

COMMITTEE AGENDA



TO **Governance Committee**

DATE Tuesday May 6, 2014

LOCATION Council Chambers, Guelph City Hall, 1 Carden Street

TIME 3:00 p.m.

DISCLOSURE OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF

CONFIRMATION OF MINUTES – April 9, 2013 open meeting minutes

PRESENTATIONS (Items with no accompanying report)

- a) Open Government Action Plan Update – Blair Labelle, City Clerk

CONSENT AGENDA

The following resolutions have been prepared to facilitate the Committee’s consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with separately. The balance of the Governance Committee Consent Agenda will be approved in one resolution.

| ITEM | CITY PRESENTATION | DELEGATIONS | TO BE EXTRACTED |
|--|-------------------|-------------|-----------------|
| GOV-2014.1 Committee of Adjustment Review (deferred from April 9, 2014) | | | |
| GOV-2014.7 Electronic Device Policy - Amendment | | | |
| GOV-2014.8 Ethics and Efficiency Hotline (“Tip Line”) | | | |
| GOV-2014.9 Council Remuneration | | | |
| GO-2014.10 Internal Audit | Mayor Farbridge | | √ |

Resolution to adopt the balance of the Governance Committee Consent Agenda.

ITEMS EXTRACTED FROM CONSENT AGENDA

Once extracted items are identified, they will be dealt with in the following order:

- 1) delegations (may include presentations)
- 2) staff presentations only
- 3) all others.

CLOSED MEETING

THAT the Governance Committee now hold a meeting that is closed to the public with respect to:

GOV-C-2014.1 Non-Union Management Employee – Overtime Policy Changes

S. 239 (2) (d) of the *Municipal Act* – labour relations or employee negotiations

STAFF UPDATES AND ANNOUNCEMENTS

ADJOURN

NEXT MEETING – June 2, 2014



**The Corporation of the City of Guelph
Governance Committee
Wednesday April 9, 2014 at 3:00 p.m.**

Attendance

Members: Councillor Bell
Councillors Dennis
Councillor Findlay
Councillor Hofland

Absent: Chair Farbridge

Councillors: Councillor Wettstein

Staff: Ms. A. Pappert, Chief Administrative Officer
Mr. M. Amorosi, Executive Director, Corporate & Human Resources
Mr. B. Labelle, City Clerk
Ms. J. Sweeney, Council Committee Coordinator

Call to Order (5:30 p.m.)

Councillor Findlay chaired the meeting.

Chair Findlay called the meeting to order.

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Confirmation of Minutes

1. Moved by Councillor Dennis
Seconded by Councillor Hofland

That the open meeting minutes of the Governance Committee held on December 3, 2013 be confirmed as recorded.

VOTING IN FAVOUR: Councillors Bell, Dennis, Findlay and Hofland (4)

VOTING AGAINST: (0)

CARRIED

Consent Agenda

The following items were extracted:

GOV-2014.1 Committee of Adjustment Review
GOV-2014.2 Legal & Realty Services Delegation of Authority

- GOV-2104.3 2014 Municipal Election – Advance Voting Period and Special Voting Provisions**
GOV-2014.6 Memo from Mayor Regarding Permanent Resident Voting in Municipal Elections

Balance of Consent Items

2. Moved by Councillor Dennis
 Seconded by Councillor Bell

That the balance of the Governance Committee April 9, 2014 Consent Agenda, as identified below, be adopted:

GOV-2014.4 Annual Report of the Integrity Commissioner

1. That the report of the Integrity Commissioner dated April 9, 2014 be received.

GOV-2014.5 Governance Committee Outstanding Motions

1. That the Outstanding Resolutions Update report from the City Clerk dated April 9, 2014 be received.

VOTING IN FAVOUR: Councillors Bell, Dennis, Findlay and Hofland (4)

VOTING AGAINST: (0)

CARRIED

Extracted Items

GOV-2014.1 Committee of Adjustment Review

Ms. Donna Kelly, Chair of Committee of Adjustment requested that consideration of the Committee of Adjustment review be deferred for one month to allow more time to work with staff to clarify some points.

3. Moved by Councillor Hofland
 Seconded by Councillor Bell

1. That the Committee of Adjustment Review be deferred to the May 6, 2014 Governance Committee meeting to allow time for staff and Committee of Adjustment to clarify points.

VOTING IN FAVOUR: Councillors Bell, Dennis, Findlay and Hofland (4)

VOTING AGAINST: (0)

CARRIED

GOV-2014.2 Legal & Realty Services Delegation of Authority

Mr. Mark Amorosi, Executive Director Corporate & Human Resources advised of an amendment to Section 6B.

4. Moved by Councillor Hofland
Seconded by Councillor Bell

1. **That the Delegation of Authority By-law for Legal and Realty Services Section 6B be replaced with the following:
Where a decision of the Committee of Adjustment is, in the professional opinion of the City Solicitor in consultation with the General Manager of Planning Services, contrary to the best interests of the City and it is desired to appeal the decision to the OMB, the City Solicitor shall obtain instructions from Council to proceed with an appeal. If a time restriction would expire before instructions of Council can be obtained regarding the appeal, the City Solicitor may file a notice of appeal provided the City Solicitor obtains instructions from Council as soon as is practicable thereafter.**
2. That the Delegation of Authority By-law (2013)-19529 be amended by inserting Schedule AA, **as amended**, attached to the report of Legal & Realty Services dated April 9, 2014 – Delegation of Authority for Legal and Realty Services.

VOTING IN FAVOUR: Councillors Bell, Dennis, Findlay and Hofland (4)

VOTING AGAINST: (0)

CARRIED

GOV-2014.3 2014 Municipal Election – Advance Voting Period and Special Voting Provisions

Mr. Blair Labelle, City Clerk provided a brief overview of the report.

5. Moved by Councillor Hofland
Seconded by Councillor Bell

1. That the report dated April 9, 2104 titled "2014 Municipal Election – Advance Voting Period and Special Voting Provision", be received for information.

VOTING IN FAVOUR: Councillors Bell, Dennis, Findlay and Hofland (4)

VOTING AGAINST: (0)

CARRIED

GOV-2014.6 Memo from Mayor Regarding Permanent Resident Voting in Municipal Elections

6. Moved by Councillor Bell
Seconded by Councillor Hofland

1. That staff report back to the Governance Committee on the matter of seeking changes to Provincial legislation that would allow permanent residents the right to vote in municipal elections.

VOTING IN FAVOUR: Councillors Bell, Dennis, Findlay and Hofland (4)

VOTING AGAINST: (0)

CARRIED

Staff Updates and Announcements

There were no staff updates or announcements.

Adjournment (3:40 p.m.)

7. Moved by Councillor Bell
Seconded by Councillor Dennis

That the meeting be adjourned.

CARRIED

Blair Labelle – City Clerk

**GOVERNANCE COMMITTEE
CONSENT AGENDA**

May 6, 2014

Members of the Governance Committee.

SUMMARY OF REPORTS:

The following resolutions have been prepared to facilitate the Committee’s consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with immediately. The balance of the Governance Committee Consent Agenda will be approved in one resolution.

A Reports from Administrative Staff

| REPORT | DIRECTION |
|---|------------------|
| <p>GOV-2014.1 COMMITTEE OF ADJUSTMENT REVIEW</p> <ol style="list-style-type: none">1. That By-law (1983)-11242 be repealed and replaced with the new By-law, in accordance with Attachment 1 to the report of Legal Services dated April 9, 2014.2. That Council approve the Terms of Reference for the Committee of Adjustment, as set out in the report dated April 9, 2014.3. That Council approve the Code of Conduct for the Committee of Adjustment, as set out in the report dated April 9, 2014. | Approve |
| <p>GOV-2014.7 ELECTRONIC DEVICE POLICY - AMENDMENT</p> <ol style="list-style-type: none">1. That report CAO-C-1402 be received.2. That the following resolutions be added to the City of Guelph Electronic Devices Policy and for inclusion in the City’s Procedural Bylaw, to provide clarity specific to Closed Meetings of Council or Committees:<ol style="list-style-type: none">a. That all electronic devices must be turned off throughout Closed Meetings of Council or Committees with the exception of ‘on call/on duty’ medical or emergency services personnel (Council or employees); and | Approve |

- b. That medical or emergency services personnel (Council or employees) who are on scheduled 'on call/on duty' while attending a Closed Meeting of Council or Committees, at the start of the meeting they shall advise the Chair, place their electronic devices in the 'loud' position in order to notify, and upon notification, that they leave the room to respond.

GOV-2014.8 ETHICS AND EFFICIENCY HOTLINE ("TIP LINE")

Approve

1. That report CAO-A-1408, Ethics and Efficiency Hotline be received.
2. That no further action be taken at this time.

GOV-2014.9 COUNCIL REMUNERATION

Report to come under separate cover.

GOV-2014.10 INTERNAL AUDIT

The Mayor will speak to this item.

attach.

STAFF REPORT

TO Governance Committee

SERVICE AREA Legal Services

DATE April 9, 2014

SUBJECT Committee of Adjustment Review

REPORT NUMBER CHR-2014-10

EXECUTIVE SUMMARY

PURPOSE OF REPORT

To present the recommendations arising from the review by Legal Services of the Committee of Adjustment processes, procedures and by-laws.

KEY FINDINGS

Staff are recommending that the establishing By-law of the Committee of Adjustment be revised, and that Terms of Reference be established to identify the mandate and framework for the Committee.

In addition, staff are recommending that a Code of Conduct be established to apply to the Committee, that would be suitable to a tribunal making statutory decisions. This would supplement the Code of Conduct for Council and Local Boards.

Lastly, staff have reviewed the administrative policies and procedural by-law of the Committee and recommend that they be updated, including identifying the role and mandate of the Chair, and that the Committee establish Rules of Procedure to assist in providing additional authority to the Committee and to identify requirements relating to the hearing process. These are matters within the jurisdiction of the Committee. Staff will work with the Committee to assist it in revising and establishing these documents.

FINANCIAL IMPLICATIONS

None

ACTION REQUIRED

To approve the revised By-law, Terms of Reference and Code of Conduct for the Committee of Adjustment.

RECOMMENDATION

1. That By-law (1983)-11242 be repealed and replaced with the new By-law, in accordance with Attachment 1 to the report of Legal Services dated April 9, 2014;
2. That Council approve the Terms of Reference for the Committee of Adjustment, as set out in the report dated April 9, 2014;
3. That Council approve the Code of Conduct for the Committee of Adjustment, as set out in the report dated April 9, 2014;

BACKGROUND

The Committee of Adjustment was established July 18th, 1983 by By-law (1983) – 11242 which delegated authority to the Committee of Adjustment to grant consents and minor variances pursuant to the *Planning Act*. The Committee is a quasi-judicial tribunal which operates under the authority of the *Planning Act*.

The Committee currently operates in accordance with the By-law and the *Planning Act*. It is also regulated by the *Statutory Powers Procedure Act* (SPPA), which establishes requirements for fair hearing processes. In addition, the Committee has established administrative policies and procedures which are included as Attachment 1.

Legal Services undertook a comprehensive review of the Committee of Adjustment processes, procedures and by-laws in 2013 and early 2014 to provide recommendations to Council designed to enhance the Committee hearing process. The review was intended to provide greater clarity regarding the roles of the Committee, the Applicant and City staff, and to enhance the procedures of the Committee to continue to ensure the principles of natural justice are adhered to in the hearing process.

The review has resulted in recommendations relating to the following:

- 1) Repealing and Replacing the By-law
- 2) Establishing a Terms of Reference for the Committee
- 3) Establishing a Code of Conduct for the Committee

In addition, staff believe that the Committee should consider the following:

- 1) Updating the Administrative Policies of the Committee
- 2) Updating the Procedural By-law for the Committee
- 3) Establishing Rules of Procedure

STAFF REPORT

It is anticipated that these changes will result in more efficient meetings, improved decision making with decisions that are fair and of consistent quality, an increase in the integrity of the process and a process that is more aligned with the principals of the legislation.

The Chair of the Committee of Adjustment was consulted throughout the project regarding the changes to the By-law, the Terms of Reference and the Code of Conduct.

City staff have prepared drafts of the recommended administrative policies, procedural by-law and rules of procedure, and will work with the Committee to assist them in finalizing these documents.

REPORT

As a result of the review by Legal Services, several recommendations were made enhance the Committee process, which have already been implemented, including:

- Relocating the Committee of Adjustment meetings to Council Chambers, to enhance accessibility and address the constraints of the previous location
- Providing a retiring room for Committee members during breaks, to allow for separation between the parties (the Applicant and City staff) and the Committee
- Developing a process for communication by the Committee members when they are requesting clarification of applications prior to the hearing

The rationale for the changes is to ensure accessibility, as well as to ensure that there is no perception of bias or partiality in the hearing process.

City staff are reviewing opportunities to further distinguish the role of Secretary Treasurer from that of the Planning department and to encourage pre-consultation with Planning staff prior to applications being brought before the Committee. Staff support is in the process of being transferred to the City Clerk's office, and will be provided through a Secretary Treasurer/Council Committee Coordinator. Applications will be received and processed through the Clerk's office. The Secretary Treasurer will be appointed by the Committee of Adjustment.

As a result of the review, administrative staff will also be considering the benefits of implementing a tiering system for hearing applications as well as sign-in sheets for delegations, to facilitate streamlining of the hearing process. The sign-in process

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will be designed to ensure that the personal information of individuals is appropriately protected.

By-law

The existing by-law provides for the establishment of the Committee of Adjustment, the appointment of initial members, and the delegation of authority under the Act, to hear minor variances and consents.

The by-law does not provide for any direction or guidance with respect to establishment of procedures and rules by the Committee. As part of the delegation of authority, it is recommended that the by-law be revised to provide a framework that requires the Committee to establish and maintain policies and procedures in accordance with applicable law, including the Planning Act and the SPPA, in a form and content satisfactory to the City Clerk. Staff have provided draft updated policies and procedures to assist the Committee, and will continue to consult with the Committee to assist as required to finalize the documents.

Terms of Reference

Although the Committee has been established since 1983, it does not have formal terms of reference. This is largely because it is established in accordance with the legislation rather than being established with a mandate created by the City. However, the City recently adopted a Citizen Appointment Policy, which applies both to advisory committees and to committees created under legislation (except to the extent of any conflict with the legislation). That policy requires that a terms of reference be approved when establishing a committee, and sets a template to be used for the terms of reference.

It is recommended that Council establish Terms of Reference for the Committee to provide the Council approved mandate and framework for the Committee in particular, where such items are not specifically identified in the by-law. The terms of reference would include items such as number of members, term (as per the Planning Act), maximum term of members, qualifications of members, staff support, meeting frequency, frequency of reporting to Council and budget for the Committee. A Draft Terms of Reference are attached. The draft is based on the template from the Citizen Appointment Policy, with modifications to reflect matters which apply to the Committee.

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The Citizen Appointment Policy provides for a maximum term of 8 consecutive years. The Planning Act provides that members of the Committee shall be appointed for the term of Council. Based on this, the TOR propose that the maximum term would be 2 consecutive terms of Council (currently 8 years), as well as any additional part of a term if the member was appointed part way through the term.

Recruitment for the Committee would give preference to individuals with a demonstrated interest in the community and experience in Planning, Law, Engineering, Architecture or Construction.

The legislation does not prohibit Members of Council from sitting on the Committee. However, it is proposed that, consistent with the practice of City Council, and to maintain the independence of the Committee and to avoid any perception of bias or undue influence, members of Council not be eligible to become part of the Committee.

Code Of Conduct

It is recommended that Council establish a Code of Conduct specific to the Committee. The authority for a Code of Conduct applicable to the Committee is found under Section 223.2 of the *Municipal Act*.

Currently, the Council Code of Conduct and Local Boards applies to the Committee. However, its provisions do not address items that are uniquely important to the hearing process. The proposed Code of Conduct would include provisions that are suited to an administrative tribunal such as avoiding bias, preserving independence, conduct at the hearing and communications outside of a hearing. The proposed Code of Conduct is intended to reflect issues uniquely arising in a hearing context, that could affect the hearing process. The Code of Conduct would be enforced, if required, in the same manner as the Code of Conduct for Council and Local Boards. This is intended to enhance the existing process of the Committee and to provide further support for its role as an independent adjudicative body.

Administrative Policies, Procedural By-law and Rules

The Committee currently operates under the *Planning Act* and has its own administrative policies and Procedural By-law. The administrative policies and Procedural By-law established by the Committee have been reviewed by staff and

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staff are recommending areas of enhancement to those documents to further assist the Committee in performing its mandated functions.

The intent of administrative policies is to provide guidance by the Committee to govern the application of its processes. This includes matters relating to application requirements (where they do not conflict with the legislation), delegation of authority to the Secretary Treasurer and direction for payment of fees and execution of agreements.

In general, staff are recommending that the administrative policies be updated to provide guidance on:

- the timelines for hearing applications and making decisions (consistent with the Planning Act);
- issuing of decisions and content of decisions of the Committee; and,
- the determination of meeting schedules

Currently, the Council Procedural By-law applies to all boards, etc. unless they have established their own by-law, which the Committee has done. Staff are recommending that the Procedural By-law be updated to include matters specific to the Committee and to the hearing process, such as: the calling of meetings, posting of agendas and minutes, hearing proceedings, and motions and voting relating to making of decisions. The draft procedural by-law would be supplemented by the procedures provided for Council in the event of a matter not addressed in the Committee's by-law.

Tribunals such as the Committee are required to make decisions in a manner that ensures fairness and natural justice. The statutory requirements relating to this obligation are established in the SPPA, which also provides tribunals with certain powers to govern the hearing process. While some of the powers under the SPPA are automatic, others require that the tribunal establish rules to implement the powers. It is recommended that the Committee approve Rules of Procedure under the SPPA in order to provide additional procedure around the powers that are automatically provided to it under the SPPA and also to trigger its right to benefit from other powers (such as written hearing of adjournment requests). It is suggested that the Rules include consideration of matters such as the power to refuse to receive an application that is not complete, the process for adjournment requests, consideration of requests for waiving the deferral fee, the timing for circulating applications, staff comments and written submissions, and the hearing process.

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Draft templates for the administrative policies, procedural by-law and rules have been provided to the Committee, and staff will work with the Committee in reviewing these documents. These are items that would be considered for adoption by the Committee of Adjustment under its authority, and in accordance with the proposed new By-law, to the satisfaction of the City Clerk.

Training

Training has been provided historically to the Committee upon its initial appointment.

Legal Services and Clerk's staff will be providing a presentation to the Committee at its inaugural session to train newly appointed members. The program would include:

- 1) Information regarding the Committee's application process
- 2) The criteria to be considered under the *Planning Act*
- 3) The legal framework governing the Committee as a whole and members, and the applicable law including the *Planning Act*, the SPPA and the *Municipal Conflict of Interest Act*

Training would also include an overview of the Code of Conduct of Council and Local Boards, the Code of Conduct for the Committee, and the role of the Integrity Commissioner.

City staff will develop and provide to Committee members a reference manual that provides the details of the concepts of the presentation. The manual will contain information on the legal framework under which the Committee is governed.

Training will be offered at the inaugural session, and annually thereafter during the term of the Committee.

In addition, it is proposed that the City continue to pursue training opportunities through the Ontario Association of Committee of Adjustment and Consent Authorities. The Association offers a "Committee Guidelines Training Session" which is available to Committees by attending at the local municipal offices. Conferences are also offered throughout the year in various locations. The cost of such training

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would need to be considered in the annual budget relating to the Committee, as appropriate.

CORPORATE STRATEGIC PLAN

2.2 Deliver better public service

2.3 Ensure accountability, transparency and engagement

DEPARTMENTAL CONSULTATION

Information Services – City Clerk’s

Planning Services

Chair of the Committee of Adjustment

COMMUNICATIONS

The By-law, Terms of Reference, Code of Conduct, Procedural By-law, Administrative Policies and Rules of Procedure (once finalized), will be available to the public, as well as to applicants and interested parties. It is anticipated that the documents will also be posted on the City’s website.

ATTACHMENTS

ATT-1 Ddraft By-law
ATT-2 Draft Terms of Reference
ATT 3 Draft Code of Conduct

Report Author

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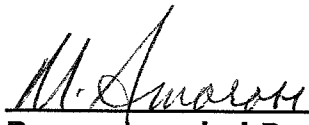
Approved By

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Recommended By

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ATTACHMENT 1

The Corporation of the City of Guelph

By-law Number (2014)-XXXXXX

Being a By-law to repeal and replace
By-law Number (1983)-11242, a by-
law to establish a Committee of
Adjustment for The Corporation of
the City of Guelph

WHEREAS in accordance with the Planning Act, 1983, the City of Guelph established a Committee of Adjustment pursuant to By-law Number (1983)-11242;

AND WHEREAS pursuant to the By-law, Council has delegated authority to the Committee to grant minor variances from any by-law of the municipality which implements the Official Plan and to give consent in respect of lands in the City;

AND WHEREAS the Planning Act, 1983 has been repealed and replaced with the Planning Act, R.S.O. 1990, c. P. 13, as amended;

AND WHEREAS the City considers it appropriate to repeal and replace the establishing By-law;

THEREFORE the Council of the Corporation of the City of Guelph hereby enacts the following:

1. By-law Number (1983)-11242 is hereby repealed.
2. The Committee of Adjustment established pursuant to By-law Number (1983)-11242 is hereby continued.
3. The Committee of Adjustment shall have authority:
 - a) To grant minor variances from any by-law of the municipality that implements the Official Plan, pursuant to Section 45(1), (2) and (3) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, or any successor thereof;
 - b) To grant consents in respect of land in the City of Guelph, pursuant to Section 53, 50(18) and 57 of the Planning Act, R.S.O. 1990, c. P. 13, as amended, or any successor thereof;
4. The Committee of Adjustment shall be composed of no more than seven (7) members, who shall be appointed by Council resolution from time to time.

5. The compensation for members of the Committee shall be as determined by Council resolution from time to time.

6. The Committee of Adjustment shall establish policies and procedures to ensure that its processes comply with applicable law, including the Planning Act, R.S.O. 1990, c. P. 13, and the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22 , as amended from time or any successor thereof, in a form and content satisfactory to the City Clerk.

PASSED THIS DAY OF APRIL, 2014

Karen Farbridge - Mayor

Blair Labelle – City Clerk

ATTACHMENT 2

Committee of Adjustment Terms of Reference

Terms of Reference Date: April 2014

Committee Name: Committee of Adjustment

Mandate:

The Committee of Adjustment is an independent and autonomous quasi-judicial tribunal appointed by Council which operates under the authority granted by the Province of Ontario in the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. The mandate of the Committee of Adjustment is to consider applications under the *Planning Act* for:

- Minor variances from the provisions of any by-law that implements the Official Plan, including the City's Zoning By-law, in accordance with Section 45 of the *Planning Act*.
- Enlarging or extending a building or structure that is legally non-conforming or a change in a non-conforming use, in accordance with Section 45 of the *Planning Act*.
- Consents to sever in respect of land in the City of Guelph in accordance with Section 53 of the *Planning Act*.

Number of Members (Citizen only):

The City of Guelph Committee of Adjustment is composed of seven (7) members who are appointed by Council. Council has determined that all appointees shall be citizens. Preference is given to candidates who have a demonstrated commitment and interest in the community and who have experience in matters pertaining to Planning, Law, Engineering, Architecture or Construction. Consideration will also be given to including members of the community at large, who have an interest in the community and the issues relating to the Committee of Adjustment.

Members are generally appointed prior to the expiry of each term of Council. Initial appointments of members following an election are for the term of Council. Members hold office until their successors are appointed, or until the end of their term. In the event of vacancy, members appointed mid-term shall be appointed for the remainder of the term.

The maximum duration that any one Member can hold office for is two full successive terms of Council. Members appointed for the first time mid-term may hold office for the remainder of that term plus two full successive terms. A member who has served the maximum number of successive terms may be reappointed after one (1) full intervening term of Council.

Date of Formation:

The Committee of Adjustment was established July 18th, 1983 by By-law (1983) – 11242 which delegated authority to the Committee of Adjustment to grant consents and minor variances pursuant to the *Planning Act, 1983*.

Expiration Date (if applicable): N/A

Staff Liaison Support Position:

The Committee will appoint a Secretary Treasurer to assist with its function under the Planning Act. The City of Guelph provides a staff member who is available to act as Secretary Treasurer, to support the successful operation of the Committee of Adjustment. When the position of Secretary Treasurer becomes vacant, the Chair of the Committee of Adjustment or another member designated by the Chair, will be consulted and involved in the recruitment process for the position, for example, being a citizen member of the hiring committee.

The Secretary Treasurer will oversee the application process and provide administrative support to the Committee of Adjustment according to the governing provincial legislation. The Secretary Treasurer will be supported by staff from the Clerk's office. In the absence of the Secretary Treasurer, a staff member from the Clerk's office will be available to act in his or her place.

Meeting Frequency:

The Secretary Treasurer of the Committee of Adjustment will establish a meeting schedule annually, which may be revised from time to time. Additional or special meetings may also be scheduled as required. The meetings are generally open to the public and any individual can appear before the Committee to voice their opinion in support or opposition of the application being heard.

Applicable Legislation/By-law:

By-law (2014) -
Planning Act R.S.O 1990 c.P.13. as amended.

Link to Corporate Strategic Plan:

<http://guelph.ca/plans-and-strategies/corporate-strategic-plan/2012-16-corporate-strategic-plan/>

Frequency of Reporting to Council:

Minutes of the Committee are provided to Council on a regular basis. The Committee reports annually to Council with a summary of its activities.

Budget:

Members are compensated in an amount determined by Council from time to time. Compensation is reviewed at the end of each term of Council, prior to the appointment of Members for the following term.

Other budgetary items (as applicable) are established by Council in the annual budget.

ATTACHMENT 3

CORPORATE POLICY AND PROCEDURE



| | |
|------------------|--|
| POLICY | Committee of Adjustment – Code of Conduct |
| AUTHORITY | Section 223.2(1) of the Municipal Act, 2001 |
| RELATED POLICIES | Code of Conduct for Council and Local Boards |
| APPROVED BY | Council |
| EFFECTIVE DATE | May 1, 2014 |
| REVIEWED | Annually |

POLICY STATEMENT

A written Code of Conduct that supplements the Code of Conduct for Council and Local Boards, is appropriate for the purpose of applying to quasi-judicial bodies such as the Committee of Adjustment. It is acknowledged that these bodies make statutory decisions and operate under a statutory regime. As such, they should carry out their functions in a manner that demonstrates independence, fairness and impartiality in decision-making. This supplemental Code is intended to provide a reference guide and a supplement to the legislative parameters under which such bodies must operate, and to ensure that natural justice is both implemented and seen to be implemented.

PURPOSE

Members of the Committee of Adjustment are appointed to carry out a statutory obligation under the Planning Act, R.S.O. 1990, c. P. 13, as amended. The Committee is a quasi-judicial body, independent of Council.

It is essential that as a quasi-judicial body the Committee carry out its duties in a fair and impartial manner, consistent with governing legislation.

The purpose of this Code of Conduct is to supplement the Code of Conduct for Council and Local Boards by providing additional direction to the Committee in carrying out its duties.

DEFINITIONS

Member – means a Member of the Committee of Adjustment

In addition to the Code of Conduct for Council and Local Boards, the following shall apply to the Committee of Adjustment.

CONFLICT OF INTEREST

Members shall strictly adhere to the Conflict of Interest provisions of the Code of Conduct for Council and Local Boards, the Procedural By-law of the Committee and the Municipal Conflict of Interest Act, including disclosing any pecuniary interest in

a matter before the Committee and abstaining from voting or participating in the discussion of the matter.

BIAS

Members shall conduct themselves in an impartial and objective manner and in accordance with the principles of natural justice. Members will perform their duties in such a way as to promote public confidence and trust in the integrity, objectivity and impartiality of the Committee. Members shall decide each application fairly and objectively and without bias.

In addition, Members shall take all reasonable steps to avoid any perception of bias towards or against any individual or group involved in an application (including the applicant, City staff, members of the public, etc.).

Every Member shall ensure that they approach the hearing with an open mind and shall not discuss the merits of a matter before the hearing.

No Member shall give preference to any party, individual or group and shall avoid any action that suggests that any party has undue influence over the Member.

No Member who has other business with the City shall discuss any such business with City staff while attending the Committee meeting (before, during, after).

Members shall remain independent of City staff, applicants and interested members of the public during all breaks.

CONDUCT

Members shall demonstrate respect for all participants in the process.

Members shall adhere to the rules of Conduct as outlined in the Procedural By-law of the Committee.

COMMUNICATION WITH STAFF, APPLICANTS

No Member shall engage in any discussion, directly or indirectly, with staff or the applicant, or any member of the public, regarding an application or any matter that may affect an application, except during the hearing.

If factual clarification of the application or City staff comments is required, the Member shall request clarification from the applicant or staff member, as the case may be, through the Secretary Treasurer of the Committee and shall not contact staff or the applicant directly. The member shall ensure that any information provided by way of response is also provided by the Secretary Treasurer to the applicant and City staff. Any questions other than factual clarifications (including questions relating to an opinion, or questions of a substantive nature) must be raised during the hearing.

LOBBYING

No Member shall attempt to influence the decision of Council, or participate in a Council meeting or OMB hearing, relating to a matter that has/will come before the Committee for a hearing.

Members shall rely on the Decision of the Committee to provide the position and reasons of the Committee relating to a matter.

COMPLAINTS

Any person who has reasonable grounds to believe that a Member has breached this code may submit a complaint to the Clerk's office for investigation by the Integrity Commissioner in accordance with the process identified in the Code of Conduct for Council and Local Boards.

STAFF REPORT



TO Governance Committee

SERVICE AREA Office of the Chief Administrative Officer

DATE May 6, 2014

SUBJECT Electronic Device Policy – Amendment

REPORT NUMBER CAO-C-1402

EXECUTIVE SUMMARY

PURPOSE OF REPORT

To amend the original Electronic Devices Policy (2005) to be explicit about the non use of electronic devices for Council and employees during Closed Meetings of Council or Committee.

KEY FINDINGS

Guelph's Electronic Device policy (2005) was written to curtail noise disruptions arising from the use of personal communication devices e.g. pagers and cell phones.

With the development of Council's Code of Conduct, member responsibility for the confidentiality of information provided in closed meetings is made clear.

As advanced electronic devices have many new means by which information is easily transmitted without audible or visual prompt, a general review of the Electronic Device policy found a potential gap; the policy does not speak specifically of Closed Meetings of Council or Committee. Currently devices can be left on in a "non audible" position during Council or Committee meetings.

To mitigate risk and for the purpose of clarity, it is prudent to amend the Electronic Device policy to ensure clarity for all participants about electronic use during Closed Meetings of Council or Committee.

FINANCIAL IMPLICATIONS

There are no financial implications of this report.

ACTION REQUIRED

For Governance Committee consideration and deliberation.

RECOMMENDATION

STAFF REPORT



1. That report CAO-C-1402 be received.
2. That the following resolutions be added to the City of Guelph Electronic Devices Policy and for inclusion in the City's Procedural Bylaw, to provide clarity specific to Closed Meetings of Council or Committees:
 - a. That all electronic devices must be turned off throughout Closed Meetings of Council or Committees with the exception of 'on call/on duty' medical or emergency services personnel (Council or employees); and
 - b. That medical or emergency services personnel (Council or employees) who are on scheduled 'on call/on duty' while attending a Closed Meeting of Council or Committees, at the start of the meeting they shall advise the Chair, place their electronic devices in the 'loud' position in order to notify, and upon notification, that they leave the room to respond.

REPORT

As at October 2005, Council approved an Electronic Device Policy respecting the use of handheld electronic devices at meetings of Council, Standing Committee and Advisory Committee meetings, as follows:

- *"That all handheld electronic devices (including cell phones and pagers) be either turned off or placed on the non audible position during City of Guelph Council and committee meetings;*
- *That this policy be posted on all City of Guelph agenda; and*
- *That this policy be posted on all rooms in which these meetings take place."*

At the time, the rationale for an Electronic Device Policy was to minimize noise disruption and improve the flow of decision making.

The policy relied on 'common courtesy' and as such, the honour system was evoked with no penalties for infractions. Etiquette was quoted as "whenever someone gets their needs met at the expense of others, a breach of etiquette has occurred.'

The situation has evolved in the last nine years. Greater clarity and accountability for member liability, duty and the confidentiality for closed session materials has increased the need for clarity in both policy and procedures. Council's Code of Conduct details responsibility for the confidentiality of information provided in closed meetings. A review of the Electronic Device policy finds a risk related gap.

Guelph's Procedural By-law specific to Closed Council Meetings refers Council and Committee members to their Code of Conduct yet it is not explicit on the specific use of electronic devices within Closed Council Meetings. Nor does it speak about the conduct of employees in these meetings.

STAFF REPORT



Three factors prompt an amendment of the original policy to distinguish the complete non use of electronic devices in Closed Meetings of Council or Committee.

1. Code of Conduct: Municipalities like Guelph approved Codes of Conduct which increased member accountability related to ensuring the confidentiality of materials and information "debated or discussed at a meeting closed to the public"; the non disclosure, release or publishing of confidential information by any means, for matters occurring specific to Closed Meetings of Council or Committee.
2. Advanced technology: Cell phones and pagers were the predominant type of electronic devices used in 2005. However, handheld technology has evolved to include an array of options with some able to function without audible or visual prompts. This includes email, text, BBM, photography, video, and sound recording. As such, there is a greater vulnerability to and liability for their use by any participants in Closed Meetings of Council or Committee.
3. Participation in Closed Meetings of Council or Committee includes non Council members (e.g. employees, contracted specialists) for which the Council Code of Conduct does not apply.

Guelph is not alone in updating its electronic device policy.

Updated in April 2011, the Procedural Bylaw for the City of Ottawa Section 93: Communication Devices states:

1. *Subject to subsection 3, at the meetings of Council, the use of cellular phones, audible pagers or any other similar communication device is only permitted in the press gallery section of the Council Chambers;*
2. *Unless a meeting of a Committee is taking place in the Council Chambers, in which case subsections (1) and (3) apply, **the use of audible cellular phones, audible pagers and any other similar communication device is prohibited in the room in which the Committee is meeting;***
3. *Despite subsection (1), the use of any communication device may be prohibited by the Mayor of Council or the Committee if, in the Mayor's opinion, the device is interfering with any video or audio broadcast of the meeting.*

The City of Mississauga resolution 0022-2011 (2011) approved new procedures for communication devices including "*That the **use of communication devices for email is not permitted at any time during In Camera meetings***" and that "*If a*

STAFF REPORT



Member of Council needs to use the device for email during the time noted above, they shall leave the room to do so."

Recommended Guelph Approach

The context of 'how' local government is using social media and new technology is continuing to evolve. In advance of a complete implementation of a paperless workplace and the development of an Employee Code of Conduct, staff is not proposing a complete review of the existing Electronic Device Policy.

Rather, in this context, an incremental amendment is advised. Staff is recommending only that the following two part resolution be added to the Electronic Device Policy at this time:

- a. That all electronic devices must be turned off throughout Closed Meetings of Council or Committees with the exception of 'on call/on duty' medical or emergency services personnel (Council or employees); and
- b. That medical or emergency services personnel (Council or employees) who are on scheduled 'on call/on duty' during a Closed Session of Council or Committees, shall advise the Chair, place their electronic devices in the 'loud' position in order to notify, and upon notification, that they leave the room to respond.

Conclusion

Guelph's Electronic Device policy (2005) was written to curtail noise disruptions arising from the use of personal communication devices. Since then, the development of Council's Code of Conduct details responsibility for the confidentiality of information provided in closed meetings. As advanced electronic devices are a means by which information is easily transmitted, it is prudent and simple to ensure clarity on their use by all participants during Closed Meetings of Council.

CORPORATE STRATEGIC PLAN

- 1.1 Engage employees through excellence in leadership.
- 1.3 Build robust systems, structures and frameworks aligned to strategy.
- 2.3 Ensure accountability, transparency and engagement.

DEPARTMENTAL CONSULTATION

City Clerks

COMMUNICATIONS

STAFF REPORT



ATTACHMENTS

ATT-1 Handheld Electronic Device Policy: Finance & Administration October
 19, 2005

A handwritten signature in black ink, appearing to read "Ann Pappert". The signature is written in a cursive style and is positioned above a horizontal line.

Ap
Ann Pappert
Chief Administrative Officer
519 822 1260 ext 2220
CAO@guelph.ca

Subject Policy respecting the use of handheld electronic devices at meetings of Council, Standing Committee and Advisory Committee meetings

Recommendations That all handheld electronic devices (including cell phones and pagers) be either turned off or placed on the non-audible position during City of Guelph Council and committee meetings;

That this policy be posted on all City of Guelph agenda; and,

That this policy be posted on all rooms in which these meetings take place.

Background We live in an era where electronic devices are a part of people's lives, used either in business or for personal use.

At the City of Guelph, cell phones and beepers have on occasion caused disruptions at meetings because they were not turned off or not set in the non audible position. Schools, libraries, theaters, restaurants, courts, and various other public commercial establishments are posting no cell phone policies throughout North America.

A review of municipalities has shown that the City of London has a cell phone and pager policy which is attached as schedule "A". London prohibits the use of cell phones or pagers. Most other municipalities have no official policy yet they place a notice on the agendas stating as follows: "Cellular phones/pagers must be switched to the non-audible function during this meeting" (Milton, Hamilton). Others announce a similar notice at the commencement of each meeting.

Etiquette experts maintain that "whenever someone gets their needs met at the expense of others, a breach of etiquette has occurred." Since this is a matter of common courtesy, this policy will be applied on the honour system with no penalties for infractions. The policy is an attempt to minimize disruptions in the course of business conducted at City of Guelph meetings.

This policy includes all electronic handheld devices, as technology may evolve into other applications to which an audio component is applied.

Alternatives Have no policy and continue to have disruptions at meetings.

Implications Implementation of this policy will lead to fewer disruptions at meetings and better flow of decision making.

Funding

October 19, 2005

Report #

Information Services

Prepared by:
Tina Agnello

Approved by:

Lois Giles



Finance and
Administration

Budget Not Applicable

Account Number

Funding Schedule

[Capital Budget](#) or [Operating Budget](#)

Notice Requirements

October 19, 2005

Report #

**Information
Services**

Prepared by:
Tina Agnello

Approved by:

Lois Giles



STAFF REPORT



TO Governance Committee

SERVICE AREA CAO - Administration

DATE May 6, 2014

SUBJECT Ethics and Efficiency Hotline ("Tip Line")

REPORT NUMBER: CAO-C-1401

EXECUTIVE SUMMARY

PURPOSE OF REPORT

As directed by Council, to provide Committee with information on an Ethics and Efficiency Hotline (EEH) otherwise called a "tip" line and to provide staff's recommendation of "no action".

KEY FINDINGS

An Ethics and Efficiency Hotline (EEH) or a 'tip line' is a tool used to identify potential fraud, waste or other wrongdoing within the organization.

The general presumption is that a 'tip line' serves as a deterrent providing a confidential and anonymous means of reporting possible misconduct or criminal activity and therefore may serve for future cost avoidance. It is noted that hotlines have had varied impacts on staff morale.

Currently, seven Canadian municipalities use various forms of hotlines. With the exception of Toronto, the only available public data regarding the effectiveness of EEH is call volume statistics. Only Toronto reports their total accumulated gross losses (\$590k) and recovered losses (\$10K). There is no current comparator data for cities of similar size to Guelph however; staff is observing Oakville who has operated an EEH for less than one year.

The City of Guelph currently has mechanisms for identifying fraud, waste and wrongdoing and budgets \$305,100 for the function of Internal and External audit and the Integrity Commissioner.

Internally, administration is also implementing new initiatives to improve and support staff sharing ideas that create greater efficiencies, productivity and improved engagement.

Externally offering a "tip line" to members of the general public is not

STAFF REPORT

recommended at this time. The Ontario provincial government recently announced its intention to create new municipal accountability measures and assert greater Provincial oversight which may include the use of the Office of the Ontario Ombudsmen. Municipalities are monitoring this provincial policy discussion. Additional costs to the municipality are anticipated.

FINANCIAL IMPLICATIONS

The City budgets \$305,600 to audit, investigate and deter opportunities for fraud, misconduct or criminal activities.

Pending the results of the new provincial Ombudsmen policy being considered at Queens Park, cities may incur further expenditures to fund increased external accountability measures.

The establishment of a new employee "tip" hotline (EEH) will require further resources. To fairly operate an EEH, additional resources are required for external professional review and evaluation of all calls and to provide valid third party investigation of any items deemed to be of merit. Staff estimates a total first year contracted cost of \$128,000 to implement just the internal EEH component. This includes a one time cost of \$50,000 for necessary staff training.

It is noted that annual budgets are driven by call volume; more data is required from other comparable cities.

ACTION REQUIRED

Governance Committee to consider the information provided in this report along with staff's recommendation.

RECOMMENDATION

1. That report CAO-A-1408, Ethics and Efficiency Hotline be received;
2. That no further action be taken at this time.

BACKGROUND

At the February 24, 2014 Council meeting, the following motion was passed:

STAFF REPORT

'That the matter of a "tip line" regarding comments and concerns for the Corporation of the City of Guelph, for both concerned employees and concerned citizens be investigated by staff and report back to the Governance Committee for consideration.'

REPORT

General Description

An Ethics and Efficiency Hotline is a tool used to identify potential fraud, waste or other wrongdoing within the organization. These hotlines act as a deterrent as they provide employees with a safe, confidential and anonymous means of reporting possible misconduct or criminal activity. It may also serve to increase the public's perception of trust in government.

Organizations also create 'hotline' communication systems for employees to propose ideas for improvements in policies, business processes, customer service etc. This positive use of the hotline helps organizations improve employee engagement and provides a forum for sharing ideas and suggestions.

Current Practice in Canadian Municipalities

Currently, there are just 7 Canadian municipalities using various forms of hotlines (Calgary, Edmonton, Ottawa, Toronto, Windsor, Montreal and recently the town of Oakville).

As major urban centres the results achieved through the hotline are not valid comparisons for Guelph.

There is no comparator data for cities of similar size to Guelph and Oakville has only operated their hotline for 7 months and no reports are available on their results to date.

The following call volume data has been collected from available reports published by these Canadian municipalities.

| | Edmonton | Calgary | Ottawa | Toronto | Windsor |
|-----------------|-----------------|----------------|---------------|----------------|----------------|
| Number of calls | | | | | |
| 2007 | 60 | 15 | 190 | 523 | |
| 2008 | 33 | 59 | 140 | 619 | |
| 2009 | 44 | 52 | 165 | 677 | |
| 2010 | 45 | 100 | | | |
| 2011 | 50 | 68 | | | |
| 2012 | 38 | 94 | | | |
| 2013 | | 57 | | | |

STAFF REPORT



| | | | | | |
|---------------------------|-----|----|-----------|----|---|
| # of Staff | .75 | 2 | 1 | 5 | 1 |
| # Investigated In 2009 | 16 | 20 | 5(audits) | 51 | |

The City of Toronto has reported accumulated total gross losses identified through their hot line of \$590,067. They have recovered under \$10,000 of these losses e.g. recovered stolen goods.

Important conclusions may be drawn from this data:

1. The number of calls are relatively small compared to employee populations
2. The number of investigations are minor compared to the number of calls
3. Losses recovered are small or negligible compared to losses reported.
4. Municipalities report the greater benefit is that the fraud, theft or other types of misconduct are stopped and further losses are circumvented.

Auditing and Investigation at the City of Guelph - Context:

The City budgets \$305,600 to deal with or which can respond to issues related to alleged fraud, misconduct, suggestions for efficiencies. The External Audit function budgets \$64,500 with an additional budget of \$25,000 for actuarial analysis which is part of year end activity. The budget of Internal Audit is \$200,600 per year. The budget for the Integrity Commissioner is \$15,000.

Further, in 2014 staff is piloting additional new opportunities amongst front line staff to gain ideas, productivity and efficiencies.

Staff are also developing an Ethics and Efficiency Policy as an addendum to the newly revised Code of Conduct for employees which will include a detailed procedure for reporting potential misconduct. This type of policy, commonly referred to as a 'Whistleblower' type of policy will provide an additional and more formal mechanism within existing resources for those staff to report issues of concern.

Financial /Capacity Requirements: 3rd Party Server, Investigation & Training

The issue of capacity to operate a hotline is critical to its success or failure.

Research from municipalities currently operating hotlines demonstrates the number of calls/complaints increases over time.

Also, the size of the municipality seems to influence the number of staff required to manage the hotline (i.e. it appears that through economies of scale, workload is more easily absorbed in larger urban municipalities).

STAFF REPORT



All municipal hotlines have required additional staff resources that are fully committed to the operation of the hotline. The City of Guelph does not have staff to assume the additional workload associated with operating an Employee Ethics and Efficiency Hotline. Three areas of costs are defined as:

- **Investigation:** Human Resources matters would need to be contracted to a third party.
 - *Cost estimates to perform this work would be in the amount of \$70,000 required to cover approximately 10 investigations in the first year.*
- **Service Provider:** Outsourcing the intake of hotline calls to an external agency is considered best practice and only one city has chosen to handle their own hotline internally. There are a number of companies that provide this service.
 - *Costs are estimated to be approximately \$8600 per year for Guelph based on a market quote from one provider.*
- **Criteria, Policy & Training:** Research indicates that a well-developed hotline program requires employee training in the proper use of the hotline with rigid criteria defining the appropriate types of calls the organization will accept.

Further, clear policies and procedures must be developed that protect employees from retaliation as well as protecting the organization from bad faith or malicious allegations. The latter is most often achieved through a well defined 'triage' system where complaints are vetted and recommendations made for the appropriate disposition of the complaint (e.g. no action versus investigation recommended etc.).

- *The estimate to provide training for all employees is \$50,000.*

The total cost therefore in the first year of operation for an Ethics and Efficiency Hotline is estimated to be \$128,600.

External EEH

Quantifying costs associated with expanding the hotline for use by members of the public is not possible at this time.

Of note is that on March 6, 2014, the provincial government announced its intention to create new municipal accountability measures and assert greater Provincial oversight over municipal government.

STAFF REPORT



Municipalities would be required to either create new processes to review complaints about service delivery, or choose to have service complaints investigated by the Office of Ontario's Ombudsman.

Furthermore, municipal service complaint processes and investigations carried out by anyone other than the Provincial Ombudsman could be subject to "review" by his office.

The Association of Municipalities of Ontario have stated publicly that "new costs are inevitable, the administrative burden is likely to be substantial, and municipalities and their citizens should expect more red tape." In particular, this initiative "would layer Provincial oversight and new administrative processes on municipal government. It represents duplication and inefficiency."

Therefore the evaluation of extending a tip line to members of the public would need to consider the implications as they become more evident of the provincial government's announcement to ensure the most effective use of taxpayers' dollars.

Quantification of costs at this time is not possible.

Conclusion

Given the difficulty in predicting the volume of calls and ensuring work associated with introducing and operating an; the current Ombudsmen policy position being considered by the provincial government which may further impact on municipalities; and given the current expenditure on audit resources and work plan, staff recommend that no further action be taken with respect to the implementation of an Ethics and Efficiency Hotline or "tip line" at this time.

CORPORATE STRATEGIC PLAN

1.3 Organizational Excellence – Build robust systems, structures and frameworks aligned to strategy.

2.3 Innovation in Local Government – Ensure accountability, transparency and engagement.

DEPARTMENTAL CONSULTATION

Executive Team
Internal Auditor
Office of the CAO

STAFF REPORT



COMMUNICATIONS

N/A

ATTACHMENTS

N/A

Report Authors:

Mark Amorosi
Executive Director
Corporate and Human Resources

Loretta Alonzo
Internal Auditor

A handwritten signature in cursive script, appearing to read "Ann Pappert", is positioned above a horizontal line.

Recommended and Approved By

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