

Municipality of Chatham-Kent

Corporate Services

Municipal Governance

To: Mayor and Members of Council
From: Meredith Cadotte, Council Coordinator
Date: September 7, 2022
Subject: Committees of Council Review - 2022

Recommendations

It is recommended that:

1. By-law to merge the Chatham-Kent Museum Advisory Committee and Ridge House Museum Advisory Committee (Appendix D) be approved.
2. Chatham-Kent Drainage Board Terms of Reference (Appendix E) be approved.
3. Election Compliance Audit Committee Terms of Reference (Appendix F) be approved

Background

In the final year of a term of Council, administration conducts a review of the current Committees of Council and Local Boards. The administrative support for each committee is asked if there are any updates or changes required to the committee and/or their Terms of Reference. Conducting this review allows for the committees to be as up to date as possible when recruitment of new members takes place for the next term of Council.

The Municipality of Chatham-Kent has three types of committees, Committees of Council, Local Boards and Corporations.

Committees of Council

A committee of council is a division or sub-unit of the municipal Council and acts on Council's behalf. A committee of council may be made up of members of Council, members of the public or any combination thereof.

Legally, a committee of council is a sub-unit of the municipal Council and therefore is considered within and part of the Corporation of the Municipality of Chatham-Kent for all

purposes. This differentiates committees of council from local boards and corporations, which are legally separate from the Corporation of the Municipality of Chatham-Kent. Given that committees of council are part of the Corporation of the Municipality of Chatham-Kent, committees do not need their own insurance, cannot be sued, cannot have their own employees and cannot enter into binding legal agreements. That said, the Corporation of the Municipality can be sued for actions taken by the committee.

Committees of council have different purposes and operate under different by-laws or provincial legislation, which determines their operation and purpose. Subject to the restrictions in their governing by-laws or provincial legislation, a committee of council works under the authority of the municipal council and is subject to municipal Council's direction and decisions.

Committees of council can be categorized into two types, either advisory or authoritative.

An advisory committee of council provides advice or recommendations to Council but leaves decisions or actions required to be determined by Council. Examples of advisory committees of council include the Municipal Heritage Committee and the Accessibility Advisory Committee.

In contrast, an authoritative committee has delegated authority from Council to make decisions or take action. Examples of authoritative committees include the By-law Appeal Committee and the Committee of Adjustment.

A list of the municipality's Advisory Committees of Council can be found in Appendix A.

A list of the municipality's Authoritative Committees of Council can be found in Appendix B.

Local Boards

A local board is different from a committee of council in that it is independent from the Corporation of the Municipality of Chatham-Kent and is more similar to an independent corporation. Depending on the governing by-law or provincial legislation, the municipal Council may have some authority over the local board but the local board will always have some measure of independence that cannot be interfered with by the municipal Council. The governing by-law or legislation must be consulted to determine the relationship between the local board and municipal Council.

Usually municipal Council's greatest means of exercising some measure of influence over the local board is to appoint all or some of the members of the local board. If municipal Council is dissatisfied with the actions taken by the local board, municipal council's recourse is to appoint different persons to the board.

Legally a local board is a separate legal entity apart from the Corporation of the Municipality of Chatham-Kent. Therefore, local boards do need their own insurance, can be sued in their own name, can have their own employees and can enter into

binding legal agreements. That said, not all local boards have employees and administration may administer insurance and other legal matters for the local board on its behalf.

Examples of local boards include the Police Services Board, Library Board, Board of Health and Public Utilities Commission.

A list of the municipality's Local Boards can be found in Appendix C.

Corporations

A corporation is a separate legal entity from the Corporation of the Municipality of Chatham-Kent and normally created under the authority of the Municipal Council for a certain designated purpose.

If the Municipality of Chatham-Kent owns all the shares of the corporation, then the corporation is said to be wholly-owned. A wholly-owned corporation can be controlled by municipal council through the appointment of the board of directors and the passing of by-laws to direct the corporation.

If the Municipality of Chatham-Kent owns only some of the shares of the corporation, then municipal council can only control or influence the corporation through the appointment of the board of directors, usually on a percentage basis in accordance with its percentage of ownership of the shares of the corporation. Municipal council can therefore exercise some measure of control or influence over the corporation in accordance with its percentage ownership of the corporation. Municipal council cannot pass by-laws directing the corporation as it can with a wholly-owned corporation.

As with a local board, a corporation is a separate legal entity apart from the Corporation of the Municipality of Chatham-Kent and therefore needs its own insurance, can be sued, can have its own employees and can enter into binding legal agreements.

A list of the municipality's Corporations can be found in Appendix C.

Comments

The following committees have recommended changes to their terms of reference.

Chatham-Kent Museum Advisory Committee and Ridge House Museum Advisory Committee

The Chatham-Kent Museum and Ridge House Museum advisory committees are currently two separate committees. Both committees are responsible to ensure that the collection entrusted to the Museum's care is adequately housed, conserved and documented.

In order to achieve synergies and make more effective use of committee member and staff time, administration is recommending that these two committees merge and form a

single Chatham-Kent Municipal Museums Advisory Committee that will continue to support both museums. The proposed merge was discussed with both committees at their meetings held in May 2022. No concerns were expressed by either committee.

The new committee will be comprised of a minimum of three and a maximum of seven members and shall meet a minimum of three times per year. The revised By-law is attached as Appendix D.

Drainage Board / Court of Revision

The Municipality of Chatham-Kent was granted authority through Private Members Bill Pr19, that received Royal Assent shortly after amalgamation in 1998, to establish a Drainage Board and delegate to that board any of its powers and duties under the *Drainage Act*, except for its power to make by-laws and resolutions. Bill Pr19 defines that membership on the board is restricted to individuals eligible to be elected to Council or who are current members of Council.

The current Terms of Reference state that the composition of the committee shall be a Chair and Vice Chair appointed at large and then one member from wards 1, 2, 3 and 4.

Administration is recommending that the Terms of Reference be amended so that all members are appointed at large. While every effort will be made to recruit members from across the rural areas of the municipality, removing the ward specific requirement will assist in having the most qualified candidates recommended for appointment on the board.

Members of the Drainage Board are paid a per diem. In order to attract qualified candidates, the revised Terms of Reference include and increase to the per diem rate to a \$250 per diem for meetings of four hours duration or less and a \$350 per diem for meetings longer than four hours.

Election Compliance Audit Committee

Section 81.1(1) of the Municipal Elections Act mandates the establishment of a compliance audit committee before October 1st of an election year. The Compliance Audit Committee is responsible for considering any application for a compliance audit and deciding whether it should be granted or rejected.

The current Terms of Reference state that the committee shall be composed of three members. Administration is recommending that the composition of the committee be changed to a minimum of 3 members and a maximum of 7 members. The Terms of Reference have also been amended to reflect the changes under Bill 181 and better define the role of the committee and staff.

Areas of Strategic Focus and Critical Success Factors

The recommendations in this report support the following areas of strategic focus:

- ☐ Economic Prosperity:
Chatham-Kent is an innovative and thriving community with a diversified economy
- ☐ A Healthy and Safe Community:
Chatham-Kent is a healthy and safe community with sustainable population growth
- ☐ People and Culture:
Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community
- ☐ Environmental Sustainability:
Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendations in this report support the following critical success factors:

- ☐ Financial Sustainability:
The Corporation of the Municipality of Chatham-Kent is financially sustainable
- ☒ Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership
- ☐ Has the potential to support all areas of strategic focus & critical success factors
- ☐ Neutral issues (does not support negatively or positively)

Consultation

The administrative support for the municipality's Committee of Council and Local Boards were consulted for any changes to their Terms of Reference.

Financial Implications

There are no financial implications to the recommendations of this report.

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Attachment(s):

Appendix A – Advisory Committees of Council

Appendix B – Authoritative Committees of Council

Appendix c – Local Boards and Corporations

Appendix D – Chatham-Kent Municipal Museums Advisory Committee By-law

Appendix E – Drainage Board Terms of Reference

Appendix F – Election Compliance Audit Committee Terms of Reference