expel from the meeting any person who contravenes any provision stated in this section or who is in breach of decorum such that the person engages in personal attacks or assumes the motives of another person rather than discussing the merits of the matter.

The section is about members. I don't know why the Chair should be able to exclude any member.

Change person to member.

Problem

- 48.7 Delegations to the Pipeline to Permit Committee will only be accepted in a written format. In person delegations may be permitted at the discretion of the Committee Chair.

Delegations should be as per every other Committee.

Terms of reference for P2P

Engagement:

Receive input from the public and the development industry by way of delegations and correspondence regarding processes, procedures, and intergovernmental advocacy.

This needs to be discussed by council and specifically voted on. The chair is given to much discretion to allow friendly delegations but exclude people who are against the item. One rule for everyone.

Problem

- 46.12 At the discretion of the Mayor/Chair, CAO or City Clerk, written delegation material may be requested in advance of the meeting prior to confirming registration as a delegation. Upon review of that material by the Mayor/Chair, CAO or City Clerk, if it is deemed not applicable to the business of Council or Standing Committee, the delegation will not be registered to speak at the meeting.
 - I believe this infringes our Charter Rights
 - I don't believe that written material is necessary for a delegation.
- I frequently don't know what I am going to say at the time I have to register for a delegation.

Request

- Given all the Problems that I have been able to document in a short time I believe this Report should be deferred to the next CoW and staff be directed to fix the problems I have identified.
- There are other issues of which I am aware, but don't have time to detail.
- If the report had been issued as part of the agenda as it should have been I would have had the time to deal with numbering and formatting issues.

Engaged Citizens

- When your called for jury duty and your name is drawn by lot
 - When you vote in an election or freely voice your thought
 - Don't take these rights for granted for dearly they were bought
 - Remember Thomas Muir of Huntershill.
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- Thomas Muir of Huntershill by Dick Gaughan.
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- Eternal Vigilance is the Price of Liberty. - various philosophers.

From the Ombudsman

- I urge the City to determine a set of rules that it wishes to live by, and then commit itself to living within them. The Procedure By-Law can be an important part of building transparency and accountability in the City's decision-making, which are principles specifically described in s. 270(1)5 of the Municipal Act. 2001.
- You need to take more time than this rush job allows to get it right.
- You should have the second workshop session on the Procedure Bylaw and you also need to reschedule the Workshop on Chairing meetings/Roberts rules.