

Type of Decision									
Meeting Date	Friday, July 20, 2012				Report Date	Monday, July 18, 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 AMCTO Conference 2012 - For Information Only 20/07/12/802

1. Day 1 – pre-conference course – Elections – (The clerk will prepare a detailed report on suggestions for increased voter turnout and streamlined voting for Council consideration prior to 2014.)

- i. Many municipalities have had successful experiences with both **internet and vote by phone** programs totally eliminating the paper ballot.
- ii. Companies have been providing this service for the past three elections and have worked out challenges with security and simplification of processes.
- iii. Various larger municipalities – Markham, Peterborough have hired third party firms and completed extensive security checks and have proved that the systems are secure.
- iv. There is a two-step authentication process. Individuals are sent a letter, and then they contact us to create their own PIN. Both codes are required to use the internet or phone service.
- v. Benefits – snowbirds, travelers, students, seasonal residents, convenience to residents.
- vi. Most people are used to phone systems which describe for x press y; it's as simple as that. It has been found the baby boomers – 40s 50s and 60s are the highest users of internet voting.
- vii. Inteli-vote charges \$2 per eligible voter for use of their system.
- viii. Increases advance voting opportunities – spreads the dates across a week, 24 hours per day instead of simply two voting days.
- ix. Eliminates the requirement for proxy voting.
- x. Eliminates spoiled ballots.
- xi. Vote by Mail**
 1. Used in Bracebridge, large non-resident and snowbird populations similar to ours.
 2. Increased voter turnout.
 3. Vote by mail exceeded voter turnout for any year traditional ballots were used.
 4. Advertising and public information sessions are important so people know how to complete the packages.
 5. Total cost was \$4 per eligible voter.
 6. Require secure fire proof cabinet to store ballots in until end of voting day.

2. Day 2 – Opening ceremonies

- a. Speaker Joe Roberts, From Skid Row to CEO – inspirational speech concluding with his commitment to walk across Canada in 2013-2014 pushing a shopping cart to collect money for disadvantaged youth – “A Push For Change”.
 - i. His main message – “There’s more in you than you can see.” You just need to push and develop what’s in there.

b. The New Municipal Professional

- i. It's important to keep an accomplishment journal – to celebrate yourself and to use as a portfolio for continued ed and employment opportunities. (left after 15 minutes due to content and format - attended Risk Mitigation session instead)

c. Risk Mitigation – Shannon Devane OMEX

- i. Caution must be exercised in the entire process once a claim has been made.
- ii. Staff need to avoid making any statements, comments or admit liability – refer everything to the adjuster.
- iii. Recent court cases have held the municipality liable even when the driver was obviously at fault, using excessive speed and excessive alcohol.
- iv. Review policies in respect of Alcohol, special events and volunteering.
- v. For Canada Day do we need special event insurance?
- vi. Do we need volunteer policy for Canada Day workers? What if one of them gets injured. Check current policies; think we have a volunteer rider.
- vii. Indemnification by-law??? Check for sample on-line.
- viii. Documentation, Documentation, Documentation
- ix. Sample vacant land checklist – and Playground inspection Policy – provided;

3. Day 3 – Concurrent sessions

a. Municipal Act Review

- i. Ralph ? MMAH confirmed that they will be focusing on two main themes of “integrity” and “finance”; possibly making a Code of Conduct mandatory. Hopefully will also be clarifying and simplifying the Conflict of Interest rules.
- ii. John Hannam, City of Thunder Bay spoke on behalf of the AMCTO team – concerns with rules being too specific – state the expected outcomes and let municipalities get there. He spoke to challenges with current legislation such as the Municipal Elections Act and the Expropriation Act and the requirements for registered letters when no one uses registered mail anymore? Took a bit of offense with the term “other people’s legislation” in referring to other ministries and how MMAH couldn’t force them to look at updating their legislation while MMAH worked on the Municipal Act. Expressed that the Elections Act was MMAH responsibility and it needed attention.
- iii. Rick O’Connor, City of Ottawa began with explaining what you find if you Google the word “Ministry” and “review of Municipal Act” and/or “Elections Act”. The first you find the Yukon and the second Alberta. Ontario’s MMAH site does not even mention the review. He and Jody Johnson spoke of various cases of interest:
 1. Region of Waterloo, Conflict of Interest – railway, November 2011
 2. Brampton, Transparency and Accountability request for consistent Code of Conduct
 3. Friends of Lansdowne – bonusing section s/b reviewed; Court upheld Ottawa’s by-law and process. Ottawa held NO closed

meetings on this issue, it was public money, and the public has a right to know how it's being spent.

4. Town of Fort Erie – Noak?
5. Guillian and roads – going to the Supreme Court possibly – report it and document it including when and how weather was checked.
6. Mississauga and Hazel – Conflict of Interest – municipality should safeguard the position of the integrity commissioner and indemnify him;
7. City of Windsor and Conflict of Interest Act – appointment of Council member to the Library Board and his subsequent misuse of a credit card – Council removed the council member from **all** boards and committees. Has made a threat to sue to challenge Council's decision but has not moved on that yet. This type of challenge has not been heard in the courts before.
8. City of Ottawa has had many IPC investigations and has been told that there needs to be **DETAILED minutes of all closed meetings**;
9. City of Wawa – has been having significant challenges with a member of Council and staff harassment. Their council has imposed penalties consisting of loss of pay for up to 90 days, at least 8 times and ended with a trespass notice to the Council member.

<http://www.thesudburystar.com/ArticleDisplay.aspx?e=2726651&archive=true>

iv. Use of broad powers or new authorities

1. City of Ottawa s. 128 Nuisance ban of hookahs
2. Environmental - Toronto plastic bags – need to complete due diligence and prove that it will help before Council can make this type of a decision to be able to defend it in the event of a court case.
3. Still a mindset with Council that we can't do that cause the MA doesn't specifically address it – broad powers do allow many things; most municipalities have simply not ventured there yet.
4. Courts have recognized that municipalities have increased authorities and jurisdiction on many matters and have upheld their by-laws and decisions when contested in court.
5. Cash Converters vs. City of Oshawa
6. Supreme Court of Canada – Catalyst Paper and taxation – the by-law was upheld, the test was reasonableness; could another Council with similar circumstances possibly come to the same conclusion? Yes.

v. **Can there be sanctions imposed outside of the integrity commissioner?** That framework is formal and specifies details for a specific type of investigation.

1. It is up to Council to decide what they want to pass.
2. There may be penalties as a result of violations of a code.
3. There must be a connection between what the public want and what Council wants in respect to Codes of Conduct, penalties, sanctions and integrity.

b. Council Codes of Conduct – Rick O’Connor

- i. The most important job of an Integrity Commissioner is to provide advice **prior to** an incident as opposed to completing an investigation after.
- ii. Unless Council appoints an Integrity Commissioner, how will the Code be enforced?
- iii. Must contact our solicitor to determine if he is willing and/or able of performing the duties of Integrity Commissioner or if that would result in a breach of duty?
- iv. In Manitoba, a breach of the Code may include a censure by Council – which can be defined as strong disapproval and a stern official reprimand.
- v. Often as we saw, the use of the services of an Integrity Commissioner was deemed too expensive. The resulting investigation and court cases often cost significantly more.
- vi. The employee Code of Conduct should be enforced through review through regular employee meetings. Again, the importance is in education prior to an incident as opposed to investigations after.
- vii. How is the Council Code of Conduct to be enforced in order to change the internal culture?
- viii. It should be determined if an Integrity Commissioner could be obtained with an annual fee instead of an hourly rate. The challenge is with the apparent conflict between compensation, continued employment and being able to freely provide advice without consequence.
- ix. **The role of staff is to provide “professional objective advice without fear or favour”.** The same would be true of an Integrity Commissioner.
- x. Other sanctions that may be imposed on a member of Council, staff or the public could include a Trespass order. This has successfully been implemented against a member of Council from the Town of Wawa. He was not allowed on any municipal property except for attendance at Council meetings where he was to be escorted in and out by another member of Council. This was a result of harassment against staff and eventually other members of Council. His pay had been suspended for 3 months up to 8 times.
- xi. In the City of Windsor, a Council member who failed to respond to requests of Council was removed from all committees indefinitely.
- xii. **The main question is; how do you regulate a Council Code of Conduct without appointing an integrity commissioner. It should not be up to staff to do it; but someone has to, otherwise it is useless.**
- xiii. Sample report from the City of Oshawa - http://www.oshawa.ca/agendas/Strategic_Initiatives/2011/09-12/%5CSIC-11-30-Council-Charter.pdf

4. Day 4 – Concurrent sessions

- a. Current issues in Municipal Law – Jody Johnson
 - i. Resolutions or by-laws do not have to be signed or sealed within the meeting to be valid.

- ii. There is no requirement in the M Act to give 3 readings of any by-law. This can be written out of your Procedure By-Law if you no longer wish to do this.
- iii. Elections – a large number of challenges for 2010 – taken to the courts, judges overruled the legislation. Municipalities can not override the Act's penalties however a judge can.
- iv. Discretionary Enforcement Principle – municipal by-laws – a municipality needs to enforce their own by-laws in some instances but not in others – jurisprudence is conflicting;
- v. S. 440 allows a ratepayer to go to court to request that a municipality enforce its by-law in certain instances
- vi. Winsdor vs. Payne – it was determined that a Clerk's notes (those taken but not incorporated into minutes) are NOT required to be disclosed under MFIPPA. They are protected and the leave to appeal was denied. Any information subject to privilege will not be released.
- vii. Huron County – the county council composition was changed mid-term – municipal by-laws may be changed during a term of Council and need not wait until the end of term.
- viii. Holyday vs. Toronto – can a municipality fund the costs of a defamation claim by an individual member of council?
- ix. Holyday v. Toronto (City) (2009), 74 M.P.L.R. (4th) 194: Toronto City Council authorized reimbursement of former Councillor Sandra Bussin's expenses related to a defamation suit against Ward 32 News
- x. subsection 222(2) of City of Toronto Act, 2006 allows the City to "pay the expenses of the members of city council **...if the expenses are of those persons in their capacity as members, officers or employees**"
- xi. Ontario Divisional Court upheld Toronto's by-law authorizing payment to Councillor Bussin on the basis that it was an expense incurred in her capacity as a member of city council.
- xii. It has to be a decision of Council to pay the expenses – there is no obligation; however, if the decision is made, previous court cases provide precedent for this expenditure of funds.