



AUDIT, FINANCE AND ADMINISTRATION COMMITTEE
AS AMENDED AT COUNCIL ON FEBRUARY 10, 2021
REPORT 21-002

9:30 a.m.
February 4, 2021
Council Chambers
Hamilton City Hall

Present: Councillors M. Wilson (Chair), B. Clark, C. Collins, L. Ferguson, B. Johnson, J. Partridge, M. Pearson, and A. VanderBeek

THE AUDIT, FINANCE & ADMINISTRATION COMMITTEE PRESENTS REPORT 21-001 AND RESPECTFULLY RECOMMENDS:

1. Citizen Committee Report - Hamilton Status of Women Advisory Committee - Donation of Remaining 2020 Budget Allocation (Item 9.1)

- (a) That the Advisory Committee Funding Structure be referred to staff for a report back to the Governance Review Sub-Committee.
- (b) That the Citizen Committee Report from the Hamilton Status of Women Advisory Committee respecting the Donation of their Remaining 2020 Budget Allocation, be referred back to staff to be included in the Tax and Rate Operating Budget Variance Report – Budget Control Policy Transfers to the Audit, Finance and Administration Committee.

2. 2020 City Enrichment Fund Update (GRA21001) (City Wide) (Item 9.2)

That the overall 2020 City Enrichment Fund surplus (attached as Appendix “A” to Audit, Finance & Administration Report 21-002), in the amount of \$732,342 be transferred to the City Enrichment Fund Reserve #112230, be approved.

3. Citizen Committee Report - Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Advisory Committee - All Advisory Committee Event (Item 9.3)

That the request from the Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Advisory Committee to host a virtual All Advisory Committee Event to be held in 2021, be referred back to Clerk's staff to develop a format for an All Advisory Committee Event and report back to the Audit, Finance & Administration Committee on April 8th, 2021.

4. Governance Review Sub-Committee Report 21-001 - January 25, 2021 (Item 9.4)

(a) 2020 Review of the City's Procedural By-law Amendments (FCS21004 / LS21001) (Item 9.1)

- (a) That the Summary of the Proposed Revisions, as detailed in Appendix 'B' to Audit, Finance & Administration Committee Report 21-002, as amended, be approved;
- (b) That By-law 18-270, the Council Procedural By-law, and it's amending By-laws 19-090, 19-212, 19-308, 20-042, 20-055, 20-103, 20-129, 20-145, 20-146, 20-151, 20-184, be repealed; and,
- (c) That the Council Procedural By-law attached as Appendix 'C' to Audit, Finance & Administration Committee Report 21-002, as amended, be enacted by Council.

(b) Civil Marriage Solemnization Update (CL19012(b)) (City Wide) (Item 9.2)

That Report CL19012(b) respecting Civil Marriage Solemnization Update, be received.

(c) Legal Advice on Contract Terms (Item 13.1)

That the direction provided to staff in Closed Session respecting Legal Advice on Contract Terms, be approved and remain confidential.

5. Commercial Relationship between the City of Hamilton and 1389797 Ontario Inc. o/a Medical Centre Optical (FCS11020(a) / LS11001(a)) (City Wide) (Item 13.1)

That Report FCS11020(a) / LS11001(a) respecting the Commercial Relationship between the City of Hamilton and 1389797 Ontario Inc. o/a Medical Centre Optical, be received and remain confidential.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised of the following change to the agenda:

4. COMMUNICATIONS

- 4.2 Correspondence from Joey Coleman, respecting a proposed bylaw banning letters critical of Council behaviour from being submitted as public correspondence

Recommendation: Be received and referred to consideration of Item 9.4 - Governance Review Sub-Committee Report 21-001.
The agenda for the February 4, 2021 Audit, Finance and Administration Committee meeting was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 3)

(i) January 14, 2021 (Item 3.1)

The Minutes of the January 14, 2021 meeting of the Audit, Finance and Administration Committee were approved, as presented.

(d) COMMUNICATIONS (Item 4)

Communication Items 4.1 and 4.2, were received and referred to consideration of Item 9.4 – Governance Review Sub-Committee Report 21-001:

- (i) Correspondence from Cameron Kroetsch, respecting suggested changes to consolidated Procedural By-law 18-270 (Item 4.1)**
- (ii) Correspondence from Joey Coleman, respecting a proposed bylaw banning letters critical of Council behaviour from being submitted as public correspondence (Added Item 4.2)**

(e) PUBLIC HEARINGS / VIRTUAL DELEGATIONS (Item 7)

- (i) Sanaullah Chaudhry, respecting a water bill totaling \$2,193.34 (for October 18 - Dec. 18th through Alectra-Bill) (Approved January 14, 2021) (Item 7.1)**

Sanaullah Chaudhry when called upon experienced technical difficulties, therefore, the Chair called upon the next delegation until the technical difficulties could be resolved.

For further disposition of this matter refer to Item (e)(iv).

- (ii) Robert Ridley, on behalf of Olympia Gerl, respecting a Water Billing Charge Anomaly (Approved January 14, 2021) (Item 7.2)**

Robert Ridley experienced technical difficulties and was unable to rejoin the meeting.

The delegation from Robert Ridley, on behalf of Olympia Gerl, respecting a water billing charge anomaly, was deferred to the February 18, 2021 Audit, Finance & Administration Committee meeting.

(iii) Staff Supporting Documentation – Robert Ridley (Item 7.2(a))

The staff supporting documentation respecting Robert Ridley's delegation, was deferred to the February 18, 2021 Audit, Finance & Administration Committee meeting.

(iv) Sanaullah Chaudhry, respecting a water bill totaling \$2,193.34 (for October 18 - Dec. 18th through Alectra-Bill) (Approved January 14, 2021) (Item 7.1) (Continued)

Sanaullah Chaudhry addressed the Committee respecting a water bill totaling \$2,193.34.

The delegation from Sanaullah Chaudhry, respecting a water bill totaling \$2,193.34, was received.

(ii) Staff Supporting Documentation - Sanaullah Chaudhry (Item 7.1(a))

The staff supporting documentation respecting Sanaullah Chaudhry's delegation, was received.

(f) DISCUSSION ITEMS (Item 9)

(i) Governance Review Sub-Committee Report 21-001 – January 25, 2021 (Item 9.4)

The Chair advised that public notice was given for the 2020 Review of the City's Procedural By-law Amendments (FCS21004 / LS21001), Item 1 of the Governance Review Sub-Committee Report 21-001, inviting interested parties to make virtual representations at today's meeting. There were no registered speakers.

(a) 2020 Review of the City's Procedural By-law Amendments (FCS21004 / LS21001) (Item 9.1)

- (i) That the Summary of the Proposed Revisions, as detailed in Appendix 'B' attached to Governance Review Sub-Committee Report 21-001, be approved;
- (ii) That By-law 18-270, the Council Procedural By-law, and its amending By-laws 19-090, 19-212, 19-308, 20-042, 20-055, 20-103, 20-129, 20-145, 20-146, 20-151, 20-184, be repealed; and,
- (iii) That the Council Procedural By-law attached as Appendix 'A' to Governance Review Sub-Committee Report 21-001, as amended, be enacted by Council.

Council – February 10, 2021

(b) **Civil Marriage Solemnization Update (CL19012(b)) (City Wide)
(Item 9.2)**

That Report CL19012(b) respecting Civil Marriage Solemnization Update, be received.

(c) **Legal Advice on Contract Terms (Item 13.1)**

That the direction provided to staff in Closed Session respecting Legal Advice on Contract Terms, be approved and remain confidential.

Councillor Clark relinquished the Chair to Councillor Johnson in order to introduce amendments to this item.

(1) That subsection (c) to Item 1 of the Governance Review Sub-Committee Report 21-001, be **amended**, as follows:

(i) That Sections 3.10 (5) and 5.14 (6) respectively, **be amended**, to read as follows:

Communication Items shall not contain the Personal Information ***without their express consent***, with the exception of the author's name. Any Personal Information found in the communication will be redacted pursuant to the obligations of *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), this Procedural By-law and other relevant legislation or procedure.

(ii) That Sections 3.7 (5) and 5.4 (5) respectively, **be amended** to include '***the meeting will be recessed for up to 15 minutes to allow members to return. Following the recess, if quorum is not regained,***' to read as follows:

3.7 (5) **INP** If Quorum cannot be maintained during an IN-PERSON Council meeting, the Clerk will advise the Mayor or Deputy Mayor that quorum is lost ***the meeting will be recessed for up to 15 minutes to allow members to return. Following the recess, if quorum is not regained***, the decision to continue the meeting will rest with the Mayor or Deputy Mayor. During the absence of quorum, no decisions may be approved.

5.4 (5) **INP** If Quorum cannot be maintained during an IN-PERSON Committee meeting, the Clerk will advise the Chair that quorum is lost ***the meeting will be recessed for up to 15 minutes to allow members to return. Following the recess, if quorum is not regained***, the decision to continue the meeting will rest with the Chair. During the absence of quorum, no decisions may be approved.

- (2) WHEREAS, Council has an obligation to be transparent and receive communications in good faith acknowledging the public interest under Common Law and the *Municipal Act, 2001*;

WHEREAS, the role of the Integrity Commissioner is to help ensure that Members of Council perform their functions in accordance with the Code of Conduct, and other applicable procedures, rules and policies governing ethical behavior (*Integrity Commissioner By-Law No. 16-288*);

WHEREAS, the violations of the Code of Conduct apply to Key Statements of General Principle Underlying the Code; Gifts and Benefits; Confidentiality; Use of City Property, Services and Other Resources; Election Campaign Work; Conduct in Office, Including at Council and Committees; Representing the City; Improper Use of Influence; Conduct Respecting City Employees; Respect for the City and Its By-laws and Queries and Complaints Under this Code of Conduct (Code of Conduct for Members of Council By-law 16-290, as amended);

WHEREAS, the Ontario Ombudsman recommends that any communication regarding behaviour of a Member of Council is forwarded to the member and the author is informed of the Integrity Commissioner web page and process, as an option if they wish to file a formal complaint;

WHEREAS, an appeal process was omitted from the proposed Council Procedural By-law for a member(s) of Council to appeal the Mayor's or the Chair's order for a member(s) of Council to vacate the place the meeting is being held should they persist in conducting themselves in a manner contrary to the rules set forth in subsection 8.1; and

WHEREAS, consistency in the proposed Council Procedural By-law is paramount, respecting the type of vote required for an appeal/challenge of the Mayor's or the Chair's ruling.

THEREFORE BE IT RESOLVED:

Council – February 10, 2021

That subsection (c) to Item 1 of the Governance Review Sub-Committee Report 21-001, be **further amended**, as follows:

- (i) That Sections 3.10 (10) and 5.14 (10) respectively, **be amended** to read as follows:

Communications which are in substance an allegation of a violation of the Code of Conduct or the Municipal Conflict of Interest Act by a member of Council or any member of a local board will not be placed on a Council (or Committee) agenda but will be returned to the author who will be advised of the informal and formal mechanisms for bringing such allegations to the attention of the Integrity Commissioner.

- (ii) That Section 8.4, **be amended** to read as follows:

8.4 *Should a Member of Council persist in conducting themselves in a manner contrary to the rules set forth in subsection 8.1 after having been called to order by the Mayor or the Chair of the Committee, the Mayor or the Chair may order them to vacate the place the meeting is being held:*

- (i) If the Member of Council apologizes, they may, by two-thirds majority vote of the Council or Committee members, be permitted to remain at the meeting; and***
(ii) Any Member of Council other than the member ordered to vacate the place the meeting is being held may appeal the Mayor's or Chair's ruling, and Council or Committee may overturn the Chair's ruling by two-thirds majority vote of the Council or Committee members. An appeal is not in order once a vote under section 8.4 (i) has taken place.

- (iii) That Section 12.7, **be amended** to read as follows:

12.7 The Clerk shall assume the role of the Mayor or Chair as the chair of Council or a Committee, when a ruling of the Mayor or Chair is challenged by a Member of Council or Committee. The Clerk shall take a vote of the challenge for Members of Council or Committee in favour or opposed to the ruling. The ruling fails when there is a **two-thirds** majority vote in favour of the challenge.

Councillor Johnson introduced the following amendment to the amendment:

- (3) That subsection (c) to Item 1 of the Governance Review Sub-Committee Report 21-001, be **further amended**, to include ***‘(excluding the member of Council or Committee in question)’*** as follows:

8.4 *Should a Member of Council persist in conducting themselves in a manner contrary to the rules set forth in subsection 8.1 after having been called to order by the Mayor or the Chair of the Council or Committee, the Mayor or the Chair may order them to vacate the place the meeting is being held:*

- (i) If the Member of Council apologizes, they may, by two-thirds majority vote of the Council or Committee members (excluding the member of Council or Committee in question), be permitted to remain at the meeting; and,***
(ii) Any Member of Council other than the member ordered to vacate the place the meeting is being held may appeal the Mayor’s or Chair’s ruling, and Council or Committee may overturn the Chair’s ruling by two-thirds majority vote of the Council or Committee members (excluding the member of Council or Committee in question). An appeal is not in order once a vote under section 8.4 (i) has taken place.

Amendment, As Amended, to read as follows:

WHEREAS, Council has an obligation to be transparent and receive communications in good faith acknowledging the public interest under Common Law and the *Municipal Act, 2001*;

WHEREAS, the role of the Integrity Commissioner is to help ensure that Members of Council perform their functions in accordance with the Code of Conduct, and other applicable procedures, rules and policies governing ethical behavior (*Integrity Commissioner By-Law No. 16-288*);

WHEREAS, the violations of the Code of Conduct apply to Key Statements of General Principle Underlying the Code; Gifts and Benefits; Confidentiality; Use of City Property, Services and Other Resources; Election Campaign Work; Conduct in Office, Including at Council and Committees; Representing the City; Improper Use of Influence; Conduct Respecting City Employees; Respect for the City and Its By-laws and Queries and Complaints Under this Code of Conduct (Code of Conduct for Members of Council By-law 16-290, as amended);

WHEREAS, the Ontario Ombudsman recommends that any communication regarding behaviour of a Member of Council is forwarded to the member and the author is informed of the Integrity Commissioner web page and process, as an option if they wish to file a formal complaint;

WHEREAS, an appeal process was omitted from the proposed Council Procedural By-law for a member(s) of Council to appeal the Mayor's or the Chair's order for a member(s) of Council to vacate the place the meeting is being held should they persist in conducting themselves in a manner contrary to the rules set forth in subsection 8.1; and

WHEREAS, consistency in the proposed Council Procedural By-law is paramount, respecting the type of vote required for an appeal/challenge of the Mayor's or the Chair's ruling.

THEREFORE BE IT RESOLVED:

That subsection (c) to Item 1 of the Governance Review Sub-Committee Report 21-001, be **further amended**, as follows:

- (i) That Sections 3.10 (10) and 5.14 (10) respectively, **be amended** to read as follows:

Communications which are in substance an allegation of a violation of the Code of Conduct or the Municipal Conflict of Interest Act by a member of Council or any member of a local board will not be placed on a Council (or Committee) agenda but will be returned to the author who will be advised of the informal and formal mechanisms for bringing such allegations to the attention of the Integrity Commissioner.

- (ii) That Section 8.4, **be amended** to read as follows:

8.4 *Should a Member of Council persist in conducting themselves in a manner contrary to the rules set forth in subsection 8.1 after having been called to order by the Mayor or the Chair of the Council or Committee, the Mayor or the Chair may order them to vacate the place the meeting is being held:*

- (i) If the Member of Council apologizes, they may, by two-thirds majority vote of the Council or Committee members (excluding the member of Council or Committee in question), be permitted to remain at the meeting; and,***
- (ii) Any Member of Council other than the member ordered to vacate the place the meeting is being held may appeal the Mayor's or Chair's ruling, and Council or Committee may overturn the Chair's ruling by two-thirds majority vote of the Council or Committee members (excluding the member of***

Council or Committee in question). An appeal is not in order once a vote under section 8.4 (i) has taken place.

(iii) That Section 12.7, ***be amended*** to read as follows:

12.7 The Clerk shall assume the role of the Mayor or Chair as the chair of Council or a Committee, when a ruling of the Mayor or Chair is challenged by a Member of Council or Committee. The Clerk shall take a vote of the challenge for Members of Council or Committee in favour or opposed to the ruling. The ruling fails when there is a ***two-thirds*** majority vote in favour of the challenge.

Councillor Clark assumed the Chair.

For further disposition of this matter refer to Item 4.

(g) PRIVATE AND CONFIDENTIAL (Item 13)

Committee moved into Closed Session respecting Item 13.1, pursuant to Section 8.1, Sub-section (f) of the City's Procedural Bylaw 18-270, and Section 239(2), Sub-section (f) of the *Ontario Municipal Act, 2001*, as amended, as the subject matter pertains to advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

(i) Commercial Relationship Between the City of Hamilton and 1389797 Ontario Inc. o/a Medical Centre Optical (FCS11020(a) / LS11001(a)) (City Wide) (Item 13.1)

For disposition of this matter refer to Item 5 and (h)(a)(i).

(h) GENERAL INFORMATION / OTHER BUSINESS (Item 12)

(i) Amendments to the Outstanding Business List (Item 12.1)

The following amendment to the Audit, Finance & Administration Committee's Outstanding Business List, was approved:

(a) Items Considered Complete and Needing to be Removed:

- (i) 10 Year Review of Medical Centre Optical – Bids, Proposals or Quotation**
Added: February 7, 2011 at AF&A
Completed: February 4, 2021 AF&A - Item 13.1
OBL Item: A

(i) ADJOURNMENT (Item 14)

There being no further business, the Audit, Finance and Administration Committee adjourned at 1:17 p.m.

Respectfully submitted,

Councillor Clark, Chair
Audit, Finance and Administration
Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk