

Type of Decision									
Meeting Date	Friday, May 4, 2012				Report Date	Monday, April 30, 2012			
Decision Required		Yes	X	No	Priority	X	High		Low
Direction Only		Information Only		x	Type of Meeting	X	Open		Closed

REPORT TITLE									
Clerk's Report – For Information Only 04/05/12/801 - A									

1. On April 26 I attended a the AMCTO Zone 6 Spring meeting in Brockville and have the following to report:
 - a. MMAH presentation - has a Strategic Planning workshop that they will give to our municipality to assist Council in setting goals for the longer term. It has been well received in the past by many municipalities and is recommended.
 - b. AMCTO – review of new strategic plan and how they plan to meet their goals.
 - c. Zone business – elections and discussion of financial status. Contributions to annual conference costs.
 - d. Social Media John Elvidge, City of Toronto – larger centres no longer rely on news or press releases but instead focus on immediate feedback; media are in attendance at meetings with computers – Clerk's desk has people immediately updating resolutions as they are passed;
 - i. Ensure that we have a disclaimer in our agenda stating that any participation in meetings could be photographed or videotaped and becomes public record;
 - ii. Staff are responsible to modify resolutions to correct for tense/spelling etc. so long as the legislative intent is not changed but they are cleaned up.
 - iii. Confidential documents should be numbered and labeled so that its source is identifiable if found or reproduced.
 - iv. Should the municipality create a Facebook page and/or twitter account?
 - e. Rusty Russell – Open Season on a Municipal Lawyer
 - i. Guilliani case and Minimum Maintenance Standards –this case made the point that a municipality only benefits from the 2nd part of s. 44 **IF** they've met the test of reasonableness in the 1st part. MMS still holds true, is still valid so long as you are making sure you are monitoring your roads and the weather properly. In this case, the storm was called for, was the last day of the "winter", the road super did not monitor the weather forecast and did not notice the storm until he woke up in the morning.
 - ii. With private roads, a municipality can not be saddled with future responsibility unless you pass a by-law. The only other way is if the landowner brings a lawsuit and can satisfy the court that the road is the municipality's responsibility.
 - iii. If you looked after a "public" road in the past, it's yours. S. 35 does allow you to restrain or restrict the use of the road by by-law. A review of abandoned roads within the municipality is required. By-law then needs to be passed to restrict future use.
 - iv. Tenders and RfPs – you are locked with the lowest bid unless you have advertised that there are other considerations and conditions which are listed in the tender and/or ad.

- v. The phrase “lowest or any bid not necessarily accepted” make sure it is in our Procurement By-law. Set out what types of things would change the award, what extra conditions must be met.
 - vi. If a road is listed as “unassumed” we are not responsible for maintenance;
 - vii. Municipal Conflict of Interest –
 - 1. if you remain at the table or even in the room and there is a law suit – you will be found guilty hands down.
 - 2. If you think someone has a conflict, instead of saying “I think x has a conflict” ask a question. “Councillor Y have you considered that you may have a conflict with this issue?”
 - 3. Conflicts exist even if the issue at hand affects your business, your employers’ business or a club you may be a member in.
2. On Friday, April 27, I attended an AMCTO session on Municipal Freedom of Information and Protection of Privacy Act.
- a. Ministry of Government Services website has an updated handbook on line available to the public - http://www.mgs.gov.on.ca/en/infoaccessandprivacy/Practitioners/STDU_101437.html?openNav=foi_and_privacy_manual under the “Practitioners” section;
 - b. Responsible for records under custody or control;
 - c. Municipalities have a privacy obligation to protect personal information whether it is a record or just knowledge – not recorded anywhere but simply told to you;
 - d. If you don’t give notice that you are collecting information for a purpose, or did not collect it in a proper manner it has been collected incorrectly.
 - e. The 30 days to process a request includes holidays and weekends.
 - f. Vital stats records are not ours, but those of the province and should not be accessible through us. Requestors should contact the province.
 - g. All formal requests for information must be given to the “head”. (Which is the Clerk in HCM as per the job description and appointing by-law.)
 - h. *Check that both Council and Library Board have a “head” appointed by by-law.
 - i. Council has no right to personal information held by the municipality or concerning FOI requests.
 - j. Staff have no right to personal information held by the municipality unless they require it to do their job.
 - k. The building permit process is not bound by confidentiality as the permits are public records and are available for review. Reports to council concerning monthly or annual permits are confidential. We are following the process correctly.
 - l. Requests for building plans can be provided so long as you stamp “not for commercial use” and “copyright laws apply” on them prior to releasing them. For security reasons, best practise is to require the requestor to come back with written permission from the property owner to release a copy of their plans.
 - m. When completing searches for records – ensure that other departments are not aware of who is requesting the info unless it is required to locate the documents.
 - n. Important to record: time the search took, where search was located, who was involved in the search and how extensive the search was.
 - o. In tenders – business information is to be protected. The company names and bids may go to council (made public) but the specifics (total bid submissions and details) are private. If that information (of the successful bidder) then goes into a contract, the information is no longer protected. It has not been supplied but is now part of or

the result of negotiations. Information about losing bids is not to be revealed or released to the public.

- p. The total amount of annual taxes on any property is not confidential. It is about the property, not the person. What is owed or any arrears is personal information and is protected.
- q. If information is discussed and debated at an open meeting; the IPC then considers that the information should be public. You would have to prove why it is to be protected.
- r. Third party information is to be protected if disclosure would cause harm, the information was supplied and in confidence.
- s. Solicitor/client correspondence should likely be kept confidential. Again, after the fact, the situation is resolved there is no longer a reason to keep all information confidential. The IPC is a strong proponent of open and accessible governments.
- t. Petitions or planning act submissions – the act of signing reports or petitions is your consent that others will see the information. If you stand up at a public meeting, you're giving your consent to publicize comments made.
- u. The chair should read out notice of collection of information – we will summarize your comments and your personal information - name, address will be available to the public. * Make sure that we update our website.
- v. One exemption is information which will be published within 90 days. If it is a report which Council has not yet seen, wait until Council has reviewed it. If it will then be published within 90 days, you do not need to use the FOI process to reveal it.
- w. Personnel file is not under FOI but instead other legislation; it is up to HR to determine not the "head".
- x. Employee emails on municipal equipment and sites and about municipal business are not private.
- y. Employee emails about unrelated or non-municipal business are not captured under the act. They are not to be revealed if requested.
- z. If your policy says it's OK to use municipal phone and/or email for minimal personal use, (ours does) then all phone numbers called or received and/or emails sent or received which are personal are not to be divulged under a FOI request. They are private and personal.
- aa. FOI request does not create an obligation to answer an extensive list of questions. It does provide an obligation to provide records that may answer the questions but you do not need to create a record if it does not exist.
- bb. Under FOI the head of Council is an officer of the corporation but Council members are not. Mayor's emails are included under the legislation and need to be released—those records may be held under the act. If they are constituency related, they are excluded. If they are business related, they are included under the act.
- cc. Constituents writing to Council, unless they also cc a number of people, they are not under the Act, they are private. If the mayor was included, the emails must be handed over under the act.
- dd. If a council member forwards the constituent email to staff or the mayor, then it is public record and is under the act.