Disclaimer

• These slides are provided by the Ministry of Municipal Affairs and Housing for convenience only and should not be relied on for legal or official purposes.

• For authoritative text, recourse may be had to the legislation.

• As local facts and circumstances are variable, users may wish to consider obtaining their own legal advice when particular legal issues or decisions arise.
Municipal Councillor’s Guide

- Municipal Councillor’s Guide explores:
  - The roles of a council and councillor
  - Governance and law-making in the municipal setting
  - The fiscal context
  - Land-use planning
- [http://www.mah.gov.on.ca/Page5030.aspx](http://www.mah.gov.on.ca/Page5030.aspx)
Presentation Focus

• Role of Council
• Mandatory Policies
• Optional Tools
• Open/Closed Meetings
• Conflict of Interest
• Codes of Conduct
• Freedom of Information/Protection of Privacy
• The Fiscal Context
Understanding Roles

• Key to understanding and managing relationships is knowing the roles of:
  • Council
  • Head of Council
  • Staff

• Understanding these roles leads to effective local government.
Role of Council

- Represent the public and consider municipality’s best interests
- Develop and evaluate municipal policies and programs
- Determine what services the municipality provides
- Ensure administrative and controllership policies, practices and procedures are in place
- Ensure accountability and transparency of municipal operations, including the activities of municipal senior management
- Maintain the financial integrity of the municipality
- Carry out the legislative duties of council under various Acts
Role of the Head of Council

- Act as the chief executive officer as defined in the Municipal Act
- Preside over council meetings
- Provide leadership to council
- Provide information and recommendations about council’s role
- Represent the municipality at official functions
- Carry out the legislative duties of a head of council under various Acts
Discussion
Accountability and Transparency

• Maintaining public trust in council and in the management of a municipality is a priority

• *The Municipal Act* requires municipalities to have policies on:
  - Sale and other disposition of land
  - Hiring of employees
  - Procurement of goods and services
  - When and how notice is provided to the public
  - How the municipality will try to ensure accountability and transparency to the public
  - Delegation of powers and duties
Accountability and Transparency

To help ensure integrity and accountability in public office, the *Municipal Act* allows municipalities to pass bylaws to establish a(n):

- Integrity Commissioner
- Municipal Ombudsman
- Auditor General
- Lobbyist registry and registrar
- Code of conduct for council and local board members
Council and Local Board Meetings

- Municipalities exercise their power at council meetings, generally by bylaw.

- Quorum is generally required to conduct council business

- The *Municipal Act* defines a meeting as any regular, special or other meeting of a council, of a local board or of a committee of either of them

- For the purposes of open meeting provisions of the *Municipal Act*, a committee is defined as:
  - Any advisory or other committee, subcommittee or similar entity of which at least 50% of the members are also members of one or more councils or local boards
Procedural Bylaw

- The *Municipal Act* requires every municipality and local board to pass a procedure by-law for governing the calling, place and proceedings of meetings:
  - Describes how meetings are to be conducted
  - Contents are generally up to the municipality
  - May be considered a transparency and accountability tool
  - Regular review ensures it effectively facilitates decision making
  - Shall provide for public notice
Meeting Minutes

• A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, \textit{whether it is closed to the public or not}.

• The record shall be made by:
  • The clerk, in the case of a meeting of council; or
  • The appropriate officer, in the case of a meeting of a local board or committee.
Open Meetings

- A transparent decision-making process is the foundation of good governance
- Meetings must be open to the public except in a limited number of circumstances
- A resolution is required to be passed before going into closed meetings
Closed Meetings

Meetings about the following subject matters may be closed:

- Security of municipal property
- Personal matters about an identifiable individual
- Proposed or pending land acquisition or disposal
- Labour relations or employee negotiations
- Litigation or potential litigation
- Advice subject to solicitor-client privilege
- A matter that can be closed under the authority of a statute other than the Municipal Act
- Education or training sessions that meet certain conditions

Freedom of Information requests require council to close a meeting
Closed Meeting Procedures

• Before holding a meeting closed to the public the council, local board or committee must adopt a resolution stating:
  • the fact of holding the closed meeting
  • the general nature of the matter to be discussed

• Generally, votes at a closed meeting may take place only in limited circumstances. These may include:
  • to give instruction to staff
  • procedural matters (e.g. adjournment)

• Minutes are required for all meetings, whether open or closed
Closed Meeting Investigation

- Under sections 239.1 and 239.2 of the *Municipal Act*, a person may request a closed meeting investigation.

- A municipality may appoint an independent investigator to report recommendations to council.

- If the municipality does not appoint an investigator, the Ontario Ombudsman may investigate.
Discussion
Municipal Conflict of Interest

- The Municipal Conflict of Interest Act applies, with some exceptions if a member has a pecuniary (financial) interest.

- Members with pecuniary interests must:
  - Disclose the interest and its general nature before the matter is considered at the meeting
  - Not take part in the discussion or voting on the matter
  - Not attempt to influence the voting before, during, or after the meeting
  - Immediately leave the meeting, if the meeting is closed to the public

- Potential penalties for contravention of the Act include removal from office. The courts decide whether or not a contravention of the Act has taken place
Codes of Conduct

- The *Municipal Act* authorizes a municipality to establish codes of conduct for councillors and local board members
Municipal Freedom of Information and Protection of Privacy Act

• Provincial law which provides for:
  • Public access to municipal records
  • Protection of privacy respecting government-held personal information held by a municipality

• Rules for collection, use and disclosure of personal and other confidential information
Discussion
Fiscal Context

• Municipal councils are tasked with governance and oversight of the financial well being of a municipality, that is:
  • Transparent
  • Accountable
  • Responsible to the ratepayers
Budgeting

- Budgets are powerful management tools
- Municipalities are required to annually prepare and adopt a balanced budget
- Reflection of what you plan to do for the year
- Budget process includes elements of planning, coordination amongst municipal departments and budget committee, and controllership
Key Tips: The Fiscal Context

- Review your municipality’s asset management plan to help you understand the infrastructure priorities and needs within your community.

- Public input is essential in the municipal budget process because it promotes trust in the municipality and ensures council is aware of residents’ opinions.

- Before voting on the adoption of a budget, as a municipal councillor you may wish to have a strong understanding of the significant costs the budget document is committing the municipality to, the revenues required to meet these obligations and, more importantly, how the budget will help the municipality achieve long-term financial sustainability.
Financial Reporting to the Public

- Audited Financial Statements
- Financial Information Return (FIR)
- Municipal Performance Measurement Program
Financial Information Return (FIR)

- The province uses the FIR to:
  - calculate grant amounts
  - develop policy
  - Perform financial analysis and monitor financial status of municipalities
  - prepare municipal debt limit reports

- Municipalities use the FIR to:
  - Prepare year over year comparisons, trend analysis and forecasting
  - Measure performance and compare to other like municipalities
  - Support land, strategic and asset management planning

- Available at: oraweb.mah.gov.on.ca/fir/welcome.htm
Legislative Updates

• Bill 8: Amendments to the Ombudsman Act and related legislation
• Review and Consultation:
  • Municipal Act, 2001
  • Municipal Conflict of Interest Act
  • Municipal Elections Act, 1996
Public Sector and MPP Accountability and Transparency Act, 2014

- On December 9, 2014, the proposed Public Sector and MPP Accountability and Transparency Act, 2014 (formerly Bill 8) passed Third Reading, and it received Royal Assent on December 11.

- The legislation expands the role of the Ontario Ombudsman to include all Ontario municipalities, publicly-assisted universities and school boards.

- When proclaimed, the provisions will give the Ontario Ombudsman the authority to investigate complaints only after local integrity officer processes have been completed.

- In addition, the Ontario Ombudsman will be able to investigate matters in a municipality generally on his own initiative as he can currently do for the province.

- An aim of this legislation is to making sure every Ontarian – in every municipality – has access to an ombudsman.

- The government is still determining when Schedule 9 (the section expanding the Ombudsman’s role) will be proclaimed by the Lieutenant Governor.
Legislative Reviews

• In the next few months, the Province will be launching consultation on the review of four pieces of municipal legislation: the Municipal Act, the City of Toronto Act, the Municipal Conflict of Interest Act and the Municipal Elections Act.

• The province will have some themes it wishes to discuss with key partners (including municipal CAOs and other staff), like the government’s commitment to work towards giving municipalities the option to use ranked ballot voting in the next municipal election.

• We will welcome input and dialogue on whatever improvements you think need to be brought to our attention about how to make these acts as clear and effective as possible.

• Decisions regarding consultation are still being made. Of course, the province is always interested in hearing early thoughts in advance of formal consultations.

• We look forward to active participation from municipal CAOs and further engagement through MMAH’s regional offices throughout the course of these reviews.
Questions?

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