



City of
Peterborough

TO: Members of the Committee of the Whole

FROM: Nancy Wright-Laking, City Clerk

MEETING DATE: January 14, 2008

SUBJECT: Report CSCLK08-002
Policies respecting Delegation of Powers, Notice to the Public,
and Accountability and Transparency

PURPOSE

A report to recommend approval of the Delegation of Powers, Notice and Accountability and Transparency policies, required under **the Municipal Act, 2001**.

RECOMMENDATION

That Council approve the recommendation outlined in Report CSCLK08-002 dated January 14, 2008, of the City Clerk, as follows:

That the following policies be approved:

- i) "Delegation of Powers" Policy, Appendix A.
- ii) "Notice" Policy and Notice Provisions, Appendix B.
- iii) "Accountability and Transparency" Policy, Appendix C.

BUDGET AND FINANCIAL IMPLICATIONS

Many elements of these policies involve clarification of existing policies and practices, particularly the Accountability and Transparency policy that encompasses other policies and practices. Therefore, there is no direct budget or financial impact of these policies.

BACKGROUND

An overview of Bill 130 was provided in Report CSCLK07-015, **Municipal Statute Law Amendment Act 2006** – Implications and Opportunities dated October 15, 2007. Report CSCLK07-015 indicated that future reports would be brought forward on specific Bill 130 matters. This report proposes three policies, required to be adopted, as follows:

- Delegation of Powers
- Notice
- Accountability and Transparency

Delegation of Powers

The **Municipal Statute Law Amendment Act, 2006 (Bill 130)** amended a number of pieces of legislation, most notably **the Municipal Act, 2001** (the Act), to which there are significant changes. The legislative amendments are intended to help further the ability of municipalities to exercise natural person powers and demonstrate maturation as a responsible, accountable and transparent order of government.

The new section 270(1)6 of the Act requires a Municipality to adopt and maintain policies regarding delegation of its powers and duties. Delegation permits Council to create a governance structure that maximizes effectiveness and efficiency, while enabling Council to have the time to focus on its priorities.

Subject to some restrictions, sections 23.1 to 23.5 of the Act enable, a Municipality to delegate certain of its powers and duties to:

- One or more Councillors or a Council Committee;
- A body having at least two members of whom at least 50 per cent are: Councillors, individuals appointed by Council or a combination of Councillors or individuals appointed by Council; and
- An individual who is an officer, employee or agent of the Municipality.

The most relevant restrictions include powers related to Official Plans and Zoning by-laws, taxation matters, appointment or removal of statutory officers, and the power to pass or amend a budget.

Specific examples of delegated authority identified by the Act include:

- The power to close a highway temporarily;
- The power to issue and impose conditions on a licence;
- The power to impose conditions on the use of highways;
- The power to authorize and regulate the planting of shade or ornamental trees on highways.

Further provisions in the Act state:

- The delegation may be revoked at any time without notice unless the delegation by-law specifically limits the municipality's power to revoke the delegation. The Council powers and duties recommended to be delegated to staff by by-law will not limit the municipality's power to revoke the delegation, to ensure flexibility and the ability for Council to retain some accountability if required.
- The delegation may provide that only the delegate or both Council and the delegate may exercise the delegated power or duty.
- A new Council may revoke the delegation made by a former Council despite what limitations are described in the delegation by-law.
- The delegation may be made subject to such conditions and limits as Council considers appropriate, including the requirement for procedures related to the delegated power or duty to be followed as well as other means of accountability and transparency.

Council has already specifically delegated many such powers and duties to Boards, Committees and members of staff, and the adoption of the new policy does not affect any of these delegations, which remain in full force and effect. The proposed policy simply confirms Council's wish to continue to use delegation effectively and in accordance with the Act.

The proposed Delegation of Powers policy is attached as Appendix A.

Notice

New section 270(1) 4 of the Act requires a Municipality to adopt and maintain a policy regarding the circumstances in which it will provide notice to the public, and the form, manner and times notice shall be given.

There are several provisions in the Act which specifically prescribe both the requirement for notice to the public, as well as the method by which such notice is to be given. However, there are some instances where notice is required, but no method is prescribed. In addition, there are other instances where the Act no longer specifically requires notice, but Council may decide nevertheless that notice is appropriate, and may then specify its own notice requirements.

The intent of the proposed Notice policy is to set out those instances where Council is either required, or chooses, to give notice, where the method of notice is not prescribed. It includes matters such as permanent and temporary closure, or naming, of a public street, sale of property, setting of fees and charges, as well as notice of meetings of Council. Some of these matters are dealt with in separate by-laws, such as the City's Procedural By-law, which sets out the requirements for public notice of regular and special meetings of Council.

The proposed Notice policy is attached as Appendix B.

Accountability and Transparency

Public demand for openness and access has become an issue at all levels of government. In support of this demand, certain statutes emphasize openness and transparency of Council, its agencies, boards and committees. New section 270(1) (5) of the Act requires a Municipality to adopt and maintain policy regarding the manner in which the municipality will try to ensure that it is accountable and transparent to the public.

The Act also contains a new set of provisions which are directed at accountability and transparency. Municipalities are given discretionary powers to establish accountability and transparency mechanisms such as Codes of Conduct, an Integrity Commissioner, an Ombudsman and/or an Auditor General. In addition, Council has already resolved to appoint an Investigator pursuant to Section 239.1 of the Act, with respect to closed meetings. It is not recommended that Council immediately pursue its own Integrity Commissioner, Ombudsman or Auditor General. These offices are more suited for larger Cities such as Toronto or Ottawa.

The Act also provides that the role of Council (section 224 of the Act) includes ensuring that administrative and controllership policies, practices and procedures are in place to implement the decisions of Council and to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality. The Mayor, as Head of Council, is required under section 226 of the Act to promote public involvement in the municipality's activities. These new and expanded roles for Council are intended to provide greater accountability and transparency to the public.

The City of Peterborough, like most Ontario municipalities, has traditionally been open and transparent in its activities and its relationship with the local populations it serves. In keeping with that tradition, the City already engages in practices that promote accountability and transparency. These include providing notice for Council meetings and Internet posting of Council and Standing Committee agenda complete with full copies of all reports, external audits, quarterly budget updates/financial reports, a staff Code of Conduct policy, a procedural by-law, public consultations, a procurement by-law, sale of real property by-law, the keeping and posting of Council minutes, ***Municipal Freedom of Information and Protection of Privacy Act*** practices and the Hiring of Relatives of Council and Senior Staff policy.

There are many elements of accountability and transparency. The Act does not prescribe what must be contained in such a policy. For that reason, the policy could be described as an expression of principle, as it provides the foundation upon which other policies and practices are built. Examples of this include: sale of land, hiring of employees, procurement of goods and services, public notice and delegation of powers and duties policies. The broad accountability and transparency policy statements provide the framework for the existence of these policies.

The proposed Accountability and Transparency policy is attached as Appendix C.

SUMMARY

In order to comply with the requirements of sections 270 (1) 4, 5 and 6 of the Act, it is recommended that Council adopt the policies set forth in the Appendices to this report.

All of which is respectfully submitted,

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City Clerk

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Attachments:

Appendix A: Delegation of Powers and Duties Policy
Appendix B: Notice Policy and Notice Provisions
Appendix C: Accountability and Transparency Policy

Appendix A

Delegation of Powers and Duties Policy

 Policy	DELEGATION OF POWERS AND DUTIES
Department: Corporate Services	Approval Level: Council
Division: Clerk's Office	Effective Date: yyyy-mm-dd
Section/Facility:	Policy #:

1.0 PURPOSE

- 1.1 This policy is made pursuant to sections 23.1 - 23.5 and 270 of **the Municipal Act, 2001**, which stipulates that a Municipality is required to adopt and maintain policies with respect to the delegation of its powers and duties.
- 1.2 The delegation of some of its powers and duties assists Council in streamlining the decision-making process, and this policy sets out the scope and principles pursuant to which such delegation may occur.

2.0 APPLICATION

- 2.1 This policy applies to the City of Peterborough.

3.0 DEFINITIONS/ACROYNMS

3.1 Act

Means **the Municipal Act, 2001**, as amended, and/or its Regulations.

3.2 City

Means the Corporation of the City of Peterborough.

3.3 Administrative Powers

Means all matters required for the management of the City which do not involve discretionary decision making.


3.4 Legislative Powers

Means all matters in respect of which Council acts in a legislative or quasi-judicial manner, including enacting by-laws, setting policies and exercising decision making authority.

4.0 THE POLICY

- 4.1 Council is directly accountable to its constituents in the exercise of its legislative and administrative powers. In order to manage the City efficiently, and to respond to issues in a timely fashion, it is appropriate to entrust certain powers and duties to committees and staff, while maintaining accountability and transparency.
- 4.2 All delegation of powers and duties shall be carried out in strict compliance with the Act, and respecting the restrictions set forth in the Act.
- 4.3 All delegations shall be effected by by-law.
- 4.4 A delegation of a power, duty or function under any by-law to a member of staff includes, in the absence of the staff member, a delegation to a person who is appointed by the CAO, or selected from time to time by the delegate, to act in the capacity of the delegate in the delegate's absence.
- 4.5 Except as provided in section 4.4, or expressly in the delegation by-law, no power, duty or function may be sub-delegated by the delegate.
- 4.6 Legislative powers which are minor in nature may be delegated by Council, subject to the limitations in the Act.
- 4.7 Administrative powers shall generally be delegated to staff, subject to the limitations in the Act.
- 4.8 Any expenditure related to a delegated matter shall have been provided for in the current year's budget, or otherwise authorized by the purchasing by-law.

Appendix B
Notice to the Public Policy

 Policy	NOTICE TO THE PUBLIC
Department: Corporate Services	Approval Level: Council
Division: Clerk's Office	Effective Date: yyyy-mm-dd
Section/Facility:	Policy #:

1.0 PURPOSE

1.1 This policy is made pursuant to by section 270 (1) (4) of **the Municipal Act, 2001**, which stipulates that a Municipality is required to adopt and maintain policies to provide the circumstances when notice to the public shall be given, and the form, manner and times of such notice.

2.0 APPLICATION

2.1 This policy applies to the City of Peterborough.

3.0 DEFINITIONS/ACROYNMS

3.1 Act

Means **the Municipal Act, 2001**, as amended, and/or its Regulations.

3.2 Council

Means the Council of the Corporation of the City of Peterborough.

3.3 Committee

Means any committee, of which at least 50 per cent of the members are also members of the Council of the City or any of its local boards.

3.4 Local Board

Means a local board as defined by s.269 of the Act.

3.5 Meeting

Means any regular, special, committee or other meeting of Council, of a local board or of a committee of either of them.

3.6 Notice

Means a written announcement containing information about a future event.

3.7 Procedure By-Law

Means a By-Law for governing the calling, place and proceedings of meetings, including public notice of such meetings.

4.0 THE POLICY

- 4.1 The City shall give notice to the public in respect of the matters listed in Appendix A attached hereto, as well as in every instance where public notice is required by the Act or any other applicable legislation.
- 4.2 Unless otherwise prescribed in the Act or other applicable legislation, the form of the notice of intention to pass a by-law or a public meeting shall include but not be limited to the date, time and location of the meeting; a statement of the purpose of the meeting or the effect of the proposed by-law and City contact information for receiving comments and deadlines, where appropriate.
- 4.3 Where notice is required to be given and the timing of such notice is not prescribed in the Act or other applicable legislation, the Clerk shall cause such notice to be published in a local newspaper and posted on the City's website at least fourteen calendar days prior to the proposed action being taken.
- 4.4 Where matters arise that Council considers urgent, time sensitive, affecting health or well-being, or during a state of emergency, the requirements of this policy may be waived.
- 4.5 Notice of meetings of the Council, or any of its local boards, or of any committee shall be given in the manner provided in the applicable Procedure By-law.
- 4.6 The notice provisions contained herein shall be considered the minimum. Council may direct more comprehensive notice as it sees fit.

5.0 APPENDIX, RELATED POLICIES, PROCEDURES & LINKS

5.1 Appendix A – Notice Provisions

NOTICE PROVISIONS, CITY PRESCRIBED

Municipal Act Section	Subject	Notice Provision (Form, Manner, Times)
Section 34	Highway Closing Procedures	Two weeks notice. Hand delivered letter to affected residents. Notice posted once, in the local newspaper and on the City website.
Section 36 Section 37	Closure of access to controlled-access highway	
Section 47	Change / naming of highway	
Section 48	Change / naming of private roads	
Section 173	Restructuring Proposal	Two weeks notice. One notice posted in the local newspaper and on the City website.
Section 268	Sale of Land Procedures	As per by-law 95-62
Section 351(8)	Seizure personal property - Public Auction	Two weeks notice. Notice posted once, in the local newspaper and on the City website.
Section 400(f)	Regulations – re: Prescribed Notice of Fees and Charges Bylaw	Two weeks notice. Notice posted once, in the local newspaper and on the City website.
	Meetings – Council and local boards	As prescribed by the Procedure By-Law
	Temporary Road Closures – Scheduled Construction	Arterial & collector roads, one (1) week notice in newspaper & City website. Contractor to provide notice to emergency services & local businesses/residents directly affected. ** Requirements under review by USD **
	Temporary Road Closures – Emergency Construction, less than 24 hrs.	Provide notice to emergency services & media (radio). ** Requirements under review by USD **
	Temporary Road Closures – Festivals & Events	Event co-ordinator required to provide two weeks notice to media & hand-deliver letters to affected parties. City to post on City website.

5.2 Procedure By-Law

5.3 **The Municipal Act, 2001 and the Planning Act**


5.4 Key search words for this policy: notice, meeting, committee, board, procedure by-law.

6.0 AMENDMENTS/REVIEWS

Date (yyyy-mm-dd)	Section # Amended	Comment
		Legislative change. Staff Report #, Council Resolution
		Document control information
		Review date

Appendix C

Accountability and Transparency Policy

 Policy	ACCOUNTABILITY AND TRANSPARENCY
Department: Corporate Services	Approval Level: Council
Division: Clerks Office	Effective Date: yyyy-mm-dd
Section/Facility:	Policy #:

1.0 PURPOSE

- 1.1 This policy is made pursuant to the sections 270 (1) (5) of **the Municipal Act, 2001** which stipulates that a Municipality is required to adopt policies regarding the manner in which it will try to ensure that it is accountable to the public for its actions and attempt to ensure that its actions are transparent to the public.

2.0 APPLICATION

- 2.1 This policy applies to the City of Peterborough, its agencies, boards, commissions as well as advisory committees.

3.0 DEFINITIONS/ACROYNMS

3.1 Accountability

Means the City is responsible to its stakeholders for decisions made and policies implemented, as well as its actions or lack of action.

3.2 Act

Means **the Municipal Act, 2001**, as amended and/or its Regulations.

3.3 City

Means the Corporation of the City of Peterborough, and its agencies, boards, or commissions or committees.

3.4 Transparency

Means that the City conducts its business in an open manner, encouraging stakeholder participation in the decision-making processes.

4.0 THE POLICY

- 4.1 The City shall endeavour to operate in an open, fair and accountable manner.
- 4.2 Financial matters shall be managed efficiently and effectively, in a manner which is open and accountable to the public.
- 4.3 All meetings of Council, and its local boards, agencies and committees, shall be open to the public, except as prescribed by the Act.
- 4.4 Information shall be disclosed, in a timely manner, by various means including print media and the City's website, to enable and encourage meaningful and effective participation by the public, in the municipal decision-making process.

5.0 APPENDIX, RELATED POLICIES, PROCEDURES & LINKS

- 5.1 **The Municipal Act, 2001**
- 5.2 Procedure By-Law
- 5.3 Sale and Other Disposition of Land
- 5.4 Procurement Policy
- 5.5 Hiring of Relatives Policy/Human Resources Policies
- 5.6 Key search words for this policy: procurement, accountability, transparency, financial, Council, notice, meetings, agency, board, commission,

6.0 AMENDMENTS/REVIEWS

Date (yyyy-mm-dd)	Section # Amended	Comment