



**City of Hamilton**  
**GOVERNANCE REVIEW SUB-COMMITTEE**  
**AGENDA**

**Meeting #:** 21-002  
**Date:** February 23, 2021  
**Time:** 12:00 p.m.  
**Location:** Due to the COVID-19 and the Closure of City Hall - ROOM 264

All electronic meetings can be viewed at:

City of Hamilton's Website:  
<https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

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<https://www.youtube.com/user/InsideCityofHamilton>

Angela McRae, Legislative Coordinator (905) 546-2424 ext. 5987

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1. **APPROVAL OF AGENDA**  
(Added Items, if applicable, will be noted with \*)
2. **DECLARATIONS OF INTEREST**
3. **APPROVAL OF MINUTES OF PREVIOUS MEETING**
  - 3.1. January 25, 2021
4. **COMMUNICATIONS**
5. **DELEGATION REQUESTS**
6. **CONSENT ITEMS**
7. **PUBLIC HEARINGS / DELEGATIONS**
8. **STAFF PRESENTATIONS**

**9. DISCUSSION ITEMS**

- 9.1. Integrity Commissioner Work Plan (FCS20016(b)) (City Wide) (Outstanding Business List Item)

*(Deferred from the January 25, 2021 Governance Review Sub-Committee Meeting)*

- 9.2. 2020 Review of the City's Procedural By-law – Amendments to Allow for Virtual Participation at Council and/or Committee Meetings (FCS21004(a) / LS21001(a))

**10. MOTIONS**

**11. NOTICES OF MOTION**

**12. GENERAL INFORMATION / OTHER BUSINESS**

**13. PRIVATE AND CONFIDENTIAL**

- 13.1. Closed Session Minutes - January 25, 2021

Pursuant to Section 8.1, Sub-section (f) of the City's Procedural By-law 18-270, as amended, 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.

- 13.2. Legal Advice on Contract Terms (LS21006) (City Wide) (Outstanding Business List Item)

Pursuant to Section 8.1, Sub-sections (f) and (k) of the City's Procedural By-law 18-270, as amended, and Section 239(2), Sub-sections (f) and (k) 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; and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

**14. ADJOURNMENT**



# Hamilton

## GOVERNANCE REVIEW SUB-COMMITTEE

### MINUTES 21-001

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 FOLLOWING ITEMS WERE REFERRED TO THE AUDIT, FINANCE & ADMINISTRATION COMMITTEE FOR CONSIDERATION:

**1. 2020 Review of the City's Procedural By-law Amendments (FCS21004 / LS21001) (Item 9.1)**

**(Pearson/Ferguson)**

- (a) That the *revised* Summary of the Proposed Revisions, as detailed in Appendix 'B' attached to Report FSC21004 / LS21001, be approved;
- (b) 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,
- (c) That the Council Procedural By-law attached as Appendix 'A' to Report FSC21004 / LS21001, *as amended*, be enacted by Council.

**Result: Main Motion *As Amended* CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
 YES - Chair Terry Whitehead  
 YES - Councillor Arlene VanderBeek  
 YES - Councillor Lloyd Ferguson  
 YES - Councillor Maria Pearson  
 YES - Councillor Brad Clark

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

**(Ferguson/Pearson)**

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

**Result: Motion CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson

YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**3. Legal Advice on Contract Terms (Item 13.1)**

**(Ferguson/Clark)**

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

**Result: Motion CARRIED by a vote of 5 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**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.

**(Ferguson/Clark)**

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

**Result: Motion CARRIED by a vote of 5 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(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)**

**(VanderBeek/Pearson)**

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

**Result: Motion CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(d) COMMUNICATIONS (Item 4)**

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

**(Ferguson/VanderBeek)**

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

**Result: Motion CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(e) DELEGATION REQUESTS (Item 5)**

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

**(Wilson/Clark)**

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

**Result: Motion CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(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.

**(Wilson/Pearson)**

That the delegation from Cameron Kroetsch, respecting changes to the Procedural By-law, be received.

**Result: Motion CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(g) DISCUSSION ITEMS (Item 9)**

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

**(Pearson/Ferguson)**

- (a) That the Summary of the Proposed Revisions, as detailed in Appendix 'B' attached to Report FSC21004 / LS21001, be approved;
- (b) 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,
- (c) That the Council Procedural By-law attached as Appendix 'A' to Report FSC21004 / LS21001, be enacted by Council.

(i) **(Ferguson/Clark)**

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.

**Result: Motion CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

(ii) **(Clark/Whitehead)**

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.*~~

**Result: Amendment CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

(iii) **(Clark/VanderBeek)**

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.

**Result: Motion CARRIED by a vote of 5 to 1, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
NO - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

(iv) **(Clark/VanderBeek)**

(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.

**Result: Amendment CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

(v) **(Wilson/VanderBeek)**

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.

**Result: Amendment CARRIED by a vote of 6 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(h) PRIVATE AND CONFIDENTIAL (Item 13)**

**(Ferguson/Pearson)**

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.

**Result: Motion CARRIED by a vote of 5 to 1, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
YES - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
NO - Councillor Brad Clark

**(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.

**Result: Motion CARRIED by a vote of 5 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson

YES - Councillor Brad Clark

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

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

**(Ferguson/Pearson)**

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

**Result: Motion CARRIED by a vote of 5 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeeck  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

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

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

**(Pearson/Wilson)**

That the following amendments to the Outstanding Business List, be 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

**Result: Motion CARRIED by a vote of 5 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(k) ADJOURNMENT (Item 14)**

**(Pearson/Clark)**

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

**Result: Motion CARRIED by a vote of 5 to 0, as follows:**

YES - Councillor Maureen Wilson  
YES - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

Respectfully submitted,

Councillor T. Whitehead, Chair  
Governance Review Sub-Committee

Angela McRae  
Legislative Coordinator  
Office of the City Clerk





**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
**City Clerk's Office**

<b>TO:</b>	Members of Governance Committee
<b>COMMITTEE DATE:</b>	January 25, 2021
<b>SUBJECT/REPORT NO:</b>	Integrity Commissioner Work Plan (FCS20016(b)) (City Wide) <b>(Outstanding Business List Item)</b>
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Andrea Holland (905) 546-2424 Ext. 5409
<b>SUBMITTED BY:</b>	Andrea Holland City Clerk, Office of the City Clerk
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That the Integrity Commissioner's Work Plan outlined in Appendix A be approved;
- (b) That the City Clerk be directed to manage the delivery of the Integrity Commissioner's Work Plan as outlined in Appendix A; and,
- (c) That completed Work Plan items outlined in Appendix A be presented to General Issues Committee for discussion.

### EXECUTIVE SUMMARY

At the December 2, Governance Committee, staff presented the work plan for the Integrity Commissioner. Committee made amendments to the staff recommendations and Council approved the following:

*Integrity Commissioner Work Plan (FCS20016(a)) (City Wide) (Item 10.1)*

*(i) Report FCS20016(a), respecting the Integrity Commissioner Work Plan was referred back to Clerk's staff and Principles Integrity to determine an upset limit for development of each the following and report back to the Governance Review Sub-Committee:*

- (1) Council Code of Conduct;*
- (2) Council/Staff Relations Policy;*

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Integrity Commissioner Work Plan (FCS20016(b)) (City Wide) - Page 2 of 4**

- (3) Protocols for review and/or investigation of complaints, and reporting on complaints;*
- (4) Members' roles and responsibilities including with respect to appointments to, and sitting on, external bodies and separate entities such as municipal corporations;*
- (5) Advisory Committee/Task Force Governance Issues, and Codes of Conduct (Local Boards); and,*
- (6) Such Other issues of integrity or governance that Council wishes to assign;*

*(ii) That staff be directed to gather and review Council/Staff Relations policies from other municipalities and bring recommendations on a new policy to the governance committee by April 30, 2021.*

*(iii) That staff be directed to write to the Ministry of Municipal Affairs and Housing, which governs the Conflict of Interest Act to obtain a second opinion on common law to determine which of a Councillors' family members would a Councillor be obliged to declare conflicts of interest on.*

*(iv) That staff be directed to write a letter to Principles Integrity to seek insight into how Janice Atwood-Petkovski manages her work to avoid Conflicts of Interest given her past relationship with the City of Hamilton as an employee.*

A response for item (iv) was received from Principles Integrity and placed on the Council agenda on January 20, 2021.

At the February 26, 2020 meeting of Council, Principles Integrity were appointed as the City of Hamilton's Integrity Commissioner.

At the General Issues Committee meeting,

"staff were directed to report back to GIC with recommendations for implementing a code of conduct, applicable to the Council-appointed-citizen members of independent external boards and agencies, including addressing the use of discriminatory language or actions, and the receiving of gifts or benefits by citizen board/agency members as well as the inclusion of a confidentiality agreement and remedies available to Council to address breaches of conduct and confidentiality such as Council's right to recall"

The Integrity Commissioner's work plan is attached in Appendix A for Committee's discussion. The staff direction above has been added to the work plan in order to ensure consistency of codes of conduct for all areas of the governance framework.

**Alternatives for Consideration –Not Applicable**


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OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Integrity Commissioner Work Plan (FCS20016(b)) (City Wide) - Page 3 of 4****FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: All financial costs associated with this work plan will be funded through IC-Lobbyist Registrar (Account Number 300400), as per Council approval on February 26, 2020.

Staffing: N/A

Legal: Legal staff will participate in the staff review of policies or codes prior to presentation to Committee for consideration.

**HISTORICAL BACKGROUND N/A****POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

*Bill 68, the Modernizing Ontario's Municipal Legislation Act, 2017*, which received Royal Assent on May 30, 2017, expanded the responsibilities of the Integrity Commissioners and required that all municipal governments provide access to an Integrity Commissioner and either appoint its own Integrity Commissioner or make provisions that the services of an Integrity Commissioner be provided by another municipality by March 1, 2019.

The *Municipal Act, 2001*, as amended, Part V.1 Accountability and Transparency, section 223.2 to 223.12 (Appendix 'A') outlines the requirements for City Council "to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality". Council has expressed their intent to retain their own Integrity Commissioner and Lobbyist Registrar and to not provide that service through another municipality.

Sections 223.9 of the Act authorizes a municipality to establish and maintain a Lobbyist Registry which is a publicly accessible accountability and transparency tool that records and regulates the activities of those persons who lobby public office holders.

Section 223.11 authorizes a municipality to appoint a Lobbyist Registrar who is responsible for performing, in an independent manner, the functions assigned to it by the municipality with respect to its Lobbyist Registry.

Section 270.2.1 mandates a policy of "the relationship between members of council and the officers and employees of the municipality." Currently, Council and Administration are without a separate Council-Staff Relationship Policy as per the *Municipal Act 2001*, as amended. As per item (ii) of the Council direction on December 16, 2020; Staff have initiated the development of this policy and plan to bring a draft for Governance Committee's review and discussion by the end of April 2021.

**RELEVANT CONSULTATION N/A**

**SUBJECT: Integrity Commissioner Work Plan (FCS20016(b)) (City Wide) - Page 4 of 4**

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

In January 2020, Council approved “Trust and Confidence in City Governance” as one of the Council Term Priorities. The work outlined within the Work Plan attached in Appendix A supports Council Term Priorities, the statement of work outlined within the RFP and the staff direction approved by Council.

**ALTERNATIVES FOR CONSIDERATION**

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix ‘A’ – Integrity Commissioner Work Plan

Appendix ‘B’ – Integrity Commissioner Work Plan Cost Estimates



December 2, 2020

Governance Committee  
City of Hamilton

### Ethical Framework Program of Review

Principles *Integrity* is pleased to submit the following proposal for a program of review for the City of Hamilton's Ethical Framework<sup>1</sup>.

#### Background

The purpose of this report is to seek Council's endorsement of a process for the review of council policies that form part of the city of Hamilton's ethical framework.

In particular this report recommends a pathway for Councillor's review or development of:

- Council Code of Conduct
- Council/Staff Relations Policy
- Protocols for review and/or investigation of complaints, and reporting on complaints
- Members' roles and responsibilities including with respect to appointments to, and sitting on, external bodies and separate entities such as municipal corporations
- Advisory Committee/Task Force Governance Issues, and Codes of Conduct (Local Boards)
- Such Other issues of integrity or governance that Council wishes to assign

The objective is to provide Council with a framework that reflects best practices that have developed in the dozen years since the City of Hamilton adopted a Code of Conduct, being one of the first Ontario municipalities to do so.

This work is timely. The recommendations of the Collingwood Judicial Inquiry on Transparency and the Public Interest were released on November 2nd. That report helps to inform best practices on the contents of codes of conduct, the roles of elected and appointed officials, as well as other important considerations relating to transparency and accountability in municipal government.

As Council is aware, a judicial review application is pending in response to a recent Council decision that arose from a complaint Council filed with the Integrity Commissioner in which allegations of non-compliance were raised about the Chair of an advisory committee. One of the matters at issue in the application is the applicability of code of conduct provisions affecting the city's advisory committees. A review of components of

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<sup>1</sup> Though the ethical framework includes the City's Lobbyist Registry By-law, that by-law is not being proposed for review until the bulk of the work plan identified in this report has been concluded.

the City's ethical framework will hold in abeyance the issues in contention in the judicial review pending the hearing of the matter, which is anticipated to occur in June 2021. The bulk of the work identified above can proceed immediately.

### Principles of Our Proposed Approach

#### *Primacy of Council*

Council's role is to set the vision and direction for the City, adopt the policies that guide and govern the municipality, assign the resources to achieve Council's objectives, and ensure fiscal and fiduciary oversight is in place.

The role of Council's Committees, and its staff, is to make recommendations to Council, recognizing that Council is the decision-maker. Committees also serve as the primary forums for stakeholder input, and the assessment of data, expertise and lived experiences, so that recommendations to Council can be fully researched and informed.

Ultimately, Council will make a decision based on the recommendations it receives and other inputs it considers. At the end of the day Council must make a decision which weighs a variety of factors in order to arrive at a resolution which, in its view, best serves community interests.

#### *Pragmatism and Sustainability*

Compliance with regulation should not be considered the sole objective of an ethical framework. Rather, a system that supports the Members of Council in discharging their duty to serve the public interest, *while* not breaching ethical standards, should be the appropriate target in setting an ethical framework.

As such the protocols which guide complaints and investigations, which support the appropriate levels of procedural fairness, and which accommodate public input at the right places, should be adaptive, flexible, and as minimally prescriptive as possible. Using the principles of procedural fairness as a touchstone, and respect for the statutory and conventional roles of councillors, procedural rules that support the ethical framework should be focused on meaningfully serving the public interest and not just step-wise compliance.

Council operates within a system of statutory and court-made laws and so its ethical framework should reference Council's and councillors' legal obligations. The principle statutory touch-points are the *Municipal Act*, the *Municipal Conflict of Interest Act*, the *Occupational Health and Safety Act*, and the *Municipal Freedom of Information and Protection of Privacy Act*.

The ethical framework should be framed in such a way, however, that places the focus on guidance rather than compliance. Though ethical policy provisions must have teeth, they should nevertheless be structured as educational and guiding documents rather than prohibitions and prescriptions.

### *The Public Interest in Transparent and Accountable Municipal Government*

As noted in the Collingwood Judicial Inquiry Report, “the importance of maintaining and enhancing a culture of integrity for Council, staff, and those who wish to deal with municipalities is fundamental to good government at the local level.”

Municipalities across the province have now adopted ethical frameworks, including codes of conduct, as a result of *Municipal Act* mandatory provisions that came into force in 2019. Many of those municipalities had codes of conduct in place prior to them becoming mandatory.

It is no longer necessary to craft codes of conduct (and related policies) from scratch. The review will take advantage of traditional and emerging code themes so that Council can focus on the provisions most important to the Hamilton context.

Public confidence in the ethical behaviour of their elected officials is the glue which sustains local democracy and it will be important for Council’s constituents to know that the Hamilton ethical framework meets, or exceeds, standards in place elsewhere.

One emerging standard involves broadening what previously was considered by some to be the limits of provisions governing the avoidance of conflicts of interest. As noted in the Collingwood Judicial Inquiry Report:

It was apparent that all Council members were aware of the *Municipal Conflict of Interest Act*. It was also apparent that it is far too easy to misconstrue the *Municipal Conflict of Interest Act* as addressing all the kinds of conflict of interest that Council members must confront. Despite its name, the *Municipal Conflict of Interest Act* does not provide a complete conflict of interest code for municipal actors. It addresses the pecuniary interests of a narrowly defined group of family members related to a Council member which are by virtue of the *Act* deemed to be pecuniary interests of the Council member. Council members are obligated to avoid all forms of conflicts of interest or, where that is not possible, to appropriately disclose and otherwise address those conflicts.

The City’s ethical framework should guide Councillors in recognizing and avoiding conflicts between their private interests and their public responsibility to act in the best interests of the City, and that guidance must go beyond mere compliance with the *Municipal Conflict of Interest Act*.

Likewise, provisions must clarify Members’ roles and responsibilities, and the limits of the exercise of their authority, to guide them in avoiding the application of undue influence.

To support public confidence in Council's commitment to its ethical framework, there must exist an accessible complaint process. Complaint protocols must prevent unnecessary barriers, but at the same time ensure that frivolous or vexatious complaints, or ones that are out of scope or jurisdiction, are resolved early. Where matters of a minor nature can be resolved satisfactorily without a public recommendation report, there should be opportunity for early disposition. The protocols in the ethical framework should also speak to the independence of the integrity commissioner and the requirement for the integrity commissioner to ensure procedural fairness, while focusing on best serving the public interest.

### *Conduct, Decorum and Respectful Behaviour*

Provisions respecting Member conduct, decorum and respectful behaviour apply with respect to members of the public, staff and each other. Adherence to rules that support proper decorum in all settings not only support effective deliberation, but they foster open exchanges of information and ideas regardless of the setting (including on social media). More than any other factor, the presence of disrespectful behaviour tends to undermine public confidence in the municipality, and Council in particular.

### Work Plan

On a schedule to be established in consultation with the City Manager and the City Clerk, the Integrity Commissioner will present the following draft documents for discussion and consideration at [General Issues Committee/Governance Committee], and generally in the following order.

1. Council Code of Conduct [Q1 2021]
2. Council/Staff Relations Policy [Q1 2021]
3. Protocols for review and/or investigation of complaints, and reporting on complaints [Q2 2021]
4. Members' roles and responsibilities including with respect to appointments to, and sitting on, external bodies and separate entities such as municipal corporations [Q2 2021]
5. Advisory Committee/Task Force Governance Issues, and Codes of Conduct (Local Boards) [Q3 2021]
6. Such other issues of integrity or governance that Council wishes to consider, including an evaluation of the Lobbyist Registry By-law.

Respectfully submitted,

Principles *Integrity*

Integrity Commissioner for the City of Hamilton

# Principles Integrity

January 19, 2021

Chair and Members  
Governance Review Sub-Committee

Re: Integrity Commissioner Work Plan Costing

As requested by the Governance Review Sub-Committee the chart below represents the cost limits for itemized portions of the Integrity Commissioner's work plan. All work undertaken by the Integrity Commissioner will be at the rate of \$230/hr (per our standard practice, only one hourly rate is applied regardless of whether one or both of the integrity commissioners is in attendance).

Our assumptions include the preparation of materials for up to two meetings of the General Issues Committee, and attendance at Council when the documents are presented for approval.

Item	Proposed Activity	Assumptions	Projected Cost: Not to exceed
Code of Conduct	Propose Revisions to Code of Conduct	Includes 3-10 hours of drafting and 2 meetings	\$2,300
Protocols for review and investigation of complaints	Propose Revisions to process for intake, review, investigation, resolution and reporting of complaints	Included in Code of Conduct (above)	n/a
Guidance regarding members roles on external bodies	Identification of issues; development of guidance or policy documentation	Includes 5-10 hours of research and drafting	\$2,300
Local Board Governance Issues (includes advisory committee) and Code of Conduct	Preparation of Code documentation	Includes 5-10 hours of drafting and 2 meetings	\$2,300
Other Issues of Integrity or Governance Council Wishes to Assign	To be determined	n/a	


All of which is respectfully submitted,

Principles *Integrity*,  
Integrity Commissioner for the City of Hamilton





## INFORMATION REPORT

<b>TO:</b>	Governance Review Sub Committee
<b>COMMITTEE DATE:</b>	February 23, 2021
<b>SUBJECT/REPORT NO:</b>	2020 Review of the City's Procedural By-law – Amendments to Allow for Virtual Participation at Council and/or Committee Meetings (FCS21004(a)/LS21001(a))
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Janet Pilon, Deputy Clerk, Office of the City Clerk Ext. 4304 Stacey Applebee, Legal and Risk Management Services, Ext. 4660
<b>SUBMITTED BY:</b>	Andrea Holland City Clerk Office of the City Clerk
<b>SIGNATURES:</b>	Michael Kyne Acting City Solicitor Legal and Risk Management Services  MGK

### COUNCIL DIRECTION

The following direction was provided at the Governance Review Sub Committee meeting of January 25, 2021:

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 Committee meetings beyond the Emergency Order currently in place.

### INFORMATION

On February 10, 2021, Council approved recent changes to the Procedural By-law 18-270, being A By-law to Govern The Proceedings of Council and Committees of Council

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: 2020 Review of the City’s Procedural By-law – Amendments to Allow for Virtual Participation at Council and/or Committee Meetings (FCS21004(a)/LS21001(a) (City Wide) Page 2 of 4**

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(the “Council Procedural By-law”). A new consolidated Council Procedural By-Law to repeal 18-270 will be presented at Council on February 24, 2021.

Section 10 of the Council Procedural By-Law addresses Virtual Participation at Council and/or Committee Meetings and currently prohibits virtual participation at Council and/or Committee meetings, except where permitted during an Emergency.

The Council Procedural By-law provides:

**SECTION 10 – VIRTUAL PARTICIPATION AT COUNCIL AND/OR COMMITTEE MEETINGS**

**10.1** Virtual participation is prohibited at Council and/or Committee meetings, except where permitted during an Emergency as set out in subsection 10.2.

**10.2 Virtual Participation During an Emergency**

- (1) Virtual participation, in accordance with the *Municipal Act, 2001* and/or any other applicable legislation, is permitted by members of Council at Council and/or Committee meetings during an emergency when attending in-person is not possible.
- (2) Virtual participation, in accordance with the *Municipal Act, 2001* and/or any other applicable legislation, is permitted by Citizen Committee members at Committee meetings during an emergency when attending in-person is not possible.
- (3) Virtual participation, that is consistent with the obligation to hold public meetings in accordance with the *Municipal Act, 2001* and/or any other applicable legislation, or at a Standing Committee of Council is permitted by members of the public at Committee meetings.

The Council Procedural By-law defines Emergency as:

**“Emergency”** means a situation or impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or not.

**LEGISLATIVE CONSIDERATIONS**

Recent amendments to the *Municipal Act, 2001* permit the Procedure By-law of a Municipality to provide for the electronic participation of members of council, of a local



**SUBJECT: 2020 Review of the City’s Procedural By-law – Amendments to Allow for Virtual Participation at Council and/or Committee Meetings (FCS21004(a)/LS21001(a)) (City Wide)**

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board, or of a committee of either of them in a meeting, and further permits those members participating electronically to be counted in determining quorum and to participate electronically in meetings that are open or closed to the public.

Under Section 238 of the *Municipal Act, 2001*:

Electronic participation

(3.1) The applicable procedure by-law may provide that a member of council, of a local board or of a committee of either of them, can participate electronically in a meeting to the extent and in the manner set out in the by-law.

Same

(3.3) The applicable procedure by-law may provide that,

(a) a member of a council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and

(b) a member of a council, of a local board or of a committee of either of them can participate electronically in a meeting that is open or closed to the public.

In accordance with subsection 238 (3.1) of the *Municipal Act, 2001*, the Council Procedural By-law may be amended to allow members of Council to participate virtually in meetings, outside of an Emergency.

The Council Procedural By-law also contemplates Hybrid Meetings, which are defined in the Council Procedural By-law as follows:

“**Hybrid**” means a proceeding where some members participate virtually, and some members participate in-person at Council and Committee meetings during an emergency.

To summarize, amendments required to the Council Procedural By-law to implement virtual participation by Council members at Council and Committee meetings when attending in-person is not possible, including Section 10, Section 11 and to several of the defined terms.

Protocols and procedures for conducting Hybrid meetings would also need to be put in place. These would identify such matters as, the appropriate notice to the Clerk’s Office to ensure that the Council member, who is unable to attend in person, has the ability to participate virtually as well as the technology Council or Committee would utilize during a Hybrid meeting, etc.

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### **FINANCIAL IMPLICATIONS**

The current technology in the Council Chamber and Room 264 will need to be evaluated to ensure that it will enable members of Council to participate virtually during a Hybrid meeting, including to vote, request to speak and to speak. Currently, the technology has only been used for full virtual or full in person meetings.

### **NEXT STEPS PENDING DIRECTION**

Should Committee and Council wish to participate in Hybrid meetings when the current pandemic-related restrictions end, staff propose to report back at a future meeting of the Governance Review Sub-Committee with respect to the following:

- 1) proposed Amendments to the Council Procedural By-law to permit the virtual participation of a member of Council outside of an Emergency where the Council member cannot attend in person;
- 2) any financial implications of the proposed amendments to the Council Procedural By-law, including any costs associated with the technology required to facilitate Hybrid meetings; and
- 3) Protocols and procedures for conducting Hybrid meetings.

### **APPENDICES AND SCHEDULES ATTACHED**

None