WEST NIPISSING ADMINISTRATIVE POLICIES, PRACTICES AND PROCEDURES REVIEW

July 2023

Ministry of Municipal Affairs and Housing
Municipal Services Office North (Sudbury)

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Introduction

This review was undertaken by Ministry of Municipal Affairs and Housing ("MMAH") staff pursuant to direction from the Minister as communicated in his letter to the mayor and council of the Municipality of West Nipissing dated April 25th, 2022 (Appendix A). The review is intended to provide recommendations for council.

The Ministry's recommendations in this report are not legal advice. The municipality may wish to obtain legal or other professional advice in connection with any matter in this report.

The municipality should review its by-laws to determine whether new or revised by-laws, or other implementation methods, would be appropriate to address the recommendations in this report.

Background

The Municipality of West Nipissing is a single tier municipality located in Nipissing District, approximately 36 km west of the City of North Bay along the Trans-Canada Highway (Highway 17W). The community has a population of 11,809 and 7,908 households. The municipality is divided into eight wards. It has a nine-member council, including the mayor.

On July 21st, 2020, council declared the Ward 7 seat vacant leaving council with eight active members of council. The *Municipal Act, 2001*, section 263, requires that council decide whether to fill a vacancy by appointment or by-election within 60 days of council declaring the seat vacant.

Due to council's inability to agree on how to fill the vacant seat, it remained vacant for over two years.

Given this situation, the Minister of Municipal Affairs and Housing sent letters to the mayor and council on January 4th, 2022, and January 26th, 2022, expressing concern over the failure of council to meet consistently. The Minister then sent a letter to West Nipissing mayor and council dated April 25th, 2022, in which he advised that, in addition to appointing a facilitator to assist the municipality to fill the council vacancy, he had directed MMAH staff to conduct a review of the administrative practices, policies, and procedures of the municipality, and to report back on any recommendations to council for improvements to help address the workplace function and council conduct concerns. The Minister's letter stated that the report resulting from the review would be made available to council and to the public once completed.

West Nipissing council's failure to agree on how to fill the seat and its inability to meet consistently garnered significant media attention. A listing of online media articles

outlining the public's concerns over the continuing vacancy and inconsistent meetings are included in Appendix B.

Objective of the Review

The review was conducted by MMAH staff.

The objective of the review was to obtain information about the administrative policies, practices, and procedures of the municipality and their implementation and to make recommendations for improvement. This included mandatory and optional requirements of the *Municipal Act, 2001*, as well as those that are optional but not considered under the act.

Administrative Practices and Procedures Review Process

The following policies were obtained from the municipality and reviewed:

- Committees and Boards Code of Conduct
- Conflict of Interest Registry
- Council Code of Conduct
- Council Procedures
- Purchasing and Procurement
- Sale and Disposition of Land
- Accountability and Transparency
- Appointment of Integrity Commissioner
- Complaints
- Council-Staff Relations
- Employee Code of Conduct
- Establish Office of Integrity Commissioner
- Hiring
- Notice
- Procedure By-Law (Consolidation)
- Social Media
- Workplace Violence and Harassment

MMAH staff met with the CAO, the director of corporate services/treasurer, and the clerk/municipal planner on July 6th, 2022. West Nipissing staff confirmed the currency of the policies obtained by MMAH.

MMAH staff reviewed the policies and compared them to other municipalities of similar size and complexity and some larger and more complex municipalities to inform the

identification of any policy gaps or areas where changes might improve accountability and transparency, municipal workplace function and mitigate the impact of any future issues with conduct or council. This review was informed by a review of policies, practices and procedures adopted by other municipalities.

In addition to meeting with West Nipissing staff, MMAH staff conducted a search of local media (see Appendix B) and websites including social media and reviewed the council meetings recorded on the West Nipissing YouTube channel. MMAH staff also attended council meetings between May and October 2022 as observers.

Note that policies that were reviewed but were not directly responsive to workplace function and council vacancy issues can be found in Appendix C, along with associated recommendations.

Policy Review

1. Council Code of Conduct

Recommendation

It is recommended that the municipality:

1.1 obtain detailed training on code of conduct, including conflict resolution, in making decisions at the beginning of the 2022-2026 term of office to improve council decision making, in order to help prevent and manage conflicts and mitigate against the escalation of behaviours that in extreme cases may interfere with council decision making and that do not comply with the codes of conduct.

Analysis

All municipalities are required to establish codes of conduct for members of the council and certain of its local boards (s. 223.2(1), *Municipal Act, 2001*). Codes of conduct passed with respect to this requirement shall include the prescribed subject matters identified in Ontario Regulation 55/18:

- Gifts, benefits, and hospitality
- Respectful conduct, including conduct toward officers and employees of the municipality or the local board
- Confidential information, and
- Use of property of the municipality or of the local board

West Nipissing's Code of Conduct for Council and Code of Conduct for Boards and Committees are available on the municipal website. Both codes of conduct refer to the prescribed subject matter and are consistent with the form of codes of conduct passed by other municipalities in Northeastern Ontario.

While the by-laws themselves provide direction on appropriate council actions and practices, the review's finding is that individual council members did not consistently adhere to them.

West Nipissing staff confirmed that council received training on the codes of conduct and appropriate behaviours, but that some members of council continued to engage in behaviours that may have been inconsistent with the by-law. MMAH staff understand that concerns were raised by some members of council and staff about the integrity commissioner's interpretation of the codes of conduct and that the codes may not be consistently applied.

2. Procedure By-Law

Recommendation:

It is recommended that the municipality:

2.1 review the procedure by-law to ensure that it contains current legislative references and is consistent with the Municipal Act, 2001 and to ensure it is written clearly, uses plain language and reflects current practices of council in the conduct of its meetings.

Analysis

All municipalities are required to adopt a procedure by-law for governing the calling, place, and proceedings of meetings (s. 238(2), *Municipal Act 2001*).

West Nipissing's Council Procedure by-law is available on the municipal website. It is dated November 19th, 2019.

During attendance at council meetings from May to October 2022, the ministry observed that this by-law may not have been consistently considered or followed by all council members (particularly sections 24 and 25 – rules of debate and points of order). West Nipissing staff also identified this as a concern. At the June 9, 2022, council meeting, the ministry-appointed facilitator reminded council that points of order should be called for procedural matters and not to cut a member off from talking. The facilitator further reminded the mayor that the chair's job is to maintain order.

In addition to the various specific issues identified, which impacted council's ability to proceed with municipal meetings, it is noted that there are some inconsistencies between the by-law and the current provisions of the *Municipal Act, 2001*.

More specific observations and recommendations related to the procedure by-law include:

a) Inconsistent usage of terms and training

Recommendation

It is recommended that the municipality:

2.2 train councillors and staff on respecting procedures as well as conduct a review of the procedure by-law with the goal of updating it, including assessing if the policies and practices it sets out as well as terminology in it are functioning well and are appropriate in council's view. Sections to review can include, among others, 5.1.12, 5.1.11 and 6.1.8.

Analysis

Review of the procedure by-law revealed some inconsistencies, overlaps and gaps in topics and terminology. This includes content related to the use of electronic devices such as cell phones by both council and the public at council meetings.

b) Procedure By-Law - section 4.1.1

Recommendation

It is recommended that the municipality:

2.3 review the role of the mayor in the procedure by-law.

Analysis

The role of the mayor as chief executive officer of the municipality is described in section 4.1.1. There is no further detail about the role or authority of the mayor in connection with meetings. For background information, sections 226.1 and 225 and other sections of the *Municipal Act, 2001* may be of interest. The lack of clarity about the role may create confusion.

c) Procedure By-Law - section 4.3

Recommendation

It is recommended that the municipality:

2.4 review and clarify the role of the chief administrative officer in the procedure by-law.

Analysis

This section regarding the role of administration in the municipality does not include any reference to the office of chief administrative officer, although that office is referred to elsewhere in the procedure by-law.

d) Procedure By-Law - sections 4.4.6, 4.4.13 and 4.5.7

Recommendation

It is recommended that the municipality:

2.5 if the powers under 4.4.6, 4.4.13 and 4.5.7 are to be maintained, amend the procedure by-law to include a clear statement of authority on how the presiding officer can exercise these powers during meetings, including how they can be exercised during electronic meetings (e.g., how is the member's access to the virtual meeting cancelled).

Analysis

These sections deal with the power of the presiding officer and/or committee chair to order anyone persisting in breach of the rules of order to vacate the meeting or expel from the meeting anyone disrupting the meeting.

There is no associated clear authority or direction on how this power is to be effectively exercised. It is unclear whether the presiding officer and/or committee chair is to physically remove persons from the meeting or, in the case of electronic meetings, terminate the access to the meeting, or whether the presiding officer can direct other municipal staff to do so.

At council meetings, the presiding officer did, on some occasions, ask a member to leave the meeting (presumably exercising this authority), but the member did not leave, and the presiding officer did not have control over meeting access rights to terminate the member's access to the meeting. This resulted in the presiding officer exercising their right under section 4.4.12 of the procedure by-law to adjourn the meeting, as they were unable to maintain order.

e) Procedure By-Law - section 7.0

Recommendation

It is recommended that the municipality:

2.6 include a warning on all closed meeting minutes, documents and associated emails that they are confidential and not for public distribution.

2.7 implement appropriate sensitivity restrictions on emails containing documents related to closed sessions or other confidential material, including the ability to forward or copy or print those emails. Such restrictions could include introducing password requirements to view documents, restricting the ability to print, forward or otherwise do anything other than view the email and its attachments.

2.8 amend the procedure by-law to include restrictions on disclosing or distributing documents received in preparation for, during or in relation to closed session(s).

Analysis

This part outlines restrictions on persons attending closed session(s) to discuss or repeat discussions which occurred during any closed session that they have attended.

MMAH staff have received calls from the public complaining about the release of documents that were considered by council in closed meetings or were provided to council or the municipality in confidence. A review of media articles, including social media, indicated that this has been a concern throughout this term of council.

Based on discussions with West Nipissing staff, MMAH staff understand that, when council met in person, there was a practice to number all copies of documents circulated during any closed session and to collect those documents at the end of the closed session so that they could not be distributed to anyone, inadvertently or otherwise. However, since council has been meeting virtually, closed session documents have been forwarded electronically to persons attending those meetings. This has resulted in the distribution of closed session documents without the ability for administration to effectively track who has distributed those documents.

Additionally, while this part imposes strict conditions on discussing or repeating discussions from closed session(s), there is no specific restriction in the procedure by-law prohibiting the distribution of documents received in preparation for, during or in relation to such meetings.

f) Procedure By-Law - section 7.3

Recommendation

It is recommended that the municipality:

2.9 seek legal advice about council's ability to impose sanctions on other members of council identified in section 7.3 of the procedure by-law or determine if other mechanisms could be introduced to achieve the objective of protecting confidential information and closed session proceedings.

Analysis

This section introduces various possible sanctions to be imposed by council against anyone violating the closed meeting provisions under the procedure by-law. These potential sanctions appear to apply to members of council as well as other persons attending closed sessions.

The sanctions include exclusion from future closed sessions and not being provided with information or documents proposed to be dealt with in closed session.

It is unclear whether there is authority for council to exclude on an ongoing basis (for reasons other than disruption of the current meeting) elected council members from closed sessions.

g) Procedure By-Law - section 8.5

Recommendation

It is recommended that the municipality:

2.10 provide clarity to the process for the preparation of the agenda to identify whether the discussion between the CAO and the mayor identified in s. 8.5 is intended to achieve a consensus on the content of the agenda as prepared by the clerk and whether this consensus is required.

2.11 provide clarity about whether the content of the agenda is required to be adopted by council at the start of the meeting or whether the intent is that the meeting will proceed in accordance with the agenda prepared by the clerk, with council only approving amendments to the agenda. Only approving amendments to the agenda might allow council to proceed with less controversial items of business, rather than having the meeting fail due to a failure to approve the agenda.

Analysis

This section provides for weekly meetings between CAO and the mayor to discuss upcoming agendas.

Unlike other sections in the procedure by-law, this section does not include a statement that this meeting can occur between the chief administrative officer's designate and the mayor, so it is unclear whether it is intended that this meeting can or cannot be delegated by the chief administrative officer in their absence.

It is also unclear from this section whether agreement is needed between the CAO and the mayor as to what items will appear on the agenda.

As section 8.1 generally delegates the authority to prepare agendas to the clerk, it is unclear what the intent of s. 8.5 is with respect to this delegation of authority.

There were numerous issues with the agendas because the mayor and CAO did not meet and come to a consensus on what would or would not appear on the agenda. Council was, from time to time, unable to approve an agenda at the start of the meeting, resulting in the failure of the meeting to proceed. It is also apparent that this largely resulted from controversy over additions or deletions from the agenda that was prepared by the clerk.

h) Procedure By-Law - section 12.0

Recommendation

It is recommended that the municipality:

2.12 amend section 12.0 of the procedure by-law to reflect current practice or complying with the section and abandoning the practice of asking whether council has any additions or changes to the agenda at the beginning of the meeting.

Analysis

This section places restrictions on addendums to agendas and when they can be sought. Section 12.1 of the procedure by-law prohibits any amendment to the agenda that is not an item that "arise(s) after the closing of the deadline for the preparation of the Agenda and prior to the Meeting, *which items the Clerk believes are of an urgent nature…*".

At the commencement of council meetings, the mayor would typically ask council if they had any additions or changes to the agenda.

i) Procedure By-Law - section 15.4.1

Recommendation

It is recommended that the municipality:

2.13 extend the ban on circulating closed meeting minutes to any member who has declared a pecuniary interest in the subject matter dealt with in the closed session. This ban should extend to only those items on the closed meeting agenda that were the subject matter of any declared pecuniary interest.

Analysis

This section deals with the distribution of closed meeting minutes. It provides that closed meeting minutes shall not be distributed to council members who are directly affected by or who are the subject matter of the closed meeting. It does not restrict distributing closed session material to members who have a pecuniary interest in the matter.

j) Procedure By-Law - section 16.3

Analysis

This section deals with the physical distribution and return of confidential correspondence. Since council has been meeting electronically and continues to have the option to meet electronically in the future, and any such correspondence is being distributed electronically, recommendation 2.13 with respect to security surrounding confidential documents distributed in relation to closed meetings apply to this section as well.

k) Procedure By-Law - section 17.9.2

Recommendation

It is recommended that the municipality:

2.14 adhere to section 17.9.2 to require amending motions to be made in writing or amend the procedure by-law to reflect the current practice of allowing verbal motions to amend from the floor.

Analysis

This section deals with the procedures for motions to amend motions. The requirement in this section is that motions to amend be made in writing. There has been a practice for council to accept motions to amend motions from the floor without requiring that they be in writing.

l) Procedure By-Law - section 25.0

Recommendation

It is recommended that the municipality:

2.15 adhere to the rules of debate contained within the procedure by-law or amend the procedure by-law to allow for debate on points of order.
2.16 implement a flow chart similar to the one outlined in Robert's Rules of Order to assist council members in understanding the rules of debate in the municipality's procedure by-law.

2.17 provide training specific to the rules of debate and points of order at the beginning of the 2022-2026 council term so that meetings can be conducted in accordance with the procedure by-law.

Analysis

Section 25.2 provides that the chairperson will rule on a point of order with a concise explanation. If an appeal of a point of order is made, section 25.4 allows the appealing member to state why the appeal should be allowed and the chairperson is to state why the decision on the point of order should stand. Section 25.5 then states that a vote on the point of order will be had without debate.

At council meetings, points of order were often debated between the objecting member and the chairperson, with occasional interjections by other members of council.

3. Municipal Act Section 270 Policies (mandatory policies)

In addition to the procedural by-law, section 270 of the *Municipal Act, 2001* identifies a series of policies that all municipalities are required to adopt. The policies covered in this section are not all that is required under section 270. Refer to Appendix C for analysis of the other policies required under section 270, but where no recommendations were necessary.

a) Council – staff relations

Recommendation

It is recommended that the municipality:

3.1 provide detailed training on the code of conduct and council-staff relations policy at the beginning of the 2022-2026 council term to ensure that all members of council obtain a general understanding of how they and council should operate in an ethical manner.

Analysis

West Nipissing staff provided a copy of by-law 2019/38 which is a by-law with respect to the relationship between members of council and staff. The by-law was passed on April 23rd, 2019.

As with the comments about the codes of conduct previously, the policy itself was not the issue, but rather the issue was the ongoing failure of some members of council to adhere to the policy and the allegedly inconsistent application of the policy by the integrity commissioner when investigating complaints.

b) Delegation

Recommendation

It is recommended that the municipality:

3.2 adopt a comprehensive delegation of authority by-law so that members of the public, council and staff can easily locate and understand where the authority for various decisions lies.

3.3 undertake a general review of various policies, programs, and practices to determine if there are other delegations of council authority that can be made. This may help free up council time to deal with more important/difficult issues with greater impact across the community and enable council to complete business identified on its agendas in a timely manner.

Analysis

West Nipissing staff advised that the municipality does not have a general delegation of authority by-law. Rather, the authority for staff to deal with identified issues is delegated by individual by-laws.

This approach makes it difficult for individuals to understand where the authority to make decisions on various matters lies. It also makes it challenging to post this information to the municipal website so that the public can understand how decisions are made in West Nipissing.

Council often spent considerable time dealing with relatively minor matters (requests for special event exceptions to the noise control by-law, minor variances, etc.). West Nipissing staff advised that this was an issue predominately with the 2018-2022 council wanting to be involved in most decisions made by the municipality. This practice has negatively affected some residents on occasion and has resulted in council agendas becoming lengthy, with numerous items of business being deferred to subsequent meetings as there was insufficient time to deal with all items.

Examples of other municipal delegation policies that MSON staff reviewed included: South Algonquin (from the Northeast) and Guelph and Pelham (from outside Northeastern Ontario).

4. Other Policies

a) Council Vacancy Policy

Recommendation

It is recommended that the municipality:

4.1 adopt a council vacancy policy that clearly directs how vacancies will be filled when they occur and that will include processes to be followed for each method identified and circumstances for when specific methods would be used.

Analysis

The council seat for Ward 7 remained vacant between July 21st, 2020, and July 15th, 2022, due to council being unable to agree on a method to fill the vacancy. Council did not have a council vacancy policy at the time. The current council vacancy policy was adopted following the recommendation of the facilitator appointed by the Minister of Municipal Affairs and Housing.

A review of policies available on municipal websites discloses that these kinds of policies generally share a similar format.

However, it is noted that, even in these examples, the policies would not have been responsive to the deadlock on council over the appointment method. Council would need an option contained within the policy so that, if they were unable to agree, a stated method of filling the vacancy would occur within an identified time frame.

b) Access to Information/Confidentiality

Recommendation

It is recommended that the municipality:

4.2 implement a clear policy outlining when it is appropriate for council to access information that may have privacy rights associated with it.

4.3 introduce privacy settings on emails and documents to restrict the communication and distribution of confidential or private information, which could include restrictions on forwarding, copying, or printing of such records or the establishment of passwords.

Analysis

West Nipissing staff indicated that there was no specific written policy for dealing with access to information or for the security of confidential information other than as provided under the *Municipal Freedom of Information and Protection of Privacy Act*

(MFIPPA), the municipality's code of conduct and the procedure by-law (regarding information received during closed sessions).

The municipality received calls from the public complaining about the release of documents and information that were provided to council or the municipality in confidence, including but not limited to information and documentation from closed meetings. A review of media articles, including social media, indicated that this has been a concern throughout the 2018-2022 term of council.

Based on discussions with West Nipissing staff, MMAH staff understand that there was a practice of collecting closed session material following closed sessions from anyone attending those meetings. However, there are no clear guidelines established for when it is appropriate for council or individual council members or committees to seek access to protected or confidential information and how that information will be controlled to protect any privacy rights associated with it.

An example of this type of policy includes the Guide to Access and Privacy for Councillors produced by the City of Toronto.

c) Communication or Social Media Policy

Recommendation

It is recommended that the municipality:

4.4 adopt a social media policy that applies to both council members and staff

4.5 amend its council code of conduct, council-staff relations policy, and harassment policy to stipulate that appropriate decorum and professionalism, when discussing municipal matters, should always be maintained by all members of council and staff.

4.6 provide support to staff and council members subjected to the publication of misleading information or misinformation and/or trolling behaviours on social media by:

- having West Nipissing administration and council make clear statements setting out correct information where appropriate in as timely a manner as possible; and,
- providing council members and staff access to legal counsel and/or social media consultants to develop an appropriate response where the behaviour involves trolling which results in emotional or mental distress.

Analysis

West Nipissing has a social media policy, which was adopted/revised on August 11th, 2015. However, this policy only applies to West Nipissing staff and does not extend to council. The code of conduct does not refer to actions taken, or statements made by

council members on social media feeds or outside council or municipal business meetings.

A review of various social media feeds and complaints made to MMAH staff by members of the public about statements made by some council members in the media and on various social media platforms suggests that concerns regarding council decorum and professionalism were not restricted to council meetings.

It is also noted from a review of various social media feeds and other media that some members of the public engaged in disseminating misleading information and misinformation and engaged in trolling behaviour against West Nipissing staff and some council members.

Examples of social media policies which address these issues can be found in LaSalle and Middlesex.

d) Complaints Policy

Recommendation

It is recommended that the municipality:

4.7 update its complaints policy to include specific timelines for acknowledgement of the complaint and reporting on steps taken with respect to the complaint, identify who handles the complaint (e.g., staff), and develop a system of tracking resolution of the complaint.

Analysis

West Nipissing staff provided a copy of Complaints Policy 2003/259. The policy was adopted on June 3rd, 2003.

The policy does not contain any specific commitment to contact the complainant to acknowledge the receipt of the complaint, nor to have any specific reporting timelines with respect to steps taken in response to the complaint, nor to clearly articulate who is responsible for handling the complaint.

Other communities, including French River, South Algonquin and Greenstone have policies that include more specific reporting timelines and acknowledgements.

e) Council Committee Appointment Policy

Recommendation

It is recommended that the municipality:

4.8 adopt an appropriate appointment policy.

Analysis

West Nipissing does not have a clear policy on the appointment of council members and others to its various committees. Other communities have adopted these policies to ensure a consistent approach is taken with respect to all committee appointments and to ensure that all committees share a general terms-of-reference. Bracebridge is one example of this.

f) Harassment Policy

Recommendation:

It is recommended that the municipality:

4.9 expand the training process for workplace safety outlined in the harassment policy to include council.

4.10 review the harassment policy to ensure that clear expected timelines for each step of the complaint resolution process is introduced into the policy.

4.11 adopt the harassment policy by by-law

4.12 amend the harassment policy to extend various measures and requirements included in the policy to council.

4.13 extend the workplace harassment policy to

- include restrictions related to statements made in the media and on social media where they are misleading, spread misinformation or involve trolling behaviours that may cause emotional or mental distress for council or staff members.
- include requirements that council and administration:
  - make clear statements setting out correct information to combat misleading or misinformation where appropriate as timely as possible; and,
  - provide council members and staff access to legal counsel and/or social media consultants to develop an appropriate response where the behaviour involves the spreading of misleading or misinformation or trolling which may result in emotional or mental distress.

4.14 review the existing reports and recommendations made by the investigator in connection with the current workplace harassment complaints and determining how best to address them.

Analysis

West Nipissing staff provided a copy of Workplace Violence and Harassment Policy 2011/70. The policy was adopted/revised on November 17th, 2020.

This policy principally focusses on actions occurring in the workplace. However, MMAH understands that some significant stressors for council members and employees have resulted from exposure to the spreading of misleading information, misinformation, and trolling behaviours in the general media and on social media. This type of behaviour can lead to under-performance by staff and/or staff taking medical leaves due to stress or simply leaving their position, which can make it challenging for the municipality to carry out its key functions in a timely manner. West Nipissing staff concurred that the Harassment Policy was not adhered to.

In addition, an independent investigator submitted two reports detailing the results of investigations conducted in relation to workplace harassment complaints made by an employee against certain council members. As of October 2022, council had not yet considered or reviewed the reports, or the recommendations made in those reports.

g) Integrity Commissioner Service Level Guidelines

Recommendation:

It is recommended that the municipality:

4.15 establish service standard guidelines with its integrity commissioner that include:
- timelines for acknowledgement of the receipt of a complaint
- timelines for the commencement of any investigation, and
- timelines for interim and final reports/recommendations

4.16 clarify that individual council members can seek advice from the integrity commissioner without requiring council approval and that such advice provided to individual council members is confidential advice to the individual.

Analysis

West Nipissing staff provided a copy of by-laws 2019/29 and 30 which set out the service agreement with the integrity commissioner. Both by-laws were passed on March 19th, 2019.

h) Service Standards Policy

Recommendation:

It is recommended that the municipality:

4.17 adopt an appropriate service standard policy for the delivery of various municipal services.

Analysis

West Nipissing does not have a formal, written service standards policy for the services provided by municipal staff. With recent staff changeovers, rendering a service standard in writing may help reduce criticism of staff and help to ensure that staff, council, and the public have a shared expectation of staff's performance. Kawartha Lakes has a service standards policy.

i) Council and Staff Training Policy

Recommendation:

It is recommended that the municipality:

4.18 adopt an appropriate written training strategy for council and staff members, which includes training on all mandatory policies and those policies which tend to improve council-council, council-staff and public relations and which promote accountability and transparency in the municipality.

4.19 extend council and staff member training to include, at a minimum: social media, workplace harassment, council-staff relations, code of conduct, and confidential information.

Analysis

West Nipissing does not have a formal training policy for council or new council orientation and/or staff. There is an informal practice that has been followed.

With the growing complexity and diversity of issues facing municipalities and the policies, practices and procedures that many have developed in response, it may be easy to overlook training on some policies. It is best to have training implemented at an early stage before any behaviours that are contrary to the policy expectations develop.

APPENDIX A: Minister's Letter of April 25th, 2022

Ministry of Municipal Affairs and Housing

Office of the Minister

777 Bay Street, 17th Floor
Toronto ON M7A 2J3
Tel.: 416 585-7000

Ministère des Affaires municipales et du Logement

Bureau du ministre

777, rue Bay, 17e étage
Toronto ON M7A 2J3
Tél. : 416 585-7000

Ontario

234-2022-2058

April 25, 2022

Your Worship
Joanne Savage
Maire/Mayor
Municipality of West Nipissing
jsavage@municipality.westnipissing.on.ca

Dear Mayor and Council:

I am writing in response to recent correspondence, including from your Chief Administrative Officer and Mayor, expressing serious concerns about the function and conduct of the workplace and of council in the Municipality of West Nipissing.

Further, I wish to express my deep and continued disappointment that council has not filled the Ward 7 council seat that was declared vacant on July 21, 2020.

The *Municipal Act, 2001* required council to take action to fill the vacancy within 60 days. I am notifying you that council is not in compliance with that requirement. In my January 4, 2022, letter I stated my expectation that you fulfill that requirement and fill the vacancy as soon as possible. Council has not done so.

Accordingly, I will be making an order using my authority under section 14 of the *Municipal Affairs Act* to require the Municipality of West Nipissing to take steps towards appointing someone to fill the vacancy by June 30, 2022. I will select a facilitator to assist council with this.

It is an offence under the *Municipal Affairs Act* to willfully breach a section 14 order, and a council member convicted of such an offence is subject to a fine of up to $5,000 and is disqualified from holding any municipal office for a period of two years.

After careful consideration, to address the workplace function and council conduct concerns, I have directed ministry staff to undertake a review of the administrative practices, policies, and procedures of the municipality, and to report back on any recommendations to council for improvements. This report will be made available to council and the public once completed.

.../2

In addition to the review, I have also instructed staff to attend the municipality's public council meetings as an observer for the remainder of this council's term.

Staff in the Ministry's Northern Municipal Services Office will be in touch to arrange for a meeting with you and council to explain the process and timeline for the review. If you have any questions, please contact Kathy Horgan, Manager, Local Government and Housing by phone at 705-677-8167 or by email at kathy.horgan@ontario.ca.

I expect that council and staff will provide their full cooperation and assistance to Ministry staff and the facilitator.

Sincerely,

Steve Clark
Minister

c. The Honourable Monte McNaughton, Minister of Ministry of Labour, Training and Skills Development monte.mcnaughton@ontario.ca
Honourable Victor Fedeli, MPP Nipissing victor.fedeli@ontario.ca
Jean-Pierre (Jay) Barbeau, Chief Administrative Officer
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APPENDIX B: Media Articles

- https://northernontario.ctvnews.ca/west-nipissing-council-dysfunction-prompts-province-to-intervene-1.5886571
- https://www.baytoday.ca/local-news/villains-leave-the-table-and-collapse-west-nipissing-council-5254312
- https://www.cbc.ca/news/canada/sudbury/west-nipissing-council-legal-action-1.6409883
- https://www.cbc.ca/news/canada/sudbury/sudbury-west-nipissing-council-toxic-unsafe-staff-1.6400130
- https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/municipal-meetings/2019/municipality-of-west-nipissing
- https://www.thewhig.com/news/petition-aims-to-hold-west-nipissing-council-accountable/wcm/697fd8d7-39a1-4252-b524-040c84655537/amp/
- https://www.change.org/p/hon-steve-clark-minister-of-municipal-affairs-and-john-vanthof-mpp-for-temiskaming-district-petition-calls-on-province-to-investigate-west-nipissing-municipal-council-s-actions
- https://www.sudbury.com/around-the-north/warring-west-nipissing-municipal-council-makes-peace-for-the-people-4534284
- https://www.owensoundsuntimes.com/news/local-news/democratic-process-circumvented-say-four-west-nipissing-councillors/wcm/b99ce2af-6d91-47a4-b6fb-67d7effb2b4d/amp/
- https://www.nugget.ca/news/west-nipissing-staff-wont-attend-council-meetings
- https://www.thepeterboroughexaminer.com/local-peterborough/opinion/2022/04/13/at-least-council-meets.html
- https://www.mynorthbaynow.com/86929/news/minister-says-west-nipissing-residents-deserve-a-council-that-is-willing-to-work-together/
- https://www.sudbury.com/around-the-north/warring-west-nipissing-municipal-council-makes-peace-for-the-people-4534284
- https://westnipissingouest.com/2016/11/im-the-only-person-who-is-really-exonerated-investigated-councillor-says/
- https://www.mywestnipissingnow.com/38693/news/wn-council-cant-agree-on-processcancelsmeeting/
- https://westnipissing.com/council-cancelled-again-after-by-law-misinterpretation/
- https://www.nugget.ca/news/local-news/west-nipissing-council-divided-meeting-cancelled
- https://www.theobserver.ca/news/cao-to-attend-west-nipissing-council-meeting/wcm/6da3d949-d21d-4554-a54d-15e84507f085/amp/
- https://www.baytoday.ca/local-news/west-nipissing-mayor-hopes-returning-to-chambers-will-calm-council-4528318
- https://www.nugget.ca/news/west-nipissing-council-remains-at-loggerheads
- https://www.mywestnipissingnow.com/38693/news/wn-council-cant-agree-on-processcancelsmeeting/

APPENDIX C: Other Policies Reviewed Not Directly Responsive to the Issues

While the following policies were not directly responsive to the decorum issues council experienced during the 2018-2022 term of office, they were reviewed by the ministry to ensure the municipality had a complete and balanced assessment of its policy framework. The ministry found these policies to be reasonable when compared to those of other municipalities. Except as noted below (policy f), there are no associated recommendations being made.

Policies noted in (a) to (g) below are required under section 270 of the *Municipal Act, 2001*. Council has the discretion to adopt a staff code of conduct as identified in (h).

a) Accountability and Transparency Policy

Analysis

West Nipissing staff provided a copy of by-law 2019/55 which provides for the accountability and transparency processes for the community. The by-law was passed on June 18th, 2019.

This by-law is largely identical to the forms of accountability and transparency policies passed by other communities in Ontario. As this complies with the minimum requirements of the *Municipal Act, 2001*, and is not directly responsive to the current decorum issues council is dealing with, there are no recommendations in relation to this policy.

b) Hiring of employees

Analysis

West Nipissing staff provided a copy of policy 2009/164 which provides for the hiring procedures used by the community. The policy was adopted on April 21st, 2009.

c) Notice

Analysis

West Nipissing staff provided a copy of by-law 2003/15 which provides for the giving of notice for various purposes. The by-law was passed on February 18th, 2003.

d) Pregnancy leaves and parental leaves of members of council

Analysis

This policy is contained within the procedural by-law at section 5.2.

e) Purchasing of Goods and Services Policy

Analysis

West Nipissing staff provided a copy of by-law 2016/89 which provides for the procurement of goods and services for the community. The by-law was passed on September 20th, 2016.

f) Sale and other disposition of land

Analysis

West Nipissing staff provided a copy of by-law 2015/57 which provides for the sale and disposition of municipal land within the community. The by-law was passed on July 14th, 2015.

g) Tree canopy and natural vegetation

Analysis

Section 270(1) of the *Municipal Act, 2001* requires all municipalities in Ontario to adopt and maintain a policy describing how the municipality will protect and enhance the tree canopy and natural vegetation.

West Nipissing staff confirmed that the municipality does not have a tree canopy and natural vegetation by-law or policy.

Other communities in Northeastern Ontario have passed these policies. Examples include: Sables Spanish Rivers, Parry Sound and Sundridge.

Recommendation

It is recommended that the municipality:

5.1 adopt a tree canopy and natural vegetation by-law to ensure compliance with section 270(1) of the *Municipal Act, 2001*.

h) Staff Code of Conduct

Analysis

West Nipissing staff provided a copy of policy 2019/266 which outlines its employee code of conduct. The policy was adopted/revised on June 18th, 2019.