



Hamilton

GOVERNANCE REVIEW SUB-COMMITTEE

REPORT 21-003

Friday, April 30, 2021

9:30 am

Council Chambers

Hamilton City Hall

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

Absent: Councillor T. Whitehead – Leave of Absence

**THE GOVERNANCE REVIEW SUB-COMMITTEE PRESENTS REPORT 21-003 AND
RESPECTFULLY RECOMMENDS:**

**1. Council/Staff Relationship Policy (FCS21045 / CM21005) (City Wide)
(Outstanding Business List Item) (Item 8.1)**

That the Council/Staff Relationship Policy attached as Appendix "A" as amended to Governance Review Sub-Committee Report 21-003 to include 'or unreasonable' after 'undue' to Item 5 under Principles, be approved.

2. Advisory Committee for Persons with Disabilities Logo (Item 10.1)

That the secondary logo for the Advisory Committee for Persons with Disabilities (ACPD), be approved.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

The Committee Clerk advised that there were no changes to the agenda.

The April 30, 2021 Agenda of the Governance Review Sub-Committee were approved, as presented.

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

(c) **APPROVAL OF MINUTES (Item 4)**

(i) **February 23, 2020 (Item 4.1)**

The Minutes of the February 23, 2021 meeting of the Governance Review Sub-Committee were approved, as presented.

(d) **COMMUNICATIONS (Item 5)**

(i) **Correspondence from Doug Earl, Charter City Toronto, respecting Item 10.2, Evaluation of Hamilton Becoming a Charter City (Item 5.1)**

The Correspondence from Doug Earl, Charter City Toronto, respecting Item 10.2, Evaluation of Hamilton Becoming a Charter City, was received and referred to consideration of Item 10.2 – Evaluation of Hamilton Becoming a Charter City.

(e) **STAFF PRESENTATIONS (Item 8)**

(i) **Council/Staff Relationship Policy (FCS21045 / CM21005) (City Wide) (Outstanding Business List Item) (Item 8.1)**

Janette Smith, City Manager, addressed the Committee with a staff presentation respecting Report FCS21045 / CM21005, the Council/Staff Relationship Policy.

The Staff Presentation respecting Report FCS21045 / CM21005, the Council/Staff Relationship Policy, was received.

The Council/Staff Relationship Policy attached as Appendix “B”, **be amended** by adding '**or unreasonable**' after the word undue to Item 5 under Principles, to read as follows:

5. Council and City Staff interact with mutual respect, honesty and professionalism.

Commentary: Staff carry out their duties based on political neutrality and objectivity, free from undue **or unreasonable** political influence. Council will respect the professional opinion of staff when receiving staff reports and recommendations that include advice that may be politically sensitive.

For disposition of this Item, refer to Item 1.

(f) DISCUSSION ITEMS (Item 9)

(i) Advisory Committee for Persons with Disabilities Logo (Item 10.1)

That Communications staff be directed to review the branding standards used throughout the City of Hamilton and report back to the Governance Review Sub-Committee.

For disposition of this Item, refer to Item 2.

**(ii) Evaluation of Hamilton Becoming a Charter City (Item 10.2)
(Item 10.2)**

That staff be directed to look further into the City of Hamilton becoming a Charter City and review the *City of Hamilton Act* for further opportunity for revenues and authorities and report back to the Governance Review Sub-Committee.

(g) GENERAL INFORMATION / OTHER BUSINESS (Item 13)

(i) Amendment to the Outstanding Business List (Item 13.1)

The following amendments to the Governance Review Sub-Committee's Outstanding Business List, were approved:

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

Integrity Commissioner Work Plan (FCS20016(a)) (City Wide)

That Report FCS20016(a) be referred back to Clerk's staff and Principles Integrity to determine an upset limit for development of various policies and report back.

Added: December 2, 2020 at Governance Review Sub-Committee - Item 9.1

Removed: February 23, 2021 at Governance Review Sub-Committee - Item 9.1

OBL Item: 20-E

Integrity Commissioner Work Plan (FCS20016(a)) (City Wide)

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.

Added: December 2, 2020 at Governance Review Sub-Committee - Item 9.1

Removed: April 30, 2021 at Governance Review Sub-Committee - Item 8.1

OBL Item: 20-F

Review of the City's Procedural By-law Amendments
(CL18007(a)/LS18039(a)) (City Wide)

That staff be directed to perform a review of the By-law to Govern
the Proceedings of Council and Committees of Council on an annual
basis.

Added: August 29, 2019 at Governance Review Sub-Committee -
Item 8.1

Removed: April 30, 2021 at Governance Review Sub-Committee -
This item has been added to the Deputy Clerk's Annual Work Plan.

(h) PRIVATE AND CONFIDENTIAL (Item 14)

(i) Closed Session Minutes – February 23, 2021 (Item 14.1)

- (a) The Closed Session Minutes of the February 23, 2021 Governance Review Sub-Committee meeting, were approved as presented; and,
- (b) The Closed Session Minutes of the February 23, 2021 Governance Review Sub-Committee meeting, remain confidential.

(i) ADJOURNMENT (Item 15)

There being no further business, the Governance Review Sub-Committee meeting adjourned at 10:29 a.m.

Respectfully submitted,

Councillor M. Wilson, Vice-Chair
Governance Review Sub-Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk

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Council/Staff Relationship Policy

POLICY STATEMENT

The Corporation of the City of Hamilton is responsible to provide good government with respect to the matters within its jurisdiction. To do so requires a strong working relationship between the Mayor and Council and City Staff.

LEGISLATIVE REQUIREMENTS

This Policy has been prepared in accordance with sub-clause 270 (1) 2.1 of the *Municipal Act, 2001*, as amended which requires Council to adopt and maintain a policy with respect to the relationship between Members of Council and the officers and employees of the Municipality.

SCOPE

This Policy applies to all Members of Council and City Staff that work on behalf of the Corporation. This policy applies to all interactions, including those that are on-site and off-site of City facilities, before, during and after work hours.

RELATED DOCUMENTS

- Council Code of Conduct
- Code of Conduct for Employees Policy
- Harassment and Discrimination Prevention Policy
- Personal Harassment Prevention Policy
- Protocol for Gender Identity and Gender Expression
- Violence in the Workplace Prevention Policy
- Whistleblower Bylaw

PRINCIPLES

The Guiding Principles below outline the agreed to working relationship between Council and Staff. The commentary provides context only, for the Principle.

1. Council and City Staff recognize their shared responsibility to serve the community of the City of Hamilton and work together to build trust and confidence in City government.

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Commentary: Staff recognize that City Council is the elected voice of the citizens of the City of Hamilton and respect the decisions of City Council. Council will give appropriate weight and consideration to the professional advice of staff and the community’s wishes in order to make decisions for the City.

2. Council and City Staff are committed to accountability and transparency among Council and Staff.

Commentary: Staff will ensure all Council members are provided with the same information on matters of general concern and/or matters that will be discussed at a meeting of Council or a committee of Council. Council and staff will maintain transparency in decision making and ensure proper consideration of confidential matters.

3. Council and City Staff respect their roles and professional boundaries and follow appropriate processes. Staff will provide their professional opinion in good faith and Council will not attempt to influence their professional opinion.

Commentary: Staff are responsible to their direct supervisor and City Manager as established in the formal organization structure of the City. Members of Council are encouraged to contact staff to answer questions, identify concerns or request services that are normally available to any City of Hamilton resident. Staff are not able to offer levels of service that are inconsistent with what has been approved by Council overall. If members of Council have issues that are outside of regular City services or business, they should raise those with General Managers or the City Manager or the Council floor.

4. Council and City Staff uphold the City’s vision, mission and culture, and work together to achieve the City’s strategic priorities.

Commentary: Staff will keep Council apprised in a timely manner on key business decisions affecting strategic priorities, as appropriate. Council will provide funding and resources for City Staff to achieve desired outcomes.

5. Council and City Staff interact with mutual respect, honesty and professionalism.

Commentary: Staff carry out their duties based on political neutrality and objectivity, free from undue or unreasonable political influence. Council will respect the professional opinion of staff when receiving staff reports and recommendations that include advice that may be politically sensitive.

6. Council and City Staff communicate transparently, in timely manner and in good faith.

Commentary: Staff will notify Council of changes to legislation and any unintended or unexpected impacts of policy decisions through written reports and/or presentations in a timely fashion. In order to allow time for preparation, where possible, Council will provide staff with notice of concerns prior to attending meetings where concerns will be raised.

7. Council and City Staff do not make statements that reflect negatively on the City, or on an individual Council or Staff Member.

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Commentary: Staff will implement and reflect Council’s decisions and establish administrative practices and procedures to carry out those decisions, even if it is not in line with the advice of staff. Council will respect Staff’s professional advice and not speak negatively about any professional advice provided.

8. Council and City Staff are respectful of each other’s time and workloads, and that they are concise in their interactions and respectful of work volume and priorities.

Commentary: Council will work with Staff to create timelines that are achievable within approved funding and staff resources. Staff will respect report timelines to allow ample time and availability for Council to review and ask questions prior to meetings.

ROLES AND RESPONSIBILITIES

The Roles and Responsibilities of Members of Council and City Staff can be found in the following sections of the *Municipal Act 2001*, as amended.

1.1. Role of Council

Represent the Corporation, provide direction and create policy. Specifically, Section 224 of the Municipal Act, 2001 states:

“224. It is the role of Council,

- a) to represent the public and to consider the well-being and interests of the municipality;
- b) to develop and evaluate the policies and programs of the municipality;
- c) to determine which services the municipality provides;
- d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- e) to maintain the financial integrity of the municipality; and
- f) to carry out the duties of council under this or any other Act.”

Role of the Mayor

Section 225 of the Municipal Act, 2001 defines the role of the Mayor as follows:

“225. It is the role of the head of council,

- a) to act as chief executive officer of the municipality;
- b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- c) to provide leadership to the council;
- (c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1);
- d) to represent the municipality at official functions; and
- e) to carry out the duties of the head of council under this or any other Act.”

“Section 226.1 Head of council as chief executive officer

226.1 As chief executive officer of a municipality, the head of council shall:

- a) uphold and promote the purposes of the municipality;

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- b) promote public involvement in the municipality’s activities;
- c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
- d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.”

1.3. Role of the City Manager

Direction Focus: The City Manager leads in three dimensions. Up to Council, down to staff and out to the community stakeholders. The City Manager is responsible for providing professional advice to Council and leading staff in the implementation of Council’s direction / policies. The City Manager specific responsibilities are outlined in By-Law 19-044 - To Appoint and to Prescribe the Duties and Responsibilities of the Chief Administrative Officer.

1.4. Role of Senior Management:

“**227** It is the role of the officers and employees of the municipality,

- (a) to implement council’s decisions and establish administrative practices and procedures to carry out council’s decisions;
- (b) to undertake research and provide advice to council on the policies and programs of the municipality; and
- (c) to carry out other duties required under this or any Act and other duties assigned by the municipality.”

1.5. Role of Staff and Other Officers:

These positions have the authority and obligation to carry out their duties as defined by the Legislation. It is Council’s responsibility to ensure that these positions have clear job descriptions and the decision making of these positions are free from political interference.

1. Chief Building Official – Building Code Act (By-Law)
2. Corporate Administrative Officer or City Manager – *Municipal Act, 2001* (By-Law)
3. City Clerk - *Municipal Act, 2001* (By-Law)
4. Treasurer – *Municipal Act, 2001* (By-Law)
5. Chief Planning Official/Secretary Treasurer of the Planning Committee – Planning Act
6. Fire Chief - Fire Code Act (By-Law)
7. Police Chief - Police Act
8. Medical Officer of Health (Council Resolution; Health Protection and Promotion Act)
9. Auditor General – Municipal (By-Law)

COMPLAINT PROCESS

Upon receipt of notification that a complaint and/or concern , the supervisor or other departmental member of management shall follow the Council Staff Relationship Procedure to investigate accordingly.

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1. In the case of City Staff, the supervisor and manager once removed will complete the investigation process and consult with Human Resources, Organizational Development staff as necessary.
2. In the case of a Member, the complaint or concern shall be referred to the Integrity Commissioner who shall investigate the matter in accordance with the provisions of the *Municipal Act*.

Definitions

“City” means the Corporation of the City of Hamilton

“City Manager” means the City Manager and Chief Administrative Officer of the City of Hamilton.

“Council” means the Mayor of the City of Hamilton and all Ward Councillors.

“Senior Management” means the members of the Senior Leadership Team.

“Staff” or “City Staff” means all City of Hamilton employees, including Senior Management.