

TOWNSHIP OF ST. CLAIR

BY-LAW NUMBER 72 of 2007

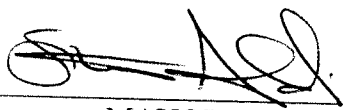
Being a by-law to adopt policies and accountability and transparency and delegation of Power and Duties.

WHEREAS the Municipal Act 2001, S.O. 2001,c. 25 required municipalities to adopt and maintain a policy defining the manner in which the Corporation of the Township of St. Clair will endeavour to ensure that it is (a)accountable and (b) transparent to the public in its business affairs and to develop a policy on the delegation of Councils power and duties;

NOW THEREFORE be it enacted that the Corporation of the Township of St. Clair:

1. Adopts a policy on accountability and transparency as detailed in Schedule "A" to this By-law
2. Adopts a policy on the delegation of the power and authority of Council as detailed in Schedule "B" to this By-law
3. This By-law shall be in force on the passing thereof

Read the required number of times and **FINALLY PASSED** this 17th day of December 2007.



MAYOR



CLERK

Township of St. Clair

Schedule "A" to By-Law Number 72 of 2007

ACCOUNTABILITY AND TRANSPARENCY POLICY

I. Purpose

The *Municipal Act, 2001*, S.O. 2001, c. 25 requires municipalities to adopt and maintain a policy defining the manner in which the Corporation of the Township of St. Clair will endeavour to ensure that it is (a) accountable and (b) transparent to the public in its business affairs.

The purpose of this policy, therefore, is to provide guidance for the delivery of the Corporation of the Township of St. Clair's activities and services in accordance with the principles outlined herein, the *Municipal Act, 2001*, S.O. 2001, c. 25 and any other applicable law.

II. Commitment Statement

The Corporation of the Township of St. Clair is committed to providing efficient, accessible government services to its residents and being accountable and transparent to those it serves in its affairs.

III. Definition(s): Accountability; Transparency

For the purposes of this Policy:

- i) **"Act"** means the *Municipal Act, 2001*, S.O. 2001, c.25 as am.
- ii) **"Accountability"** means the Corporation of the Township of St. Clair and its elected council's commitment, undertaking and duty to answer to those it serves for its decisions, actions, inactions and general state of affairs.
- iii) **"Corporation"** means The Corporation of the Township of St. Clair.
- iv) **"Council"** means the duly elected council of the Corporation of the Township of St. Clair.
- v) **"Transparency"** means the Corporation and its Council's commitment and undertaking to be open and transparent to those it serves in the execution of its offices, duties and activities and its commitment to public participation and input in its decisions and activities.

IV. Policy Overview

The Council of the Corporation acknowledges its duty to provide good municipal governance to those it serves. It further acknowledges that good governance is tied to and measured by its commitment to transparency and public accountability in its affairs.

Accordingly, the Council of the Corporation hereby affirms its commitment to accountability and transparency in its affairs. It intends to achieve these goals by the following:

1. encouraging and permitting – where appropriate – public access to and participation in its processes, debates and meetings to ensure that its decisions and actions are responsive to the needs of its residents and receptive to their opinions.

2. delivering high quality services to those it serves; and,
3. promoting and monitoring the efficient use and expenditure of public resources.

Accountability, transparency and openness are standards of good government that enhance public trust in municipalities and its elected officials. They are achieved through the Corporation adopting measures ensuring, to the best of its ability, that all activities and services are undertaken utilizing a process that is open and accessible to its stakeholders and compliant with the Act and any other relevant legislation.

Wherever possible, the municipality will engage those that it serves throughout its decision making process which will be open, visible and transparent to the public.

V. Policy

Principles of accountability and transparency apply equally to the political process, exercise of municipal authority and prerogatives and the Corporation's administration.

The Corporation shall meet its duties, responsibilities and prerogatives prescribed in the Act and all other applicable law in the exercise of its affairs, and appoint such officials to review its practices as required by the Act.

More specifically, but without limiting the generality of the foregoing, the Council and Corporation shall adhere to the following principles and practices with respect to the following subject matters:

1. Meetings

- a) **Meetings open to public** – Except as provided in this section, all meetings shall be open to the public.
- b) **Exceptions** – A meeting or part of a meeting may be closed to the public if the subject matter being considered is,
 - i) the security of the property of the municipality or local board;
 - ii) personal matter about an identifiable individual, including municipal or local board employees;
 - iii) a proposed or pending acquisition or disposition of land by the municipality or local board;
 - iv) labour relations or employee negotiations;
 - v) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
 - vi) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - vii) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.
- c) **Other criteria** – A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act if the council, board, commission or other body is the head of an institution for the purposes of that Act.
- c.1) **Educational or training sessions** – A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:
 - i) The meeting is held for the purpose of educating or training the members.

- ii) At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.
- d) Resolution** – Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution.
- i) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
 - ii) in the case of a meeting under subsection (c.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection.
- e) Open meeting** – Subject to subsection (f), a meeting shall not be closed to the public during the taking of a vote.
- f) Exception** – A meeting may be closed to the public during a vote if,
- i) subsection (b) or (c) permits or requires the meeting to be closed to the public; and
 - ii) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board.
- g) Record of meeting** – 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, whether it is closed to the public or not.
- h) Same** – The record required by subsection (g) shall be made by.
- i) the clerk, in the case of a meeting of council; or
 - ii) the appropriate officer, in the case of a meeting of a local board or committee.
- i) Record may be disclosed** – Clause 6 (1)(b) of the Municipal Freedom of Information and Protection of Privacy Act does not apply to a record of a meeting closed under subsection (c.1).

2. Financial Matters

The Corporation will be open, accountable and transparent to those it serves in its financial dealings as required by the Act and all other applicable law.

This will be achieved through, for instance:

- i) internal and external audit of its activities and finances;
- ii) reporting of its finances and preparation of relevant financial statements;
- iii) long term financial planning;
- iv) managing its assets in a fiscally prudent manner;
- v) adopting and/or adhering to appropriate purchasing/procurement policies and/or by-laws adopted and/or amended from time to time;
- vi) adopting and/or adhering to appropriate policies with respect to the sale of the Corporation's land; and,
- vii) forecasting and adhering to established budgets.

3. Internal Governance

The Corporation's administrative practices and policies ensure specific accountability on the part of its employees through the following initiatives:

- i) appointment and retention of competent leadership, including without limitation a Chief Administrative Officer;
- ii) establishment of a fair and consistent performance management and evaluation process;
- iii) fair and transparent hiring practices and policies;
- iv) adoption of consultative policies and practices; and
- v) adherence to a continuous improvement philosophy in regards to accountability and transparency.

4. Public Participation and Information Sharing

The Corporation thrives to be open, transparent and accountable to those it serves through the implementation of processes outlining how, when and under what rules meetings will take place.

Council and its committees' meetings will be open to the public when and as required under the Act, and members of the public will have an opportunity to make delegations or comments in writing on specific items at these meetings in accordance with the Corporation's Procedure Manual (made available to the public upon request).

The Corporation welcomes the public's participation in its affairs. Its communication policies and strategies will ensure timely dissemination of notices, decisions and other matters concerning the Corporation and its affairs. Such information will be made publicly available through print material, the Corporation's web site (www.twp.stclair.on.ca) and the media.

Examples of available materials addressing the Council and Corporation's commitment to accountability and transparency include but are not limited to the Corporation's:

- i) procedure by-law;
- ii) delegation rules;
- iii) records retention
- iv) planning processes; and
- v) public notice and process by-law or policy.

Township of St. Clair

Schedule "B" to By-Law Number 72 of 2007

DELEGATION OF POWERS AND DUTIES POLICY

I. Purpose/Application

The affairs of the municipality of the Corporation of the Township of St. Clair are governed by its duly elected Council.

However, Council's administrative and/or legislative authority may from time to time, for various reasons, be delegated to a person and/or body in accordance with, and subject to the restrictions of, Ontario's *Municipal Act, 2001*, S.O. 2001, C.25 as amended.

This policy sets out the scope of those powers and duties that Council may delegate from time to time to another person and/or body, and establishes general guidelines governing such delegation.

II. Definition(s)

For the purpose of this Policy:

- i) **"Act"** means the *Municipal Act, 2001*, S.O. 2001, C.25.
- ii) **"Administrative powers"** means decisions and actions exercised in and for the administration and management of the Corporation and its affairs but does not include Legislative Powers.
- iii) **"Corporation"** means The Corporation of the Township of St. Clair. **"Council"** means the duly elected council of the Corporation of the Township of St. Clair.
- iv) **"Legislative powers"** means any and all decisions and actions of a legislative or quasi-judicial nature such as, inter alia, the enactment of by-laws and policies.

III. Policy

Council, as a duly elected municipal government, is at all times directly accountable to those it serves for its decisions, policies, which are generally adopted or taken by way of by-law or resolution.

For various reasons, such as for instance ensuring the efficient management of the Corporation and responding to issues in a timely fashion, Council will from time to time delegate certain of its powers and associated duties to committees, officers, employees and/or agents of the Council and/or the Corporation while concurrently maintaining accountability. In doing so, Council shall adhere to, at all times, the provisions of the Act with respect to the delegation of its authorities and any restrictions and/or prohibitions contained therein.

IV. Delegation Policy

It is Council and the Corporation's policy that:

- a) All delegations of Council powers, duties or functions, where permitted by law, shall be confirmed by written by-law and shall be subject to the terms and conditions of the delegating by-law.

- b) Unless a power, duty or function of Council has been expressly delegated by by-law, such power, duty, or function shall remain with Council.
- c) A delegation of power, duty or function under any by-law to any officer, employee or agent of the Corporation includes a delegation to a person who is appointed by the CAO of the Corporation to act in the capacity of the original delegate in the original delegate's absence.
- d) Subject to paragraph number c) above, a person to whom a power, duty or function has been delegated by by-law has no authority to further delegate to another person any power, duty or function that has been delegated, unless such sub-delegation is expressly permitted in the applicable by-law.
- e) Subject to the provisions of the Act, Legislative powers may be delegated by Council only where they are minor in nature (as defined under the Act) or where Council has explicitly provided the terms and conditions under which the delegated Legislative powers shall be exercised.

All by-laws of the Corporation delegating authority of the Council in effect as of the date of the adoption of this Policy remain in full force and effect.

In exercising any delegated power, the person or body to whom the power is delegated shall comply with the following:

- i) Apparent or actual conflicts of interests shall be declared as soon as possible upon the earliest of accepting, receiving and/or exercising any delegated authority.
- ii) Any expenditure related to the delegated matter shall have been provided for in the Corporation's current year's budget (or otherwise specifically authorized by the by-law).
- iii) The delegate shall not exceed the scope of the delegated authority and shall at all times act in the Corporation's best interest.
- iv) Where required by the specific delegated authority, reports shall be submitted to Council advising of the exercise of a delegated power and confirming compliance with the delegated authority and this Policy.
- v) Delegate(s) shall observe all of the Corporations and Council's policies guidelines exercising the delegation.
- vi) Without limiting the generality of paragraph v) above, all insurance and risk management policies shall be complied with in the exercise of the delegation.

No delegate shall enter into any undertaking or contract with any third party in execution of the delegate's authority without the express written approval of the Corporation's legal services.