



AUDIT, FINANCE AND ADMINISTRATION COMMITTEE REPORT 21-004

9:30 a.m.

March 25, 2021

Council Chambers

Hamilton City Hall

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

THE AUDIT, FINANCE & ADMINISTRATION COMMITTEE PRESENTS REPORT 21-004 AND RESPECTFULLY RECOMMENDS:

1. CONSENT ITEMS (Item 7)

That the following Consent Items (Item 7), be received:

- (a) 2020 Fourth Quarter Request for Tenders and Proposals Report (FCS20033(c)) (City Wide) (Item 7.1)
- (b) 2020 Fourth Quarter Emergency and Non-competitive Procurements Report (FCS20034(c)) (City Wide) (Item 7.2)
- (c) 2020 Fourth Quarter Non-Compliance with the Procurement Policy Report (FCS20035(c)) (City Wide) (Item 7.3)
- (d) Annual Assessment Appeals as of December 31, 2020 (FCS21012) (City Wide) (Item 7.4)
- (e) Annual Tax Arrears as of December 31, 2020 (FCS21013) (City Wide) (Item 7.5)
- (f) Report of the 2020 Remuneration and Expenses as Required under Section 284 of the Municipal Act (FCS21014) (Item 7.6)
- (g) Enhancing Compliance with City-Wide Cash Handling Policy (AUD21002) (City Wide) (Item 7.7)
- (h) Occupational Injury and Illness Claims Annual Report 2020 (HUR21005) (City Wide) (Item 7.8)

**2. Governance Review Sub-Committee Report 21-002 - February 23, 2021
(Item 10.1)**

(a) 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)) (Item 9.2)

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

(b) Legal Advice on Contract Terms (LS21006) (City Wide) (Item 13.2)

That Report LS21006, respecting Legal Advice on Contract Terms, be received and remain confidential.

(c) Integrity Commissioner Work Plan (FCS20016(b)) (City Wide) (Item 9.1)

- (i) That the Integrity Commissioner's Work Plan outlined in Appendix "A" to Audit, Finance & Administration Committee Report 21-004, as amended to remove any references to Council Code of Conduct and Council/Staff Relations Policy, be approved;
- (ii) That the City Clerk be directed to manage the delivery of the Integrity Commissioner's Work Plan as outlined in Appendix "A" to Audit, Finance & Administration Committee Report 21-004, as amended to remove any references to Council Code of Conduct and Council/Staff Relations Policy; and,
- (iii) That completed Work Plan items outlined in Appendix "A" to Audit, Finance & Administration Committee Report 21-004, as amended to remove any references to Council Code of Conduct and Council/Staff Relations Policy, be presented to General Issues Committee for discussion.

At Committee's request, Item (c) respecting the Integrity Commissioner Work Plan (FCS20016(b)) was voted on separately.

3. Corporate Technology and Software Standardization Committee (FSC21021) (City Wide) (Item 10.2)

- (a) That Council approve the creation of a Corporate Technology and Software Standardization Committee (CTSSC) with the authority to establish technology and software standards City wide, similar to the Standards and Approved Products Committee from procurement By-law Number 20-205, Policy 14, Section 4.14, Item 2;

- (b) That this Committee report back to Council once a year with an update to the list of corporate technology and software standards along with the rationale for any standards established during the previous year.

4. Transit Division Radio System Support - Service Agreement (FCS21022) (City Wide) (Item 10.3)

That the General Manager, Finance and Corporate Services, or their designate, be authorized and directed to establish a new multi-year Service Agreement with the incumbent vendor, Bell Mobility Inc. (Bell Mobility) for the support of the radio system used by Hamilton Street Railway (HSR) within the Transit Division of the Public Works Department for a 5-year term with a 5-year extension option as well as a one (1) year optional extension, at the discretion of the City, under the same terms and conditions as the previous agreement and in a format approved by the City Solicitor pursuant to Procurement Policy #11 – Non Competitive Procurements.

5. Authority to Negotiate and Place a Debenture CityHousing Hamilton (CHH) Project - 500 MacNab Street (FCS19068(b)) (City Wide) (Item 10.4)

- (a) That the General Manager, Finance and Corporate Services, be authorized to enter into and execute any necessary agreements, including any agreements with Infrastructure Ontario's Loan Program, to secure the capital funding required for CityHousing Hamilton Corporation project at 500 MacNab Street with content acceptable to the General Manager, Finance and Corporate Services, and in a form satisfactory to the City Solicitor;
- (b) That the General Manager, Finance and Corporate Services, be authorized and directed to negotiate and confirm the terms, placement and issuance of all debenture issue(s) and / or private placement debenture issue(s), in either a public or private market and / or bank loan agreements and debenture issue(s) and / or variable interest rate bank loan agreements and debenture issue(s), in an amount not to exceed \$3,950,000 Canadian currency in support of CityHousing Hamilton for project at 500 MacNab Street;
- (c) That the General Manager, Finance and Corporate Services, be authorized and directed to enter into and execute any necessary agreements, to engage the services of all required persons, agencies and companies to secure the terms and issuance of the debenture issue(s) described in Recommendation (b) to Report FCS19068(b) including, but not limited to, external legal counsel, fiscal agents and financial professionals, with content acceptable to the General Manager, Finance and Corporate Services, and in a form satisfactory to the City Solicitor;
- (d) That the General Manager, Finance and Corporate Services, Mayor and City Clerk are individually authorized and directed to enter into and / or execute, on behalf of the City of Hamilton, all agreements and necessary

- ancillary documents to implement Recommendation (b) to Report FCS19068(b) and in order to secure the terms and issuance of the debenture issue(s) described in Recommendation (b) to Report FCS19068(b) with content acceptable to the General Manager, Finance and Corporate Services, and in a form satisfactory to the City Solicitor;
- (e) That the General Manager, Finance and Corporate Services, be authorized and directed to administer all agreements and necessary ancillary documents described in Recommendations (a), (c) and (d) to Report FCS19068(b);
 - (f) That the City of Hamilton will act as guarantor of the long-term financing identified in Recommendation (b) to Report FCS19068(b) not to exceed \$3,950,000 sought by CityHousing Hamilton Corporation for the 500 MacNab Street Project and that the General Manager, Finance and Corporate Services, and City Clerk be authorized to execute any agreements and ancillary documents relating to the guarantee;
 - (g) That the General Manager, Finance and Corporate Services or designate, be authorized to enter into an amending agreement to the existing loan agreement of \$9,229,500 with CityHousing Hamilton for the 500 MacNab Street Project, in a form satisfactory to the City Solicitor, that will permit the use of the additional financing received on the project;
 - (h) That staff be directed to prepare, for Council's consideration, all necessary by law(s) to authorize and implement the CityHousing Hamilton Corporation projects at 500 MacNab Street including by-laws for the purpose of authorizing the debenture issue(s) in accordance with Recommendations (b), (c), (d), (e), and (f) to Report FCS19068(b) and any by-laws necessary to negotiate, place and secure the required capital funding in accordance with Recommendation (a) to Report FCS19068(b).

6. Amendment to the 2019 Development Charges Background Study and Development Charges By-law (FCS21025) (City Wide) (Item 10.5)

- (a) That the Development Charges Update Study prepared by Watson & Associates Economists Ltd. and dated March 5, 2021, be released to the public; and,
- (b) That staff be directed to incorporate language into the Draft Amending Development Charges By law, included in the Development Charges Update Study, attached as Appendix "A" to Report FCS21025, to provide a residential intensification exemption, such that new or existing single detached dwellings, semi-detached dwellings or row-dwellings can add up to two secondary dwelling units (SDUs) without paying development charges.

7. Development Charges Stakeholders Sub-Committee Report 21-001 - March 11, 2021 (Item 10.6)

(a) Development Charges Budget – Gross and Net (FCS21023) (City Wide) (Item 7.1)

That Report FCS21023 respecting Development Charges Budget – Gross and Net, be received.

(b) Development Charges Update Study (Item 10.1)

That the Development Charges Update Study, be received.

(c) Appointment of Committee Chair and Vice Chair for 2021-2022 (Item 13.1)

(i) That Councillor Danko be appointed as Chair of the Development Charges Stakeholders Sub-committee for 2021-2022.

(ii) That Paul Szachlewicz, Hamilton Chamber of Commerce, be appointed as Vice Chair of the Development Charges Stakeholders Sub-committee for 2021-2022.

8. Heritage Green Park Improvements (Ward 9) (Item 11.1)

WHEREAS, Heritage Green Park, 447 First Rd. West is an active community park in Ward 9 with recreation amenities that support the local residents and beyond;

WHEREAS, recreation amenities and supporting infrastructure in this park would benefit from life cycle replacement and enhancements;

WHEREAS, additional funding sources are required to support the capital replacement and enhancement program in order to implement these improvements; and,

WHEREAS, grant opportunities may exist with the Heritage Green Community Trust, administered through a granting process.

THEREFORE, BE IT RESOLVED:

(a) That City of Hamilton Staff be authorized and directed to investigate and submit applications for Heritage Green Community Trust grants; and,

(b) That the Mayor and City Clerk be authorized and directed to execute any required agreement(s) and ancillary documents, with such terms and conditions in a form satisfactory to the City Solicitor.

9. Standardization of Intergraph Canada Ltd., Hexagon Safety and Infrastructure Division's Computer Aided Dispatch Software for the Hamilton Fire Department (FCS21018) (Item 14.1)

- (a) That the Standardization and Single Sourcing of software, support and professional services for the Computer Aided Dispatch System used by Hamilton Fire Department, manufactured by Intergraph Canada Ltd., Hexagon Safety and Infrastructure Division, pursuant to Procurement Policy #14 – Standardization, be approved for a period of five years from the date of Council approval;
- (b) That the General Manager, Finance and Corporate Services, be authorized to negotiate, enter into and execute any required Contract and any ancillary documents required to give effect thereto with Intergraph Canada Ltd., Hexagon Safety and Infrastructure Division, in a form satisfactory to the City Solicitor;
- (c) That the General Manager, Finance and Corporate Services, be authorized to amend any Contract executed and any ancillary document(s), in a form satisfactory to the City Solicitor, in the event that Intergraph Canada Ltd., Hexagon Safety and Infrastructure Division, undergoes a name change;
- (d) That Closed Session recommendations, be approved and remain Confidential until execution of the necessary agreements and the ancillary documents; and,
- (e) That the contents of Report FCS21018, respecting Standardization of Intergraph Canada Ltd., Hexagon Safety and Infrastructure Division's Computer Aided Dispatch Software for the Hamilton Fire Department remain confidential.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

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

6. DELEGATION REQUESTS

- 6.1 Larry Pomerantz, RainBarrel.ca, respecting the rain barrel program and a 10.8% increase due to supply chain cost increases (For a future meeting)

The agenda for the February 18, 2021 Audit, Finance and Administration Committee meeting was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 3)

Councillor Clark declared an interest to Item 10.1, the Governance Review Sub-Committee Report 21-002 – February 23, 2021 respecting Item 2, the Integrity Commissioner Work Plan (FCS20016(b)) and Item 3, Legal Advice on Contract Terms (LS21006) as he has requested a review of an incident by the Integrity Commissioner, and while there is no pecuniary interest, there may be a perceived or apparent conflict of interest.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) February 18, 2021 (Item 4.1)

The Minutes of the February 18, 2021 meeting of the Audit, Finance and Administration Committee were approved, as presented.

(d) COMMUNICATIONS (Item 5)

(i) Correspondence from CityHousing Hamilton, respecting their response to the Audit, Finance & Administration Committee's Outstanding Business List (OBL) Item pertaining to Report AUD17021 (Item 5.1)

The correspondence from CityHousing Hamilton, respecting their response to the Audit, Finance & Administration Committee's Outstanding Business List (OBL) Item pertaining to Report AUD17021, was received.

(e) DELEGATION REQUESTS (Item 6)

(i) Larry Pomerantz, RainBarrel.ca, respecting the rain barrel program and a 10.8% increase due to supply chain cost increases (For a future meeting) (Added Item 6.1)

The delegation request from Larry Pomerantz, RainBarrel.ca, respecting the rain barrel program and a 10.8% increase due to supply chain cost increases, was approved for a future meeting.

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

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

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

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

CityHousing Hamilton - Review of Implementation of Renovation and/or Repairs to Parking Lot Project at 395 Mohawk Road East
Added: August 16, 2017 at AF&A - Item 9.2

Completed: March 25, 2021 at AF&A - Item 4.1

OBL Item: F

Process for Addressing Development Charge (DC) Concerns
(FCS20007) (City Wide)
Added: February 20, 2020 at AF&A - Item (f)(ii)
Completed: March 25, 2021 at AF&A - Item 9.1 (Procedural By-law
21-021)
OBL Item: 20-B

Citizen Committee Report - Committee Against Racism -
Transitional Model for the Re-opening of HARRC (CAR-19-01)
Added: December 5, 2019 at AF&A - Item 9.3
Completed: February 18, 2021 at AF&A - Item 9.1
OBL Item: 19-S

Academic and Student Residence Development Grant Program
Added: May 16, 2019 at AF&A - Item 11.4
Completed: March 25, 2021 at AF&A - Item 10.5
OBL Item: 19-H

(b) Items Requiring a New Due Date:

Municipal Property Tax Billing Software (FCS20006)
OBL Item: 20-A
Current Due Date: Q1 2021
Proposed New Due Date: Q1 2022

2020 Property and Liability Insurance Renewal Report (LS20010)
OBL Item: 20-C
Current Due Date: Q1 2021
Proposed New Due Date: Q2 2021

(g) PRIVATE AND CONFIDENTIAL (Item 14)

Committee moved into Closed Session respecting Item 14.1, pursuant to Section 9.1, Sub-section (k) of the City's Procedural By-law 21-021, and Section 239(2), Sub-section (k) of the Ontario Municipal Act, 2001, as amended, as the subject matter pertains to 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.

(i) Standardization of Intergraph Canada Ltd., Hexagon Safety and Infrastructure Division's Computer Aided Dispatch Software for the Hamilton Fire Department (FCS21018) (City Wide)

Staff were provided direction in Closed Session.

For disposition of this matter, please refer to Item 9.

(h) ADJOURNMENT (Item 15)

There being no further business, the Audit, Finance and Administration Committee adjourned at 10:12 a.m.

Respectfully submitted,

Councillor Ferguson, Chair
Audit, Finance and Administration
Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk

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 Framework¹.

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:

- 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 the City's ethical framework will hold in abeyance the issues in contention in the judicial

¹ 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.

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. Protocols for review and/or investigation of complaints, and reporting on complaints [Q2 2021]
2. Members' roles and responsibilities including with respect to appointments to, and sitting on, external bodies and separate entities such as municipal corporations [Q2 2021]
3. Advisory Committee/Task Force Governance Issues, and Codes of Conduct (Local Boards) [Q3 2021]
4. 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