

| Type of Decision                                 |                         |                  |  |    |                 |                         |      |  |        |
|--|-------------------------|------------------|--|----|-----------------|-------------------------|------|--|--------|
| Meeting Date                                     | Tuesday, April 17, 2018 |                  |  |    | Report Date     | Tuesday, April 11, 2018 |      |  |        |
| Decision Required                                | X                       | Yes              |  | No | Priority        | X                       | High |  | Low    |
| Direction  | x                       | Information Only |  |    | Type of Meeting | X                       | Open |  | Closed |
| <b>REPORT TITLE - Procedure By-Law Amendment</b> |                         |                  |  |    |                 |                         |      |  |        |
| Report #17/04/18 - 1001                          |                         |                  |  |    |                 |                         |      |  |        |

**Subject: Amendment to the Procedure By-Law****RECOMMENDATION:**

That Council defeat resolution #1 and adopt resolution #2 as per the Background below.

**Resolution #1 (Submitted by Jim Gibson)**

**WHEREAS** a timing anomaly has been identified in council's procedural bylaw

**AND WHEREAS** Council wishes to operate in an open and transparent manner

**AND WHEREAS** constituents participation in the democratic process is to be encouraged

**AND WHEREAS** Council wishes to enhance that participation

**BE IT HEREBY RESOLVED THAT** the following changes to the Municipality's procedural bylaw 2015-07 presented by deputation at the March 20, 2018 regularly scheduled Council meeting be authorized by Council, namely that section 12.1 be amended by inserting the bold and underlined sections and number it as 12.1 (a) and the following sections 12.1 (b), 12.1 (c) and 12.1 (d) numbered below be added as follows:

12.1.(a) Persons requesting to present information verbally on matters of fact, give a presentation to or make a request of Council **for a matter not on the published Council agenda** shall give verbal/written notice to the Clerk at least five (5) business days prior to the next regular meeting of the Council. Any information received later than that date may be withheld to the next regular meeting of Council.

12.1.(b) Persons requesting to present information verbally on matters of fact, give a presentation to or make a request of Council for a matter(s) on the published Council agenda shall give verbal/written notice to the Clerk at least 24 hours prior to the next regular meeting of the Council. The request shall contain the listing description of the agenda item(s). Section 12.16 will apply to item 12.1(b)

**12.1(c)** Persons making a written comment to Council for a matter(s) on the published Council agenda shall give that written comment to the Clerk and Council at least 24 hours prior to the scheduled meeting of the Council. The comment shall contain the listing description of the agenda item(s) and clearly outline the constituent's position with respect to the item in question. This will be included as late correspondence. The written comments

will be read in to the Council debate on the issue at hand if a majority of Council deems it appropriate to do so.

12.11. Any matter put before Council by a delegate using item 12.1(a) shall be referred to staff for a report prior to any decision being made by Council. Any matter put before Council using item 12.1(b) will be for Council's consideration when that matter is discussed on the agenda.

## Resolution #2

**WHEREAS** the Municipal Notice By-Law requires notice of intent to adopt or amend a Procedure By-Law by posting on the municipal website 14 days prior to the new by-law being adopted;

**AND WHEREAS** the municipal Procedure By-Law has not been updated since regular council meetings were changed from Friday afternoon to Tuesday evenings by resolution in 2017;

**AND WHEREAS** some clauses in the by-law require strengthening;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby amend the municipal Procedure By-Law 2015-07 by the following:

1. **THAT** section 3.1 be amended by changing "14:00 h" to "19:00 h" and the word "Friday" to "Tuesday" to indicate the time and day for the inaugural meeting of council.
2. **THAT** Section 9.3 be added to state "*That any council member who determines that they may have a pecuniary interest under the appropriate legislation is required to complete and submit to the Clerk at the appropriate time during the meeting the 'Council Declaration of Interest' form so that it becomes a part of the permanent record.*"
3. **THAT** a clause under section 12.0 – Delegations be added... "*Except as required by law, any person being a member of a special interest group, club, organization or group of persons with a common issue appearing before Council and who has previously appeared before the same board, committee or Council on the same subject matter shall be limited to providing only new information in their second and subsequent appearances and are further limited by our reconsideration clause 24.6*".
4. **THAT** section 12.6 be amended to read..." *Notwithstanding Section 12.5, delegations consisting of more than five (5) persons shall be limited to two (2) speakers, each restricted to speaking **in total, for** not more than ten (10) minutes.*"
5. **THAT** a clause under section 14.0 Public Meetings be added "*That no person shall speak to an issue before the assembly a second time until all others who wish to speak have had an opportunity, unless that person is responding to a direct question posed to him/her by a member of council or staff for clarification purposes.*"
6. **THAT** under section 16.0 Petitions a clause be added..."*That all petitions submitted to the municipality under this by-law shall be presented to Council and received for information as*

*per the practise throughout Ontario municipalities. Council may by unanimous consent refer the petition to staff for a report if warranted.”*

## **BACKGROUND/EXECUTIVE SUMMARY:**

### **Resolution #1**

Democracy is described in many different sources as “a system of government in which power is vested in the people and exercised by them directly or through freely elected representatives.”

In Canada, federal, provincial and municipal governments have elected representatives who make decisions by that elected or appointed group of individuals either in federal or provincial legislature or municipal council.

The procedure by-law in force in Head, Clara & Maria is consistent with any of the hundreds within the province and across the country. There is no allowance to add a deputation to Council after an agenda has been created and published except for that in clause 12.3 which allows for deputations or delegations on an emergent basis or short notice upon unanimous consent of the members of Council sitting at that meeting.

Changing the Procedure By-law to allow the agenda to be amended, and provide people with the opportunity to routinely add deputation requests after the publishing of the agenda is setting a dangerous precedent. Some might argue that this would give those who have access to the internet an unfair advantage in influencing council decisions. There are still a considerable number of HCM residents who do not have adequate and affordable internet access.

*The Municipal Act outlines the role of council as...*

*“Role of council*

*224 It is the role of council,*

*(a) to represent the public and to consider the well-being and interests of the municipality;*

*(b) to develop and evaluate the policies and programs of the municipality;*

*(c) to determine which services the municipality provides;*

*(d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;*

*(d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;*

*(e) to maintain the financial integrity of the municipality; and*

*(f) to carry out the duties of council under this or any other Act. 2001, c. 25, s. 224; 2006, c. 32, Sched. A, s. 99.”*

Municipal Councils are the elected representatives of the local municipality. They are considered mature governments and are responsible to the electorate through elections. Unless specified in legislation, a municipal council has no obligation to consult with residents before making decisions, however; Head, Clara & Maria has made every attempt to provide open and transparent government and consult with members of the public in a large number of ways including open public meetings, stakeholder meetings and deputations.

In fact, the act of posting the agenda and reports to Council on the website is over and above any legislative requirement. Normally, interested individuals would have to request a physical copy of any council agenda/package from the municipal office. HCM council and staff have been leading the way with making as many of their documents, agenda, policies, by-laws etc. available on the municipal website as soon as possible. Closed meetings are used only when necessary to protect the privacy of individuals. As much municipal business as possible is conducted in the open, is

audio recorded and those recordings posted on-line to promote openness and transparency. When significant decisions are to be made which affect a large number of people, council regularly holds public meetings.

As expressed to Council previously, the agenda, meeting reports and accompanying information related to meetings are provided for Council's consideration, debate and decision. These documents are also broadcast so that the public knows what council is discussing and allows them to make their general concerns known promoting municipal accountability and transparency; not so that they can take part in the debate or make a deputation.

Mr. Gibson is correct in his written comments to Council and his deputation of March 20, 2018; if a citizen has concerns after the council package has been prepared, he will have to contact each Council member to express those concerns whether that be via email, in person or by phone. That's how it is meant to work. If a resident wishes to have more input in Council decision making, they are to take a more forward looking approach and lobby on their particular concerns (as opposed to being re-active) and/or run for a seat at the table be it municipal, provincial or federal.

It is staff recommendation that the Procedure By-law not be amended to allow a private individual to request a deputation after the agenda has been created and posted aside from the existing process allowed in section 12.3 of the Municipal Procedure By-law.

## Resolution #2

Since the Council meeting dates have been changed from Friday's to Tuesday's, the Procedure By-law does require some amendment. The remaining clauses are self-explanatory; some adding to the Procedure By-law decisions already implemented by resolution.

Upon reviewing the by-laws of other Ontario municipalities the above amendments are suggested to strengthen HCM's Procedure By-Law 2015-07.

## Options/Discussion:

### Others Consulted:

The Municipal Act, various municipal procedure by-laws

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

*Melinda Reith*

## Supporting Documentation

The Ministry of Municipal Affairs' Municipal Councillor Guide states at page 5 and 6...

***“ROLE OF THE COUNCILLOR*** *As a councillor, you have three main roles to play in your municipality: a representative, a policy-making and a stewardship role. These roles may often overlap. You will be called on to consider and make decisions on issues that will sometimes be complex and controversial. Many of those decisions will have long-term consequences for your municipality that extend beyond your four year term of office, and should be made in the context of your municipality's directions for the long-term health and welfare of your community.*

### **Representative Role**

*Looking back to section 224 of the Act, you will see that the representative role of council is clearly indicated in legislation. At first glance, the representative role appears to be fairly simple and straightforward. But what does it involve? On the one hand, you were elected by your constituents to represent their views when dealing with issues that come before council. However, your constituents have many views and opinions, and you cannot represent all of them all of the time. On the other hand, election to office requires you to have a broader understanding of the issues.*

*With many issues you will have to consider a variety of conflicting interests and make decisions that will not be popular with everyone. You may wish to use your judgment and base your decision on the best interests of the municipality as a whole. In practice, there is no single, correct approach to the representative role and on many issues you may find that you fall somewhere between the two opposing viewpoints. You will quickly develop a caseload of citizen inquiries that will need to be investigated and, if possible, resolved. You may attract these inquiries because of your background and interests or because of the issues in your particular ward if your municipality operates with a ward structure.*

*Understandably, you will want to try to help your constituents. However, be sure to familiarize yourself with any policies or protocols that your municipality may have for handling public complaints and inquiries. Although you may want to find some way of helping, remember to consult municipal staff.*

*There may also be circumstances where decisions are made by designated staff who operate at arm's length from the municipality, and where it could be inappropriate for elected officials to interfere or be seen to be interfering. Examples of this would include decisions made by the fire chief, the chief building official or the medical officer of health.*

*A councillor who has made promises that cannot be kept may lose credibility with the public and strain the working relationship with staff. If your municipality does not have a policy for handling public inquiries, complaints, and frequently asked questions, you may want to consider working with council and staff to develop such a policy."*

*From MAH Q& A section..." Council is elected and responsible for the decisions and actions it takes. Members must consider their legal duties, and at the same time remember they are accountable politically to the electorate including through the elections process."*