

Local Services Boards (LSB)

Program Overview Board Member Training

January 2017



What is a Local Services Board?

An **Local Services Board (LSB)** is a volunteer organization that is established and has authority under the *Northern Services Boards Act (NSBA)*.

An LSB, at the request of citizens, is established in areas where there is no municipal structure to deliver up to nine powers (services) as defined in the *NSBA*.

Area residents vote to determine the LSB's boundaries and powers.

Each LSB is unique in the services it offers its residents.

Powers (Services)

Powers (services) that the LSB can deliver under the *NSBA* include:

- Water Supply
- Fire Protection
- Garbage Collection
- Sewage
- Street or Area Lighting
- Recreation
- Roads
- Public Library Service
- Emergency Telecommunications

Northern Services Boards Act (*NSBA*)

Part 1 **ONLY** of the *NSBA* (Sections 1 to 33)
applies to Local Services Boards

All meetings must be public and properly advertised (*NSBA sub-section 10.(3)*).

Board composition is defined in the Minister's Order establishing the Board (*NSBA sub-section 4.(1)*). Three (3) or Five (5) Board members.

All inhabitants can be Board members (*NSBA sub-section 19.(6)*).
A by-election is required to fill a vacancy.

Secretary is responsible for the general administration and the financial management of the LSB (*NSBA section 14*).

The Board may establish its own rules and procedures for transacting LSB business (*NSBA section 11*).

LSB Program - MNDM

- LSB Program Budget = \$625,000.00.
- 46 LSBs in Northern Ontario. Newest one established is Dennis Township South (2016). One dissolved in 2016 (Missanabie).
- In 2013 MNDM funding was extended to seven (7) previously unfunded LSBs which were formed after 1999 when LSB program funding was frozen.
- Six (6) of the seven (7) accepted MNDM funding. One did not.
- 44 funded LSBs, 2 unfunded.

Insurance Requirements

There are three insurance requirements for LSBs including:

Security Bond for the Secretary (*NSBA sub-section 14.(2)*)

- Usually provided as an added item with the insurance policy.
- Bond must be for the value of the LSB operating budget for one year.

Insurance coverage for the LSB (*NSBA sub-section 7.(5)*)

- The Board must pass a by-law to contract the necessary coverage for all of its authorized activities, as specified under the NSBA sub-section 7(5).

The Crown as an Additional Insured (Funding Agreement Article 11)

- The policy must include “Her Majesty the Queen in right of Ontario as represented by the Minister of Northern Development and Mines, and its officers, directors, employees and agents” as the name of the additional insured.

Board Member Responsibilities

Trusteeship

Financial Management

Program Planning, Implementation and Evaluation

Communication

Committees may be appointed to advise the Board in the conduct of its affairs (*NSBA sub-section 7.(4)*).

Committees are not independent of the Board. The Board retains full responsibility for the delivery of services.

Role of the Ministry of Northern Development and Mines (MNDM)

The Ministry of Northern Development and Mines (MNDM) **provides guidance** to LSBs regarding access to and **understanding of the *NSBA***, and in providing timely and efficient administration of the LSB Program.

MNDM is responsible for:

- Responding to general enquiries about the *NSBA*
- Providing guidance to the LSB with respect to compliance issues
- Processing First and Second Advances (if applicable).

Guide for Inhabitants and Board Members

The Guide provides Board Members and Inhabitants with information on the operation of a Local Services Board including compliance with the *NSBA*.

The Guide is a tool to assist a LSB in interpreting the *NSBA* and in managing its affairs.

The Guide is not the law, however does contain Ministry policy when making requests relating to the *NSBA*, as well as suggestions for LSB processes and procedures.

Eligibility to Vote

Inhabitants have an obligation / right to vote annually at:

- The **Election Meeting**, for candidates for Board positions (*NSBA section 19*).
- At the **Estimates (Budget) meeting**, when the LSB uses the **levy method** for raising funds (*NSBA sub-section 23.(4)(a)*).

In all other situations, although input is taken into consideration, voting on by-laws is restricted to **Board members only** (*NSBA sub-section 10.(2)*).

Elections

Elections are covered under the *NSBA sections 19-21 and in the Guide.*

Elections must be held annually between August 1 and September 30 (*NSBA sub-section 19.(1)*).

Notice Posting (*NSBA sub-section 19.(2)*):

Two (2) weeks prior to election date

Includes the date, place, time and purpose

In both official languages (where applicable)

Posted in six (6) conspicuous areas within the LSB area

Secretary must send a copy of the notice to the Ministry

Elections (cont'd.)

LSB Inhabitants are eligible to vote and be elected as a Board Member (*NSBA sub-section 19.(6)*).

NSBA sub-section 3.(1) defines an **Inhabitant** as:

- Canadian Citizen
- 18 years of age or older
- Permanent resident or property owner in the LSB area

Challenges to an Inhabitant's voting eligibility are resolved by swearing an affidavit of eligibility before the Chair (*NSBA section 20*).

Elections (cont'd.)

The LSB Chair shall chair the meeting (*NSBA sub-section 19.(3)*).

Election procedures may follow:

- Parliamentary procedure in the absence of an election by-law.

or

- The Board's election by-law (*NSBA sub-section 19.(7)*).

Voting must be done by secret ballot (*NSBA sub-section 19.(8)*).

Elections (cont'd)

Proxy voting is not permitted unless specifically outlined as one of the elements in an LSB's election by-law: The by-law;

- Must be passed prior to the election
- Must ensure secrecy of the proxy vote
- Requires nominations of Board members to be provided in advance of the election meeting
- Identifies how a challenged vote is addressed
- Ensures only one vote per proxy voter

Volunteers from the community and the current Board members are selected to count the ballots.

Elections (cont'd.)

MNDM staff witness the ballot counting.

The election winners, but not the vote counts, are announced by the Election Chairperson.

Secretary records the names of those present for the vote.

Notice is posted after the meeting with the results and the total number of ballots cast.

The term of office of a Board member is one year from October 1 to September 30 (*NSBA section 5*).

Failure to Call an Election

If the Board does not call an election before September 10th, the Secretary calls a meeting immediately by giving notice and shall act as the Chair of the meeting (*NSBA sub-section 19.(4)*).

If the Board or Secretary do not call the meeting before September 15th, any ten inhabitants may call a meeting and appoint one from among them to act as Chair (*NSBA sub-section 19.(5)*).

In situations where the Board nominations are not met, the nominations presented at the election meeting will become members of the Board, and a subsequent meeting will be called to elect the remaining Board members.

Meetings

Meetings are covered under the *NSBA sections 9, 10, 11, 17, and 21, and the Guide pages 22 to 24 and 40.*

All meetings must be public and properly advertised.

- For general meetings, notice is provided one (1) week prior to the meeting (*NSBA section 17*).
- For meetings to establish new Boards, and to elect Board members, at least two (2) week notice must be provided (*NSBA sub-sections 3.(4) and 19.(2)*) .

Notices must be posted in at least six (6) conspicuous areas (*NSBA sub-section 3.(4), and section 17*).

Meetings (cont'd.)

The Chair is the head of the Board and presides at all meetings (*NSBA section 9*).

The Chair may expel from any meeting any person for improper conduct (*NSBA section 18*).

A majority of the Board members constitutes a quorum (*NSBA sub-section 10.(1)*).

The Board may establish rules and procedures for transacting Board business (*NSBA section 11*).

Meetings (cont'd.)

If a Board member

- ceases to be an Inhabitant,
- fails to attend any three consecutive meetings,
- refuses to act or dies,

the remaining Board members may by by-law call a public meeting to elect an inhabitant of the Board area to serve the remainder of there term (*NSBA sub-section 9.(3)*).

Meetings (cont'd.)

The Board must hold at minimum the following public meetings:

- A meeting to establish the LSB
- Election meetings (annually)
- Meetings to vary the powers (services) of the Board
- Meetings to alter the boundaries of the Board area
- Meetings to dissolve the LSB
- Sufficient public meetings to allow the Inhabitants to participate in:
 - A discussion of current and proposed programs
 - The preparation of the annual estimates/budget
 - A discussion of the annual audit report

Estimates Meeting

The Estimates Meeting is covered under the *NSBA section 23, and the Guide page 26* .

The *NSBA* requires that the Board prepare and adopt an annual estimates before December 1st (*NSBA sub-section 23.(1)*).

The estimates forecast the amount needed by the Board in the current fiscal year for operating and capital expenditures.

LSB are required to submit estimates (an operating budget) to MNDM each LSB fiscal year.

Estimates Meeting (cont'd.)

The estimates must be presented to Inhabitants for discussion at a meeting called for that purposes (*NSBA section 16*).

The estimate must identify:

- The amounts to be raised
- The method the funds will be raised (fee or levy)
- The rate or rates, if any, to be added to the Provincial Land Tax (*NSBA sub-section 23.(1), (2) and (4)*).

Estimates (Budget) Meeting (cont'd.)

Inhabitant entitlement to vote on the estimates is determined by the method the LSB uses to raise funds.

When the LSB uses the **levy method (based on assessed value)**, Inhabitants have a **right and obligation to vote** at the budget estimates meeting (*NSBA sub-sections 23.4 and 25.(1)*).

When the LSB uses the **fee method (flat fee per property)**, Inhabitants are **not entitled to vote** (*NSBA sub-section 25.1 (1)*). The Board may, however, provide Inhabitants with a vote (this is optional not mandatory).

Budget Meeting

Following the Estimates meeting (and at a separate meeting), the Board adopts the budget by-law to enforce the estimates (*NSBA sub-section 23.(1)*).

The Secretary must send a copy of the estimates and the by-law adopting the estimates to MNDM before December 10 (*NSBA sub-section 23.(5)*).

By-Laws

By-laws are covered in the Guide.

Board decisions must be confirmed by passing a by-law.

The by-law must be precise and include:

- By-law number (sequential numbering; 2017-00?)
- Moved by, and seconded by
- That... (what, when, where, how, financial commitment)
- Refer to a committee report, delegation request, letter received
- Voting results and conclusion (approved, declined, tabled etc.)
- **More detail is better than not enough as this is a permanent record of the LSB.**

By-Laws (cont'd.)

By-laws must be:

- Listed one per page
- Approved by a majority vote of the full Board (*NSBA sub-section 10.(2)*)
- Signed either by the Secretary and one (1) Board member or two (2) Board members with signing authority (*NSBA sub-section 12.(2)*)
- Under corporate seal (*NSBA sub-section 12.(1)*)

By-Laws (cont'd.)

A by-law remains in effect until a new by-law to rescind or replace is approved by the Board. The new by-law must refer to the by-law (and number) that it is replacing.

By-laws passed or repealed must be referenced in the Board meeting minutes.

Where a by-law is changed or repealed, notification to that effect is recorded and a by-law is passed to amend or repeal the original by-law.

Levy and Fees

Levy and fees are covered in the *NSBA sections 2, 23, 25 and 26, and the Guide pages 30 and 31.*

Where in the exercise of its powers, an LSB provides a service, the LSB has the authority to charge a levy or fee to inhabitants to raise sufficient funds for the service.

The amount charged, the purpose for which it is charged, and the area where it will be charged is determined when the LSB is structuring its estimates (budget) for the coming year.

Levy and Fees (cont'd.)

The LSB cannot charge a fee or levy in any part of the Board area where the service is not being provided (*NSBA section 7*).

Two billing methods are available to the LSB for the collection of a levy and fees:

- Direct billing
- Provincial Land Tax (PLT) Consolidated Billing through the On-Line Property Tax Analysis (OPTA) system.

Finances

Finances are covered in the *NSBA sections 23 through 29, the Funding Agreement, and the Guide.*

First Advance Payment and Request

50 per cent of the MNDM allocation

Funding agreement is fully executed

Request package is received by MNDM no later than December 10 and includes:

- Request for payment of LSB operating grant form
- Schedule D
- Annual Budget Estimates form
- By-laws approving the annual estimates, PLT estimates, Insurance contract, service contracts and copies of the insurance and service contracts

Finances (cont'd.)

Second Advance Payment and Request

Annual audit must be received and approved by the LSB (signed by two officers of the LSB) before preparing the Interim Budget Report.

The “Actual Prior Year” column of the Interim Budget Report must be taken directly from the audit. Amounts and cost categories must match. The grant calculation is based on the audit numbers, as they reflect the prior year’s actual amounts verified by an auditor.

Finances (cont'd.)

Second Advance Payment and Request

Request package is received by June 10 and includes:

- Request for payment of LSB operating grant form
- Interim Report Summary form
- Schedule D
- Audited financial statements, signed by 2 members of LSB
- By-laws approving the audited financial statements
- By-laws for and contracts renewed since 1st Advance

Where the LSB does not meet the December 10 and June 10 deadlines (*NSBA sub-section 23.(5)*), MNDM cannot confirm that the 1st and 2nd grant requests respectively will be honoured (as per Legal Agreement).

Budget Spreadsheet Workbook

MNDM provides an excel workbook to facilitate the completion of the estimates (budget) along with instructions for inputting information into the workbook.

The workbook must be used for the Budget Estimates (at the beginning of the fiscal year; by December 10) and the Interim Budget Report (after April 1; by June 10).

Revenues can only be generated and expenses can only be incurred for items, operations and activities that fall within the LSB's authorized powers.

Contracts

The LSB must seek its own legal advice when preparing contracts.

Common elements of a contract include:

Legal name of each party

Effective date

Terms and conditions

- Detailed listing of services to be provided
- Clear outline of roles and responsibilities
- Minimum requirements (times, days, coverage area, labour, equipment, damage etc.)
- Costs associated for the service
- Notice to terminate
- List of acts of default with a remedy
- Other clauses – assignment, successors, schedules etc..

Minutes

Minutes are covered in the *NSBA sub-section 14.(4) and the Guide*.

The Secretary is responsible for recording minutes of meetings.

Minutes must be posted in at least six (6) conspicuous places in the Board area.

Minutes document actions or decisions in the order they occurred at meetings.

A recording of the number of votes in favour and/or opposed is recommended.

Conflict of Interest

Conflict of Interest is covered in the *Funding Agreement (Article 6)* and the Guide.

The *NSBA* does not include a strict code or specific requirements for conflict of interest.

Boards are strongly encouraged to develop a “**Conflict of Interest**” **policy**.

A clearly defined policy ensures transparency in issues where a conflict of interest, real or perceived, exists.

It is not MNDM’s role to determine when a conflict of interest situation arises, unless it is a contravention of the *NSBA*.

Important Dates

July to August – LSB receives annual letter from MNDM confirming requirements for upcoming fiscal year.

August 1 to September 30 – LSB holds Election Meeting (notifies MNDM).

Before October 10 – First meeting of LSB fiscal year – Elect a Chairperson and appoint a Secretary for one (1) year term.

Mid-October – Send all financials to Accounting Firm to prepare Audit, required before June 10 of the following year.

October to November – MNDM Funding Agreement sent to LSB. Read, review, sign and return to MNDM. No advances can be processed until executive Funding Agreement is received.

Important Dates (cont'd.)

Before December 1 – LSB Board adopts Annual Estimates, sends by-law authorizing collection of levies/fees on behalf of LSB to Ministry of Finance.

Before December 10 – Budget documents, Schedule D and First Request for Payment submitted to MNDM with supporting documentation.

January to February – LSB enters data into OPTA system.

Before June 10 – Interim Budget documents, Schedule D and Second Request for Payment submitted to MNDM with supporting documentation.

Compliance

Compliance to the *NSBA* is the LSB's responsibility.

When there is a compliance issue, the MNDM provides the LSB with an opportunity to remedy the situation.

In the majority of cases, non-compliance is due to a lack of understanding or an error in interpretation of the *NSBA*.

Identified compliance issues, and actions undertaken by MNDM to communicate the matter with the LSB is recorded in the LSB file.

Complaint Process

In situations of conflict or disagreement, Boards and Inhabitants are encouraged to make every effort to address the issue and reach a solution that is acceptable to all parties at the local level.

Where a solution cannot be achieved at the local level, then the Board, the Inhabitant or group of Inhabitants may contact the Ministry and request assistance in addressing the issue.

In situations where the LSB will require a legal opinion, it is the responsibility of the Board to seek its own legal counsel.

Complaint Process (cont'd.)

The complaint must be submitted in writing to the Ministry's contact and include:

- **Nature of the issue** as it relates to the *NSBA*
- **Documentation substantiating** the concerns raised in the issue
- **Documentation of actions taken** with the Board to address and resolve the issue

The Ministry will determine whether the issue is internal to the LSB or falls within the scope of the *NSBA*.

MNDM takes action only on issues that fall within its mandate as outlined in the *NSBA*.

Issues Internal to the LSB

Where the issue is internal to the LSB, it is referred back to the Board for resolution.

Items that are internal to and must be resolved by the LSB include:

- Contracts for services including their development and implementation
- LSB policies such as procurement, procedural and conflict of interest (unless in contravention of NSBA)
- Scope of annual audit and any legal issues
- Meeting processes determined by the Board that are outside the requirements of the *NSBA*

Issues within the Mandate of MNDM

Items that are within the mandate of MNDM include:

- Clarification of *NSBA* requirements
- Issues of LSB compliance with the *NSBA*
- Concerns in relation to the exercise of the Board's approved powers
- Concerns in relation to the administration of the Board's affairs and finances as they relate to powers

Where a conflict arises that is within the scope of the *NSBA*, the Ministry works with the Board and Inhabitants to resolve the matter at the local level.

Issues within the Mandate of MNDM (cont'd.)

After a thorough review and investigation of the issue, the Ministry responds to the complainant.

Where the Ministry deems the issue resolved, the Ministry's response is considered final and the file is closed.

Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

LSBs, in their dealings with Inhabitants and the public at large, are subject to the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

MFIPPA provides:

- Individuals with access to both general information as well as their own personal information maintained by the LSB.
- Unless the records at issue fall within one of the stated exemptions or the request is frivolous or vexatious, access to the records should be granted.
- A privacy protection process relating to the collection, use, disclosure and retention of personal information in the custody and/or control of the LSB.

MFIPPA (cont'd.)

What is Personal Information?

Recorded information about an identifiable individual, including:

ethnic origin, race, religion, age, sex, sexual orientation, etc.

information regarding education, financial, employment, medical, psychiatric, psychological or criminal history

identifying numbers e.g. S.I.N.

home address, home telephone number etc.

personal opinions of an individual except if they relate to another individual

personal correspondence that is implicitly or explicitly of a private or confidential nature

the individual's name where it appears with or reveals other personal information

What about personal information of Board members?

Definition for business identity information:

name, title, contact information or designation of an individual in a business, professional or official capacity is not personal information.

even if carrying out business/professional/official responsibilities in personal dwelling.

Resources

For LSB resources, including the:

- Northern Services Boards Act, Regulation 737
- LSB Guide for Inhabitants and Board Members
visit:
 - LSB Contact Information
 - Complaint Process for Inhabitants and Board Members

<http://www.mndm.gov.on.ca/en/northern-development/community-support/local-services-board>

Questions?