

# COUNCIL EDUCATION AND TRAINING SESSION

Governance Matters, Making Government Matter

# Agenda



- **Introduction**
- ***Municipal Act, 2001***
- **Working Through:**
  - ▣ Proposed Revisions to the Procedural By-law
  - ▣ Proposed Revisions to the Council Code of Conduct
- **Policies**
  - ▣ Accountability and Transparency
  - ▣ Public Notice
  - ▣ Delegation of Duties and Powers
- **Other Opportunities**
- **Summary**
- **Next Steps**

# Introduction



- Open government with legislated requirements
- As a duly elected municipal government is directly accountable to its constituents for its legislative decision making, policies and administrative functions
- Council's decisions expressed by by-law or resolution carried by a majority vote
- Two basic powers:
  - Administrative (matters required for management; no discretionary decision-making)
  - Legislative (matters where council acts in a legislative or quasi juridical function i.e. by-laws and policy setting)

# Introduction (cont'd)

- Municipalities must maintain a responsible form of local government in accordance with the following provincial statutes to ensure accountability and transparency to its stakeholders:
  - *Municipal Act, 2001*
  - *Municipal Conflict of Interest Act, 1990*
  - *Provincial Offences Act, 1990*
  - *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), 1990*
  - *Personal Health Information Protection Act, 2004*
  - *Public Sector Salary Disclosure Act, 1996*

# *Municipal Act, 2001*



- Main legislation identifying the scope of powers of municipalities
- Offers guidance to enable municipalities to govern their own affairs and enhance a municipality's ability to respond to local municipal issues
- Spheres of jurisdiction
- Passing of by-laws respecting:
  - ▣ Governance structure of the municipality and local boards
  - ▣ Accountability and transparency of the municipality and its operations

# *Municipal Act, 2001* (cont'd)

- Passing of by-laws respecting:
  - Financial management
  - Public assets
  - Economic, social and environmental well-being
  - Health, safety and well-being of persons
  - Services and things
  - Protection of persons and property

# *Municipal Act, 2001* (cont'd)

- Passing of by-laws within spheres of jurisdiction:
  - Highways, including parking and traffic
  - Transportation systems other than highways
  - Waste management
  - Public utilities
  - Culture, parks, recreation and heritage
  - Drainage and flood control, except storm sewers
  - Structures, including fences and signs
  - Parking, except on highways
  - Animals
  - Economic development services
  - Business licensing

# *Municipal Act, 2001 (s. 224)* (cont'd)

- Roles of Council, Head of Council and as Chief Executive Officer, Administration – Officers – Employees, Clerk, Chief Administrative Officer and Treasurer
- Council's role:
  - ▣ to represent the public and consider the well-being and interest of the municipality
  - ▣ to develop and evaluate the policies and programs
  - ▣ to determine which services the municipality provides
  - ▣ to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place
  - ▣ to ensure the accountability and transparency of the operations, including the activities of senior management
  - ▣ to maintain the financial integrity
  - ▣ to carry out the duties of council under this or any other Act

# *Municipal Act, 2001 (s. 225/226)* (cont'd)

- Head of Council (Mayor or Acting Mayor)
  - to act as Chief Executive Officer (uphold, promote, act as representative, participate and foster well-being)
  - to preside over council meetings so that its business can be carried out efficiently and effectively
  - to provide leadership to the council
  - to provide information and recommendations to the council with respect to the role of council
  - to represent the municipality at official functions
  - to carry out the duties of the head of council under this or any other Act

# *Municipal Act, 2001 (s. 227)* (cont'd)



- Administration - Officers - Employees
  - ▣ to implement council's decisions and establish administrative practices and procedures to carry out council's decisions
  - ▣ to undertake research and provide advice to council on the policies and programs of the municipality
  - ▣ to carry out the other duties required under this or any Act and other duties as assigned by the municipality

# *Municipal Act, 2001 (s. 228)* (cont'd)

- Clerk's role (shall be appointed and whose duty is)
  - ▣ to record, without note or comment, all resolutions, decisions and proceedings of Council
  - ▣ if recorded vote, to record the name and vote of every member voting on any matter or question
  - ▣ keep the originals or copies of all by-laws and of all minutes of the proceedings of Council
  - ▣ perform the other duties required under this Act or any other Act

# *Municipal Act, 2001 (s. 229)* (cont'd)

- Chief Administrative Officer's role (may be appointed who shall then be responsible)
  - ▣ to exercise general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality
  - ▣ perform such other duties as are assigned by the municipality

# *Municipal Act, 2001 (s. 286)* (cont'd)

- Treasurer's role (shall appoint who is responsible) for handling all of the financial affairs of the municipality on behalf and in the manner directed by the council
  - ▣ collecting money payable to the municipality and issuing receipts for those payments
  - ▣ depositing all money received on behalf of the municipality in a financial institution as designated
  - ▣ paying all debts of the municipality and other expenditures
  - ▣ maintaining accurate records and accounts
  - ▣ providing council with such information as it requires or requests
  - ▣ ensuring investments are made in compliance with the Act

# *Municipal Act, 2001* (cont'd)

- Section 238 (2) of the *Municipal Act* provides for the establishment of the procedure by-law for a municipality and requires that the procedure by-law provide for public notice of meetings.
- Section 270 (1) Policies – Adoption
  - ▣ requires that all municipalities to adopt and maintain a policy with respect to the following matters:
    - Its sale and other disposition of land
    - Its hiring of employees
    - Its procurement of goods and services
    - Provide notice to members of the public
    - Its accountability and transparency
    - Its delegation of powers and duties

# Procedural By-law

- Section 238 (2) of the *Municipal Act* provides for the establishment of the procedure by-law for a municipality and requires that the procedure by-law provide for public notice of meetings.
  
- A procedure by-law:
  - ▣ Establishes rules of procedure for council meetings, including the manner by which resolutions may be passed, and the manner by which by-laws may be adopted;
  - ▣ Establishes rule of procedure for committee meetings;
  - ▣ Provides for the taking and confirming of minutes at council meetings;
  - ▣ Provides for the receipt and adoption of minutes of committee meetings;

# Procedural By-law (cont'd)



- A procedure by-law:
  - Establishes procedures for giving public notice of council and committee meetings;
  - Identifies the posting places for public notices issued by the municipality;
  - Establishes the duties of the presiding officer or in their absence, the Deputy Mayor or Acting Mayor;
  - Identifies the day, following a regular municipal election, for the inaugural or first council meeting.

# Procedural By-law (cont'd)

## □ Why Revisions Needed to the Town's By-law:

- Inclusion of a table of contents and change in the font to make it more reader-friendly and accessible; **(Pg. 7 & 8)**
- Additional definitions to clarify the intent of the by-law (**Ad Hoc Committee, Advisory Committee, Defer, Mayor, Member, Motion, Open Meeting, Presiding Officer, Recorded Vote, Refer, Resolution and Statutory Committee**);
- Rules of Procedure; **(Pg. 11)**
- Expansion on the location of the meeting; **(Pg. 12, under Place)**
- Change in the date of the meeting to permit additional media coverage; **(need to discuss)**
- Clarification of when Inaugural, Regular and Special Council Meetings are held **(Pg. 12 & 13)**
- A procedure to call a meeting to order; **(Pg. 13)**
- More information on the agenda including it's availability forty-eight (48) hours prior to a meeting; **(Pg. 15 & 16)**

# Procedural By-law (cont'd)

## □ **Why Revisions Needed to the Town's By-law:**

- Details on Order of Business and agendas; **(Pg. 16 & 17)**
- A section on minutes of meetings and presentations; **(Pg. 18)**
- Details on Correspondence and Petitions; **(Pg. 18)**
- Details on Delegations and Presentations; **(Pg. 19 & 20)**
- Details on Committee of the Whole and Committees ; **(Pg. 20 & 21)**
- The conduct and role of the Clerk and staff at meetings; **(Pg. 23)**
- Details on the purpose of a meeting for educating or training members of Council, local board or a committee; **(Pg. 30)**
- Confirmatory by-law; **(Pg. 30)**
- The use of mobile devices; **(Pg. 31)**
- The preparation of press releases; **(Pg. 31)**
- The Taping and/or Recording of Meetings **(Pg. 31).**

# Procedural By-law (cont'd)



- Council may include any other matter, provided they are in accordance with the *Municipal Act, 2001* (the Act).
- In keeping with the Act and the existing Procedural By-law and the Town's principles of accountability and transparency, Council must not amend, repeal or replace its procedure by-law without first giving public notice of the intended changes.

# Council Code of Conduct



- A written Code of Conduct (“Code”) ensures that members of Council, local Boards and advisory committees (“Members”) share a common understanding of acceptable conduct.
- The Town of Ingersoll’s current Council Code of Conduct was approved in 2008, however, beyond the Procedural By-law, there is no other by-law or policy specifically on accountability and transparency.

# Council Code of Conduct (cont'd)



- A Council Code of Conduct and a policy on Accountability and Transparency is designed to provide a reference and be a supplement to the legislative requirements within which elected officials or Council members must operate.

# Council Code of Conduct (cont'd)

- Section 223.2, *Municipal Act*, a municipality is authorized to establish codes of conduct for members of the council of the municipality and of local boards of the municipality. A by-law cannot provide that a member who contravenes a code of conduct is guilty of an offence.
  
- Section 223.3 (1) authorizes the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to:
  - the application of the code of conduct for members of Council and the code of conduct for members of local boards or of either of them;
  - the application of any procedures, rule and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them; OR,
  - both of clauses (a) and (b).

# Council Code of Conduct (cont'd)

## □ Key principles include:

- Members are expected to perform their duties in a manner that promotes public confidence and bears close public scrutiny;
- Members are committed to performing their functions with accountability, honesty and integrity and to avoid the improper use of the influence of their office and conflicts of interest, both real, apparent or perceived;
- Members shall serve and be seen to serve constituents in a conscientious and diligent manner; and,
- Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature and the by-laws and policies adopted by Town of Ingersoll Council.

# Council Code of Conduct (cont'd)

Existing specific practices and procedures are listed below. New categories are underlined and all have also been rearranged alphabetically.

- ❑ Benefits, Gifts or Hospitality
- ❑ Business Relations
- ❑ Communication/Media Relations
- ❑ Confidentiality
- ❑ Conduct at Meetings
- ❑ Conflict of Interest
- ❑ Current and Prospective Employment
- ❑ Elections – Campaign Material / Promotion
- ❑ Employment of Members' Relatives
- ❑ Expenses
- ❑ Harassment
- ❑ Influence on Staff
- ❑ Public Meetings
- ❑ Representing the Town
- ❑ Respect for Town and its By-laws and Policies
- ❑ Use of Town Property, Services and Other Resources
- ❑ Use of Town's Technological Resources
- ❑ Protocol for Complaint Process
- ❑ Non-compliance with the Code
- ❑ Implementation
- ❑ Policy Review

# Council Code of Conduct (cont'd)



- **Why Revisions to the Town's Council Code:**
  - Identify a purpose; (Pg. 5 to Report C 117/11)
  - Identify the key principles; (Pg. 6)
  - Provide additional definitions; (Pg. 6 & 7)
  - Clarify roles and responsibilities; (Pg. 7)
  - Clarify Benefits, Gifts or Hospitality; (Pg. 7)
  - New section on Communications/Media Relations; (Pg. 9)
  - Additional sections on Confidentiality; (Pg. 9 & 10)
  - Additional sections on Conduct at Meetings; (Pg. 10)
  - New section on Conflict of Interest; (Pg. 11)

# Council Code of Conduct (cont'd)



- **Why Revisions to the Town's Council Code:**
  - Revised section on Elections – Campaign Material/Promotion; (Pg. 11 & 12)
  - New section on Public Meetings; (Pg. 13)
  - Changes to Protocol for Complaint Process; (Pg. 14)
  - New section on Non-Compliance with the Code; (Pg. 15)
  - New sections on Implementation and Policy Review; (Pg. 15)

# Policies



- Municipal Act, 2001; Section 270
- Five required policies
  - Hiring staff
  - Procurement of goods and services
  - Accountability and Transparency
  - Public Notice
  - Delegation of Duties and Powers
- Focus on latter three policies

# Policies (cont'd)

## Accountability and Transparency

- Section 270 (1) of the *Municipal Act, 2001*, all municipalities must adopt and maintain a policy for the manner in which the municipality will try to ensure that it is accountable to the public for its actions and that such actions are transparent to the public.
- Several Provincial statutes which govern the conduct of elected officials and ensure the ethical accountability which is the foundation of public confidence in government and the political process
- Revisions to the Council Code of Conduct and draft accountability and transparency policy (**Pg. 16-19 of Report C 117-11**)

# Policies (cont'd)

## Accountability and Transparency

- Ingersoll is committed to ensuring accountability and transparency of all of its activities
- Council, committees and staff comply with the relevant legislation, by-laws and policies
- Principles to apply to council and staff equally
  - ▣ Openness and fairness
  - ▣ Efficient and effective financial management
  - ▣ Accessible and responsive meeting process
  - ▣ Staff conduct appropriate
  - ▣ High quality service delivery

# Policies (cont'd)

## Accountability and Transparency



- Corporate values and vision for community
- Financial matters
  - Audits
  - Reporting or financial statements
  - Long-term financial planning
  - Asset management
  - Purchasing / Procurement
  - Fees and charges
  - Sale of land; and,
  - Budget process

# Policies (cont'd)

## Accountability and Transparency



- Internal governance
  - Employee performance
  - Hiring policy
  - Orientation session
  - Staff code of conduct
  - Continuing education
  - Health and safety
  - Work/ life balance
  - Compensation / benefits
  - Administrative practices, procedures and policies

# Policies (cont'd)

## Accountability and Transparency

- Public Participation and Info Sharing
  - Procedural by-law
  - Strategic plan
  - Planning processes as per the *Planning Act*
  - Public Notice by-law
  - Records Retention by-law
  - Municipal performance management
  - Council Code of Conduct
  - Public Info Centres/Sessions and Town Hall meetings
  - Agendas and minutes
  - Staff Reports
  - Communication strategy
  - Website
  - Media releases

# Policies (cont'd)

## Public Notice

- Section 270 (1) Subsection 4, shall provide notice to the public and if notice is to be provided, the form, manner and times notices shall be given
- To give notice on matters that may affect the public and to provide an opportunity to make submissions, attend an delegate before Council and committees
- Includes all types of public notice and citizen engagement depending on legislation, cost, emergency situation, timeframes, distance, types of notification and potential impact
- Notice to be published to provide reasonable notice including, but not limited to one method as listed
- Time of notice, information to be contained and purpose
- Annual budget, emergency provisions and improvements to service

# Policies (cont'd)

## Delegation of Duties and Powers

- All delegations of council powers, duties or functions shall be effected by by-law
- Unless done by by-law, remains with council
- Cannot sub-delegate unless expressly permitted
- Scope of powers (may be revoked, limitations, joint powers)
- Not to be delegated (appoint or remove an officer, power to pass a by-law, incorporation, adoption of a Official Plan or amendment, Zoning By-law or amendment, adopt a community improvement plan, adopt or amend the budget or any other power/duty)

# Policies (cont'd)

## Delegation of Duties and Powers

- Table of existing delegated duties and powers to staff or committees
- Table of possible delegated duties and powers including financial reports, service agreements for operational matters, agreements to accept grants, reduce load limits, issue entrance permits, to purchase (within set limits), purposes under the *Municipal Freedom of Information and Protection of Privacy Act*, temporary use agreements, and waiving of requirements for pre-consultation under the *Planning Act*
- Revisions to make processes more efficient and effective

# A Few Other Opportunities

- Records Retention By-law – approved, to be implemented
- Delegation by-laws to include delegation of financial reports, service agreements for operational matters, agreements to accept grants, reduce load limits, issue entrance permits, to purchase (within set limits), purposes under the Municipal Freedom on Information and Protection of Privacy Act, temporary use agreements and waiving of requirements for pre-consultation under the Planning Act – all to improve efficiencies
- Corporate Strategic Plan - drafted
- Employee Code of Conduct – under development
- Revisions to the Town’s Planning Process – under review

# Summary

- Municipalities must be an open and responsive level of government
- Legislated requirements under several pieces of legislation
- As a duly elected municipal government is directly accountable to its constituents for its legislative decision making, policies and administrative functions
- Council's decisions expressed by by-law or resolution carried by a majority vote
- Two basic powers and various spheres of jurisdiction
- Purpose of this presentation was to detail:
  - ▣ **Proposed revisions to the Procedural By-law**
  - ▣ **Proposed revisions to the Council Code of Conduct**
  - ▣ **Policies on Accountability and Transparency, Public Notice and possible Delegation of Duties and Powers**
- ... and to identify other opportunities, build awareness and receive input on directions.

# Next Steps



- Notice in newspaper of pending changes to these documents; required for Procedural By-law
- Review by Town's solicitor ongoing
- Final versions brought forward as by-laws, where appropriate at Council's October 11<sup>th</sup> rescheduled Regular Council Meeting
- Questions ?