

Request for Decision United Townships of Head, Clara & Maria Council

Type of Decision									
Meeting Date	Friday, February 21, 2014				Report Date	Tuesday, December-17-13			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	X	Information Only			Type of Meeting	X	Open		Closed

Clerk's - Report #21/02/14/801-D Council/Staff Administrative Review – Fred Dean

Subject: County Council Invitation – “An Effective Municipal Council” February 3, 2014

The good news is that HCM is basically on track administratively and in the area of governance utilizing approved methods, procedures and bylaws. We still have a few challenges to work out however; operations are mainly according to best practises and by the book.

The following are a list of notes made in the slide deck presented at the meeting attended on February 3, 2014. (I do have a paper copy of the slides if anyone wants a copy.)

Although created for a specific purpose and a specific municipality, the recommended reading of George Cuff's Report on the County of Huron Summary by Fred Dean is warranted. Cuff goes through the “what works” and then lists recommendations to correct “what doesn't”. The link is at the end of this document. Again, HCM has little to change. Administratively and procedurally, we have things arranged pretty well. Still an informative read.

1. This session was presented by Fred Dean to County Council and Staff and Council and Staff of the lower tiers as well. Reeve Stewart, Councillor Gibson and the Clerk attended.
2. Review of history of municipal governance – exist at the pleasure of the province, created by province, all rules and regulations are provided by the province.
3. In various areas of responsibility, the liability of individual members of Council is different than the collective responsibility of the corporation. One such area is Water issues. Be careful making decisions. Spoke to recorded votes for these issues. We already do this.
4. Importance of continued education for staff and members of Council. Rules keep changing. Terms are long.
5. Reviewed the reasoning behind the 1/3 tax free by-law. Must be passed in each term or will be lost forever. Was introduced to ensure that those Council members within approximately 6 major municipalities who are members of OMERS retain their maximum pension contribution. Instead of creating legislation requiring them to pass a by-law exempting their status, the province made all others pass the by-law to continue the practise. This is already on our agenda for early 2015.

6. Only Council can exercise the power of the municipality. The powers are given to the council as a whole, not to any individual. These powers are delegated to staff through by-laws, budgets and resolutions to perform the work.
7. Need to ensure that you do not set yourself up for an “ambush”. Do not add items to an agenda unless they are extremely time sensitive or routine in nature. You are required to give notice. By adding items at the last minute you are not. You need to ensure that any audience can hear what is happening during a meeting.
8. Quorum and the fact that decision may be made by only 2 people depending on the circumstance. Cautions to not make important decision in this position. Defer until full Council is in attendance if possible.
9. The head of Council has one vote just like everyone else.
10. New Business should not be added. If a council member is bringing something new, it should not be heard. Instead use a “notice of motion” whereby a motion prepared with the assistance of staff is read in its final form clearly stating what Council is being asked to decide. That issue then would be heard at the next meeting after staff has had an opportunity to prepare a report.
11. Decision Making Summary
 - a. Issues Identification – brought up by anyone;
 - b. Analysis and Recommendation – completed by staff;
 - c. Decision – Council;
 - d. Implementation and Measurement – Staff;
 - e. Evaluation – Council;
12. Council requires advice prior to making any decision. Evaluation is completed through the budget process.
13. Weak Head of Council system means that individual powers are limited; not expansive like in the states where they have their own administration and pretty much control much of municipal/city administration.
14. A strong mayor in Ontario understands the importance of leadership in council and in the community.
15. CAO system is where one member of management is given day to day responsibility of management. Council makes the decisions. CAO s/b appointed under the Municipal Act.
16. Role of Council is to make decisions and govern collectively. The municipality is often referred to and could mean the corporation, the geographic area or both. In reality, in Ontario most small municipalities do not have much say in the services they offer but do have some say in the level of services provided.
17. Council is not there to be administrators but instead to ensure that policies etc. are in place. This is attained through by-laws, policies and the completion of a good performance appraisal system for the CAO. Controllorship is not defined in the act. Council has an obligation to make sure that their decisions are being implemented.
18. Policies and By-laws as required under the MA should be reviewed at least once per term of Council.
19. Accountability is defined in our Accountability and Transparency by-law. Make sure you understand what it states. Transparency is the best political tool you have. It is a topic of

utmost importance in today's world. To achieve election, a good platform will include how you will ensure accountability and transparency within the organization.

20. Financial integrity is maintained through the passing of the budget and review of monthly budget reports.
21. Council is most similar to a board of directors in the private sector.
22. Committees provide advice to Council and make good recommendations to Council.
23. It is the role of the head of Council to... need to be able to chair a meeting. Provide leadership to Council, not to the organization, not to the community. E.g. If an issue arises where there is a potential for a conflict of interest from a fellow member; it should be up to the Head of Council to take that person aside, prior to the meeting to address the issue. Especially with new members of Council. They should be able to provide additional information on general issues at the table due to involvement in the community.
24. Head of Council should provide advice to council on issues of controllership. Controllership is basically a once a year duty occurring during the budget process. The Head should provide a written report to council with advice attained from consultation with staff, county staff, local solicitor and auditor/accountant. It should detail what council should be doing and ensuring that policies are being followed by staff.
25. A legislated role of the Head of Council is to represent the municipality at official functions. It is an important element of the job. Should be out there. Share what is learned with other members of Council. Put yourself into the community. Know what's going on in the community. This is a legislated duty.
26. As CEO Head shall uphold and promote the purposes of the municipality. Even if there is a vote that only the head voted against, there is an obligation and statutory duty to uphold the decision and promote the decisions of council to the public. "Although I disagree, I respect that Council made the decision." Takes true leadership even when you disagree.
27. Discussion about duties at lower level and upper tier. When at the county table, you are acting for the county. When at lower tier, you are legally obligated to act in the best interest of the lower tier. A lower tier council cannot pass a resolution to force its head to vote a certain way at the upper tier.
28. Head of Council should be out in the community. When a new company wants to come into the area, they often want to speak with the head of Council before anyone else. The head needs to understand what is happening in area of economic development etc. to ensure that they are in the best position to promote the community to interested parties. Later the opportunity for this individual to work with the appropriate staff to make the project a reality will arise.
29. Head shall participate in and foster activities...well-being of the municipality and its residents. This is not management. This is not undertaking the work of staff. It is in fact being a champion of the municipality. Head needs to be seen as promoting and bringing benefits of the community to the world.
30. Recall legislation. Impeachment of the US president. Ontario will soon be changing legislation to amend a fundamentally wrong process where there is no recourse in Ontario to remove members of council who are not fulfilling their duties.
31. Discussion of the Rob Ford saga, Toronto Council actions and how this affects other municipalities. The following specific questions were put to Mr. Dean.

- a. Can a council take away duties in the Municipal Act like they did to Ford?
 - i. Dean - Yes.
 - b. They can remove the powers granted under the Act?
 - i. Dean - Maybe not directly but certainly by reducing the head of Council's budget they can control their actions. They then have the powers; they just don't have any ability to do anything.
 - c. OK, but can a Council tell the head of Council they can't do something?
 - i. Dean - Yes.
 - d. Can a Council tell the head they can't speak to staff?
 - i. Dean – Yes they can.
 - e. If a council member refuses to do the job, there is currently no way to remove them from office. That is likely soon to change in Ontario.
32. Having a CAO or labelling the position simply the Clerk and having them do the senior administrative duties is the same thing. Doesn't make a difference what the actual title is. Make sure the clause is in the appointing by-law giving duties of CAO. Otherwise, no one has the authority to do those duties. Make sure an effective performance appraisal system is in place.
33. Municipal Staff – all staff reports s/b signed off by CAO. Should hold regular senior management meetings. Should have dialogue with the head at senior management meetings from time to time. Council members should not be at management meetings. Good idea to create a rolling list of major agenda items coming up in future to level out meetings/issues.
34. All department heads should be at Council meetings; including closed sessions unless they are specifically HR issues. (with the size of our municipality this is not as important)
35. Statutory Officers – Clerk, Treasurer, CBO, Police and Fire Chiefs, Council appoints by by-law. The province gives each a job description plus the one given by Council.
36. Minutes are records of the meeting, made without note or comment by anyone. Should not include conversations, statements made etc. (We already do this. Action items are included. Debate when the issue is controversial is often recorded as "Notes to the Meeting" and are outside of the minutes. This record occurs because memories are often short and we do need a record which has been vetted by others even if not included in the minutes.)
37. Members of Council – have limited powers. If they wish to challenge a staff report they should do it prior to the meeting by contacting the Clerk and/or the staff member responsible for the report. Bring the issue to staff members' attention. Any new information, amendments, corrections etc. should then be shared with all other members of Council.
38. Council member increased personal responsibilities. Council should not be involved in any negotiations, arbitrations etc. Staff is to perform these duties, make recommendations to Council. Council then makes the decisions. Eg. Sale of land, union negotiations etc.
39. Procedure By-law is important for everyone to understand it and know what is in it. Is pertinent that the Head of Council and the Clerk need to know it inside and out. (When

creating the last Newsletter I became aware of an inconsistency which is already on the agenda for the next meeting for consideration and amendment.)

40. If a clause exists which suggests that the Council can suspend the rules at any time; remove it. The legislation requires a Procedure By-law and Council to act according to it. If you suspend your by-law you are no longer meeting the requirements and any decision made could be challenged in a court of law and will likely be defeated.
41. Code of Conduct for Council members – check to see if there is a clause detailing special provisions for election years so that people do not misuse them simply to defeat an opponent.
42. There are only 2 penalties allowed by the Municipal Act. Suspension of pay for up to 90 days and a reprimand from Council.
43. Lame Duck Council does not really apply to HCM as provisions are already made to deal with issues it affects through delegation, emergency management and budget by-laws.
44. For small municipalities, there is little value in having committees. (We have already moved to Council meetings only, some time ago.)
45. 10 Critical Success Factors for Effective Councils
 - a. Respect and Decorum (don't make it personal)
 - b. Appropriate Facilities
 - c. No Ambushes!
 - d. Know Roles
 - e. Well-Constructed Agenda
 - f. Effective Chair – keep it focused, keep on track.
 - g. Competent Staff, Comprehensive Reports
 - h. Commitment to Transparency and Accountability
 - i. Know and follow the Procedure By-Law – be consistent with how you treat anybody in the meeting process.
 - j. Be There and Be Prepared – if something is not clean, phone a staff member and get it clarified.
46. Fred recommended a report from George Cuff to County of Huron for review. It can be located here. <http://www.huroncounty.ca/administration/downloads/ReportOnGovernance-2012.pdf> Just google George Cuff Report to Huron County and it will come up.
47. Finally Fred spoke about letter being written, posts on Facebook etc. from members of the public and whether or not they should be addressed. He suggested that if the statements are factually incorrect or include defamatory content, then action should be taken.
48. The Goal of any member of Council is **TO IMPROVE YOUR COMMUNITY**. That's the only reason to be on Council. Try to discourage one issue candidates.

Approved and Recommended by the Clerk

Melinda Reith,
Municipal Clerk