

Managing Late Agenda Items for Committee and Council Meetings - Final Recommendations

(City Council on November 23, 24 and 25, 1999, adopted this Clause, without amendment.)

The Administration Committee recommends:

- (1) the adoption of the report (October 19, 1999) from the City Clerk, subject to:**
 - (a) striking out Recommendations Nos. (7) and (9); and**
 - (b) amending Recommendation No. (11) by deleting all of the words after the word “received” and inserting in lieu thereof the words “by 2:00 p.m. on the first day of the Council meeting”, so that such Recommendation shall now read as follows:**

“(11) the City Clerk be authorized not to accept any late Notices of Motions from Members of Council, after the Council meeting agenda has closed, unless one of the following conditions is met, and unless the Notice of Motion is received by 2:00 p.m. on the first day of the Council meeting:

 - (a) the Notice of Motion involves a last minute emergency public health, safety or public policy matter that must be addressed within the current Council meeting cycle;**
 - (b) the Notice of Motion involves a contractual, judicial, administrative tribunal or statutory deadline that must be achieved within the current Committee-Council meeting cycle or places the Corporation at financial or legal risk; and**
 - (c) the Notice of Motion relates to the passage or extension of an interim-control by-law;”;**
- (2) that the City Clerk be requested to monitor the submission of late Notices of Motions to Council over the next six months and submit a report thereon to the Administration Committee;**
- (3) that any last minute items such as supplementary reports that have not been circulated previously to a Committee as part of an agenda also be distributed to all Members of Council;**
- (4) that any added items to an agenda be brought to the attention of the Members of the Committee by the Chair of the Committee at the start of the meeting;**

- (5) **that all Members of Council be advised by voice mail and/or electronic mail of any late or supplementary reports that were not circulated prior to the meeting that are presented to any Committee, Sub-Committee or Task Force;**
- (6) **that requests for time specific items be provided to the City Clerk in advance, where possible, and the informal practice that all requests for time specific items be dealt with at the completion of the agenda review be formalized and made part of the Council Procedural By-law; and**
- (7) that staff reports for consideration during the Operating and Capital Budget process be exempted from this policy, and that agenda closing dates for the Budget Advisory Committee (BAC) be four business days prior to a (BAC) committee meeting.

The Administration Committee submits the following report (October 19, 1999) from the City Clerk:

Purpose:

This report provides recommendations to ensure consistent management of late agenda items for Committee and Council meetings. This report responds to the amendments recommended by the former Corporate Services Committee and proposes revised recommendations where appropriate.

Financial Implications and Impact Statement:

There are no direct financial implications from the report recommendations.

Recommendations:

It is recommended that:

Committee and Community Council Meetings:

- (1) the closing deadline for regular meeting agendas for Standing Committees and other committees, be changed from 12:00 noon, 10 business days prior to the meeting, to 12:00 noon, nine (9) business days prior to the meeting, and the closing deadline for Community Council meeting agendas remain at 12:00 noon, 10 business days prior to the meeting due to the large volume of planning business requiring advance notice;
- (2) as a general rule, a Committee or Community Council not consider an item that is not on the agenda unless it meets one of the conditions proposed in this report;
- (3) the City Clerk be authorized not to accept any staff reports or communications, pertaining to new business, for a Standing Committee, any other committee or Community Council meeting, after the regular agenda closing deadline, unless one of the following conditions is met:

- (a) the item involves a last-minute emergency public health, safety or public policy matter that must be addressed within the current Committee-Council meeting cycle;
 - (b) the item involves a contractual, judicial, administrative tribunal or statutory deadline that must be achieved within the current Committee-Council meeting cycle or places the Corporation at financial or legal risk;
 - (c) the item has been referred by City Council, a Standing Committee, other committee or a Community Council after the agenda closing and the referral relates to one of the criteria listed above;
- (4) the City Clerk continue to accept for inclusion on the meeting agenda, after the closing deadline:
- (a) staff reports and communications that are supplementary to an item already properly on the regular meeting agenda, and
 - (b) late new business items, meeting the conditions set out in Recommendation No. (3);
- which are received by the Clerk up to three (3) business days before the meeting, and that the supplementary agenda be distributed to Members and affected senior officials two (2) business days prior to the meeting;
- (5) any supplementary communications or staff reports, pertaining to items on the regular agenda, submitted to the City Clerk within two (2) business days before the meeting will be held by the City Clerk and brought to the meeting for distribution at the meeting;
 - (6) any new business staff reports meeting the conditions set out in Recommendation No. (3) above, submitted to the City Clerk within two (2) business days before the meeting will be held by the City Clerk and brought to the meeting for introduction onto the meeting agenda by a majority vote of the committee to consider such matters;
 - (7) when a motion is introduced at a meeting of a Standing Committee, any other committee, Community Council or City Council for a further staff report on an item under consideration, the meeting Chair be permitted to request the Chief Administrative Officer or responsible Commissioner (or appropriate staff) to speak to the motion as to whether a formal staff report or informal response (e.g., verbal report, presentation) is appropriate given the nature of the request and the time frame contemplated by the motion, before the motion is voted upon;
 - (8) any communication from a Member of Council to a Committee or Community Council, for a staff report pertaining to new business, be placed on the agenda, and by majority vote, be referred to staff for a report to be presented to the next meeting;
 - (9) no items be placed on the agenda for a Committee or Community Council meeting without an accompanying staff report;

City Council Meetings:

- (10) the closing deadline for the Council meeting agenda be confirmed at 12:00 noon, five (5) business days prior to the Council meeting;
- (11) the City Clerk be authorized not to accept any late Notices of Motions from Members of Council, after the Council meeting agenda has closed, unless one of the following conditions is met, and unless the Notice of Motion is received before 12:00 noon on the business day before the Council meeting:
 - (a) the Notice of Motion involves a last minute emergency public health, safety or public policy matter that must be addressed within the current Council meeting cycle;
 - (b) the Notice of Motion involves a contractual, judicial, administrative tribunal or statutory deadline that must be achieved within the current Committee-Council meeting cycle or places the Corporation at financial or legal risk; and
 - (c) the Notice of Motion relates to the passage or extension of an interim-control by-law;
- (12) the Bills for approval by City Council be submitted to the City Clerk prior to the closing of the agenda for the Council meeting, and that the City Clerk be authorized to accept any late Bills in unusual circumstances after the agenda closing and up until 12:00 noon on the business day before the Council meeting;
- (13) any late communications and staff reports, pertaining to items already on the Council agenda, and any late Notices of Motions and the supplementary Bills list, received up to 12:00 noon on the business day before Council will be placed on the Council supplementary agenda and distributed at the beginning of the meeting of Council;
- (14) after the City Council meeting has started, supplementary communications received by the Clerk be held, packaged with a cover sheet listing the communications received and distributed to Members:
 - (a) at 2:00 p.m. each day of Council or at the start of the next day of the meeting, or
 - (b) at any time during the Council meeting, if so requested by a Member or deemed appropriate by the City Clerk for distribution;

Implementation:

- (15) the staff recommendations and guidelines set out in this report be implemented on a trial basis for a six month period, beginning in January 2000, and the City Clerk be requested to report back to the Administration Committee on the status and results of managing late

agenda items for Committee and Council meetings, and any further recommendations deemed necessary;

- (16) the City Clerk prepare and distribute to City staff and interested persons an information package containing the guidelines outlined in this report and a schedule showing the respective agenda deadlines recommended in this report;
- (17) the City Clerk, in consultation with the City Solicitor and the Chief Administrative Officer, be requested to develop a protocol, for dealing with staff reports, Standing Committee and Community Council recommendations to City Council, and Notices of Motions introduced at City Council, which have legal implications, such that staff can identify any legal implications and bring such information to the attention of Committee or Council for its consideration;
- (18) the City Clerk be requested to prepare a Notice of Motion template for use by Members of Council and that Members be requested to consult with the City Clerk in the preparation of their Notices of Motions prior to their submission to Council; and
- (19) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The Administration Committee, at its meeting on July 13, 1999, had before it a communication (June 17, 1999) from the City Clerk, advising that City Council on June 9, 10 and 11, 1999, struck out and referred Clause No. 4 of Report No. 6 of The Corporate Services Committee, headed "Late Agenda Items for Committee and Council Meetings", to the Administration Committee for further consideration. The Administration Committee referred the report back to the City Clerk and requested the Clerk to consult with Members on this matter.

Comments:

The City Clerk is responsible for supporting the Council legislative process and, in so doing, must maintain its integrity and ensure due public process is followed in accordance with governing legislation. This means balancing the interests of Members of Council, City staff and the public so that the municipal process is open and accountable. Late agenda items disrupt the legislative process as Members are not afforded sufficient time to review meeting materials, and staff and the public do not have the information for review prior to the meeting. If agenda items are not distributed with enough time to permit full scrutiny by Members and the public, then there is the risk that a full and considered debate of the issues will not occur at the committee level (where it should properly occur), but could be deferred to the Council meeting (potentially occupying valuable Council meeting time) or deferred to a later date to allow for proper consideration and thus further delaying any decisions. Late agenda items prevent the issues from being properly vetted through a public forum and undermine the basic principles of an accessible government. There are, however, circumstances when late agenda items are necessary and unavoidable, including emergency health and safety matters and contractual, judicial and statutory deadlines.

Ensuring that the legislative process serves the interest of all participants involved points to the need for guiding principles for the agenda process. The agenda process must:

- (a) allow Members the time to adequately review meeting materials and prepare for the meeting;
- (b) allow staff the time to prepare the meeting materials; and
- (c) allow the public the opportunity to review/scrutinize public agenda materials.

Late agenda items should generally not hinder a Members' ability to review information to inform their decisions, force staff into difficult situations to meet agenda deadlines, or prevent the public from accessing legislative documents.

Clerk's staff e-mailed a copy of the Administration Committee Clause to all Members, the CAO and the Commissioners requesting comments on the issue and recommendation pertaining to managing late agenda items. Very few responses were received, but those responses did vary. Some Members suggested following a very strict approach to agenda management such that no report received after the agenda closing be considered for the meeting agenda. Other Members supported the current agenda process in place. Therefore, Clerk's staff attempted to meet directly with all the Chairs of the Standing Committee and Community Councils regarding this issue to discuss the Clerk's recommendations, as amended by the former Corporate Services Committee.

The staff recommendations presented in the original staff report, as amended by the Corporate Services Committee, and further amended based on some of the comments and suggestions provided by Members and staff, are re-submitted in this report for the Committee's consideration.

Late Items for Committee and Community Council Meetings:

Generally, the Committee Chairs agreed with the need for a consistent process to deal with late new business items for the meeting agenda. Late agenda items should only be accepted under exceptional circumstances if certain conditions are met. Staff concur with the amendments made by the Corporate Service Committee to accommodate late agenda items which involve urgent public policy. The responsibility for determining if late new business meets the necessary conditions rests with the Committee or Community Council Administrator, in consultation with the Committee or Community Council Chair and the appropriate staff. The staff recommendations reflect these changes.

Additional comments from Members suggested that exceptions should be made to accept late new business involving routine or technical implementation matters (e.g., license applications, tree removal applications, etc.) which are non-controversial. Staff remain of the opinion that routine or strictly technical business should not be accepted as late agenda item unless it meets one of the

conditional tests. These items should appear on the main public agenda to allow public input and give members the time to consult with their constituents if necessary.

The original staff recommendation proposed that the Committee must vote before considering any business received by the City Clerk within two (2) business days of the meeting. Following-up from the discussion at Corporate Services Committee and discussion with Chairs, distinctions are required for late new business and late supplementary business received immediately prior to the meeting. Any communications supplementary to an item properly on the regular agenda should be held by the Clerk (within the 2 day window) and be distributed to Members at the meeting automatically. For any late new business satisfying the conditions, the Committee or Community Council Administrator will hold onto the item and bring it to the meeting for addition onto the agenda subject to a majority vote of Members to do so. A majority of Chairs agreed with this approach. One Chair even suggested that a two-thirds majority vote of the Committee should be required to introduce “walk-on” new business agenda items.

Late Notices of Motions:

Some Members did have a concern with the Notices of Motions deadline being moved to 12:00 p.m. the business day before the meeting from 2:00 p.m. the first day of the meeting. They felt that the extra time was needed to allow Members to discuss issues with other Members and staff at the Council meeting (with everyone in one location) before determining whether a late Notice of Motion is necessary for the meeting. Others felt that they needed the full day prior to the meeting to review the agenda material and determine if any new business comes to mind meriting a late Notice of Motion.

Many Notices of Motions have financial, legal or public policy implications. Therefore, it is important that staff and Members have sufficient time to review the information and consult with constituents if necessary. Moving the Notice of Motion deadline also allows Clerk’s staff adequate time to properly prepare and distribute motions in advance to Members, staff, the public and the media prior to the beginning of the meeting.

Staff continue to recommend that the deadline for late Notices of Motion be 12:00 p.m. the business day before the Council meeting, and that such late Notices of Motions continue to be subject to the prescribed conditions for being accepted late.

Late Bills for City Council Meetings:

The Committee did not amend the original staff recommendation pertaining to late Bills for Council meetings. However, further consultations with the Legal Services Division and some operating departments did generate some concerns with this recommendation. Under current conditions, implementation of this recommendation would mean a number of Bills implementing policy would be delayed a full council meeting cycle since the time lines are very confined between a Committee or Community Council meeting and the Council meeting. During this time (six to eight business days), staff in legal services or the operating departments have to prepare or amend (if required) the Bill to conform to the Committee’s recommendation and the Committee authority for the Bill needs to be transmitted to staff by Clerk’s. Clerk’s staff will endeavour to convey Bill authorities

(Committee Clause and Report references) to Legal Services and operating department staff as soon as possible after a Committee or Community Council meeting, but Council should be made aware that some Bills authorized by a Committee during a meeting cycle may not be ready in time for the Council meeting at the end of the same meeting cycle. Generally, every effort should be made to ensure a Bill is submitted to the City Clerk prior to the regular agenda closing. However, recognizing circumstances that may arise because of Committee, Community Council and City Council meeting timelines, it is recommended that the City Clerk be authorized to accept late Bills up to 12:00 noon the business day before the meeting.

It is also recognized that in unusual circumstances (e.g., Notice of Motion, interim control by-law), deemed appropriate by the City Clerk in consultation with the City Solicitor, a Bill is required for introduction and approval at the same meeting for which the authority is also approved. In this case, the affected Bill would not be subject to the Bill deadlines proposed in the report.

Late Communications for City Council Meetings:

The Corporate Services Committee recommended striking out the original staff recommendation to no longer distribute late communications received after the start of the Council meeting. Members and Chairs commenting on this recommendation were divided. Some do not mind receiving supplementary communications during the meeting whenever received by the City Clerk. Others support the staff recommendation. A compromise position is recommended.

Implementation:

The majority of Chairs agree with a trial implementation of these agenda management guidelines over a six-month period. The earliest Council could adopt these guidelines is the November 1999 Council meeting. It would be necessary to distribute information about these trial guidelines throughout the corporation so all staff are made aware of the new agenda rules. Therefore, a revised recommendation is proposed to begin the trial six-month implementation period beginning in January 2000.

Other Related Recommendations from the Corporate Services Committee:

In addition to considering and amending the original staff report recommendations, the Corporate Services Committee moved several other recommendations.

Recommendations on financial impact statements in staff reports were incorporated into a joint report (July 6, 1999) from the Chief Administrative Officer (CAO) and Chief Financial Officer (CFO) and Treasurer to the Policy and Finance Committee at its July 27, 1999 meeting. Council subsequently adopted the report as part of Clause No. 2 of Report No. 5 of the Committee. These changes have already been incorporated into the new staff report template as part of the Word'97 corporate word processing standard rollout.

The Committee also requested staff to develop protocols for flagging financial and legal matters arising throughout the Council legislative process that have not been vetted through finance or legal staff. The portion of this request pertaining to financial implications was incorporated into the same CAO and CFO joint report to the Policy and Finance Committee and subsequently adopted by City

Council. Clerk's staff and Finance Department staff are developing a protocol for ensuring Committee business with a financial impact is brought to the Committee's attention for consideration and Committee recommendations and other Council business with financial impacts are flagged for Council's consideration. A similar protocol for flagging issues with legal implications also has merit and a requisite staff recommendation is included in this report.

Conclusions:

A process is required to manage late agenda items for committee meetings so they remain the exceptional practice rather than a common practice. A consistent process, as proposed in this report, will serve the best interests of the members, staff and the public. The agenda management process recommended in this report is for a trial six-month basis, starting in January 2000.

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