

Request for Decision

Notice Policy

Presented To: Finance and
Administration
Committee

Presented: Tuesday, Sep 18, 2012

Report Date Wednesday, Jul 25, 2012

Type: Managers' Reports

Recommendation

THAT the report from the Executive Director, Administrative Services dated July 25, 2012 be accepted and that staff be directed to prepare a new Notice By-Law based on the principles described in that report.

Executive Summary

This report describes the requirements for public notice and makes recommendations on principles and classes of notice to be included in a new Notice By-Law.

Background

Statutory Framework:

The Municipal Act requires each municipality to adopt and maintain policies on a number of matters including:

s. 270 (4) The circumstances in which the municipality shall provide notice to the public and if notice is provided, the form manner and times notice shall be given

s. 270(5) The manner in which the municipality will try to ensure that it is accountable to the public for its actions and the manner in which the municipality will try to ensure that its actions are transparent to the public.

In addition, contained within the Municipal Act are more than fifty specific references to notice provisions associated with particular elements for municipal business or activities for which notice is required to be delivered in a specific format, as for example:

- Change in the Boundaries of a Business Improvement Area requires that notice be sent by prepaid mail to the board of management of the BIA and to every person who is assessed for rateable business class property within the proposed boundaries before the by-law is passed.
- Notice of Council or local board meetings shall be established within the Procedure By-Law.

Signed By

Report Prepared By

Caroline Hallsworth
Executive Director, Administrative
Services/City Clerk
Digitally Signed Jul 25, 12

Recommended by the Department

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Executive Director, Administrative
Services/City Clerk
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Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
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- The Treasurer must publish copies of the Audited Financial statements of the Municipality for the previous year within 60 days of their receipt and give notice in the newspaper that the statements are available upon request.

An excellent summary of all of the Municipal Act notice provisions can be found in Ontario Municipal Law: A User's Manual, as Checklist 17 "Notices Under the Act".

Notice provisions are also contained in a number of related pieces of legislation, as for example:

- Planning Act
- Cemeteries Act (Revised)
- Retail Business Holidays Act
- Environmental Assessment Act – using the Municipal Class Environmental Assessment process

Current Notice By-Law:

By-Law 2003-2 as amended establishes public notice procedures for the City of Greater Sudbury. The By-Law was modeled on previous by-laws and neither reflects changes in how the public access information, including the use of technology, the internet and social media nor does it continue to meet its intended purpose of describing reasonable notice so as to ensure an accountable and transparent municipal government.

The current by-law refers to the manner of notice being, in all circumstances "*daily newspaper and on the City's web page*". This provision does not reflect the fact that readership of print newspapers is declining, nor that two of the three regularly printed local newspapers are not daily newspapers, nor does it reflect that depending on the circumstances, a newspaper may not be the preferred form of notice, as for example on a topic that affects only a small group of residents in a particular geographic area where it would be more strategic and cost effective to use direct mail.

Best Practices:

Staff reviewed practices in a number of different municipalities, researched trends with respect to municipal notice requirements and reviewed the results of a survey on how Greater Sudbury residents like to receive information about the municipality.

A recent survey of City of Greater Sudbury citizens with regards to how they wish to receive information from the City found considerable variation when it comes to communications needs. While newspapers, radio and television are used by some residents to obtain information, there is a significant proportion of the population who rely on digital methods of communications, such as the municipal website. The survey points to a need to use varied and targeted means to communicate about municipal affairs.

The Region of Waterloo is one of the municipalities whose Notice Policy has moved away from specific descriptions of various types of notices, with prescribed manner, content and frequencies set out for each specific item, to grouping notice by broad classes or groups of activities for which notice is given based on broad principles, the foundation for which is that notice will ensure that citizens are aware of the business of the municipality and that notice will be given in a timely, credible and accessible format and through a variety of manners or mediums as appropriate to the circumstances.

The Association of Municipal Clerk Treasurers of Ontario backed by the Ontario Professional Planners Institute has written to the provincial government and

"called on the government to improve accessibility and lower the cost of getting information to the public by modernizing the various provincially regulated notice requirements affecting municipalities . . . as societal and technological shifts have occurred in how the public receives information, these requirements for notices to be provided through newspaper advertising mean that these notices are increasingly unread by the people they are meant to inform. The current approach does not serve the public interest well and more effective and more economical means are available to address accessibility of this information."

Having reviewed this information, staff has developed a set of principles and classes of matters for which notice applies, that are the basis of the proposed new notice policy.

Notice Policy - Proposed Principles:

It is recommended that the new Notice Policy incorporate a series of principles, all of which support the democratic rights of citizens to be advised of where, when and what business of the municipality is being discussed and which describe the form, manner and time of public notice. The principles are as follows:

- The notice should reflect democratic process which includes opportunities for public input into decision making, either informally by making representations to their elected officials, or formally by way of written submissions or attendance at a public input session.
- Notice will provide consistent, accessible, inclusive and easily understandable information the form of which shall include: a summary of the subject matter; date; time; location; how to obtain additional information (contact information); availability of accessible formats tagline; if appropriate, how to register to speak; and if applicable, required notice under MFIPPA regarding collection of personal information.
- Notice will be delivered through a variety of manners as appropriate to the audience and subject matter:
 - Notice to the general public, which includes the first four classes of matters, shall be delivered in a manner which may include: posting on the City of Greater Sudbury website; using social media; purchasing newspaper, radio, and/or television advertisements; and on site signage.
 - Personalized or directed notice shall be delivered in a manner which may include: addressed mail; unaddressed mail; hand delivered mail or flyers; and email.
- In determining the appropriate form, manner and timing of notice, consideration will be given to what would be reasonable in the circumstances.

Proposed – Classes of Matters:

The proposed new Notice Policy will be structured using the class of matters model as described below. The first four classes relate to different types of general public notice, the fifth class relates to personal notice and the final class relates to urgent and emergency matters.

In some instances, as for example when development of a major plan involves public input by way of meetings, more than one class of notice may be applicable.

Class One – Matters with Legislated Notice Requirements

The City of Greater Sudbury will abide by all Statutory Notice provisions, including but not limited to those contained in Provincial and Federal Laws and Regulations and City of Greater Sudbury By-Laws. This includes meeting the format, means and time periods set out in that legislation.

Class Two – Matters related to Council, Committees of Council, Local Boards and Advisory Panels:

The annual calendar of Council and Committee meetings is approved by Council by way of a Council report and subsequently posted on the City of Greater Sudbury website and updated as required. Each issue of any CGS newsletter which is distributed to all household will include notice that the updated calendar of meetings and public notices are available on the CGS website and in hardcopy upon request. Public Service Announcements are issued when changes are made to this calendar,

Notice of specific Council and Committee meeting content shall be given by way of the distribution of the agenda as described in the “Notice of Meetings” section of the Rules of Procedure By-Law that is currently

in force. Notice requirements do not apply to revisions or addendums issued after the main agenda has been distributed. Notice of final passage of all by-laws is given by way of distribution of the Council Agenda.

As the agenda is being used as notice of the passage of by-laws, a description will be added to the Council Agenda, under the item for By-Laws, advising the public that the original by-laws on the agenda may be viewed on the day of the Council meeting and at the meeting, upon request to the Clerk and are available after the meeting from clerks@greatersudbury.ca.

The City of Greater Sudbury Procedure By-Law applies to all Local Boards where the Local Board has not adopted its own Rules of Procedure. Local Boards with their own Rules of Procedure are responsible for establishing their own notice procedures related to those meetings.

Advisory Panels shall provide notice of meetings by way of posting of meeting dates on the City of Greater Sudbury website.

· ***Class Three – Routine Matters and Meetings affecting the General Public***

This class includes routine matters such as planned service disruptions, construction updates and changes to meeting schedules as well as invitations to the public to attend any variety of events, including but not limited to: public information sessions at which major projects are described, public information centres regarding projects of neighbourhood significance; public input sessions at which citizens may address Council, Committees or staff, openings of programs and facilities etc. Citizens will be provided at least three days notice for public events, meetings and routine matters.

· ***Class Four – Substantive Matters affecting the General Public***

Substantive matters are those which have a significant and broad impact on the community as for example input on regulatory by-laws which affect the general population, input regarding development of the municipal budget, development or review of major plans; proposed changes to municipal governance structure and significant changes to service delivery. Corporate Communications will work with the responsible department to develop a formal communication plan that will include education, awareness, strategies for citizen engagement and appropriate notice using the broadest variety of manners. Citizens will be provided at least fourteen days notice for substantive matters, so as to afford time to prepare formal or informal responses on the policy or topic being considered.

· ***Class Five – Matters affecting Identifiable Individuals, Groups or Geographic Areas***

Personalized or directed notice is used for routine matters which directly affect either identifiable individuals, groups, geographically contained areas or communities of interest, as for example a planned closure or renaming of a neighbourhood roadway, sale of minor parcels of land, consultations about or information regarding a specific project with minimal broad community impacts. Personal notice will be distributed to provide the affected citizens with at least three days notice of the matter.

· ***Class Six – Urgent and Emergency Matters***

The Notice provisions above may be waived in the case of urgent or emergency matters and for unplanned service interruptions at which times notices will be given in a form, manner and timing that would be reasonable in the circumstances.

Other considerations:

Other considerations are that the new Notice Policy will:

- Ensure that notice will comply with the City's French Language Services Policy
- Clarify that no additional notice is required where matters have been deferred or referred by Council, its Committees, Boards and Panels except where the Municipal Act provides otherwise
- Allow for Council to direct other forms of notice
- Provide that the notice by-law will not interfere with the ability of Council to conduct business as

permitted in Closed Session under the Municipal Act

- Provide that failure to give notice does not render decisions or actions void
- Broaden the definition of newspaper to that used by any other municipalities, which definition is drawn from the Legislation Act, as follows:

“newspaper”, in a provision requiring publication, means a document that,

(a) is printed in sheet form, published at regular intervals of a week or less and circulated to the general public, and

(b) consists primarily of news of current events of general interest

- Maintain current practices of departmental responsibility for providing notice and for working with Communications, Clerks and other departments related to that notice.