



THE CORPORATION OF

THE TOWNSHIP OF BROCK

IN THE REGIONAL MUNICIPALITY OF DURHAM

1 CAMERON ST. E., P.O. BOX 10, CANNINGTON, ONTARIO L0E 1E0 (705) 432-2355

Accountability & Transparency Policy

November 2007

Preamble

Section 270(1), paragraph 5, of the Municipal Act, S.O. 2001, as amended, requires all municipalities to adopt and maintain policies for “*the manner in which the municipality will try to ensure that it is accountable to the public for its actions and that its actions are transparent to the public.*”

Accountability includes how Council and staff account for their actions, how the actions are explained to the public, and the level of detail provided to justify certain actions. Accountability mechanisms may include the following:

- Council procedures, access to agendas and minutes, and open meetings;
- Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) policies and procedures;
- Closed meeting Investigator procedures;
- Municipal Conflict of Interest Act requirements for Council; and,
- Financial reporting requirements;

Transparency measures address the public’s ability to observe how Council decisions are made and their implementation by staff. These may include:

- Policies to govern the actions of Council through a Code of Conduct;
- Public notification procedures to address a variety of municipal functions inclusive of meeting notifications etc.;
- Policies to govern the sale of municipal land;
- Hiring policies;
- Procurement policies; and,
- Council’s delegation of authority as permitted by the Municipal and Planning Acts.

Within the Township of Brock, all of these elements of accountability and transparency have been entrenched within by-laws and policies adopted by Council resolution. In addition, certain elements (e.g. MFIPPA and the Municipal Conflict of Interest Act) have been established through the Provincial legislature and these requirements have been observed by the municipality for many years.

The purpose of this policy is to summarize the content of these accountability and transparency mechanisms into one document. Detailed provisions of each of these mechanisms can be found within the actual by-laws and policies enacted/adopted by Council. Appendix 1 summarizes each of the relevant documents.

Accountability Mechanisms

Council Practices & Procedures

Procedural By-law

By-law Number 2043-2007-AP, adopted pursuant to section 238(2) of the Municipal Act, is a by-law to regulate the proceedings of Council. This by-law addresses the following items:

- the calling of meetings of Council and its Committees including the dates and times when such meetings are to occur. Notice of such meetings is provided by publication of an annual notice within the local newspaper and the monthly schedule of meetings is posted on the homepage of the Township website (www.townshipofbrock.ca). Special meetings of Council may be called at the discretion of the Mayor and notice of such meetings are posted on the website as soon as the meeting date and time are confirmed.
- All meetings of Council are open to the public save and except when the subject matter addresses the following items: the security of municipal property; personal matters about an identifiable individual, acquisition or disposition of land by the municipality, labour relations and negotiations; litigation before the Courts or administrative tribunals; solicitor-client privilege advice; a matter in which Council may hold a closed meeting under another Act; consideration of a MFIPPA requests; or meetings held for the purpose of educating or training the members provided that no member discusses or otherwise deals with any matter in a way that materially advances the business or decision making of the Council. A resolution is required to be adopted for Council and/or Committee to move into a closed session. The decisions made in a closed session must be confirmed in the open portion of the meeting.
- Rules of debate and Council conduct (e.g. speaking disrespectfully of the reigning sovereign, any member of the Royal family, the Governor General, the Lieutenant-Governor, the head of the Government of Canada or of the Province of Ontario); using offensive or unparliamentary words or expressions; and, disobeying the rules of the Council or decision of the Chair or of the Council on questions of order or practice or upon the interpretation of the rules of Council.
- Questions of privilege, points of order, motions, and voting procedures.
- Powers and duties of the Clerk as set forth within the Municipal Act.

Agenda & Minutes

The Clerks department prepares an agenda for each meeting of Council and Committee which is distributed to the members of Council in advance of the meeting (the Thursday prior to the meeting). In addition, the agenda cover page is posted on the Township's

website once the agendas have been distributed to the members of Council.

The Clerk, or his designate, has a duty to attend all meetings of Council and Committee to record, without note or comment, all resolutions, decisions and other proceedings of Council. Once the minutes have been prepared and adopted by Council, they become available to members of the public through the Township website and in person in the office of the Clerk.

Closed Meeting Investigator Procedures

Section 239 of the Municipal Act requires that all meetings of Council be open to the public with certain exceptions as noted above in the Council Practices and Procedures section. Meetings may be closed to the public provided there is an appropriate resolution adopted stating the general nature of the business to be discussed.

Section 239.1 of the Act permits a person to request an investigation as to whether the municipality has complied with this section in respect of a meeting or part of a meeting that was closed to the public. An investigation may be completed by a investigator appointed by the municipality or, by default, the Provincial Ombudsman.

The Township of Brock has appointed, by By-law Number 2105-2007-AP, Local Authority Services Ltd. (LAS) as the meeting investigator to conduct reviews of whether these provisions of the Municipal Act have been breached. Reviews would be completed upon submission of a request and the payment of a \$25.00 fee.

Upon receipt of a request for an investigation, the Clerk will provide the following information to LAS:

- the original request for investigation;
- certified copies of the municipal procedure by-law, notice policy, notice of the meeting;
- certified copies of the agenda with all relevant attachments for the meeting and the minutes of the meeting;
- a contact list for all members of Council, local board, or Committee for which the request is made and for all persons present at the meeting; and,
- such other information determined to be relevant by the Clerk or LAS.

A review officer will be appointed by Amberley Gavel who will undertake an initial review of the supporting documentation to determine whether an investigation should proceed or end on the basis that it is not warranted. In either case, a report will be prepared and submitted to Council.

In the event an investigation proceeds, the review officer may travel to the municipality to interview those present at the Council meeting and such others as deemed appropriate. Once the private consultations have been completed a report will be prepared, peer reviewed by another review officer, and submitted to the municipal Council. All reports will be provided to the requester and are available for public

review.

Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

The purpose of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended, is to provide a right of access to information under the control of the municipality, that the necessary exemptions to the right of access should be limited, and that the privacy of individuals with respect to personal information be protected while providing access to their information.

While the expressed purpose of the Act is to provide as much information to the public as is reasonable there are number of discretionary exemptions to this principle; these include:

- draft by-laws which have not been considered by Council;
- advice and recommendations provided by employees or consultants subject to a number of caveats;
- records associated with a law enforcement matter;
- records which may prejudice economic interests, reveal trade secrets, injure the financial interests of the municipality, reveal negotiation tactics, management of personnel not yet public, examination questions, and submissions under the Municipal Boundary Negotiations Act;
- records subject to solicitor-client privilege;
- records which could seriously undermine the health and safety of a person; and,
- records which have been published or will be published within 90 days.

Notwithstanding these exemptions, should there be a compelling public interest to disclose the record, this would outweigh the permissive exemptions noted.

Mandatory exemptions include:

- information for which the municipality has received in confidence from other governments (domestic or foreign);
- information received in confidence from a third party which reveals a trade secret or scientific, technical, commercial, financial or labour relations information subject to certain exceptions; and,
- personal information subject to a number of conditions.

The Act provides detailed procedures for the making of a request, evaluation of the exemptions, and notices of decision. In addition, decisions may be appealed to the Information and Privacy Commission of Ontario should the requester not be satisfied with the decision.

The Township of Brock endeavours to make as much information available to the public without compromising the interests of the municipality as a whole and its ratepayers. In this regard, the municipality receives relatively few requests under the Act. In most cases, information is provided to the public at the counter provided that it can be

obtained readily (copies may be provided for a nominal photocopying charge). It is the policy of the Clerks department that all requests for the review of building and by-law enforcement department files as well as for personal information must file an information request to ensure that the request is documented.

Municipal Conflict of Interest Act

The Municipal Conflict of Interest Act, R.S.O. 1990, as amended, applies to the members of Council. The purpose of the Act is to ensure that members do not speak or vote on any issue for which they have a direct or indirect pecuniary interest. It shall be the responsibility of each member of Council, not staff, to determine whether they have a direct or indirect pecuniary interest with respect to matters arising before Council.

A member with a direct or indirect pecuniary interest, who is at a meeting where the matter in which the member has a pecuniary interest must:

- Disclose the interest and the general nature of the conflict;
- Not take part in the discussion or vote on the matter;
- Not attempt to influence the vote, before, during, or after the meeting;
- Leave the meeting while the matter is being discussed (only if the meeting is in camera); and,
- If absent from a meeting where a member's pecuniary interest is considered, disclose the interest at the next meeting attended by that member.

A member of Council does not have a pecuniary interest in respect of the following:

- as a user of any public utility service supplied to the member by the municipality;
- receipt of service, commodity, subsidy, loan or other benefit from the municipality (in common with other ratepayers);
- by purchasing or owning a debenture issued by the municipality;
- by making a deposit with the municipality which is returnable on the same terms as other ratepayers;
- having an interest in a property affected by a Drainage Act or Local Improvement Act;
- having an interest in farm lands exempt from taxation;
- being eligible for election or appointment where it is allowed or required by statute;
- by being an officer or director of a corporation that carries on business on behalf of the municipality;
- being appointed to a board, commission, or other body;
- salary, benefits, and other allowances provided to Council members;
- appointment as a member of a volunteer fire brigade;
- having interests in common with other electors; and,
- an interest so insignificant that it cannot reasonably be regarded to influence the member

A member of Council who allegedly breaches the Act may be subject to prosecution and could result in the member being disqualified from his/her seat, being disqualified from running for Council for 7 years, and the member may be ordered to make restitution. Actions against members may be brought forward by electors within six weeks of the alleged breach and not later than 6 years after the contravention was alleged to occur.

Financial Reporting Procedures

On an annual basis, the municipality is required to meet a number of financial reporting requirements, not only to the ratepayers of the Township of Brock but to the Ministry of Municipal Affairs and Housing. In addition, the Township of Brock adopts an annual operating and capital budget which is used to establish the applicable tax rates for the collection of realty taxes to meet its day-to-day financial obligations.

Operating & Capital Budget

The annual budget is adopted by Council during the Spring of the calendar year. It is based on input received from senior staff, Council mandates and objectives, as well as public input received throughout the year and at a special meeting to present the operating and capital budget.

The budget document is available for inspection by any ratepayer by attending the municipal office. In addition, a budget summary of the municipal capital and operating expenditures is posted on the Township website. Further, the website also provides descriptive tax inserts which explain taxation for the different property classes: residential, pipeline, farm, managed forests, commercial, industrial, and multi-residential.

Financial Statements

The fiscal year-end for the municipality is December 31st. The Ministry of Municipal Affairs and Housing requires that the municipality's "books" be audited by a professional auditing firm and that appropriate financial statements be prepared. The auditors' report containing the statements is usually presented to the members of Council in May/June for the preceding year. Notice of the completion of the financial statements is published within the local newspaper and copies of them are available at the municipal office as well as on the Township website.

Financial Information Returns & Municipal Performance Measurement Program

In addition to the statements, a Financial Information Return must be submitted to the Ministry of Municipal Affairs and Housing together with information pertaining to the Municipal Performance Measurement Program (MPMP). The MPMP measures performance in a number of core service areas delivered by the municipality (e.g. general government costs, fire protection costs, road costs, parks and recreation,

libraries, and land use planning). A summary of the MPMP data for the Township of Brock is posted on the Township website.

Transparency Mechanisms

Council Code of Conduct

This policy is intended to establish a minimum standard for the behaviour of members of Council in fulfilling their mandate while respecting each councillor's role to represent the public and public interest to the best of their ability. Council adopted the Code of Conduct through By-law Number 2107-2007-AP.

The Code of Conduct addresses the following matters:

- personal conduct at Council and Committee meetings (also reflected in the municipality's procedural by-law);
- non-disclosure of confidential information obtained while in fulfilling their mandate;
- a prohibition on the acceptance of personal gifts other than those which have a very small intrinsic value or moderate hospitality which would not be perceived as influencing their making a business decision;
- procurement of goods and services for personal purposes;
- the Municipal Conflict of Interest Act;
- engaging in incompatible activities which would be deemed inconsistent with the ethical discharge of their duties to represent the public interest;
- prohibiting the use of corporate resources (staff personnel and other) for the purpose of election campaigns;
- acknowledging the presence of the municipal hiring policy which would prohibit the hiring of relatives where they would be given preferential treatment in the recruitment process; and,
- interpersonal behaviours (compliance with the Ontario Human Rights Code, discrimination laws, and maintaining a professional relationship with staff).

Public Notification Measures

Section 270 (1), paragraph 4 of the Municipal Act, S.O. 2001, as amended, requires the municipality to adopt a policy to address public notification procedures for those instances when notice is desired and warranted. This policy is in addition to the Municipal Act requirement that notice be provided for meetings of Council and Committees.

The Township of Brock notice policy was adopted by Council Resolution 7-11 on May 7th, 2007. The policy addresses the following matters for which notice to the public is to be provided:

- highway closures, alterations, and road naming;
- adoption of sign by-laws or amendments thereto;

- adoption of licensing by-laws;
- by-laws which serve to establish a business registry;
- municipal restructuring proposals;
- change of municipal name;
- establishing business improvement areas;
- dissolution of local boards;
- changing the composition of Council;
- sale of land proceedings;
- budget adoption and financial statements; and,
- tax collection procedures and sale of land for taxation arrears.

It should be noted that the notification policy addresses those matters which are set forth in the Municipal Act and does not address public notification requirements which may be prescribed in other statutes (e.g. the Planning Act which has extensive public notification requirements).

Copies of the notification policy are available in the office of the Clerk at the municipal office.

Sale of Land Procedures

The municipality owns a number of properties (lots and road allowances) which are occasionally sold to third parties who have expressed an interest to purchase same and which have been sanctioned by Council. By-law Number 1480-97-AP, as amended, is a by-law which sets forth procedures which must be followed prior to the sale of municipal property. This by-law does not address the sale of properties by auction or tender to recoup the payment of municipal taxes – notification procedures for these sales are governed through the appropriate sections of the Municipal Act.

The sale of land by-law requires the following actions:

- Council must declare the property surplus to its needs by by-law or resolution;
- An appraisal must be obtained with certain exceptions (e.g. road allowances);
- Notice of the intended sale must be provided to all persons within 120 metres of lands to be sold and posted on the municipal website at least 20 days prior to the by-law authorizing the sale;
- A public registry of all lands owned or leased by the municipality must be kept;
- A certificate from the Clerk certifying that the terms of the by-law have been complied with must be completed upon the sale.

Hiring Policy

The purpose of the Hiring Policy is to ensure that employment related decisions with respect to relatives are conducted in an open and transparent manner which is free from real and/or perceived conflicts of interest; the public has confidence in the integrity of the municipality's hiring policies and practices, and public expectations of conduct are upheld by the Corporation.

Relatives of the members of Council, members of local boards, and employees shall be prohibited from employment by the municipality where:

- They would supervised by, or subordinate to, one another (direct reporting relationship);
- They would be given preferential treatment in the recruitment and/or selection for vacancies within the municipality; and,
- They would be appointed to positions where job responsibilities would be incompatible with positions occupied by relatives.

The municipality recognizes that broader family relationships (relatives) and close personal relationships exist which may give rise to concerns of real and/or perceived conflicts of interest. Members of Council, local boards, and staff who find themselves in such situations must be sensitive to these concerns and govern themselves in such a manner which reinforces the objects and intent of this policy.

Procurement of Goods & Services

Every municipal department within the municipality is engaged in the procurement of goods and services and it is important that the Township's procurement policies be accountable and transparent to the ratepayers. Section 270 (1) paragraph 3 of the Municipal Act requires the municipality to adopt a policy for the purchase of goods and services. By-law Number 1919-2004-FI, as amended, is a procurement by-law enacted by Council.

The purposes, goals, and objectives of the by-law are:

- To encourage competition among suppliers;
- To maximize savings for taxpayers;
- To ensure service and product delivery efficiency and effectiveness;
- To ensure service and product delivery quality;
- To make service and product providers accountable to the municipality and the public;
- To provide the highest level of government service at the least possible cost
- To ensure fairness between bidders;
- To ensure objectivity in the procurement process;
- To the extent possible, to ensure openness, accountability and transparency while protecting the financial best interests of the municipality;
- To obtain the best value for the municipality when procuring goods and services; and,
- To avoid conflicts between the interests of the Corporation and those of the Corporation's employees and councillors;

In support of these overriding principles, the by-law contains detailed procedures for the acquisition of goods and services inclusive of the need for quotations (written or

oral), need for formal advertising, requests for proposals, and the issuance of tenders depending on the amount anticipated as well as requirements for the submission of bid documents, performance guarantees, and financing leases.

The by-law also provides for the acquisition of goods and services from a single source in certain circumstances, extraordinary circumstance purchases (e.g. declared emergencies). In addition, the by-law provides that the acquisition of goods and services cannot be divided into two or more parts so as to avoid compliance with the by-law, prohibits personal purchases made by a member of Council or staff, and prohibits members of Council and staff from acquiring goods and services deemed surplus by the municipality.

Delegation of Authority

Section 23.2 of the Municipal Act permits Council to delegate certain legislative and quasi-judicial powers conferred under the Municipal Act and Planning Act to an individual who is an officer, employee, or agent of the municipality. The purpose of this enabling provision is to permit Council to focus on larger issues facing the municipality and permit routine matters to be delegated to achieve efficiencies for Council and the general public.

By-law Number 2108-2007-AP was enacted on the 5th day of November, 2007 which serves to delegate the following powers as follows:

The Director of Public Works and/or designate has been delegated the ability to:

- Close any highway or portion thereof for any period during the construction, repair or improvement initiated by the Township or by a utility company with statutory rights permitting occupancy on the highway;
- Close any highway or any portion of a highway due to situation which would endanger traffic or the public;
- Close any highway or portion of a highway to facilitate a social, recreational, community, athletic, or cinematographic purpose, or any combination thereof.

The Clerk-Administrator and/or designate has been delegated the ability to:

- Determine whether an application for an official plan amendment or rezoning is complete and to notify the applicant whether the application, fees, prescribed information, and other information and material required in support of the application is complete.

By-law Number 2109-2007-PL, is a bylaw which serves to establish and designate a site plan control area within the Township of Brock. Within this by-law, the Clerk-Administrator has been delegated the authority to approve site plans to enable the issuance of a building permit prior to Council authorizing the execution of a site plan agreement with the proponent.

Appendix I

The following by-laws and policies are available for public inspection in the office of the Clerk:

- By-law Number 2043-2007 -AP: A by-law to regulate the proceedings of Council
- By-law Number 2105-2007-AP: A by-law to appoint Local Authority Services Ltd. (LAS) as the Closed Meeting Investigator
- *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, as amended
- *Municipal Conflict of Interest Act*, R.S.O. 1990, as amended
- By-law Number 2107-2007-AP: Being a by-law to adopt a Code of Conduct for Municipal Councillors.
- Notice Provisions Policy – Report 2007-Council-07
- By-law Number 1480-97-AP, as amended: Being a by-law to adopt a procedure governing the sale of land
- Township of Brock Hiring Policy – Report 2004-AP-06
- By-law Number 1919-2004-FI, as amended: Being a by-law to define the procurement policies and procedures for the Corporation of the Township of Brock
- By-law Number 2108-2007-AP: Being a by-law to delegate certain matters under the Municipal Act, S.O. 2001, as amended, pursuant to section 23.2 of the Municipal Act, S.O. 2001, as amended,
- By-law Number 2109-2007-PL: Being a by-law to delegate certain matters under the Planning Act, R.S.O. 1990, as amended