

INFORMATION REPORT

TO:	Governance Review Sub-Committee
COMMITTEE DATE:	September 9, 2022
SUBJECT/REPORT NO:	Feasibility of Implementing the Recommendations from the Committee Against Racism for Changes to the Hamilton Police Services Board Selection Process (FCS22072) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
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SUBMITTED BY:	Andrea Holland City Clerk Office of the City Clerk
SIGNATURE:	

COUNCIL DIRECTION

Council on July 8, 2022 referred the Committee Against Racism - Citizen Committee Report - Recommendations for changes to the Hamilton Police Service Board selection process to staff for a report back to the Governance Review Sub-Committee on the feasibility of implementing the following recommendations:

That the Committee Against Racism recommends the City of Hamilton's Selection Committee for Agencies, Boards and Sub-Committees be restructured to include the following for recruitment to the Hamilton Police Services Board:

- (a) The Selection Committee for Agencies, Boards and Sub-Committees be Co-chaired by a member of City Council and a representative from the Hamilton Anti-Racism Resource Centre (HARRC);
- (b) The Selection Committee for Agencies, Boards and Sub-Committees be comprised of 60% community representatives and 40% Council representatives with full voting privileges;
- (c) The recommended community representatives for the Selection Committee for Agencies, Boards and Sub-Committees include:

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- (1) Hamilton Anti-Racism Resource Centre (HARRC)
 - (2) Hamilton Black Leadership Community
 - (3) Hamilton Jewish's leadership community
 - (4) Hamilton's Muslim leadership community
 - (5) Hamilton's Indigenous leadership community
 - (6) Hamilton's LGBTQ2AI community
 - (7) Youth representative; and
 - (8) Other equity-seeking communities
- (d) The Selection Committee for Agencies, Boards and Sub-Committees recommend 2 citizen members to Hamilton City Council for consideration as the new citizen appointee for the Hamilton Police Service Board;
- (e) The Selection Committee for Agencies, Boards and Sub-Committees consult with and solicit recommendations for selecting candidates, including questions for candidates, from the City of Hamilton's Volunteer Advisory Committees, including:
- (1) Hamilton Women and Gender Equity Advisory Committee
 - (2) Indigenous Advisory Committee
 - (3) LGBTQ Advisory Committee
 - (4) Committee Against Racism
 - (5) Advisory Committee for Persons with Disabilities

INFORMATION

The Selection Committee for Agencies, Boards and Sub-Committees is currently comprised of members of Council who interview and report to Council on the appointment of citizen representatives to Agencies, Boards and Committees, which includes the appointment of the one person appointed by resolution of the council to the Hamilton Police Services Board (HPSB), who is neither a member of the council nor an employee of the municipality (HPSB Citizen Position).

The Hamilton Police Services Board is governed by the *Police Services Act*, R.S.O. 1990, as a seven-member board of a municipality whose population according to the last enumeration taken under section 15 of the *Assessment Act* exceeds 300,000, with the board consisting of, the head (Mayor) of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council; two members of the council appointed by resolution of the council; one person appointed by resolution of the council, who is neither a member of

the council nor an employee of the municipality; and three persons appointed by the Lieutenant Governor in Council.

Section 27(13) of the *Police Services Act* defines those persons who are ineligible for appointment to the Board as, a judge, a justice of the peace, a police officer or a person who practices criminal law as a defence counsel.

The *Community Safety and Policing Act, 2019*, which is not yet in force, will once declared in force, contain provisions, that will govern the appointments by municipal councils to their respective 5, 7, and 9 member boards, outlined in Section 28(5) (Appendix 'D').

As per the Sub-section 27 (9) of Part III of the *Police Services Act*, R.S.O. 1990, respecting Municipal Police Services Boards (below), Council is to appoint one person appointed by resolution of the council for the Hamilton Police Services Board:

Seven-member boards in certain circumstances

(9) The council of a municipality whose population according to the last enumeration taken under section 15 of the *Assessment Act* exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;
- (b) two members of the council appointed by resolution of the council;
- (c) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and
- (d) three persons appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 19 (1).

Part III of the Police Services Act, R.S.O. 1990, respecting Municipal Police Services Boards is attached as Appendix 'A' to the report.

Staff reviewed the current appointment process in place for the HPSB Citizen Position attached as Appendix 'B' and the appointment processes in place for the Halton Regional Police Services Board; Niagara Regional Police Services Board; Toronto Police Services Board; Peel Regional Police Services Board and London Police Services Board (Appendix 'C') and determined that the appointments to their respective

Police Services Board are all made by Committees comprised of members of Council who include aspects of equity, diversity and inclusion within their appointment policies.

The City of London's appointment process, however, differs slightly, with a recruitment process that involves a Striking Committee who recommends appointments to Council, with Council making the final decision respecting the appointment of any individual including the one person appointed by resolution of the council to their Police Services Board.

FEASIBILITY OF IMPLEMENTING EACH OF THE COMMITTEE AGAINST RACISM'S RECOMMENDATIONS

Staff have assessed the feasibility of implementing each of the recommendations from the Committee Against Racism respecting the restructuring of the City of Hamilton's Selection Committee for Agencies, Boards and Sub-Committees for the recruitment of the one person appointed by resolution of council to the Hamilton Police Services Board, as follows:

- (a) The Selection Committee for Agencies, Boards and Sub-Committees be Co-chaired by a member of City Council and a representative from the Hamilton Anti-Racism Resource Centre (HARRC);**

As per Sub-section 5.2 (5) (below) of By-Law 21-021, as amended, A By-Law to Govern the Proceedings of Council and Committees of Council (Procedural By-law) the Selection Committee for Agencies, Boards and Sub-Committees is chaired by a Chair and Vice-Chair. These positions are elected by the sitting body through a nomination and voting process, typically completed at the first meeting.

In order to accommodate the Committee Against Racism's recommendation to have the Selection Committee for Agencies, Boards and Sub-Committees be chaired by Co-Chairs for the recruitment of the HPSB Citizen Position, an amendment to the Procedural By-law would be required.

Excerpt from the Procedural By-law:

5.2 Appointment of Committee Chairs and Vice Chairs

- (5) Each Sub-Committee, Advisory Committee and Task Force shall recommend to Council the appointment of a Chair and Vice Chair. The Chair or Vice Chair of a Sub-Committee, Advisory Committee or Task Force established by Council may serve for more than one year in a Council term.

- (b) The Selection Committee for Agencies, Boards and Sub-Committees be comprised of 60% community representatives and 40% Council representatives with full voting privileges;**
- (c) The recommended community representatives for the Selection Committee for Agencies, Boards and Sub-Committees include:**
 - (1) Hamilton Anti-Racism Resource Centre (HARRC)**
 - (2) Hamilton Black Leadership Community**
 - (3) Hamilton Jewish's leadership community**
 - (4) Hamilton's Muslim leadership community**
 - (5) Hamilton's Indigenous leadership community**
 - (6) Hamilton's LGBTQ2AI community**
 - (7) Youth representative; and**
 - (8) Other equity-seeking communities**

As per the definition of the Selection Committee (below) within the Procedural By-law the Selection Committee for Agencies, Boards and Sub-Committees is comprised entirely of Members of Council.

The Role of council is outlined under Section 224 of the *Municipal Act 2001*, as amended (below). Members of Council have been democratically elected to govern and have the authority to decide on the committee and sub-committee structure, terms of reference and membership of such committees. Any changes to the existing structure of the Selection Committee will require the approval of amendments to the Procedural By-Law and Appointment of Citizens to the City's Agencies, Boards Commissions, Advisory Committees and Sub-Committees Policy by Council.

Role of council

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.

Any amendments to the Procedural By-Law to include participation outside of Council Members would also require an amendment to the Corporate Policy - Hamilton City Council - Appointment of Citizens to the City's Agencies, Boards, Commissions, Advisory (Volunteer) Committees and Sub-Committees.

Currently, the applications submitted for consideration for the HPSB Citizen Position are considered confidential, therefore, any community representatives appointed to a Selection Committee for Agencies, Boards and Sub-Committees for the HPSB Citizen Position would be required to complete and adhere to a confidentiality agreement as well as the Code of Conduct for Local Boards.

Excerpt from the Procedural By-law:

“Selection Committee” means a Committee established by Council, comprised entirely of Members of Council, to interview and report back to Council on the appointment of citizen representatives to agencies, boards and Committees, and reports directly to Council.

(d) The Selection Committee for Agencies, Boards and Sub-Committees recommend 2 citizen members to Hamilton City Council for consideration as the new citizen appointee for the Hamilton Police Service Board;

As per the Sub-section 27 (9) of Part III of the *Police Services Act*, R.S.O. 1990, respecting Municipal Police Services Boards, Council is to appoint one HPSB Citizen Position, the recommendation from the Committee Against Racism is recommending that the Selection Committee for Agencies, Boards and Sub-Committees for the recruitment of this position consider two (2) applicants for the one position.

The Selection Committee for Agencies, Boards and Sub-Committees roles is to review the applications, shortlist the applicants, interview applicants and make recommendations to Council for appointments to the various Agencies, Boards and Sub-Committees, submitting two (2) preferred candidates to Council for consideration would require an amendment to the Corporate Policy - Hamilton City Council - Appointment of Citizens to the City's Agencies, Boards, Commissions, Advisory (Volunteer) Committees and Sub-Committees.

(e) The Selection Committee for Agencies, Boards and Sub-Committees consult with and solicit recommendations for selecting candidates, including questions for candidates, from the City of Hamilton's Volunteer Advisory Committees, including:

- (1) Hamilton Women and Gender Equity Advisory Committee**
- (2) Indigenous Advisory Committee**
- (3) LGBTQ Advisory Committee**
- (4) Committee Against Racism**
- (5) Advisory Committee for Persons with Disabilities**

Currently the interview questions are prepared by the Hamilton Police Service and are confidential, in order to put the above recommendation in place an amendment would be required to the Corporate Policy - Hamilton City Council - Appointment of Citizens to the City's Agencies, Boards, Commissions, Advisory (Volunteer) Committees and Sub-Committees.

Options to Consider

Staff considered each of the recommendations within the Citizen Committee Report and have provided the Committee with options, in the event Council would like to move forward with the restructuring of the City of Hamilton's Selection Committee for Agencies, Boards and Sub-Committees for the recruitment of the HPSB Citizen Position.

Staff are seeking direction from Council on their decision to amend the current selection process and composition of the Selection Committee or to keep the current process in place. If Council wishes to maintain the current structure, then no direction is required.

Option A (Appendix 'E') Amend the Existing Selection Committee - amend the Procedural By-law and the Corporate Policy - Hamilton City Council - Appointment of Citizens to the City's Agencies, Boards, Commissions, Advisory (Volunteer) Committees and Sub-Committees, utilizing the existing Selection Committee for Agencies, Boards and Sub-Committees comprised of (number) (X) or X% members of Council and (number) (X) or X% community representatives and provides for a process for the appointments of the X% community representatives.

Option B (Appendix 'F') Create a new Selection Committee for HPSB resident member - amend the Procedural By-law and the Corporate Policy - Hamilton City Council - Appointment of Citizens to the City's Agencies, Boards, Commissions, Advisory (Volunteer) Committees and Sub-Committees, establishes a separate

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Selection Committee (Hamilton Police Services Board Selection Committee) to appoint the one person appointed by resolution of the council to the Hamilton Police Services Board, who is neither a member of the council nor an employee of the municipality comprised of (number) (X) or X% members of Council and (X) or X% community representatives.

APPENDICES AND SCHEDULES ATTACHED

Appendix 'A' – Excerpt from the *Police Services Act*, R.S.O. 1990, respecting Municipal Police Services Boards

Appendix 'B' – Hamilton Police Services Board Appointment Process

Appendix 'C' – Other Municipal Police Services Board Appointment Processes

Appendix 'D' - Excerpt from the *Community Safety and Policing Act, 2019*, respecting appointments by municipal councils to their respective 5, 7, and 9 member boards (*not yet in force*)

Appendix 'E' – Option A

Appendix 'F' – Option B