

By-Law No. 01-2014

A By-Law Respecting the Proceedings of Council (Amended 2023)

Enacted:

Pursuant to subsection 10(2) of the *Local Governance Act*, SNB 2017, c.18, amendments thereto and regulations adopted thereunder, the Council of the rural community of Hanwell hereby enacts as follows:

1. TITLE

This By-Law may be cited as the “Procedural By-Law”.

2. DEFINITIONS

In this by-law:

“Act” means the *Local Governance Act*, amendments thereto and regulations adopted thereunder;

“Assistant Clerk” means the Assistant Clerk of the rural community as appointed by council in accordance with Section 74(2) of the *Act*;

“Chairperson” or “Chair” means the presiding officer of a meeting;

“Chief Administrative Officer (CAO)” means the CAO of the rural community of Hanwell.

“Clerk” means the Clerk of the rural community of Hanwell as appointed by council in accordance with Section 74(1) of the *Act*;

“Closed Meeting” means a meeting of council closed to the public under Section 68(1) of the *Act*;

“Council” means the mayor and councillors of the rural community of Hanwell;

“Deputy Mayor” means the councillor so elected pursuant to this By-Law;

“Electronic Meeting” means a meeting of council open to the public in which a member of council attends the meeting electronically;

“Emergency Measures Coordinator” means a person responsible for the oversight of the technical and administrative duties that are necessary to implement the emergency measures plan.

“Emergency Meeting” means a meeting of council open to the public other than a regular meeting without the requirement of advance notice, and only the subject matter of the emergency shall be considered;

“Majority” means more than half;

“May” is construed as permissive;

“Mayor” means the mayor of the rural community of Hanwell;

“Open Meeting” means a meeting of council open to the public under Section 67 of the *Act*;

“Point of privilege” means a procedure used when members’ rights are infringed, order must be restored, or there is a problem with the physical conditions of the meeting or otherwise;

“Point of order” means a procedure used when the rules appear to have been broken. This may interrupt the speaker during a debate, or anything else if the breach of the rules warrant it. (Added 2023)

“Quorum” means at least five council members plus the chair; (Amended 2023)

“Regular meeting” means a public meeting of council;

“Resolution” means a decision made by council passing, amending or defeating a motion under consideration;

“Rural Community” means the local government of Hanwell as established by New Brunswick Regulation 2014-30;

“Shall” means something certainly will or must happen;

“Special Meeting” means a public meeting of council other than a regular meeting;

“Treasurer” means the Treasurer of the rural community as appointed by council in accordance with Section 76 of the *Act*;

3. COUNCIL

(a) Presiding Officer

- i. The mayor shall preside over all council meetings. If the mayor is absent or unable to act, or if the mayor’s seat is vacant, the deputy

mayor shall act in the place of the mayor, and while so acting, he or she possesses the powers and shall perform the duties of the mayor.

- ii. In the absence of the mayor and deputy mayor, the council may, from among the members present, appoint a presiding officer who, during the absence of the mayor and deputy mayor shall have all the powers of the mayor.

(b) Deputy Mayor

- i. The council of the rural community shall elect a deputy mayor
- ii. **Council** shall elect a deputy mayor from amongst the councillors, as determined by majority vote of councillors present, cast by ballot. Such elections may take place **at the first official meeting of a new council after a general election**, for a two-year term and every two years thereafter, with all councillors eligible for election including the current deputy mayor. In the event of a tie vote, the mayor shall make the final decision.(Amended 2023)

(c) Vacancies on Council

- i. Vacancies on Council are governed by section 50 of the *Act*.

(d) Conflict of Interest

- i. Conflicts of Interest are governed by Part 8, sections 87-98, of the *Act*.
- ii. Upon taking office, each member of council shall file with the clerk in the form prescribed by regulation under the *Act* a statement disclosing any conflict of interest of which he or she has or should reasonably have knowledge. (Amended 2023)
- iii. A member of council who finds himself or herself in Conflict with any business on the agenda of any meeting, shall disclose orally the conflict at the meeting, and leave the council chambers during any discussion or vote by council on the matter. Every oral disclosure made under paragraph 91(5)(a) of the *Act* shall be recorded in the minutes of the meeting by the clerk or the person responsible for taking minutes.
- iv. If a conflict arises while a member is in office, the member shall immediately file a statement disclosing a conflict of interest form prescribed by Regulation (Form 3-Statement Disclosing a Conflict of Interest, *Local Governance Act*, S.N.B., 2017, c. 18, s. 91(4), 92(2). (Added 2023)

- v. Every statement disclosing a conflict of interest filed under subsection 91(1) or (2) of the Act shall be recorded and kept in a file by the clerk and be available for examination in the office of the clerk during regular office hours.

4. COUNCIL MEETINGS

(a) Call to Order and Quorum

- i. Quorum is required at all council meetings.
- ii. Subject to the provisions of the *Act*, if no chairperson has been designated and the mayor or deputy mayor does not arrive within fifteen minutes of the time set for the commencement of the council meeting, the clerk shall call the meeting to order, and the members present shall choose one of their members to act as chairperson until the mayor or deputy mayor arrive.
- iii. After the time set for the commencement of the council meeting and as soon as a quorum is present, the chairperson takes the chair and calls the meeting to order.
- iv. If, within thirty minutes after the set time for the commencement of the council meeting, a quorum is not present, the clerk shall record the names of those members present and adjourn the proceedings until such day of a meeting as the clerk shall then declare.

(b) First Meeting of New Elected Council

- i. The clerk shall fix a date for the first regular meeting of a newly elected council as prescribed by the *Act*. A new council shall transact no business at this first meeting until the oaths of the office have been taken and subscribed to by all the members declared and elected, as prescribed by the *Municipal Elections Act*.

(c) Regular Meetings

- i. In all procedural matters not governed by the *Act* or other Provincial legislation, *Robert's Rules of Order* shall be used. (Amended 2023)
- ii. Council shall hold one regular meeting per month, on the third Wednesday of each month unless otherwise decided by the mayor.

- iii. When the date for a regular meeting falls on a public, civic, or statutory holiday, council shall meet, unless it decides otherwise on the following day at the same time, or such day as determined by the majority of council.
- iv. The mayor may, on two full days' written or verbal notice given through the clerk's office, postpone any regular meeting of council to a day and place to be named and posted on the rural community website.
- v. A notice of meeting indicating the date and time of the meeting, as well as the business to be transacted, shall be sent to every member of council by electronic mail no later than five days before the date set for the meeting.
- vi. The deadline for receipt of agenda materials to the clerk is 3:00 p.m. on the Wednesday preceding the meeting.
- vii. Any additional matter not included on the agenda shall only be considered with the unanimous consent of all members of council present at the meeting.
- viii. When any matter or proceeding is not contemplated by this By-Law or Provincial legislation, the chairperson shall use the most recent edition of *Robert's Rules of Order* as the guide.
- ix. All regular council meetings are open to the public and no member of the public shall be excluded except for improper conduct.

(d) Closed Meetings

- i. Closed meetings can be scheduled to discuss matters as prescribed under section 68 (1) of the *Act*.
- ii. If a meeting of council is closed to the public pursuant to section 68 of the *Act* a record shall be made containing only the following information: (a) the type of matter under subsection (1) that was discussed during the meeting; and (b) the date of the meeting.
- iii. When a matter arises for discussion as outlined in the *Act*, the public shall be excluded for the duration of the discussion.
- iv. Rules and regulations of council shall be observed in a closed meeting, with the following exceptions: discussions will not be recorded in the minutes, no vote shall be made in closed session.

- v. Members shall refrain from discussing matters within the closed session other than with other council members or senior staff or as directed by council.
- vi. The information for a closed session shall be sent to members of council in a separate email marked “Confidential”, or a printed package placed in a sealed envelope marked “Confidential” in their mail boxes at the municipal office. (Added 2023)

(e) Agenda

- i. The Clerk shall prepare the agenda for regular meetings of Council, which includes the following items:
 - 1. Call to Order
 - 2. Approval of Agenda
 - 3. Consent section
 - a. Adoption of Minutes
 - b. Reports (committee, clerk, treasurer, staff, mayor)
 - c. Permit Applications
 - d. Correspondence
 - e. Old or Unfinished Business
 - 4. Disclosures of Interest
 - 5. Public Input/Inquires
 - 6. Councillor Comments (Added 2023)
 - 7. Presentations, Petitions, or Delegations
 - 8. Business Arising (from Consent section, if applicable)
 - 9. New Business
 - 10. Proclamations
 - 11. Upcoming Activities
 - 12. Closed Session
 - 13. Date, Time, and Location of Next Meeting
 - 14. Adjournment
- ii. This entire Consent section of the agenda shall be voted on at once, passed by a majority vote of council. This does not require a motion to proceed.
- iii. If an item within the Consent section is requested to have further discussion, this shall be requested during the adoption of the agenda, and that item would then be added to the “business arising” area of the agenda for that meeting.
- iv. Members of the public shall be entitled to address council during the agenda section for “Public Input/Inquires.” The discussion need not only be related to an item that is on the agenda for that meeting.

- v. Committee reports shall not be read during any regular meeting of council, but shall be posted to the Hanwell Rural Community website, along with the audio recordings. (Added 2023)

(f) Special Meetings

- i. The mayor may at any time call a special meeting of council.
- ii. The clerk shall call a special meeting when requested verbally or in writing from a majority of council members, for the purposes and at the time stated in the request.
- iii. A notice of meeting shall be distributed to council at least forty-eight hours in advance. No business other than that indicated in the notice of meeting may be transacted at the special meeting except by unanimous consent of the members present. The clerk shall make reasonable efforts to notify the public when a special meeting has been called.
- iv. All special council meetings are open to the public and no member of the public shall be excluded except for improper conduct.
- v. A special meeting may have a closed section, as described under section 4(d).

(g) Emergency Meetings

- i. The mayor or any three members of council, when deemed necessary under the purposes defined in the Emergency Act or in which there is an imminent danger to public safety or to serious harm to premises or to a building or other structure, may call an emergency meeting of council in which time requirements would not apply. (Amended 2023)
- ii. An emergency meeting shall satisfy the requirements of a special meeting, except for the requirement of advance notice, and only the subject matter of the emergency shall be considered. The clerk shall make reasonable efforts to notify the public when an emergency meeting has been called.
- iii. All emergency council meetings are open to the public and no member of the public shall be excluded except for improper conduct.
- iv. An emergency meeting may have a closed section, as described

under section 4(d).

(h) Electronic Meetings/Virtual Meetings

- i. Subject to section 69(1) of the *Act*, it is permitted to use electronic means of communication in a council meeting if it allows members of council to hear and speak to each other and, in the case of a meeting that is open to the public, allows the public to hear the members. Electronic meetings shall be allowed only if the rural community has the capacity to do so.
- ii. Any member of council, at the discretion of the chair, who at the time of the regular or special meeting of council, is outside of the local governance area or is physically unable to attend the meeting may participate in the meeting electronically.
- iii. Except for reasons of disability, a member of council shall not participate in a meeting of council electronically at more than 25% of the regular council meetings held in a one-year period or at more than four special council meetings held in a one-year period.
- iv. A member of council who intends to participate electronically in a meeting shall provide sufficient notice to the clerk to ensure that the relevant materials may be sent out to the member and to ensure that, in the case of a meeting that is open to the public, the public is provided with sufficient notice.
- v. If a member of council participates electronically in a meeting that is closed to the public under subsection 68(1) of the *Act*, shall, in the beginning of the meeting, confirm that he or she is alone.
- vi. A member of council who participates electronically in a meeting shall be deemed to be present for the meeting.
- vii. If a council meeting is open to the public, use of an electronic means of communication is permitted only if a notice of the meeting is given to the public that includes the following information:
 1. A statement that an electronic means of communication will be used at the meeting; and
 2. The location where the public may see or hear the meeting.

(i) Meeting Curfew

- i. When at any meeting of council the hour of 9:00 p.m. is reached, the

mayor or Presiding Officer shall declare the council adjourned and leave the chair unless decided otherwise by a two-thirds majority vote of council members present. If the meeting is adjourned any unfinished business is carried over to the next meeting of council. No new business will be added to the special meeting agenda without unanimous consent of councillors present at the meeting.

(j) Minutes

- i. The minutes shall show:
 1. the date, time and location of the meeting;
 2. the name(s) of the person(s) chairing the meeting and the record of attendance; and
 3. the proceedings, free of annotations or comments.
- ii. The minutes of previous public meetings shall be listed on the agenda to be approved at the next regular or special meeting of council.

5. DECISIONS AND VOTING OF COUNCIL

- (a) All questions, motions or matters before council shall be decided at a regular or special meeting of council, with the exception of matters defined in the Act.
- (b) All motions shall be moved and seconded before being debated or discussed. However, *the council member that is initiating a motion* is permitted to present it with a preamble, to describe the intent of the motion or to provide council with some background prior to the motion being made. Additionally, the Chair may call on the clerk or a member of staff to present information that may be pertinent to a discussion or that may lead to a motion being made on a particular agenda item.
- (c) The maker of a motion may withdraw his or her motion any time before a second or, after a second, with the consent of the second at any time prior to the chair acting on the motion. The second may withdraw his or her second at any time before the chair acts on the motion. If the second is withdrawn the motion will die unless the motion receives a new second.
- (d) The maker of a motion may only withdraw the motion after discussion has started if there is a 2/3 majority agreement of the councillors present.

- (e) All motions are subject to amendments, and amendments are subject to sub-amendments. Sub-amendments are voted on first, followed by amendments and, finally, the main motion.
- (f) Every member who wishes to speak to a question, motion or matter shall raise his/her hand and when called upon, address the Chair.
- (g) A member may, at any time during a debate but not so as to interrupt a member then speaking, request that the question, motion or matter under discussion be read.
- (h) No member shall speak a second time on the same question or motion until every member choosing to speak has spoken, except in explanation of the material part of speech which may have been misconceived, and when so speaking, shall not introduce any new matter and the member can speak no further on the question without special leave of the chairperson.
- (i) A motion shall require a majority vote of the eligible council members present.
- (j) All councillors shall vote on a motion unless he/she is in a conflict of interest. Having declared a conflict of interest, he/she shall leave the room during the discussion and vote, and his/her reason for not voting shall be entered into the minutes by the clerk.
- (k) All council members, shall cast their votes orally, saying either "aye" or "nay" (or "yes" or "no"). Any decision of council adopted in a public meeting is the official position of the entire council.
- (l) The chairperson shall be exempt from voting. If a majority vote is required and there is a tie, he or she may vote. (Added 2023)
- (m) Similarly, if a two-thirds vote is required, he or she may vote either to cause, or to block, attainment of the necessary two thirds. (Added 2023)
- (n) When the mayor wishes to participate in the debate at a council meeting, he/she shall leave the chair and call on the deputy mayor if present, or if not present, a councillor to preside until he/she resumes the chair. The mayor must resume the chair prior to the vote being taken.
- (o) Except as otherwise provided, no member shall speak without recognition of the chairperson.
- (p) No one shall interrupt the chairperson or a council member who has the floor, except to raise a point of order.

- (q) No council member may speak on the same matter, question or motion for more than five minutes at a time without the permission of the chairperson.
- (r) In the event of a division of council upon any question, motion or matter, the clerk shall enter into the minutes the names of the members who vote for or against the question, motion or matter.
- (s) A motion to adjourn shall be in order at any time, unless a council member has the floor, or a motion is being debated.

6. POINTS OF ORDER AND PRIVILEGE

- (a) Any point of order or privilege raised must be considered immediately.
- (b) When a point of order is raised, or the chairperson calls a member of council to order, the member who has the floor shall cease speaking until the chairperson has stated the point of order.
- (c) During meetings, members shall remain seated and refrain from making any noise or speaking with one another. They shall listen closely to the person who has the floor and shall not interrupt except to raise a point of order or privilege in accordance with the rules that apply.
- (d) Members may not speak until they have been given leave by the chairperson and must always speak to the chairperson.
- (e) If a member engages in improper conduct and refuses to obey a call to order from the chairperson, the chairperson may ask council to rule on the conduct, naming the member and indicating the offence of which the member stands charged.
- (f) A decision of the chairperson shall be final.

7. CONFIDENTIALITY

- (a) Until a matter is formally presented at a regular or special meeting of council, and/or a committee meeting, items of a sensitive, personal or business nature will not be publicly disclosed by council, committee members or staff.
- (b) Information which is presented in open or public sessions of council may be discussed, while maintaining discretion regarding preliminary discussions.

- (c) While not intended in any way to impede the ability of rural community representatives to express their opinion and position in public, the policy is adopted to foster the thorough investigation and consideration of important issues, including candid discussion and debate, without jeopardizing public reputation or proprietary information.
- (d) Failure to respect confidentiality will result in disciplinary action which may include, but not be limited to, verbal cautions, verbal or written warning, dismissal from committee membership or termination (in the case of employees).
- (e) This policy applies to all rural community of Hanwell employees, all elected officials and members of the public who serve as members of standing or ad hoc committees of council.
- (f) All rural community employees, council members and committee members shall sign a Confidentiality Agreement.

8. CONSEQUENCES OF DISRESPECTFUL ACTIONS

When any member deliberately acts against council's wishes, breaches confidentiality, and/or puts the council and rural community at risk of legal and/or reputational harm, his/her actions will result in disciplinary action by council as per the Code of Conduct By-Law #16-2019.

9. COMMITTEES

- (a) Standing, special and/or select committees shall be in place to study issues and make recommendations to Council.
- (b) Ad-hoc committees may be added for special purposes and are not intended to be permanent. Should an ad-hoc committee be determined to be permanently required, the Committee Policy shall be updated to reflect this change for that committee.
- (c) Committee proceedings are governed by the rules of conduct as dictated by policy, and a majority of members present must be in favour of each recommendation brought forth.
- (d) All committee meetings shall be open to the public, and shall have audio recordings of the meetings made.
- (e) Committee of the whole:

- i. Council may call and convene a meeting of committee of the whole, which shall be publicized as all other committee meetings.
 - ii. Council may convene a meeting of committee of the whole during any regular or special meetings by first temporarily adjourning the regular or special meeting. After adjournment of the meeting of committee of the whole, business discussed shall be reported for resolution at the regular or special meeting.
- g) As a committee meeting that is less formal than a full Council meeting, notes are taken instead of complete minutes, time limits on discussion may be set aside, and other decisions on the meeting format may be decided by the committee chair. (Added 2023)
- h) The Committee Policy shall list the current committees of Council and may have committees added or removed as decided by Council. (Amended 2023)

10. PUBLIC ATTENDANCE

- (a) All meetings of council are open to the public.
- (b) Notice of a regular meeting shall be published on the official rural community of Hanwell website and/or other electronic media, at least 48 hours before the time of the meeting.
- (c) If a person present at a council meeting is engaging in improper conduct, the chairperson may have that person expelled.
- (d) Any person, association, organization, or other body wishing to address council shall make an appointment with the clerk at least three calendar days before the close of the agenda (at least ten calendar days before the meeting).
- (e) A delegation or person appearing before council shall be allowed no more than ten minutes to speak. If a delegation consists of more than five people, it may be represented by two spokespersons at the most who are allowed to speak up to ten minutes each or at the discretion of the chair.

11. NEWS MEDIA

- (a) The mayor shall speak on issues of concerns to the rural community on behalf of council, as per Section 48(1) of the *Act*.
- (b) In interaction with the media the greater interests of the rural community of

Hanwell as a whole must be considered at all times.

12. SIGNING OFFICERS

- (a) The mayor or deputy mayor or designated councillor shall authorize jointly with the CAO, treasurer, and clerk, all cheques and other financial instruments issued by the rural community. (Amended 2023)
- (b) The mayor or deputy mayor shall sign jointly with the clerk all agreements, contracts, deeds, by-laws, resolutions or other documents of a general nature and affix the corporate seal of the rural community thereto pursuant to the *Act*.

13. CORPORATE SEAL

- (a) The corporate seal of the rural community of Hanwell shall be at all times under the custody of the clerk and shall be used by him/her in corporate matters as required under the *Act*.

14. EMERGENCY/URGENT REQUIREMENTS

- (a) The emergency measures coordinator along with the mayor and/or deputy mayor are authorized to order emergency/urgent repairs or activities on an emergency/urgent basis to protect the public safety or to protect the assets of citizens of Hanwell.
- (b) Emergency projects must receive council's approval at the earliest opportunity.

15. OFFICIAL LANGUAGE

- (a) Pursuant to the *Official Language Act, SNB 2002, C,0-0-5*, in every by-law and in every other matter and proceeding of council, the English language shall be used.

16. ENACTMENT

- (a) In case of any conflict between this By-Law and the *Act*, the latter shall prevail.

This By-Law shall come into effect on the date of enactment there from:

FIRST READING: (In its entirety)
SECOND READING: (By title)
THIRD READING AND ENACTMENT: (By title)
AMENDED:
AMENDED:
AMENDED:
AMENDED:
AMENDED:

June 12, 2014
June 12, 2014
June 19, 2014
March 11, 2015
April 26, 2016
October 12, 2016
February 20, 2019

Mayor

Clerk

Draft