

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING DECEMBER 5, 2017</b>
<b>FROM:</b>	<b>CATHY SAUNDERS, CITY CLERK AND JENNIFER A. SMOUT, SOLICITOR II</b>
<b>SUBJECT:</b>	<b><i>AMENDMENTS TO THE COUNCIL PROCEDURE BY-LAW A-50, AS AMENDED, RESULTING FROM THE MODERNIZING ONTARIO'S MUNICIPAL LEGISLATION ACT, 2017</i></b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the City Clerk and the Solicitor II, the following actions be taken with respect to proposed amendments to the Council Procedure By-law A-50, as amended:

- a) the staff report dated December 5, 2017 entitled "Amendments to the Council Procedure By-law A-50, as amended, Resulting from the *Modernizing Ontario's Municipal Legislation Act, 2017*" BE RECEIVED; and,
- b) the attached proposed by-law (Appendix "A") BE INTRODUCED at the Municipal Council meeting to be held on December 12, 2017 to amend the Council Procedure By-law A-50, as amended, to replace the definition of the term "meeting" and to provide for four additional reasons a meeting may be closed to the public, all of which are in keeping with recent amendments to the Municipal Act, 2001.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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Item #3 – October 6, 2015 – Corporate Services Committee  
Item #4 - July 18, 2017 – Corporate Services Committee

<b>BACKGROUND</b>
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The purpose of this report is to bring forward the necessary amendments to the Council Procedure By-law that must be in place on January 1, 2018 to ensure compliance with the amendments to the *Municipal Act, 2001* made under Bill 68 "*An Act to amend various Acts in relation to municipalities*", which received Royal Assent on May 30, 2017.

A complete copy of Bill 68 can be found at the following link:  
[http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=4374](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=4374)

The following summarizes the amendments under Bill 68 that will come into effect January 1, 2018:

1. Four new discretionary reasons that may be used to close all or part of a meeting to the public;
2. A requirement for a municipality to pass a resolution stating how it intends to address a report from the Meetings Investigator, if the report finds that a meeting or part of a meeting has been closed to the public contrary to open meeting rules;
3. An amended definition of "meeting" within the *Municipal Act, 2001*; and
4. An amendment that provides municipalities with the discretion to allow a Member of Council, or certain local boards, or of a Committee of either of them, to participate electronically in a meeting that is open to the public and has a quorum of members physically present.

## Amendments to the Council Procedure By-law

To ensure compliance with the amendments to the *Municipal Act, 2001*, (the Act) noted in items 1 and 3, above, the Civic Administration is recommending that the Council Procedure By-law A-50, as amended, be amended to include the following:

1. Four new reasons that may be used for a meeting to be closed to the public under Subsection 239(2) of the Act:
  - i) Information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
  - ii) A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - iii) A trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
  - iv) A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.
2. A new definition of "meeting":

"meeting" means any regular, special or other meeting of a council, of a local board or of a committee of either of them, where,

  - (a) a quorum of members is present, and
  - (b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee."

It is noted that these amendments are consistent with the wording in the *Municipal Act, 2001*, as amended by Bill 68.

With respect to item 2, the Council Policy entitled "*Process for the Public Release of Information Pertaining to Investigations Undertaken by the Ontario Ombudsman*" has already established a process for the public release of reports of the Ontario Ombudsman resulting from a complaint with respect to a closed meeting. This Policy states as follows:

### *"Receipt of Final Report*

1. *Upon receipt of the Final Report of the Ontario Ombudsman regarding an investigation, the City Clerk, or their designate, shall circulate the Final Report to Members of Council by email, with a copy to the City Manager.*
2. *After Members of Council have been provided a copy of the Final Report, the City Clerk, or their designate, shall provide a copy of the Final Report to the public by posting the Final Report on the City of London's website.*
3. *The City Clerk, or their designate, will make the necessary arrangements to place the Final Report on the next available appropriate Standing Committee Agenda for formal consideration and receipt by the Municipal Council."*

The Civic Administration is of the opinion that because this Policy was adopted by by-law, the requirement set out in item 2, above, has been met.

The Civic Administration is seeking direction from the Municipal Council as to how they wish to proceed with item 4 above relating to the discretionary ability for Municipal Council to permit Council Members the opportunity to participate in a meeting that is open to the public, by electronic means, noting that Members of Council are not permitted to participate in a vote electronically. The Civic Administration will report back on this matter based on Municipal Council's direction.

**Conclusion**

In order to ensure compliance with the new provisions of the *Municipal Act, 2001*, as amended by Bill 68, that come into force and effect on January 1, 2018, it is recommended that the proposed by-law, attached as Appendix "A" to this report be introduced at the December 12, 2017 meeting of Municipal Council to amend the Council Procedure By-law to provide for four additional discretionary clauses that may be used for a meeting to be closed to the public under Subsection 239(2) of the Act and to replace the definition of the term "meeting".

<b>PREPARED AND RECOMMENDED BY:</b>	<b>PREPARED AND RECOMMENDED BY:</b>
<b>CATHY SAUNDERS CITY CLERK</b>	<b>JENNIFER SMOUT SOLICITOR II</b>

APPENDIX "A"

Bill No.  
2017

By-law No.

A by-law to amend By-law A-50, as amended, being a by-law to provide for the Rules of Order and Procedure for the Council of The Corporation of the City of London to replace the definition of the term "meeting" and to provide for four additional discretionary clauses that may be used for a meeting to be closed to the public.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the Municipal Council enacted the Council Procedure By-law (By-law No. A-50) on May 31, 2016 to provide for the rules of order and procedure for the Council of The Corporation of the City of London;

AND WHEREAS the Municipal Council wishes to amend the Council Procedure By-law (By-law No. A-50), as amended, to replace the definition of the term "meeting" and to provide for four additional discretionary clauses that may be used for a meeting to be closed to the public;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Section 1.0 Definitions – Meeting – defined" is hereby amended by deleting the definition in its entirety and by replacing it with the following new definition:

Meeting – defined

"meeting" means any regular, special or other meeting of the Council or standing committee, where:

- (a) a quorum of members is present; and
- (b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Council or standing committee.

2. Section 5.2 – "Meetings – when closed" is hereby amended by adding the following new subsections:

- (h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
- (i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;

- (j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- (k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on or by or on behalf of the municipality or local board.

3. This by-law comes into force and effect on January 1, 2018.

PASSED in Open Council on December 12, 2017.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First Reading – December 12, 2017  
Second Reading – December 12, 2017  
Third Reading – December 12, 2017