



NUNAVUT MUNICIPAL  
COUNCILLORS  
HANDBOOK 2005

# TABLE OF CONTENTS

	PAGE #
<b>1. INTRODUCTION .....</b>	<b>3</b>
<b>2. POWERS AND DUTIES OF COUNCIL .....</b>	<b>4</b>
<b>3. DUTIES OF THE MAYOR .....</b>	<b>5</b>
<b>4. DUTIES OF THE SAO .....</b>	<b>6</b>
<b>5. COUNCIL MEETINGS .....</b>	<b>7</b>
<b>6. BY-LAWS &amp; RESOLUTIONS .....</b>	<b>11</b>
<b>7. THE DISTINCTION BETWEEN EXECUTIVE AND ADMINISTRATION .....</b>	<b>13</b>
<b>8. FINANCE .....</b>	<b>15</b>
<b>9. CONFLICT OF INTEREST AND DISQUALIFICATIONS .....</b>	<b>23</b>
<b>10. CODE OF ETHICS .....</b>	<b>25</b>
<b>11. AN EFFECTIVE COUNCILLOR .....</b>	<b>27</b>
<b>12. MAINTAINING ELIGIBILITY .....</b>	<b>28</b>
<b>13. FURTHER INFORMATION .....</b>	<b>29</b>

# 1. INTRODUCTION

Congratulations on your election to council. This handbook has been prepared to help elected officials of Nunavut municipalities in understanding and carrying out the duties and responsibilities of municipal councillor. It is intended to be used for reference purposes only. *The Hamlets Act, 2003* and other Acts which provide specific authority for municipalities to perform their functions should be consulted when dealing with municipal issues.

This publication is based on territorial legislation, general local government reference works, and other municipal manuals prepared by the Department of Community & Government Services.

## **Basis for Municipal Government**

Canada's system of government has three levels - federal, provincial and municipal. The federal and provincial levels have their powers set out in the Constitution; however, under the British North America Act of 1867, renamed the Constitution Act, 1982, the powers and duties of municipalities are not specified. Rather, municipal government is a product of the province or territory. In the Nunavut region, legislation was passed in 1979 that specified the powers of municipalities, villages, towns and cities.

The present legislation which sets out the system of municipal government includes the *Cities Towns and Villages Act*, *the Hamlets Act*, & the *Local Authorities Elections Act*. As of April 1, 1999 there were 24 municipalities and one city in Nunavut

While the key powers and duties of Nunavut municipalities are provided for in the *Hamlets Act*, many other Acts affect municipal government. Some of the more frequently used ones include but not limited too: the *Planning Act*, the *Dog Act*, & the *Motor Vehicles Act*.

## **2. POWERS AND DUTIES OF COUNCIL**

The elected council is the governing body of the municipal corporation and the custodian of its powers, both legislative and administrative.

Council consists of a Mayor and eight (8) councillors who are directly elected by the voters of the municipality.

Although municipal councillors' terms are generally two years elections of councillors are held annually on the second Monday in December as councillor terms are staggered. The term of the Mayor in a municipality is also two years unless the municipality has passed a by-law extending the term of the Mayor to three years as per *section 13.1. Hamlets Act 2003*

In a City, Town or Village the term of councillors and the Mayor is three years, this may be changed by by-law to two years as per section 15 of the Cities, Towns and Villages Act. Unlike municipalities, elections are held every three years. The City of Iqaluit is the only local jurisdiction in Nunavut where elections are not held annually.

Councils are responsible for promoting the peace, order and good government of the municipality. To achieve this, councils are provided specific and defined powers in the *Hamlets Act* and other statutes. If specific authority is not found in the *Hamlets Act* or other Acts it is likely that the municipality does not have authority to take such an action. Some specific powers and duties of council relate to roads, budgeting, animal control, building standards, water & sewage services, recreation, employment, etc.

### **Discretionary Powers of Council**

Certain powers of a council are discretionary, that is, it is up to the council to decide whether or not to carry out that particular function.

### **Mandatory Duties of Council**

There are certain duties that are mandatory under the *Hamlets Act and municipal* Councils have no choice but to carry them out. Some mandatory council duties include appointing a Senior Administrative Officer (SAO) as per section 43 *Hamlets Act 2003*, and setting an annual budget as per *section 136 Hamlets Act*.

### 3. DUTIES OF THE MAYOR

The Mayor as the senior executive officer of the municipality; has certain duties and additional powers outlined in the *Hamlets Act, 2003*.

#### **Duties:**

- The mayor shall maintain order and decorum at all meetings of the council and shall decide all questions of order subject to appeal to the council as a whole.
- Provide leadership and direction to the council
- The Mayor shall be active in ensuring that all laws governing the municipality and territory are abided by.
- The Mayor shall cause all cases of negligence, carelessness, and violation of duty by employees or members of council to be duly prosecuted.
- The Mayor shall keep council informed of and recommend any measures which would tend to the improvement of the finances and welfare of the municipality.
- The Mayor or a councillor designated by council countersigns the cheques for all payments made on behalf of the municipality.
- The Mayor shall place before council any audit report outlining any negligence, irregularity or discrepancy found in the books or accounts of the municipality.
- The mayor shall provide direction to the officers of the municipal corporation.

**NOTE:** Although the Mayor is granted certain powers and duties he/she must exercise caution and ensure that proper authority is granted by statute before carrying out any actions.

While the Mayor has certain duties and powers over and above those of an individual councillor; it should be kept in mind that the Mayor is only one member of council. A single council member does not have the power to bind the municipality in any way or direct its employees or its affairs. The elected officials' power is collective, not individual.

## **4. DUTIES OF THE SAO**

The SAO is an employee of the council and must be appointed by by-law as per section 43 Hamlets Act. Subject to the direction of the Mayor the SAO's mandatory duties as out lined in the Hamlets Act section 47 are:

- Supervise and direct the affairs of the municipal corporation, its other officers and its other employees
- Implement the policies of the council
- Provide advice to the council
- Inspect and report on all municipal work as required by the council
- Ensure that estimates of revenue and expenditures are prepared in accordance to the Hamlets Act
- Ensure that all contracts of the municipal corporation are prepared and executed as required by the council
- Perform other duties that the council may require

The SAO has other duties out lined in the Hamlets Act; however, the council may appoint other officers by by-law as per section 44 to perform these statutory duties assigned to the SAO. These duties are:

- Have custody of the municipal seal and cause it to be affixed to documents where required
- Attend all meetings of the council and record accurately all its resolutions, decisions and proceedings
- Prepare and have custody of the minutes and other records of the council and its committees
- Have custody of all the original by-laws of the municipality
- Provide copies of the by-laws and minutes and other public documents in accordance with the Hamlets Act
- Ensure the safekeeping of all funds and securities of the municipal corporation
- Collect and receive all moneys belonging to or owing to the municipality
- Ensure that all disbursements of funds of the municipality comply with the Hamlets Act and any relevant by-laws
- Ensure that complete and accurate accounts are kept of all moneys received and disbursed on behalf of the municipality
- Ensure that complete and accurate accounts are kept of all assets and liabilities of the municipality and all transactions affecting the financial position.
- Ensure that the financial statements are prepared in accordance with the Hamlets Act and produced anytime the council may direct. And
- Provide financial information respecting the municipal corporation that the Minister may require.

## **5. COUNCIL MEETINGS**

Councils exercise their powers by making decisions at council meetings. These meetings must be held in accordance with the Hamlets Act and the local Council Procedural By-law.

The Hamlets Act provides that the Mayor presides at all council meetings, and shall preserve order and enforce the procedural rules of council adopted by by-law and in his/her absence, the Deputy Mayor shall preside.

The Mayor submits to the council every question on a motion of a member of council. In addition the Mayor is required to vote, when there is a deadlock between council.

The Hamlets Act does not explain every detail concerning the conduct of meetings; a council must pass its own council procedure by-law. This by-law sets the rules by which council business will be conducted. However, a procedure by-law cannot establish rules or procedures that are contrary to the provisions of the Hamlets Act or any other territorial or federal legislation.

### **First Meeting**

It is the responsibility of the Mayor to call the first meeting of council each year. This meeting must be held not later than 28 days after the local election, at the time and place specified by the Mayor as per section 23 of the *Hamlets Act*.

Before the first meeting of council commences, each new member elected must take an oath of office and leave it with the SAO. The oath states that the council member will truly, faithfully and impartially, to the best of his or her knowledge and ability, perform the duties of the office. It provides that the member will not accept rewards or payments for any corrupt practice. It also includes a statement that any conflict of interest will be declared as required under the *Conflict of Interest Act & Hamlets Act*.

At the first meeting of council, or as soon as possible thereafter, a councillor may be appointed Deputy Mayor to act in place of the Mayor when the Mayor is absent or unable to perform the duties of the office.

### **Regular Meetings**

If a meeting schedule has not been adopted by by-law all members of council must be present to decide by resolution to hold regular council meetings. The resolution must state the date, hour and place of each regular meeting.

Regular meetings are held at specified regular intervals as set out in either the procedure by-law or by council resolution during the first meeting after the local election. The council shall ensure that the public is notified at least three days prior to each regular meeting of council.

## **Special Meetings**

Special meetings are held at times other than regular meetings. Under section 26 of the *Hamlets Act*, the SAO shall call a special meeting of council on written request of the Mayor or two members of the council.

All members of council must be notified in writing and the notice shall include the day, hour and place of the special meeting and the business to be transacted at the meeting. A copy of the notice must be delivered to each council member or to a place designated by a council member at least 48 hours before the day of the meeting. The notice may be mailed to the last known address of each council member at least seven days before the day of the meeting.

The Mayor may call a special meeting of council on shorter notice either in writing or verbally, provided each member of council gives their written consent to that notice before the start of the meeting.

## **Emergency Meetings**

Any member of council under section 27 of the *Hamlets Act* may call an emergency meeting of the council where the council member considers that an emergency exists or may exist in the municipality. Notice of the time and place of an emergency meeting must be given to as many council members as possible in the circumstances. Those council members attending an emergency meeting of council constitute a quorum.

An “**emergency**,” means a present or imminent event that is affecting or could affect the health, safety or welfare of people or is damaging or could damage property.

## **Private Meetings**

Occasionally, the nature of the subject may make a closed session to the public preferable and therefore, by motion, a private meeting can be called to discuss the item. Private meetings should generally be confined to matters concerning personnel issues and the discussion of relationships with other corporate bodies and matters concerning individuals. A Council has no power as a meeting that is closed to the public other than to pass a resolution to revert back to a public meeting as per section 22 of the *Hamlets Act*.

Council should use discretion when using private meetings because too many closed meetings could create false impressions and suspicions. Open meetings stimulate the free exchange of information with the residents.

## **Basic Requirements for a Council Meeting**

For a council meeting to be valid it must be:

1. Properly Convened: The meeting must be called by proper authority and adequate notice must be provided to council members. Regular meetings require no other notice than is contained in the resolution or the procedural by-law of council setting the day, time and place.
2. Properly Constituted: The correct person must be in the chair (Mayor or Deputy Mayor or in their absence, a chairperson elected from among the members present) and a quorum must be present. A quorum is the majority of the total council members, whether present or not. A quorum is not reduced if a position is vacant.
3. Properly Conducted: The meeting must be held in accordance with any applicable statutes, procedure by-laws or parliamentary rules.

**A binding decision can only be made at a properly constituted council meeting which is open to the public and at which a quorum is present.**

### **Rules of Parliamentary Procedure**

The main objectives of parliamentary procedure rules are to guard against hasty, poorly considered action, to give each member an equal right to be heard, to determine the will of the majority, and to protect the rights of the minority. Some of the sources for these rules are:

1. *Robert's Rules of Order (Revised edition)*
2. *Beauchesne's Parliamentary Rules and Forms (Fifth edition)*
3. *Bourinot's Rules of Order*
4. *Auer's Essentials of Parliamentary Procedures*
5. *Kerr and King's Procedures for Meetings and Organizations*

Following parliamentary procedure rules during council meetings will help the decision making process of councils.

### **Committees of Council**

The *Hamlets Act* allows for the appointment of committees of council by resolution. Council committees are usually comprised of one member of council and a number of community residents appointed by the council; the appointment of members should be set out in the procedural by-law. The Mayor as per the *Hamlets Act* is an ex officio member of all committees of council.

Council may, by by-law, delegate any of its powers, duties or functions to a committee of council; however, council may not delegate a power or duty to pass by-laws, its power to suspend, revoke, and appoint a person to the position of SAO and its powers to adopt a budget. Councils should refer discussions or items such as motions and by-laws to be reviewed by committees to get

recommendations to try and improve them; therefore, committees of council should meet as frequently as council so that they can report their recommendations to council of the referred discussions or items.

Meetings of committees are usually quite informal. Members speak as often as necessary provided they do not deprive other members of opportunities to present their views. The chairperson may take an active part in the discussion and may put questions to a vote after an informal discussion.

## **6. BY-LAWS & RESOLUTIONS**

The council is responsible for providing services that the residents need and want. This responsibility involves providing input regarding the municipality's programs and services (policy making) and making sure that the administration provides programs and services in the best possible way.

Laws that municipalities are permitted to pass are called by-laws, meaning "municipal laws".

Municipalities may take only such action as is authorized by territorial legislature through territorial Acts. If there is no statutory authorization, a municipality may not legally pass a by-law to take such action. A by-law passed without authorization is considered *ultra vires* (beyond the power of the municipality) and, if challenged, it may be struck down by the courts.

Councils should therefore ensure that by-laws are consistent with all territorial Acts.

### **By-law or Resolution?**

A resolution is primarily used for day to day business and generally expresses the will of the council on a certain occasion that is not likely to recur. In most instances, resolutions are used unless the legislation specifies the use of a by-law.

Often, the legislation that grants the municipality specific authority will state whether a power is to be exercised by by-law. However, if the use of a by-law or resolution is optional, the general rule of thumb is to use a by-law for ongoing matters that have general application or involve a penalty (e.g. licensing).

Action taken by the municipality without the decision of council expressed in a resolution or by-law could be open to legal challenge.

### **Passing a By-law**

The power of a municipal council to make by-laws is subject to all Acts and regulations of Nunavut and Canada unless an Act or regulation expressly states otherwise. Where a by-law is inconsistent with an Act or regulation, the by-law is of no effect to the extent of the inconsistency.

Every by-law must have three distinct and separate readings to be effecting. No council shall give more than two readings to a by-law at any one meeting of council unless all council members are present at the meeting and, before the third reading, they all agree, by resolution, to give the by-law third reading at the same meeting.

For a by-law to be effective, it must be in writing, read three times at a valid meeting of council, under the seal of the municipality, signed by the Mayor or presiding officer of the meeting and signed by the SAO.

There are some by-laws that must be approved by the minister before they can become effective. When passing by-laws it is important that enabling legislation is reviewed to ensure that the by-law is effective and enforceable.

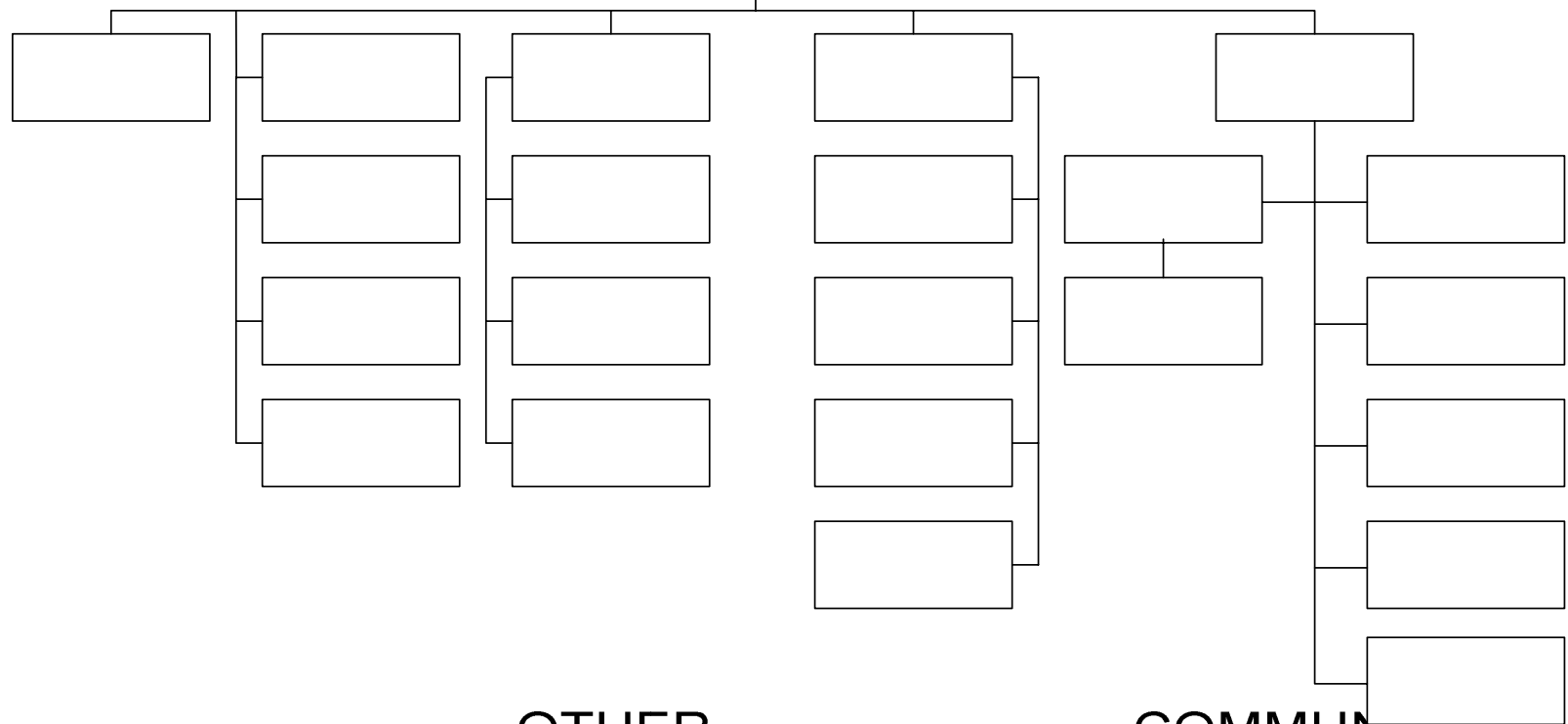
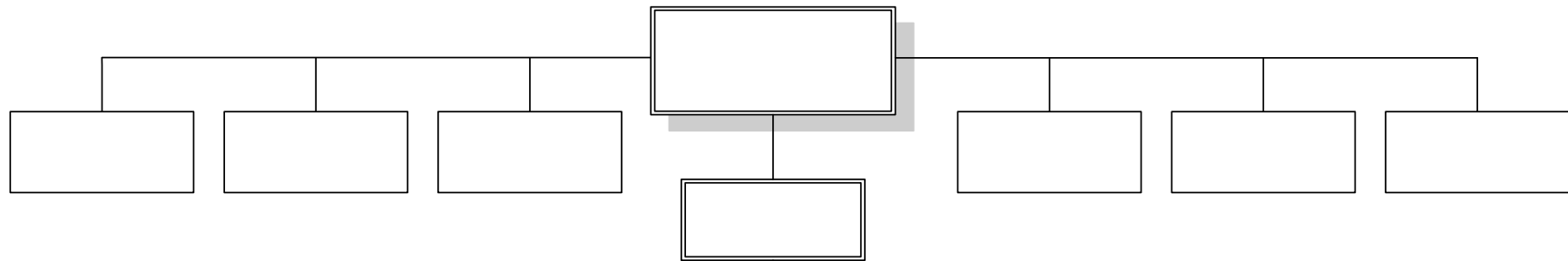
## **7. THE DISTINCTION BETWEEN EXECUTIVE AND ADMINISTRATION**

An effective working relationship between a municipal council and its SAO is a good foundation upon which a municipality can conduct its affairs. Interaction between the council and the SAO has to be close and regular. The key role of council members is to provide leadership and set policies. The SAO is a policy advisor and ensures council's policies are carried out.

Staff should keep the council informed on current and impending issues. Each issue should be thoroughly researched so that council can be given a reasonable range of alternatives for consideration. Municipal administrative staff members have the experience and knowledge needed by council members in order for them to do their jobs more efficiently.

In reality, the division between policy and administration is not always clear-cut. It is inevitable that there will be areas of overlap between policy making and administration; however, if each party is aware of the other's role and the roles are complementary, it will foster mutual respect and provide a sound basis for governing the municipality and administering its affairs.

The following page is a sample organizational chart for municipalities in Nunavut which shows the line between the executive body (The Mayor & Councillors) and the administrative body (staff). The council should only give direction to the SAO by making policies in the form of resolutions and by-laws in a duly constituted meeting of Council. It is then the duty of the SAO to administer or implement the policies.



**OTHER  
COMMITTEES OF  
COUNCIL**

**COMMUNITY  
PLANNING &  
LANDS COMMITTEE**

**SAM**

## **8. FINANCE**

### **Current Budget**

The *Hamlets Act* requires that every council, before each fiscal year begins, adopt a budget. The budget contains the estimated revenues and expenditures for the current new fiscal year. These include expenditures for debt repayment, for capital purposes, and for planned programs and services of the municipality.

The council shall also prepare an estimate of its budgeted revenues for the year from licensing, government contributions, contract, surpluses of any previous year appropriated for current year expenditures and all sources of other revenue.

The budget process is one of the most important items council will deal with each year. The budget should not be thought of as just an accounting exercise, balancing revenues and expenditures. Rather, it should be a time to look back on previous budgets and a time to set goals and objectives for current and future budgets. The budget process is ongoing and not carved in stone, as the budget can always be amended by resolution.

Every council shall, by resolution, before each fiscal year, adopt a budget for the fiscal year. *Hamlets Act Section 136*

### **Budget Control**

When putting together the budget estimates, the council is planning the level of services and expenditures for the current year. The budget is a tool to control expenditures and to prevent the municipality from entering into financial commitments that have not been budgeted. Municipal governments cannot operate on a strictly cash basis. Inflows of cash will be highest around the due date for grants. Outflows of cash will vary throughout the year. Good management will ensure that short-term borrowing is kept to a minimum and interest from short-term investments is maximized.

Budget control is important in keeping revenues and expenditures in line and should be monitored, at least monthly, through the approval of monthly financial statements and the budget may have to be adjusted. *Hamlets Act Section 139 states "No person shall incur an expenditure on behalf of the municipal corporation that is not included in or is inconsistent with the budget for the fiscal year."* If items go over budget, the budget will have to be adjusted and approved by resolution of council.

### **Budget Process**

A good budget process is far more than the presentation of a legal document that allocates funds for a series of line items. A good budget process is characterized by several essential features which are:

- communication with community residents
- planning for the future, setting goals and objectives
- Focuses budget decisions based on results & outcomes

The budget process is not simply an exercise in balancing revenues and expenditures one year at a time, but is strategic in nature and includes multi-year planning that allocates resources based on goals and objectives. A good budget process moves beyond traditional of line item expenditure control.

A council should set up a budget calendar that sets dates for:

- Community consultation,
- setting goals and objectives for the municipality,
- drafting a budget based on goals and objectives,
- Reviewing and making budget decisions.
- Approval (prior to April 1)
- Review (this may be done quarterly or semi annually)

There are 4 basic principals of the budget process

- 1. Council must establish broad goals & objectives to guide decision making**
  - a) Assess community needs, priorities, challenges and opportunities*
  - b) Identify opportunities and challenges for services, capital assets and management*
  - c) Develop and distribute goals and objectives*
- 2. Develop Approaches to achieve goals & Objectives**
  - a) Adopt Financial policies*
  - b) Develop program, services and capital policies & plans*
  - c) Develop programs and services consistent with policies & plans*
  - d) Develop Management Strategies*
- 3. Develop a budget consistent with approaches to achieve goals**
  - a) Develop a process for preparing and adopting a budget*
  - b) Develop and evaluate financial options*
  - c) Make choices necessary to adopt a budget*
- 4. Monitoring, evaluating performance and make adjustments**
  - a) Monitor, measure, and evaluate performance*
  - b) Make adjustments as needed*

## **Budget Calendar**

A budget calendar is tool which is very helpful in keeping the budget process on track. Council should set up a budget calendar that sets dates for the following: community consultation; setting goals and objectives for the municipality; drafting a budget based on goals and objectives; reviewing and making budget decisions; approval of budget (prior to April 1); and review of the budget (quarterly or semi-annually at minimum).

It will take a team effort from council and the SAO to ensure that budget calendar deadlines are met. Stick to the calendar that you set and the budget process will flow more smoothly. Deadlines for submission for approval by the Minister will be more easily met and sticking to the budget calendar also ensures that a review of the budget is done, thus ensuring the budget is used as intended – as a management tool.

## **Paying Accounts**

The council must, by resolution, approve all payments of accounts, even when council has previously authorized the expenditure particularly when there has been no budget approved.

Approval must be given prior to payment of all accounts except for:

- The payment of wages and utility accounts if the municipality has a by-law authorizing payment prior to the council meeting;
- Other payments required to be made by statute for example Revenue Canada remittances and any territorial taxes.

All payments authorized by council must be listed in the minutes. It's preferable that they be listed in order of cheque number for council's benefit and for audit control purposes. Listing the accounts ensures that a record is maintained of all business conducted at the council meeting.

## **Borrowing**

As per section 149 of the *Hamlets Act, 2003*; a municipal corporation may, by by-law, borrow up to 10% of its estimated budgeted revenues for a period not exceeding one year; the debt must be repaid the next fiscal year. Where a municipal corporation desires to borrow for a period exceeding one year, the by-law must be approved by the Minister of Community & Government Services *Hamlets Act* section 150.1.

## **Financial Statements**

The SAO must submit to the council, each month, bank reconciliations and monthly financial statements that includes a Statement of Financial Position, a Statement of Revenue and Expenditures and a list of fund balances and reserves activity. The Statement of Revenues and Expenditures must show all the revenues and expenditures made during the previous month and the bank and cash balances after they've been reconciled. Council should, by resolution, acknowledge that they have received this statement. It is important that all council members be constantly aware of the municipality's financial position.

## **Audit**

The council of every municipality must, by resolution, appoint an auditor that is satisfactory to the Minister. Every council shall give written notice to the Minister of the appointment or revocation of an auditor, within 30 days after the appointment or revocation (Section 145 *Hamlets Act*).

The auditor shall report whether the financial statement, as prepared by administration, fairly reflects the financial position of the municipality. This report is done in accordance with generally accepted accounting and auditing principles for municipalities.

The auditor is required, on a test basis, to make an examination of the books, accounts and records of the municipality and of boards, associations and commissions established by council that administer municipal funds and report to the council and the Minister of Community and Government Services or his/her delegate. These guidelines are prepared by Community and Government Services as the Minister requires.

## **Accounts Receivable/Payable**

It is very important that there be a strong Collections/Accounts Receivable by-law approved by council. This establishes the methods that staff may use for collecting on outstanding debts and shows the support of council while administration is trying to do their job.

Failure to collect on outstanding debts owed to the municipal government may result in a lack of cash and the ability to pay suppliers and employees; this could also result in not being able to provide programs and services to community members.

Accounts receivable collection is a challenge in some municipalities. The Municipality should stick to its accounts receivable policy if it has one. If it does not have an accounts receivable by-law it should draft one and get council approval and support.

## **Funds and Reserves**

Every municipality shall have a fund known as the general municipal fund composed of all the moneys belonging to the municipality (*Section 142 Hamlets Act*). *“A council may by by-law, establish one or more funds in addition to the general municipal fund for carrying out on specific activities or achieving specific objectives. **Section 143 (1)**. If a council wants to establish other funds they must be done by by-law. The by-law must include:*

- *the name of the fund*
- *the purpose of the fund*
- *what the fund will be composed of*
- *the specific purposes of any reserves that will be created under the fund*

- *rules governing the operation of the fund that council considers necessary or advisable.”*

The most common funds other than the General Municipal Fund are Water and Sewage Fund and the Land Development Fund.

**Water and Sewage Fund:** Results of operations of the Water and Sewage program are rolled into the Water and Sewage Fund. This way you can see how the program is doing financially and it helps council and administration determine whether changes are necessary to make the program more efficient. The municipality should have a signed Community Service Agreement with the GN that lays out what expenditures may be charged to the Water Sewer Fund

**Land Development Fund:** Results of operations of the Land Development and Administration program are rolled into the Land Development Fund. Again, the purpose is to keep separate accounting for this program.

The surplus/deficit at the end of the year from each of these programs rolls into the fund to show the overall surplus/deficit in the fund.

A council may by resolution segregate portions of a fund established under Section 143 (1) as reserves for specific future purposes. A separate fully funded bank account must be kept for each reserve. If the account is not fully funded, it should be disclosed in the notes to the financial statements.

At minimum the municipality should have the following three reserves:

1. Equipment Reserve – 25% of all equipment rental revenue should be transferred to the equipment reserve at the end of the year for maintenance and replacement of heavy equipment. Approval of CGS is not required to transfer or use funds in this reserve; however, by-laws must be passed by council to purchase personal property, as per section 53.7 of the *Hamlets Act*.
2. Water/Sewage Vehicle Reserve – This reserve is for replacement of water/sewage vehicles only. The Community Service Agreement sets out the amount to be transferred annually. Approval from CGS is not required to use funds in the reserve; however, by-laws must be passed to purchase personal property.
3. Land Development Reserve – All revenue from selling, leasing or otherwise disposing of lands shall be placed in the reserve. Expenditures from the reserve must be for the sole purpose of acquiring and/or developing land by the municipality. Written approval of the Minister is required for other types of expenditures from this reserve.

Transfers to reserves should come from surplus and should not be shown as expenditures on the Statement of Revenue and Expenditures.

## Deficits

There are two main reasons why municipalities go into deficit.

1. **Unexpected expenditures:** Your server breaks down.
2. **Poor financial management:** Poor financial management occurs when there is a lack of financial controls in place and financial monitoring. It is also important that both the administration and council monitor the budget on a consistent basis so as to ensure that the municipality does not go into deficit. It is important the municipality have strong financial controls in place items don't go over budget. If items do go over budget council and administration will have to be adjust and funds must be taken from other areas to cover for over budget items. Otherwise, the Municipality would be at risk of running a deficit.

There are three levels of deficits:

**Level 1** – An annual deficit in a specific fund. The municipality will have to either cut expenditures or increase revenues for this fund to eliminate deficit in the next year. The Council should provide support to the SAO to reduce expenditures. *Section 138 of the Hamlets Act* states “Every municipal corporation shall eliminate any deficit at the end of a fiscal year by the end of the next fiscal year.”

**Level 2** – An accumulated deficit in specific fund accumulated over multiple fiscal years. In this situation a deficit recovery plan should be implemented with the assistance of CGS which may require Ministerial approval

**Level 3** – A net deficit when all funds and reserves of a community are combined and results in a net bottom line deficit. A deficit recovery plan is necessary and the affected community along with CGS will determine the necessary steps in order to eliminate the deficit.

To get out of deficit a deficit recovery plan must be formulated with the following considerations:

- Time frame – How long is recovery going to be necessary?
- Capacity – Ability of the community to maintain acceptable levels of service and operation while reducing expenditures.
- Implementation – Expedient development and implementation. The problem is immediate. Get the plan developed, approved and in place as soon as possible.
- Monitoring – Consistent and diligent monitoring is crucial.

As mentioned earlier, any deficit must be eliminated by the end of the next fiscal year. Any plan to eliminate a deficit for a period longer than 12 months requires approval of the Minister.

How to prevent deficits:

- Review revenue sources – Revenue sources should be reviewed to ensure charges for services are current. Maybe fees and rates for municipal services haven't been increased in a long time. If current fees and rates do not cover costs of operations they may need to be increased.
- Review expenditures – As improvements are made to make operations more efficient there may be opportunities to lower expenditures in these areas. Look for ways to reduce expenditures while maintaining an appropriate level of service to residents.
- Up to date financial Statements – It is imperative that financial statements be up to date and accurate. A municipality that is two or three months behind in issuing its financial statements may run into deficit and it will be several months before it is noticed. The municipality is left scrambling for ways to reduce the deficit and it may be too late. Accurate and up to date financial information is necessary in order to prevent deficits.
- Budget review – periodic budget review is necessary to monitor expenditure levels and to catch deficits before they occur. Budgets should be reviewed monthly for variances and measures should be taken to correct items that are over budget.

## **Contract and Contribution Agreements**

Municipalities may enter into agreements with sources other than CGS to provide services to the community. The purpose of these contracts is to empower the community so that it will become more self-sustainable.

Although many contracts and contribution agreements are with Government on Nunavut, opportunities to obtain funding from the Federal Government designated Inuit organizations and other parties may be available.

Many contribution agreements require full financial reporting where revenue received must match the expenditures. Council and staff should be aware of the financial implications of all contracts and contribution agreements before entering into them.

Points to Consider

1. Allows the Municipality to have more control over affairs in the community so that it will become more self-sustainable.
2. May result in more jobs for the community residents.
3. Brings extra cash into Municipality

4. Sometimes these contracts results in extra work for existing staff. This may create workplace stress for those staff members, especially if they are already overworked.
5. If the program is constantly running deficits council must consider whether or not it should continue to run the program at the expense of Municipality finances. Administration sometimes relies on these contracts for the cash flow purposes even though they sometimes run deficits.

Council and staff should have a clear understanding of the terms and conditions of a contract or contribution agreement before making a decision to accept or reject it. All information should be provided to council by staff so that council may make well informed decisions

## **9. CONFLICT OF INTEREST AND DISQUALIFICATIONS**

### **What is a Conflict of Interest?**

Conflict of interest generally occurs when a person in public life gets into a situation where a personal interest conflicts with the public duty.

The term "conflict of interest" in municipalities is limited to financial interest.

The conflict of interest provisions of the *Hamlets Act*, and the *Conflict of Interest Act*, extend to a financial gain or loss that a council member, a member's agent, partner, spouse, parent or child could make from a decision of council. They also apply to a controlling interest that a council member, an agent or partner, spouse, parent or child has in a corporation (or if a partner, spouse, parent, child or agent is a chief officer of a corporation) that could benefit financially from or be adversely affected financially by a decision of council.

### **Procedures for Disclosure**

It is the duty of each individual council member to determine what does or what does not constitute a case of conflict of interest in regard to a specific situation or set of circumstances. It is not the duty of the SAO or any other member of council to point out a possible situation of conflict of interest regarding another member of council.

If a matter comes before council that a member believes he or she has a conflict of interest in, there are clear procedures to follow. The member is required to:

1. Disclose the conflict of interest to the council. It is necessary to state the exact nature of the interest.
2. Leave the meeting while the matter is under discussion.
3. Avoid discussing the matter or attempting to influence the decision made by any other council member on the matter before, during or after the meeting.

These procedures apply to all meetings of council.

### **Recording the Disclosure**

When a member discloses an interest, the SAO is required to record the disclosure in the minutes of the meeting. The council member must ensure that the disclosure is recorded accurately.

### **Conflict of Interest - Exceptions**

There are certain cases where conflict of interest does not apply.

Generally these relate to interests a council member would share with any other voter of the municipality in receiving a municipal service or utility from the municipality. As well, conflict of interest would not apply as a result of receiving payment or benefits as a member of a municipal volunteer organization or board.

Several other cases where conflict of interest does not apply are if a council member:

- is a member of a credit union or co-operative that carries on business with the municipality;
- is a publisher of a newspaper that publishes advertising for the municipality, as long as only the regular advertising rate is charged, and the advertisement is legally required to be published in a newspaper; or
- Has an interest in any land or buildings affected by a local improvement.

### **Penalties for Violation**

Any elector may apply to the courts for a determination of whether a council member has violated the conflict of interest provisions within three months after the alleged offence; section 5(2) Conflict of Interest Act.

It is important to note that if the judge finds a contravention has occurred, the member's motive is not relevant to that finding, although it is considered when the penalty is determined. If the judge finds that contravention has occurred, the member may be ordered to pay restitution of any money gained as a result of the contravention.

If the judge also finds that the contravention was not a result of inadvertence or an honest mistake, the judge will declare the member's seat on council vacant. The judge may also disqualify the member from office for up to five years and order the member to pay a fine not exceeding \$5000; section 6. (1) Conflict of Interest Act.

Specifics on conflict of interest provisions may be obtained by referring to the Conflict of Interest Act, 1988 & section 170.2 of The Hamlets Act, 2003.

## 10. CODE OF ETHICS

Community residents look to politicians not only for fair treatment but also ethical behaviour. Residents do not expect the municipality to ignore reasonable requirements of other government instructions such as the Workers' Compensation rules, not to ignore its own by-laws and regulations. Legal short cuts may save time and money in the short run but over the long term will cost the municipality. Always remember that it is the public's money at stake. Councillors are the trustees of the municipality's assets and the beneficiaries of that trust are the residents. Section 16.1 of the *Hamlets Act* states: "A council may adopt a code of ethics for council members."

### AS A MEMBER OF A COUNCIL

- I will be motivated primarily by an earnest desire to serve my municipality and the people of my community to the best of my ability.
- I will endeavour to attend all council meetings.
- I will recognize that the expenditure of municipal funds is a public trust, and I will endeavour to see that all such funds shall be expended efficiently, economically and in the best interest of the municipality.
- I will not use the municipality or any municipal program for my own personal advantage or for the advantage of my friends.
- I will do everything possible to maintain the integrity, confidence and dignity of the office of a municipal council member.
- I will listen to what other council members, individuals or groups may have to say before making final decisions.
- I will endeavour to avoid hostility and bitterness, to observe proper decorum and behaviour, to encourage full and open discussions in all matters and not to withhold or conceal from my fellow council members any information or matter in which they should be concerned.
- I will make no disparaging remarks, in or out of the council meeting about other members of council or their opinions, but I reserve the right to make honest and respectful criticism.
- I will consider it unethical to pursue any procedure calculated to embarrass a fellow member of council, a member of the municipal staff or another local government body.

- I will treat my fellow council members, the municipal staff and the public I serve with respect and consideration.
- I will recognize that authority rests with the council in legal sessions, and not with individual members of the council.
- I will abide by majority decisions of the council once they are made.
- I will not discuss confidential business of council outside of council and committee meetings.
- I will endeavour to keep informed on all local, provincial and national municipal developments of significance.
- I will earnestly try to interpret the peoples' needs of the entire municipality and do my best to implement action to meet those needs, keeping in mind budget limitations of the municipality.

## 11. AN EFFECTIVE COUNCILLOR

Municipal councillors have a job to do and it is a very important one. Local government is the closest government to the people and provides them with the most basic services: water, sewage, garbage collection, fire protection, recreation, etc. To do the job well, councillors need dedication to the community and a vision for its future; as a councillor, you are elected to look after the interests of the entire municipality. As tough as it may be at time, you must base any decision you make on what is best for the entire community.

Working as a team with the rest of council and administration will make your time on council a success. It isn't always going to be easy. Your power and influence as a council member rests on your ability to voice your concerns and persuade other members to accept your point of view. When an issue is being studied, be sure to express your views as a part of the debate. Free exchanges of ideas makes for good decisions, but limit the exchange to the issues at hand.

In addition to integrity and intelligence, a Councillor needs to pay attention to the following key elements of good local governance:

- Placing the community's interests ahead of one's own
- Pride in the reputation of the municipal corporation
- Behaving ethically and fairly
- Awareness of the legal limitation of local government
- Placing importance on current and relevant policy making
- Respect for municipal staff and the administrative role of staff
- By-laws administration and enforcement
- Administration of territorial and federal laws affecting local government

The foregoing is in no particular order of importance – all are key ingredients to good municipal government.

Remember that councillors are elected to govern in the interest of the entire community and not to further their own personal interests. They should want to be remembered for what they contribute to the community, not for what they took out of it.

Ideally, Council should not be both policy makers and administrators. When Councillors get involved in daily operations they tend to abandon their policy making role, leaving the municipality out of control and without planning for the future. The Council will often finds itself caught up in crisis after crisis unprepared to cope effectively if they get involved with daily operation.

## 12. MAINTAINING ELIGIBILITY

Every council member is responsible for maintaining eligibility as per section 17 Hamlets Act. At any time after his or her election or appointment where the councillor is no longer eligible to be a candidate, the councillor shall vacate his or her seat as Mayor or council as the case may be.

Sections 18 & 20 of the *Local Election Authorities Act* states, "A person is not eligible to be nominated or to stand as a candidate for Mayor or council if the person

- Is a judge, or justice of the peace,
- Is a member of the Legislative Assembly
- Is a full time employee of the municipal corporation
- Is an election officer
- Has been convicted of a corrupt practice under *the Local Authorities Election Act* within three years of the election day
- Has been convicted of an offence punishable by imprisonment of more than 5 years before election day
- Is a sheriff
- Is indebted to the municipal corporation for a sum exceeding \$500 for more than 90 days
- Has a controlling interest in a private corporation that is indebted to the municipal corporation for a sum exceeding \$500 for more than 90 days or
- Has not paid all municipal taxes before December 31 of the year in which that taxes were levied."

If a councillor does not resign immediately where he or she is no longer eligible to stand as a candidate, the council may apply to the Nunavut Court of Justice for an order to determine whether the person is qualified to remain as a council member or declare the person to be disqualified as a member of council. An elector who has reason to believe that a councillor is ineligible may apply to the Nunavut Court of Justice for an order declaring the councillor to be disqualified if the elector pays \$500 to the court and files an affidavit.

After hearing an application under section 17 of the *Hamlets Act*, the judge may; declare the person to be disqualified and his or her seat on council to be vacant; declare the person qualified to remain a council member; or dismiss the application with or without costs.

## **13. FURTHER INFORMATION**

### **The Department of Community and Government Services (CGS)**

The Community Development Division of the Department of Community and Government Services is responsible for development and delivery of programs and services which strengthen and support municipal government. This is achieved in part through direct financial assistance programs and by maintaining a legislative framework to enable local officials to respond to the changing needs of municipal governments in the territory.

Department staff assist municipalities by providing advisory and extension services for those working in municipal government. This includes direct advice by community development staff and workshops for local officials. Reference materials including manuals, guides and bulletins are provided for use by municipal administrators, council members and the public.

For information contact your regional office:

#### **Qikiqtani Region**

Community & Government Services  
Community Development Section  
PO Box 330 Cape Dorset Nunavut, X0A 0C0

Telephone: (867) 897-3618

Fax: (867) 897-3633

#### **Kivalliq Region**

Community & Government Services  
Community Development Section  
PO Box 490 Rankin Inlet Nunavut, X0C 0G0

Telephone: (867) 645-8100

Fax: (867) 645-8143

#### **Kitikmeot Region**

Community & Government Services  
Community Development Section  
PO Box Cambridge Bay Nunavut, X0B 0C0

Telephone: (867) 983-4015

Fax: (867) 893-4003

#### **Headquarters**

Community & Government Services

Community Development Section  
PO Box 490 Rankin Inlet Nunavut, X0C 0G0

Telephone: (867) 645-8106  
Fax: (867) 645-8141

### **Municipal Associations**

Municipal associations in Nunavut include the Nunavut Association of Municipalities (NAM) and the Nunavut Association of Municipal Administrators (NAMA).

For further information on these associations contact their offices at:

#### **Nunavut Association of Municipalities**

PO Box 4003  
Iqaluit Nunavut, X0A 0H0  
Email: [namceo@nunanet.com](mailto:namceo@nunanet.com)  
Web site: [www.nunavutcommunities.ca](http://www.nunavutcommunities.ca)  
Phone: (867) 979-3311  
Fax: (867) 979-3112

#### **Nunavut Association of Municipal Administrators c/o Hamlet of Cape Dorset**

PO Box 30  
Nunavut, X0A 0C0  
Phone: 867-564-8943  
Fax: 867-897-8030

### **Municipal Training Organization (MTO)**

The Municipal Training Organization is a non-profit organization, incorporated in February 2003. A partnership was formed between the Nunavut Association of Municipal Administrators and the Department of Community and Government Services to establish an organization *“To identify, develop and implement programs to provide municipal staff with skills and knowledge that can contribute to excellence in municipal program and services delivery across the territory.”*

#### **Municipal Training Organization**

PO Box 1000, Station 700  
Iqaluit, Nunavut X0A 0H0  
Email: [mtoweb@web.ca](mailto:mtoweb@web.ca)  
Web site: <http://mtoweb.ca/index.html>  
Phone: (867) 975-5346  
Fax: (867) 975-5340