



Hamilton

**GOVERNANCE REVIEW SUB-COMMITTEE
REPORT 21-001**

AS AMENDED AT COUNCIL ON FEBRUARY 10, 2021

Monday, January 25, 2021

9:30 am

**Council Chambers
Hamilton City Hall**

Present: Councillors T. Whitehead (Chair), M. Wilson (Vice-Chair), B. Clark, L. Ferguson, M. Pearson, and A. VanderBeek

**THE GOVERNANCE REVIEW SUB-COMMITTEE PRESENTS REPORT 21-001 AND
RESPECTFULLY RECOMMENDS:**

- 1. 2020 Review of the City's Procedural By-law Amendments (FCS21004 / LS21001) (Item 9.1)**
 - (a) That the revised Summary of the Proposed Revisions, as detailed in Appendix 'B' attached to Governance Review Sub-Committee Report 21-001, 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and it's amending By-laws 19-090, 19-212, 19-308, 20-042, 20-055, 20-103, 20-129, 20-145, 20-146, 20-151, 20-184, be repealed; and,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 'A' to Governance Review Sub-Committee Report 21-001, **as further amended**, be enacted by Council (see Item (g)(i) for further details).
- 2. Civil Marriage Solemnization Update (CL19012(b)) (City Wide) (Item 9.2)**

That Report CL19012(b) respecting Civil Marriage Solemnization Update, be received.
- 3. 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.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 1)

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

CHANGE TO THE ORDER OF ITEMS:

Item 13.1, respecting Legal Advice on Contract Terms, to be considered immediately following Item 9.2.

The January 25, 2021 Agenda of the Governance Review Sub-Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) APPROVAL OF MINUTES (Item 3)

(i) December 2, 2020 (Item 3.1)

The Minutes of the December 2, 2020 meeting of the Governance Review Sub-Committee were approved, as presented.

(d) COMMUNICATIONS (Item 4)

(i) Correspondence from Cameron Kroetsch, respecting suggested changes to consolidated Procedural By-law 18-270 (Item 4.1)

The correspondence from Cameron Kroetsch, respecting suggested changes to consolidated Procedural By-law 18-270 was received and referred to consideration of Item 9.1 - Review of the City's Procedural By-law Amendments (FCS21004 / LS21001).

(e) DELEGATION REQUESTS (Item 5)

(i) Cameron Kroetsch, respecting changes to the Procedural By-law (For today's meeting) (Item 5.1)

The delegation request from Cameron Kroetsch, respecting changes to the Procedural By-law, was approved for today's meeting.

(f) DELEGATIONS (Item 7)

(i) Cameron Kroetsch, respecting changes to the Procedural By-law (Added Item 7.1)

Cameron Kroetsch addressed the Committee respecting changes to the Procedural By-law, with the aid of a PowerPoint presentation.

The delegation from Cameron Kroetsch, respecting changes to the Procedural By-law, was received.

(g) DISCUSSION ITEMS (Item 9)

- (i) 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' attached to Report FCS21004 / LS21001, 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 'A' to Report FCS21004 / LS21001, be enacted by Council.

The Committee made the following amendments to the recommendations in Report FCS21004 / LS21001 and directed staff as follows:

- (i) That staff be directed to report back to the next Governance Review Sub-Committee meeting, on a further amendment to the Council Procedural By-law, to permit electronic participation by members of Council at Council and Standing Committee meetings beyond the Emergency Order currently in place.
- (ii) That Sections 3.3 (2) and 5.5 (2) – Location of Meetings to Appendix "A" of Report FCS21004 / LS21001, be deleted in their entirety as follows:

SECTION 3 – COUNCIL MEETINGS

3.3 Location of Meetings

~~(2) When necessary, Meetings of Council may be held in an adjacent municipality (Halton Region; Niagara Region or Haldimand County), with the details posted on the City's website.~~

SECTION 5 – COMMITTEE MEETINGS

5.5 Location of Meetings

~~(2) When necessary, Standing Committee Meetings may be held in an adjacent municipality (Halton Region; Niagara Region or Haldimand County), with the details posted on the City's website.~~

- (iii) That staff be directed to review and provide the Audit, Finance and Administration Committee with clarification on the wording of Sections 3.10 (10) and 5.14 (10) – Communications Items to Appendix "A" of Report FCS21004 / LS21001 on February 4, 2021.

- (iv) (a) That Section 8.4 – Order and Decorum of Appendix “A” to Report FCS21004 / LS21001, **be amended** by deleting the words ***“without challenge”***; and,
- (b) That staff be directed to provide the Audit, Finance and Administration Committee with alternative language on February 4, 2021.

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 ~~***without challenge***~~ to vacate the place the meeting is being held. If the Member of Council apologizes, they may, by vote of a majority of the Council or Committee members, be permitted to remain at the meeting.

- (v) That Section 5.9 (3) – Rules of Procedure, of Appendix “A” to Report FCS21004 / LS21001, **be amended** by deleting the words ***“when a subject matter directly affects their Ward”***; as follows:

- (3) A Member of Council who is not a member of a Standing Committee is entitled to attend such Standing Committee meetings and to participate ~~***when a subject matter directly affects their Ward***~~, provided that the Member of Council shall:

- (a) not be counted for quorum purposes, and;
- (b) not move any motion or vote on any matter.

**AMENDMENTS MADE AT AUDIT, FINANCE & ADMINISTRATION COMMITTEE
– February 4, 2021**

- (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:

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.

COUNCIL AMENDMENT – February 10, 2021

(Clark/Wilson)

WHEREAS, an amendment to Section 8.4 (i) and (ii) was approved at the February 4, 2021, Audit, Finance and Administration Committee excluding the member of Council or Committee who has been ordered to vacate the place the meeting is being held, from voting; and

WHEREAS, Sections 6.2 (3); (5) and (10) of the Council Procedural By-law attached as Appendix 'C' to Audit, Finance & Administration Committee Report 21-002, states that "every Member of Council or Committee present and participating in a vote on a motion, shall vote";

THEREFORE BE IT RESOLVED:

That subsection (a) (c) of Item 4 to Audit, Finance and Administration Committee Report 21-002, be **amended** as follows:

**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)**

- (c) That the Council Procedural By-law attached as Appendix 'C' to Audit, Finance & Administration Committee Report 21-002, as **further amended**, be enacted by Council:

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 (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) exclusions from voting provided for in subsections 8.4(i) and (ii) shall apply notwithstanding any other provisions in the By-law that require a member of Council or Committee to vote.**

For further disposition of this matter refer to Item 4.

(h) PRIVATE AND CONFIDENTIAL (Item 13)

That Committee move 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) Legal Advice on Contract Terms (Item 13.1)

Staff were provided direction in Closed Session.

For disposition of this matter refer to Item 3.

(i) DISCUSSION ITEMS (Item 9) (Continued)

(ii) Integrity Commissioner Work Plan (FCS20016(b)) (City Wide) (Item 9.3)

The consideration of Report FCS20016(b), respecting the Integrity Commissioner Work Plan was deferred to the next Governance Review Sub-Committee meeting.

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

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

The following amendments to the Outstanding Business List, were approved:

(a) Items to be Removed (Item 12.1(a)):

Civil Marriage Solemnization (CL19012) (City Wide) (Item 10.2)
That report CL19012 respecting Civil Marriage Solemnization be referred back to staff for public consultation on a 1 year Pilot Project, to a maximum of 150 ceremonies, using current resources.
Added: November 26, 2019 at Governance Review Sub-Committee (Item 10.2)
Completed: February 12, 2020 at Governance Review Sub-Committee (Item 10.1)
OBL Item: D-2019

Civil Marriage Solemnization (CL19012(a)) (City Wide) (Item 10.1)
That staff report back to the Governance Review Sub-Committee within a one year period to provide an update on Civil Marriage Solemnization services.
Added: February 12, 2020 at Governance Review Sub-Committee (Item 10.1)
Completed: January 25, 2021 at Governance Review Sub-Committee (Item 9.2)
OBL Item: 2020-A

(k) ADJOURNMENT (Item 14)

There being no further business, the Governance Review Sub-Committee meeting adjourned at 1:18 p.m.

Respectfully submitted,

Councillor T. Whitehead, Chair
Governance Review Sub-Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk