

**Orientation Session 2, November 28, 2018**

**Carling Room, South Huron Municipal Office**

**Session started at 5:00 p.m. and ended at 7:02 p.m.**

Attendance: George Finch, Jim Dietrich, Dianne Faubert, Aaron Neeb, Ted Oke, Marissa Vaughan, Barb Ferguson Willard, Dan Best, Scott Currie, Rebekah Msuya-Collison, Rachel Anstett, Laurie Clapp.

This session was set aside for Councillors-elect to ask questions of senior staff and get to know the business units of the Corporation. There was no formal agenda and the PowerPoint presentation is attached to this note.



# Council's Accountability & Transparency Framework and Meeting Procedures

November 28, 2018

# Agenda

- Meetings Management:
  - Parliamentary Procedure Training
  - Rules of Debate and Decision Making
  - Types of meetings
  - Terms of reference
  - Procedural By-Law
  - Agenda Structure
  - Core versus non-core business on agenda
- Accountability and Transparency
- Integrity Commissioner
- Ombudsman
- How to use eScribe

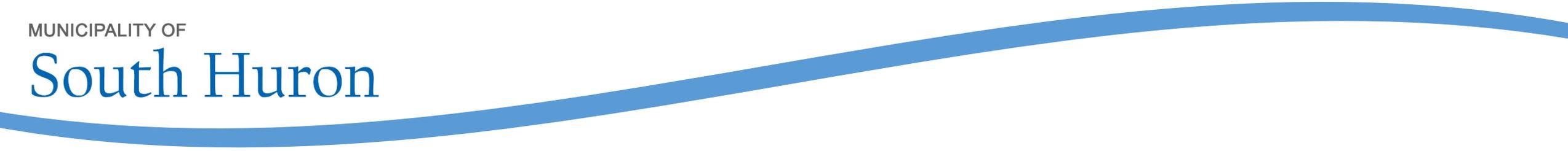


# Meeting Management

Why?

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# Meeting Management

1. Legislative – “creature of provincial statutes”

2. Democratic model of governing

“Where there is no law, but every man does what is right in his own eyes, there is the least of liberty.”

— **Henry M. Robert, Robert's Rules Of Order**

# Basic Meeting Principles

- Taking up business one thing at a time
- Promote courtesy, justice, impartiality and equality
- The rule of the majority while protecting the rights of the individual, minority, and absent members.

# Terms

## Meeting

Any regular, special or other meeting of a council, of a local board or of a committee of either of them, where;

- (a) A quorum of members is present, and
- (b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee.

## Quorum

Minimum number of members who must be present in order to conduct business.

*Would a majority of members of council at an event would constitute a meeting of council?*

*If decisions are being made or municipal business advanced using electronic means by all or a majority of members, is that considered a meeting?*

# Roles and Responsibilities

- **Members**

Prepare, listen, question, debate, propose, vote

- **Chair**

Prepare, lead, facilitate, order, vote

- **Clerk**

Prepare, interpret, advise, record

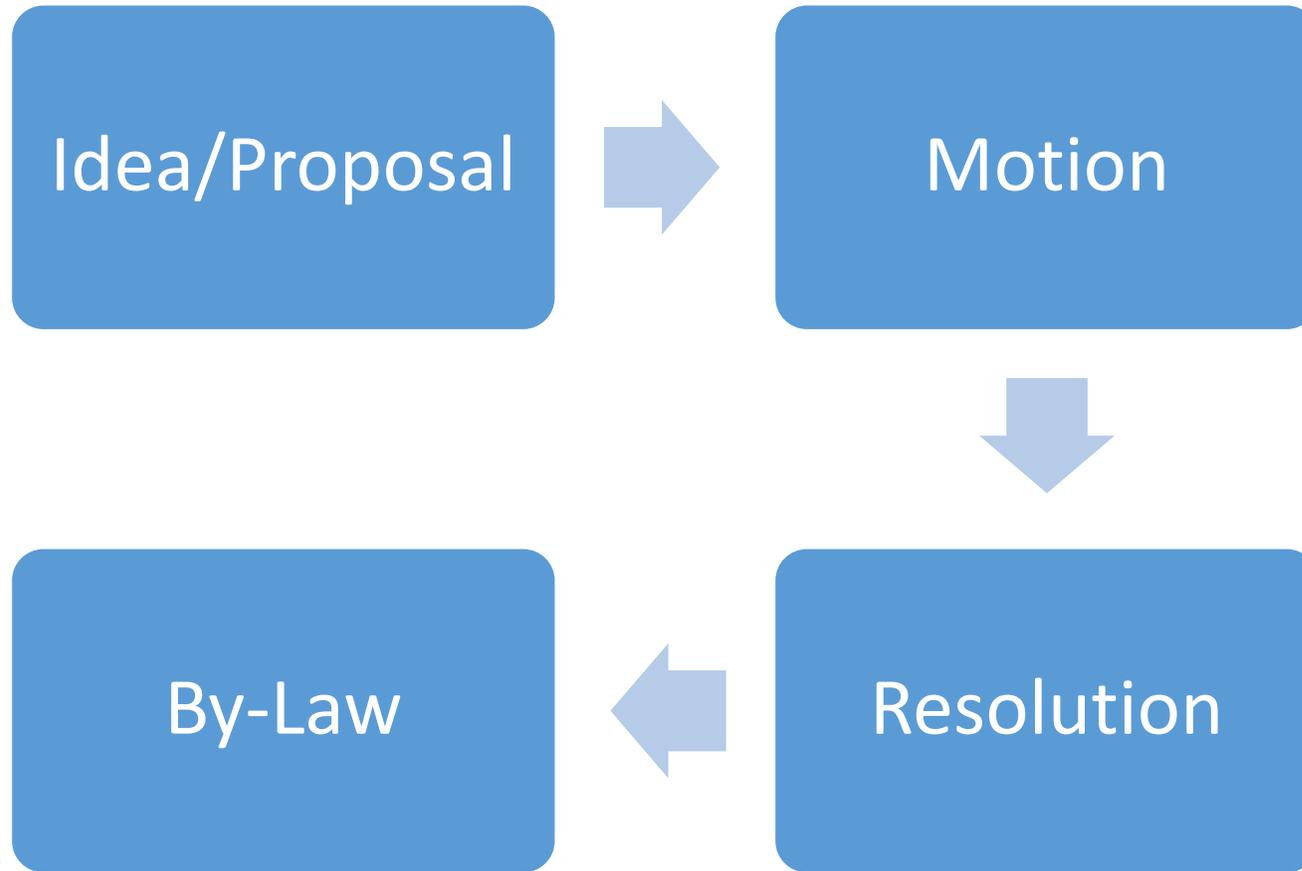
- **CAO/Staff**

Prepare, present, answer, advise, recommend, act

- **Public**

Prepare, attend, observe, delegate, question, advise, participate

# Process - Idea to Decision

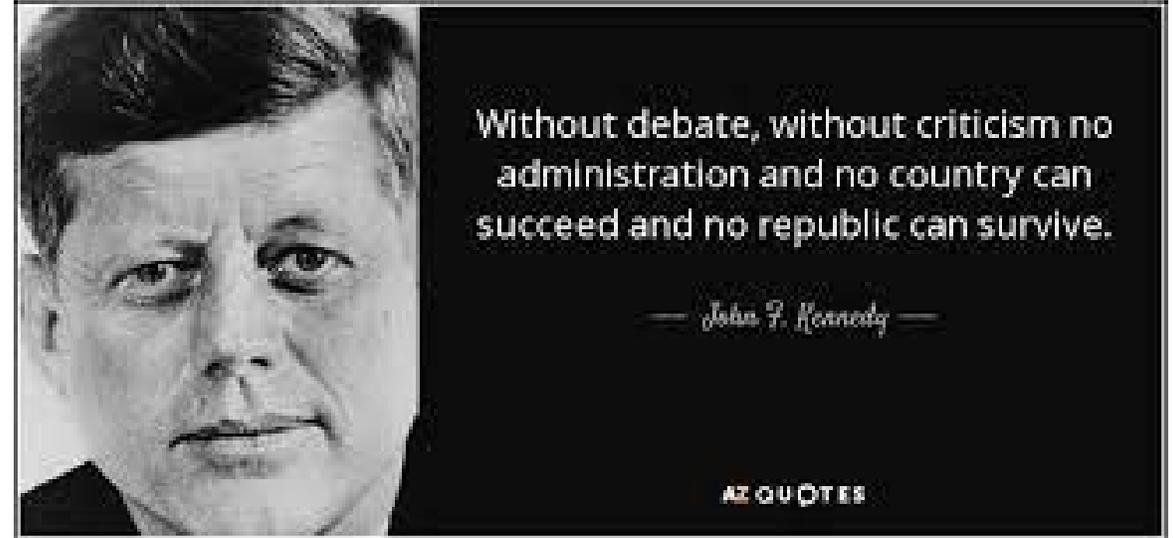


# Exercise of Powers by By-Law

- Section 5 of *Municipal Act, 2001*:
  - powers of a municipality must be exercised *by its council*
  - powers shall be exercised *by by-law* unless otherwise specifically authorized
- A municipality must ultimately act through its council and by by-law (or as otherwise authorized and/or delegated)

# Rules of Debate and Decision Making

1. Obtain floor and be recognized
2. Mover of motion has first right to speak
3. Member can speak twice to motion
4. Time limit to speak
5. Debate must be related to motion (germane)
6. All remarks addressed through Chair
7. Advise which side of issue
8. Mover can't speak against motion
9. Don't talk against a previous action that is not pending
10. During debate do not cause distractions
11. One person at a time on the floor
12. Chair must remain impartial



# Voting Procedure

- Chair states motion to be voted on
- During vote, no Member shall speak, make noise or disrupt the vote
- No additional motion shall be made until vote is taken and result declared by Chair
- A Member may request a motion be split into distinct proposals contained in motion, and vote taken on each proposal
- Every Member during a vote must vote, unless prohibited by law from voting
- A Member present and does not vote shall be deemed as voting in the negative, unless prohibited by law from voting (deemed to vote against motion if decline)
- A tie vote does not carry and is deemed to have “lost”
- If a Member disagrees with the Chair’s announcement of the vote result, he/she may immediately object to Chair’s declaration and request the vote be retaken

# Voting

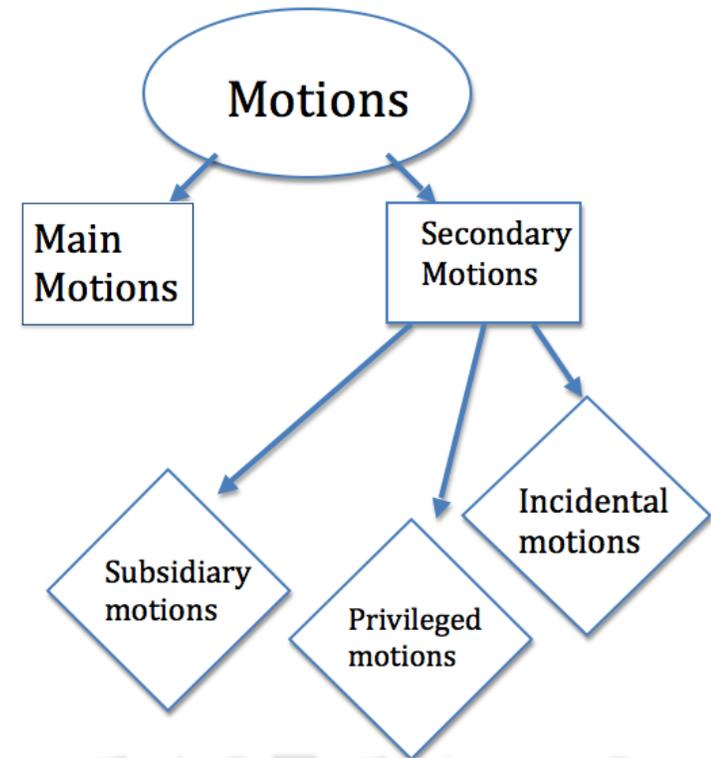
- Majority Rules
- Sometime two-thirds vote is required
- Tie vote
- Recorded vote

*Is there a time when you are not allowed to vote?*

# Motions

Five classes of motions

- Main Motions
- Subsidiary
- Privileged
- Incidental
- Motions that bring a question back before the assembly



# Other Matters

- **Conflict with legislation**

Legislation prevails over Procedure By-law

- **Matters not provided for**

If meeting rules not provided for or conflict, Robert's Rules of Order used

- **Council workshops (meeting of Council and public notice required)**

Quorum not required and no decision-making permitted

Meeting notes instead of minutes

- **Public notice**

Circumstances, method and form for giving public notice in Notice By-Law

- **Direction to staff**

Council or committee, by majority vote, may direct staff to take course of action, individual

Member cannot direct staff to undertake an action, expend funds, commit resources or prepare a staff report, unless authorized by Council



# Types of Meetings

## Municipal Committees

- Standing Committees – Councillors only – focus on major functional area of municipal operations
- Advisory Committees – Councillors and appointees from the public – most created at council's discretion

## Local Bodies

Public bodies in the provision of services at or linked to local government level also known as municipal service boards, school boards, police services boards, boards of health, hospital boards, conservation authorities, planning boards and committee of adjustment/land division committees, for example.

A committee of council is often subject to similar legislative requirements as council under the Act, such as open meetings.

# Role of Councillors on a Board

The Role of Councillors on Boards and Committees includes:

- Abiding by the Codes of Conduct
- Providing broad knowledge of both Council and Board Priorities
- Bringing three perspectives: Council, Board and community
- Integrating interests of Municipality and Board
- Exercising Fiduciary Duty
- Promoting Board Transparency and Accountability



# Open Meetings

- All meetings open to the public.
- The *Municipal Act, 2001* required local councils and board meetings to be open to the public (with certain limited exceptions)
- Limited exceptions for “closed meetings”

# Closed Meetings

- All meetings must begin and end in public - Public session motion required to move into “closed session”
- Motion states nature of closed session business to be considered and procedural motion to rise from closed session back into public session
- All voting must be in public session, except procedural matter, giving direction or instructions to officers, employees or agents is allowed

Closed Session business is the exception and strictly managed



# Terms of Reference

The *Terms of Reference* for a Committee means a guiding document that defines the purpose and structures and may include:

- Guiding Principles and Mandate
- Responsibilities
- Reporting
- Composition and Term
- Operating Procedures
- Roles

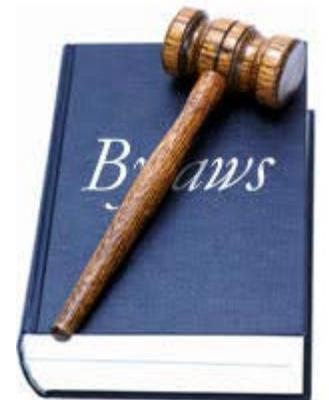
[Sample Terms of Reference](#)



# Procedural By-Law

Subsection 238 (2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended:

“every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings”



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# Agenda

- Agenda items come from the order of business established by Procedural By-Law
- Unfinished items from previous meeting are included
- Provides an outline of items to be accomplished at the meeting and helps keep the meeting on track
- Core vs Non Core Business
- Consent Agendas

# Accountability and Transparency Framework

	<b>Integrity Commissioner</b>	<b>Ombudsman</b>	<b>Closed Meeting Investigator</b>
Focus	Application of code of conduct and complaints regarding violations	Resolve public complaints related to the administration of services & programs	Investigate complaints about closed meetings
Role	Ensures the Code of Conduct is applied and adhered to	Ensures that South Huron residents are treated fairly	Conducting an investigation and reporting the results.

# Integrity Commissioner

- Advisory, educational, and investigations roles
- Provides advice on Municipal Conflict of Interest Act (MClA) matters
- Public education role
- Municipalities are required to indemnify/insure Integrity Commissioners

Current South Huron Integrity Commissioner – Lisa Korab, Korab Law

# Ombudsman

## Mandatory

- Report to Council on an investigation of any decision or recommendation made or act done or omitted in the course of the administration of the municipality
- Ontario Ombudsman has jurisdiction to investigate complaint and has power to conduct systemic investigation across municipalities
- Closed Meetings - new appeal process of Closed Meeting Investigator to Ontario Ombudsman

Ombudsman – Paul Dube, Ontario Ombudsman

<https://www.ombudsman.on.ca/home>

# Closed Meeting Investigator

Municipalities are required to appoint an investigator specifically to look at complaints about closed meetings.

- Any person may request an investigation of whether municipality or local board has complied with Municipal Act or Procedure By-law provisions for closed meetings

Ombudsman – Paul Dube, Ontario Ombudsman  
<https://www.ombudsman.on.ca/home>



# Conflict of Interest

- Members must identify and disclose any actual or potential conflicts of interest related to a matter being considered by the Council or local board at the beginning of the meeting at which the item is being considered, and cannot participate in making decisions about that matter.
- Where the meeting is closed, the member must leave that portion of the meeting where the matter is considered.
- If not disclosed by reason of absence, the member discloses the potential conflict at the next meeting of the Board.
- Severe penalties including losing seat or restitution but courts may consider whether a Member sought, obtained and followed advice from the Integrity Commissioner, as a mitigating factor

# Identifying Conflicts of Interest

What is a Pecuniary Interest?

*Direct, indirect or deemed financial interest as well as things that can be measured in terms of financial value, such as assets, rights or competitive position*

Do I or any party whose interest I am deemed to have, stand to gain or lose arising out of the vote in question or does the vote have the potential to affect my financial position whichever way it goes?



# Code of Conduct

Adopted by By-Law and supported by Legislation

- Statement of ethical behaviour standards for Members of Council to uphold the public trust, the integrity of governance and municipality's reputation
- Codes of Conduct apply to all members of local boards, not just councillors
- Administered by a Council-appointed Integrity Commissioner

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# MFIPPA – Municipal Freedom of Information and Protection of Privacy Act

- Information held by the municipality should be easily accessible to internal and external stakeholders.
- Important part of a democracy and reflects a more open and transparent government.

What is a record?

Any record of information however recorded, whether in printed form, on film, by electronic means



# Custody and Control of Records

In considering whether an institution has “custody or control” of a record, the IPC relies on a two part test set out in *Canada (Information Commissioner) v. Canada (Minister of National Defence)* [2011] 2 SCR 306:

1. Do the contents of the document relate to a municipal matter?
2. Could the municipality reasonably expect to obtain a copy of the document upon request?

# Final Thoughts – Questions?

<https://www.youtube.com/watch?v=vbilNSO7A4s>

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