

Staff Report



To	City Council
Service Area	Corporate Services
Date	Monday, March 22, 2021
Subject	2018-2022 Mid-term Governance Review

Recommendation

1. That the Procedural By-law, included as Attachment-1 to the 2018-2022 Mid-term Governance Review and dated March 22, 2021, be approved.
2. That the City Clerk be directed to develop a policy related to the submission of electronic petitions and report back to City Council through an Information Report in the third quarter of 2021.
3. That the revised Committee of the Whole Terms of Reference, included as Attachment-3 to the 2018-2022 Mid-term Governance Review and dated March 22, 2021, be approved.
4. That the City Council Terms of Reference be repealed.
5. That the Information Flow Protocol be repealed.
6. That the revised City Council Vacancy Policy, included as Attachment-4 to the 2018-2022 Mid-term Governance Review and dated March 22, 2021, be approved.
7. That staff be directed to bring a revised copy of the Elliott By-law as outlined in the 2018-2022 Mid-term Governance Review and dated March 22, 2021, to City Council for approval.
8. That the Recruitment, Appointment and Contract Administration for Municipal Officers policy, included as Attachment-5 to the 2018-2022 Mid-term Governance Review and dated March 22, 2021, be approved.
9. That the Recruitment Procedures for Municipal Officers, included as Attachment-6 to the 2018-2022 Mid-term Governance Review and dated March 22, 2021, be approved.
10. That the Chief Administrative Officer Procedure for Hiring and Position Profile be repealed.
11. That the Chief Administrative Officer Appraisal Committee Terms of Reference be repealed.
12. That the Chief Administrative Officer Employment Policy be repealed.
13. That the authority to recruit and appoint the position of Integrity Commissioner, whenever a vacancy occurs, be delegated to the Chief Administrative Officer and that the Chief Administrative Officer report on any use of this delegation through an information report.

14. That the City Clerk be delegated authority to act as the head of the municipality under the Ontario Ombudsman Act.
 15. That the City Clerk be directed to implement any necessary policies and procedures required to act as the head of the municipality under the Ontario Ombudsman Act.
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Executive Summary

Purpose of Report

To update corporate policies, documents and by-laws, as well as to create new corporate policies and repeal current corporate policies, to ensure legislative compliance and consistency with current governance best practices. Taken together, the recommendations contained in this report ensure that Guelph's governance structure is accountable, transparent and responsive.

Key Findings

Procedural By-law

To update the [Procedural By-law](#) based on feedback received from the public through community engagement, feedback from City Council through the 2019 Procedural By-law review, and other administrative changes resulting from a review of the current by-law. The proposed changes include allowing the submission of electronic petitions as well as screening written submissions or petitions that contain obscene or improper content or language or defamatory allegations, including defining the terms 'obscene' and 'defamatory'.

Staff are also proposing to pilot video delegations and electronic voting for remote meetings, neither of which require a formal amendment to the Procedural By-law and can be implemented through internal processes.

Notice of Motion Process

The proposed changes to the notice of motion procedures will shorten the process by about one month and remove the requirement for Deputy Chief Administrative Officer approval to add items to Committee of the Whole Agendas.

Committee of the Whole Terms of Reference

To update and simplify the Committee of the Whole Terms of Reference to reflect current practices.

City Council Terms of Reference

To repeal the City Council Terms of Reference because they do not provide value or clarity regarding the role of City Council and are not in place at any comparator municipalities.

Information Flow Protocol

To repeal the Information Flow Protocol because the information is duplicated within other policies, statutes, processes or practices, or is of no practical value to members of City Council, the public and staff.

City Council Vacancy Policy

To update the City Council Vacancy Policy to remove the requirement that a member of City Council seeking to fill a mayoral vacancy must declare a pecuniary conflict of interest.

By-law (2016)-20090 to delegate authority to The Elliott to operate The Elliott Long-Term Care Residence as the City of Guelph's Long-Term Care Home

To update The Elliott By-law to reflect that all members of City Council form the Committee of Management of The Elliott Long-term Care Residence.

Recruitment, Appointment and Contract Administration for Municipal Officers

To establish a new Recruitment, Appointment and Contract Administration for Municipal Officers policy to maintain transparency in the hiring processes for the Chief Administrative Officer and Integrity Commissioner as well as to respond to recommendations from the Ontario Ombudsman in response to an investigation into the hiring of the Chief Administrative officer in Niagara Region.

Delegation of Authority under the Ontario Ombudsman Act

To delegate authority to the City Clerk to act as the head of the municipality under the Ontario Ombudsman Act and direct the City Clerk to implement policies and procedures necessary to allow for the appropriate tracking and reporting of interactions between the City of Guelph and the Ombudsman's Office.

Executive Team Expense and Gift Tracking

City staff do not recommend moving forward with additional reporting regarding Executive Team expense and gift tracking because existing internal controls and policies ensure ethical behaviour and transparency.

Committee of the Whole Charing

City staff are recommending that Committee of the Whole service area chairs begin chairing remote Committee of the Whole meetings as of April 1, 2021.

Financial Implications

None.

Report

The purpose of this report is to update corporate policies, documents and by-laws, as well as to create new corporate policies and repeal current corporate policies, to ensure legislative compliance and consistency with current governance best practices. Taken together, the recommendations contained in this report ensure that Guelph's governance structure is accountable, transparent and responsive.

The findings and recommendations outlined below are based on best practices in the field of legislative services and municipal governance as well as comparator and community engagement data when available.

Policy Updates

Procedural By-law

[Section 238 \(2\) of the Municipal Act](#) requires that every municipality pass a Procedural By-law to govern the calling, place and proceedings of meetings of City Council and committees. The City Clerk's Office has committed to undertake a fulsome review of the Procedural By-law as part of the twice per term Governance Reviews. These reviews are intended to respond to community feedback, adopt best practices and make general housekeeping updates to clarify procedural rules.

The Procedural By-law was last reviewed in September 2019 through report [CS-2019-62 Procedural By-law Update](#) and a follow-up [Council memo](#). Subsequent amendments to the Procedural By-law have been made on an ad-hoc basis in response to legislative changes as a result of the COVID-19 pandemic, primarily to facilitate the transition to electronic City Council meetings. These amendments are detailed in the following agendas and staff reports:

- [Procedural Considerations – March 23, 2020](#)
- [Procedural By-law Update – April 16, 2020](#)
- [Procedural By-law Amendments to Allow for Continued Remote Meetings – July 20, 2020](#)

Community engagement

As part of the mid-term governance review, the City Clerk's Office committed to conducting community engagement as part of its review of the Procedural By-law. In consultation with community engagement staff, an online survey was developed to gather feedback on how members of the public interact with City Council; specifically relating to delegations, presentations, written submissions and petitions, and electronic participation in meetings. The survey was emailed directly to previous delegations from a three-month period between September and November 2020 and was also posted publicly online at haveyoursay.guelph.ca. A total of 48 surveys were completed. A summary of the responses can be found in Attachment-2.

Recommendations arising from community engagement results

The City Clerk's Office strives to ensure the process for members of the public to participate in the City Council decision-making process is transparent, accessible and easy to navigate. There were several comments and suggestions received through the Procedural By-law review community engagement survey related to improving this process. Based on this feedback, staff are recommending the following actions. Some of these actions do not require a formal amendment to the Procedural By-law and can be implemented through internal processes.

1. Develop a policy related to the submission of electronic petitions

Section 4.9 (f) of the Procedural By-law currently states that electronic petitions will not be accepted. The review of this section focused on exploring how the public could interact with City Council to advocate for a specific issue through the use of electronic petitions. This is especially relevant given the increased prevalence of websites specifically designed to facilitate the creation and circulation of digital petitions. As part of the Procedural By-law review community engagement survey, members of the public were asked if electronic

petitions should be accepted. 36 respondents (75%) responded 'yes' and eight respondents (16.7%) responded 'under some circumstances'.

As a result, staff are recommending that Section 4.9 of the Procedural By-law be amended to allow for the submission of electronic petitions by members of the public. If the electronic petition is related to an agenda item, the petition will be circulated as part of the agenda package, similar to other correspondence or written materials. If the electronic petition is not related to an agenda item, the petition will be circulated as part of the Information Items where a member of City Council has the ability to request that the petition be placed on a City Council or Committee of the Whole agenda for discussion.

Staff is also recommending that the City Clerk's Office be directed to develop a policy to formally guide this process and set out specific requirements for handling electronic petitions. This policy may include the format electronic petitions must follow, how personal information is to be redacted and a threshold for the number of signatures the petition must receive before it is accepted and circulated as part of the Information Items.

2. Allow delegates to appear via video

Multiple responses in the Procedural By-law review community engagement survey indicated that delegates would like the opportunity to appear via video during their delegation. Since the City moved to electronic City Council and committee meetings as a result of the COVID-19 pandemic, delegations have been permitted to participate via telephone only. Staff recognize that providing delegates with the option to appear via video has many benefits. Some delegates may be more comfortable interacting with City Council face-to-face via video, while others may be more comfortable delegating via telephone. Staff are proposing a three-month trial period to implement video delegations for one meeting type (e.g. end of the month City Council meetings), recognizing that there are technical and logistical challenges to work through before implementing video delegations for all meeting types. This recommendation does not require a formal amendment to the Procedural By-law, as Section 9 (e) permits delegations to participate in an electronic meeting via telephone, videoconferencing software and/or other technology methods deemed appropriate by the City Clerk's Office.

Following the trial period, the City Clerk will make a final determination of the acceptability of video delegations for all meeting types.

3. Display vote results on screen for meetings held by electronic participation

Prior to the transition from in-person to electronic City Council and committee meetings, technology in the Council Chambers displayed all recorded vote results on an overhead projector screen. Since moving to electronic meetings, votes are now taken by a show of hands. Feedback received in the Procedural By-law review community engagement survey indicated that it can be difficult for members of the public to capture vote results. WebEx, the system that the City currently uses to hold electronic meetings, has a polling feature which could be used to display vote results on screen. Other virtual meeting platforms (Microsoft teams, Zoom, etc.) offer similar functionality. Staff are proposing to implement this feature following internal testing and training of members of City Council. Compatibility of this functionality with future technology changes

required for hybrid meetings will also be considered. This recommendation does not require a formal amendment to the Procedural By-law.

A final determination on the acceptability of existing polling functionality to capture votes will be made by the City Clerk.

It should be recognized that there were a number of other valuable comments and suggestions made through the Procedural By-law review community engagement survey that may not be possible to implement immediately but can be explored in the future as staff continue work to improve the City Council decision-making process.

Recommendations based on follow-up of 2019 Procedural By-law review

As a result of discussions arising from the 2019 review of the Procedural By-law, the City Clerk's Office committed to re-examining several different processes as part of this year's review.

1. Definitions of 'defamatory' and 'obscene' as it relates to written submissions and petitions

Through report [CS-2019-62 Procedural By-law Update](#) staff had recommended that Section 4.9 (c) of the Procedural By-law be amended to include a disclaimer that the City Clerk's Office will not accept any written submission or petition that contains any obscene or improper content or language or defamatory allegations, as determined by the City Clerk in consultation with the City Solicitor. At the September 3, 2019 Committee of the Whole meeting, the Committee did not bring forward staff's recommendation regarding this proposed amendment. Comments were raised related to limiting freedom of expression, censorship and the potential legal risk to the City of reprinting material as part of an agenda package that may be considered defamatory. It was also requested that definitions of 'defamatory' and 'obscene' be provided.

City Clerk's Office staff are again recommending that that Section 4.9 (c) be amended to include a disclaimer that the City Clerk's Office will not accept any written submission or petition that contains any obscene or improper content or language or defamatory allegations. Staff are also recommending that the Procedural By-law be amended to add the following definitions in Section 1, which were developed in consultation with Legal, Realty and Court Services staff:

'Defamatory' means an unjustified falsehood which is derogatory towards an identifiable person or group.

'Obscene' means language, gestures or images which are, or which are likely to be received as being, degrading or dehumanizing of an individual or group, particularly but not limited to on the basis of grounds protected under the Human Rights Code (Ontario).

Legal, Realty and Courts Services staff have advised that the City is likely a broadcaster within the meaning of the [Libel and Slander Act](#) with regards to correspondence and petitions published publicly on the City's website as part of an agenda package. The publication by the City of correspondence that is defamatory in nature is a liability risk, as is the publication of statements which target individuals or groups on the basis of personal characteristics which may raise implications under the [Ontario Human Rights Code](#).

Where City Clerk's Office staff, in consultation with Legal, Realty and Court Services staff, have determined that a written submission or petition contains any obscene or improper content or language or defamatory allegations, in accordance with the definitions outlined above, the following process is proposed:

- The author of the written submission or petition is advised of the portion of their material that is being withheld per Section 4.9 (c) of the Procedural By-law and is offered the opportunity to re-submit without the content in question included.
- If the author declines to re-submit by removing or rewording the objectionable content, City Council will be provided with a confidential memorandum from Legal, Realty and Court Services staff providing a legal opinion for withholding the written submission or petition.
- City Council would have the opportunity to request a closed meeting under Section 239 (2) (f) of the Municipal Act to receive an explanation of the legal opinion provided by Legal, Realty and Court Services staff. Upon receiving said explanation, City Council will retain the final decision as to whether the subject material is withheld from publication.

The above process is not being proposed as a means to limit the ability of members of the public to voice their opinions but rather as a means to avoid publishing material that is defamatory and/or harmful to the human rights of others and may pose a liability to the City.

2. Repeat delegations from Committee of the Whole to City Council

Based on feedback received from members of City Council and the public during the 2019 Procedural By-law review, staff is recommending that no action be taken at this time related to repeat delegations from Committee of the Whole to City Council.

3. Public message board to answer Councillor questions in advance of a meeting

Staff is recommending that a public message board to answer questions from members of City Council not be implemented at this time. Doing so could be construed as advancing business outside of a formal meeting and decision-making process for which public notice has been given.

4. Timing of agenda items

Concerns were raised by members of City Council during the 2019 Procedural By-law review regarding how difficult it can be for members of the public to tune into a specific item during a lengthy City Council or committee meeting without providing a timing of agenda items. Staff agrees with this concern. However, providing an accurate timing of agenda items is difficult. The time that a specific agenda item takes depends on several variables, including the total number of delegations as well as the amount of questions and comments from members of City Council.

Were City staff to attempt to time agenda items, over and under-estimation of item length would still lead to significant variations between the forecasted and actual times. Additionally, the timing of items would make it impossible for chairs to use their discretion to amend the order of items on an agenda.

The shift to electronic City Council meetings has given the public the ability to delegate over the phone from anywhere in the world. Instead of waiting in the Council Chambers for their items appear before City Council (sometimes for many hours), delegates now receive a phone call from the City Clerk's Office within about 20 minutes of their turn to speak. This makes it much easier for the public to participate.

As restrictions related to the COVID-19 pandemic are lifted and in-person meetings again become the norm, it is anticipated that members of the public will continue to be able to delegate remotely if they wish. Staff are exploring technology enhancements to the Council Chambers that will support hybrid meetings where members and the public could attend remotely or in-person.

City staff do not recommend moving forward with the timing of agenda items.

Other administrative changes

In addition to the amendments outlined above, staff are also recommending the following administrative changes to the Procedural By-law:

- Section 4.4 (c) added to clarify what happens if quorum is lost during a meeting, including loss of quorum during electronic meetings due to technology issues.
- Section 5.9 (b) amended to reflect the updated practice of attaching an electronic copy of every proposed by-law to the revised agenda.
- Section 12.2.1 (b) added to include information relating to the Emergency Governance Committee's scope of responsibilities (this information was previously included in the Committee of the Whole Terms of Reference).
- Section 13.2 amended to reflect updated practices regarding the Information Items distribution.
- All sections amended to replace 'consolidated agenda' with 'revised agenda' to align with language used as a result of the implementation of eScribe, the City's electronic agenda management system.
- Minor formatting and grammatical changes throughout.

Notice of Motion Process

On September 23, 2019 City Council passed the following resolution:

That the Notice of Motion procedure be referred to the 2020 Governance Review process and that staff provide City Council with options and alternatives for debate at that time.

A notice of motion is a procedural process by which members of City Council bring forward motions for discussion and debate which are not the result of staff recommendations or staff reporting to City Council. It provides advance notice for other City Council members, staff and the public to review the matter prior to it appearing on a City Council agenda.

At the [September 23, 2019 City Council meeting](#), City Council referred the notice of motion process to the 2020 Governance Review. At the time, some members of City Council indicated they believed that the process was too long. During a [previous notice of motion review in 2017](#), some members of City Council indicated they believed the process was too short. In this regard, there are shifting expectations about the notice of motion process from City Council.

Following the 2017 notice of motion review, the process was amended to provide a quicker route for motions to appear on an agenda if the Chair/Mayor and the Deputy Chief Administrative Officer/Chief Administrative Officer agreed. With the agreement of the Chair/Mayor and the Deputy Chief Administrative Officer/Chief Administrative Officer, motions may be added directly onto Committee of the Whole and City Council agendas – bypassing the notice of motion process entirely. This provides an efficient route for members of City Council to add items directly to agendas.

If there is no agreement between the Chair/Mayor and the Deputy Chief Administrative Officer/Chief Administrative Officer, the notice of motion process is available and typically takes two to three months from initial notice to final decision. The additional time included in the notice of motion process allows the public, City Council and staff to prepare for the motion to come before City Council in a fully informed way.

Of the 18 comparator municipalities surveyed regarding their notice of motion process, the majority have a more permissive process than Guelph and allow for motions to be considered and voted on at the same or subsequent meeting. For example, Kingston and Vaughan permit a notice of motion to be introduced at a City Council or Committee of the Whole meeting for consideration at the next regular meeting.

Of all the comparators surveyed, Guelph has the longest notice of motion process in situations where there is no agreement between the Chair/Mayor and the Deputy Chief Administrative Officer/Chief Administrative Officer to place an item on an agenda.

To shorten the notice of motion process, the first notice that appears on an agenda with no discussion or debate could be removed. Instead, the first time the notice would appear is at City Council for debate and discussion of a referral to the Committee of the Whole. This reduces the length of time a notice motion takes by two weeks to one month, depending on the upcoming meeting schedule.

To illustrate the difference in timing between the current and proposed notice of motion processes, an example timeline is provided below.

Current Notice of Motion Example Timeline:

- January 4, 2021 Committee of the Whole – for notice only
- January 25, 2021 City Council – referral discussion
- March 1, 2021 Committee of the Whole – discussion on motion
- March 29, 2021 City Council – final decision

Proposed Notice of Motion Example Timeline:

- January 25, 2021 City Council – notice and referral discussion
- March 1, 2021 Committee of the Whole – discussion on motion
- March 29, 2021 City Council – final decision

Staff are recommending that the Procedural By-law be amended to remove the first notice requirement for notices of motion (as summarized above).

In addition, staff are recommending that the requirement for Chair/Mayor and Deputy Chief Administrative Officer/Chief Administrative Officer be amended to remove reference to the Deputy Chief Administrative Officer/Chief Administrative Officer. This would leave it to the discretion of the Chair/Mayor to add items directly

to an agenda. This recommendation ensures that staff are not drawn into political discussions about what items are added and which need to proceed via the notice of motion process.

Proxy Voting

Bill 197, the COVID-19 Economic Recovery Act, amended the Municipal Act to give municipal council's the ability to amend their procedural by-laws to allow members of City Council who are absent from a meeting to appoint another member of City Council to vote on their behalf. [Section 243.1 of the Municipal Act](#) establishes several rules regarding the use of proxies. In addition, the Municipal Act makes explicit reference to the authority of the City Clerk to establish a process to govern proxy voting if a procedural by-law is amended to include it.

For the purpose of this report, the member of City Council appointing a proxy will be referred to as the appointing member and the member of City Council appointed as a proxy will be referred to as the proxy holder.

Subject to the required amendment of the Procedural By-law and the establishment of a policy to govern proxy voting, the basic process as outlined in the Municipal Act is as follows. Members of City Council absent from a City Council or committee meeting could formally appoint another member of City Council who will be present at the meeting to vote on their behalf. At a meeting where a proxy holder is voting on behalf of an appointing member, the City Clerk would record the vote of the proxy holder representing themselves and the vote of the proxy holder representing the appointing member. The vote would be recorded in such a way as to identify the name of the proxy holder, the name of the appointing member and the vote cast by the proxy holder on behalf of the appointing member.

The rules laid out in Section 243.1 of the Act also stipulate that no member of City Council may act as a proxy holder regarding any items for which they have declared a pecuniary interest. In addition, an appointing member may not appoint a proxy holder for any item for which they must declare a pecuniary interest.

Because proxy voting is primarily a political tool, staff are not making a recommendation in favour or against its implementation.

As part of the Procedural By-law review community engagement survey, members of the public were asked if the City should allow proxy voting. 31 survey respondents (67%) indicated that proxy voting should be permitted.

Public comments against proxy voting generally revolved around the idea that councillors are elected to sit on City Council and should therefore be present to hear from the public and staff themselves. Others commented that a councillor appointing a proxy had likely made up their mind before the public meeting without hearing from delegations or staff.

A [guide to proxy voting](#) prepared by the Association of Municipal Managers, Clerks and Treasurers of Ontario provides additional detail on proxy voting for members of municipal Councils.

If City Council wishes to proceed with the implementation of proxy voting, staff recommend passing the following motion:

That the City Clerk be directed to report back to City Council as part of the next Governance Review in the 2022–2026 term of City Council with a

Procedural By-law amendment and a process to allow for proxy voting at City Council and committee meetings.

If the City Clerk is directed to proceed with a Procedural By-law amendment and process for proxy voting, the report back to City Council will include detailed procedural rules and analysis regarding different scenarios that could arise as a result of proxy voting. As an example, rules would need to be established to govern whether proxies are appointed for an entire meeting or for specific agenda items.

Before proxy voting is permitted, an affirmative vote by City Council to amend the Procedural By-law will be required at the time the City Clerk's report is presented.

Committee of the Whole Terms of Reference

The [Committee of the Whole Terms of Reference](#) were last reviewed and updated by City Council as part of the 2018 Governance Review. Since that time staff have observed that the Committee of the Whole structure is continuing to function as intended and no significant governance issues have arisen. As a result, staff are recommending only minor changes to the Committee of the Whole Terms of Reference to reflect current practices.

The changes are as follows:

- Clarification that City Council has delegated to Committee of the Whole the authority to refer items back to City staff where the referral does not significantly impact workplans.
- Clarification that City Council has delegated to Committee of the Whole the authority to approve procedural motions and direct City staff in closed meetings.
- Simplification of the general responsibility of the Committee of the Whole to receive all reports from Public Services, Corporate Services, Infrastructure, Development and Enterprise Services and the Office of the Chief Administrative Officer.
- Removal of the 'Role of Stakeholders with Respect to Committee of the Whole Meetings' section as these roles are either included in other documents (for example, rules of decorum are contained in the Procedural By-law and the role of the City Clerk is included in legislation and a job description) or of a common-sense nature (for example, councillors reading agenda materials prior to meetings).
- Removal of reference to the Emergency Governance Committee as staff are recommending that this information be included directly in the Procedural By-law.
- Updates to the specific responsibilities of the Governance Committee to reflect current practices, including:
 - a. The removal of the Governance Committee role in the Chief Administrative Officer performance review process due to the establishment of the [Chief Administrative Officer Recruitment, Selection and Performance Sub-committee](#).
 - b. The removal of the Governance Committee role in succession planning as that is a human resources function delegated to the Chief Administrative Officer.

The Internal Auditor and City Treasurer reviewed the terms of reference for the Audit Committee and are not recommending any changes be made.

City Council Terms of Reference

Staff are recommending that the [City Council Terms of Reference](#) be repealed.

The City Council Terms of Reference were first established on February 25, 2013 in report [CAO-C-1301 Terms of Reference: City Council and Standing Committee](#). Since then, they have been reviewed and updated several times, most recently as part of report [CS-2018-66 2018 Governance Review](#). Staff believe, in the case of each section of the terms of reference outlined below, that the information is duplicated within other policies, statutes or by-laws or of limited practical value to members of City Council, the public and staff.

Of 18 comparator municipalities surveyed, none had terms of reference for City Council.

Guiding Principles and Mandate

The guiding principles and mandate sections include references to existing policies and provincial legislation including the [Code of Conduct for City Council and Local Boards](#), the Municipal Act and the Planning Act.

As City Council is bound to operate within the framework established by these policies and statutes, this section provides little in the way of additional guidance. Additionally, as the Municipal Act and other provincial statutes are frequently updated, it can result in inconsistency between the City Council Terms of Reference and provincial statutes which supersede it.

Principle-Based Responsibilities

On November 13, 2013 in report [CAO-M-1201 Governance Framework](#), City Council adopted a governance framework which included a principle-based governance system. The principle-based governance system was woven into several governance and administrative processes including the City Council Terms of Reference. As the principles laid out in the governance framework do not curtail the statutory authority granted to municipal councils by provincial statute, it is difficult to effectively use them to govern City Council decision-making. As a result, the principles within the City Council Terms of Reference are seldom, if ever, referenced for any practical purposes.

Composition and Term

The four-year term of City Council is mandated by [section 6 \(1\) of the Municipal Elections Act](#) and cannot be changed by City Council. Inclusion of term length in the City Council Terms of Reference simply parrots the Municipal Elections Act without adding value or clarity for members of City Council.

The composition of City Council can be changed at the discretion of City Council in accordance with the parameters established in [section 217 \(1\) of the Municipal Act](#). The composition of City Council is therefore captured by by-law. In the current context, the public and City Council is also likely aware of the pending report from the [Council Composition and Ward Boundary Review](#) project.

City Council compensation/remuneration is reviewed every term by the [City Council Remuneration Advisory Committee](#).

Resources and Operating Procedures

The role of the Chief Administrative Officer, including delegations of authority, are included in the [Chief Administrative Officer Appointment By-law](#).

The Procedural By-law is required by [section 238 \(2\) of the Municipal Act](#) and is reviewed by City Clerk's Office staff as part of the twice-per-term governance reviews. To ensure the Procedural By-law meets the needs of City Council, the public and City staff, it is also often amended between governance reviews. Since the last governance review in 2018 the Procedural By-law has been amended four times (once in 2019 and three times in 2020).

Role of Stakeholders with Respect to City Council Meetings

The roles identified in the City Council Terms of Reference are either included in other documents (for example, rules of decorum are contained in the Procedural By-law) or of a common-sense nature (for example, councillors reading agenda materials prior to meetings). As a result, there is little practical value to the roles included in the City Council Terms of Reference and they are seldom, if ever, referenced.

Information Flow Protocol

Staff are recommending that the [Information Flow Protocol](#) be repealed.

The Information Flow Protocol was established in 2012 to prescribe the conditions under which information flows between staff and City Council. Staff believe, in the case of each section of the Information Flow Protocol, that the information is duplicated within other policies, statutes, processes or practices and, as such, is of no practical value to members of City Council, the public and staff.

The Information Flow Protocol has not been revisited or revised since it was approved in 2012. However, since that time, a number of more specific policies have been approved and have come to replace the need for the Information Flow Protocol.

The [Code of Conduct for Council and Local Boards](#) and the [Employee Code of Conduct](#) outline acceptable City Council and employee behavior respectively, and convey the organization's expectations related to working relationships. In addition, the [Council-Staff Relations Policy](#), a policy required by [section 270 \(1\) of the Municipal Act](#), was approved by City Council in November 2018 and outlines the roles and working relationship expected between City Council and staff.

Access to information processes are codified in the City's [access to information practices](#) and [policies](#). These practices are governed by the [Municipal Freedom of Information and Protection of Privacy Act](#) (MFIPPA). As City Council is bound to operate within the framework established by MFIPPA, the Information Flow Protocol provides little in the way of additional guidance.

In another example, the City's [Media Relations Policy](#) was approved in 2013. It specifies how employees are to interact with traditional, online and social media according to principles outlined in the [City of Guelph Communications Plan](#), including how staff are to advise City Council of its media relations activity (guidance that is currently duplicated in the Information Flow Protocol). The policy is complemented by the City's [Social Media Guidelines for Elected Officials](#).

Staff note that—unlike the Information Flow Protocol—the policies and practices noted above are revised and updated on a regular basis.

Several other tools—both formal and informal—have been added to the way information is shared between administration and City Council in recent years. Staff adapt and evolve those tools on an ongoing basis to meet the needs of the organization.

Finally, the information, practices and policies captured in the above are part of City Council's orientation process and materials. Orientation materials are available at all times for councillors on City Council's Infonet page, and staff are working on an enhanced orientation process for future terms of City Council.

City Council Vacancy Policy

The [City Council Vacancy Policy](#) was approved by City Council on October 23, 2017.

[Section 6 \(b\)](#) of the appointment procedure to fill a Mayoral vacancy (included as schedule 1 of the City Council Vacancy Policy) requires that members of City Council seeking appointment to the office of the Mayor, in the case where a vacancy in the office has occurred, declare a pecuniary conflict of interest.

Since the approval of this policy, staff have become aware that section 6 (b) is in conflict with [section 4 \(g\)](#) of the Municipal Conflict of Interest Act which specifically relieves any requirement that a councillor declare a conflict of interest when they are eligible for appointment to fill a vacancy on City Council.

As a result, staff are recommending that the revised City Council Vacancy Policy, included as Attachment-4, which removes section 6 (b) in its entirety, be approved.

Recruitment, Appointment and Contract Administration for Municipal Officers

At the City of Guelph, two municipal officers report directly to City Council: the Chief Administrative Officer and the Integrity Commissioner. While the Municipal Act establishes these positions, their roles and responsibilities, it does not include requirements relating to recruitment, appointment or contract administration.

The City of Guelph does not have a policy which establishes procedures relating to the recruitment, appointment or contract administration of municipal officers reporting directly to City Council. Instead, informal procedures and position-specific policies are being used. City Clerk's Office staff are recommending that a new policy titled Recruitment, Appointment and Contract Administration for Municipal Officers, as well as related procedures, be approved to ensure continued transparency and a consistent approach in the hiring of all municipal officers reporting directly to City Council.

The proposed policy and procedures (Attachment-5 and 6) incorporate best practices and respond to the recent recommendations of the Ontario Ombudsman following an investigation into the Chief Administrative Officer hiring process in Niagara Region.

As part of Ombudsman's report into the Niagara Region Chief Administrative Officer hiring, titled [Inside Job](#), several recommendations were made regarding the hiring and performance appraisal of the Chief Administrative Officer. Among those recommendations is the adoption of 'a policy setting out the process for hiring a Chief Administrative Officer, including the appropriate roles of staff and their

accountability to City Council or a committee of City Council charged with the hiring.’ By approving the proposed policy, City Council would be ensuring compliance with the best practices recommended by the Ontario Ombudsman as well as the utmost expectations of transparency.

The proposed policy includes a codification of many of City Council’s informal practices, including:

- Designating which City staff may be involved in the hiring process.
- Requiring that there be no acts of favouritism, bias, undue influence or discrimination in the municipal officer recruitment process.
- Assigning specific responsibilities to City Council, the Mayor, interview panel members, City staff and external search firms.

In addition, the proposed policy establishes that any complaints related to members of City Council and this policy shall be made to the Integrity Commissioner.

Should City Council approve the proposed policy, the City Clerk and City Solicitor will be responsible for reviewing and monitoring the policy as it relates to hiring and contract administration respectively. Any violations of the policy on the part of City staff may result in discipline up to and including dismissal.

Chief Administrative Officer Recruitment and Hiring Procedures

The proposed Recruitment Procedures for Municipal Officers includes a codification of existing recruitment and hiring processes for the Chief Administrative Officer through the Chief Administrative Officer Recruitment, Selection and Performance Sub-committee.

The approval of these procedures, and the ongoing use of the Chief Administrative Officer Recruitment, Selection and Performance Sub-committee, necessitates the repeal of the Chief Administrative Officer Procedure for Hiring and Position Profile and the Chief Administrative Officer Appraisal Committee Terms of Reference.

Integrity Commissioner Recruitment and Hiring Procedures

To date, the Integrity Commissioner has been appointed by City Council based on a recommendation from the City Clerk which follows a public request for proposal process. The proposed Recruitment Procedures for Municipal Officers formalizes this process by requiring a formal request for proposal and interview prior to the appointment of the Integrity Commissioner. To expedite and simplify this process, staff are recommending that the authority to appoint the Integrity Commissioner be delegated to the Chief Administrative Officer in accordance with the Recruitment Procedures for Municipal Officers.

If approved, the Chief Administrative Officer would be required to report on the exercise of their delegated authority via an information report after an agreement with a successful candidate has been finalized. Delegating this authority to the Chief Administrative Officer removes any perceived conflict that could occur as a result of City Council appointing a position responsible for investigating their adherence to the [Code of Conduct for City Council and Local Boards](#).

The final appointment of the Integrity Commissioner will be confirmed by by-law.

Delegation of Authority under the Ontario Ombudsman Act

The [Ombudsman Act](#) designates City Council as the head of the municipality. As a result, the Ombudsman is required to inform City Council before investigating any complaints received regarding the City of Guelph and before entering City of Guelph property to carry out an investigation. For obvious reasons, notifying City Council in this way is impractical and, in practice, different staff are notified by the Ombudsman depending on the nature of the investigation. This makes it difficult to track and understand how many Ombudsman investigations are ongoing in relation to the City of Guelph. [Annual reporting](#) from the Ombudsman's Office shows the number of complaints regarding the City of Guelph increased from 5 in 2018 to 9 in 2019. However, without a centralized process for tracking interactions between City of Guelph staff and the Ombudsman's Office, there is no way of determining how these cases relate to City of Guelph operations or departments and the outcomes of these interactions.

To contribute to the efficient management of the City, ensure legislative compliance with the Ombudsman Act and provide for public reporting through the [Delegation of Authority By-law](#), staff are recommending that the City Clerk be delegated authority to act as the head of the municipality with regard to the roles and responsibilities of the head as outlined in the Ombudsman Act. In addition, staff are recommending that the City Clerk be directed to implement policies and procedures necessary to allow for the appropriate tracking and reporting of interactions between the City of Guelph and Ombudsman's Office.

As part of this delegated authority, the City Clerk will report annually on the exercise of this delegated authority. All reporting and interactions between the City of Guelph and the Ombudsman's Office will be done in a way that maintains the confidentiality of complainants but in a way that contributes to additional transparency on these interactions.

By-law (2016)-20090 to delegate authority to The Elliott to operate The Elliott Long-Term Care Residence as the City of Guelph's Long-Term Care Home

On September 23, 2019 City Council amended the composition of the Committee of Management for The Elliott to include all members of City Council. This change was captured in the Procedural By-law.

The Committee of Management of The Elliott By-law (2016)-20090 has not been updated to reflect this change. As a result, staff are recommending that The Elliott By-law be updated to reflect the committee's current composition.

Executive Team Expense Tracking

On June 25, 2019 City Council passed the following resolution:

1. That the following clauses with respect to report CS-2018-47 Accountability and Transparency Policy Update be referred to the 2018-2022 Term of Council:

That all gifts received by Council or the Executive Team with a value of \$100.00 or more be disclosed on a monthly basis and posted online.

That total monthly expenses by Council and the Executive Team be disclosed quarterly and posted online.

The Code of Conduct for Council and Local Boards prohibits any member of City Council from accepting a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of their duties except in specific situations (for exceptions, see [S. 5 of the Code of Conduct for Council and Local Boards](#)).

Gifts which qualify for an exception must be disclosed publicly if they exceed \$300 for an individual gift or \$300 cumulatively for gifts received from one source in a calendar year. To date, [no gift disclosures have been received](#) from any members of City Council or a local board.

The [City of Guelph Employee Code of Conduct](#), which applies to all employees including the Executive Team, prohibits any staff person from accepting gifts or benefits except where the gift is an expression of common courtesy or within normal standards of hospitality. In such cases where a gift meets those requirements it can only be accepted provided it is of nominal value (\$100 or less).

As staff cannot receive gifts over \$100 and the Code of Conduct for Council and Local Boards tightly regulates the receipt of gifts for elected officials, staff do not recommend adding any additional reporting on gifts.

With regard to expense tracking, only two of 18 comparator municipalities surveyed (the [City of Ottawa](#) and the [City of Hamilton](#)) disclosed executive expenses. Expenses for members of City Council are already tracked and reported annually by information report ([2019 Statement of Remuneration and Expenses for Members of City Council](#)).

There are several existing policies applying to all staff, including the Executive Team, which ensure that all claimed expenses and reimbursements are completed transparently and fairly. These policies include:

- Automotive Expense Reimbursement Policy
- Employee Expense Reimbursement Policy
- Expense Authorization Policy
- Purchasing Card Policy and Procedure

Additional tracking and reporting of Executive Team expenses would need to be completed manually by establishing expense reporting business units for each member of the Executive Team. While possible, this represents a significant volume of administrative work. As a result, staff do not recommend proceeding with the quarterly tracking and reporting of City Council and Executive Team expenses.

A new expense management system is scheduled to be implemented in mid-2021. This system will track City expenses paid personally and reimbursed to employees, as well as expenses paid via corporate procurement card. The system would reduce some of the administrative work required to meet the intention of this resolution. However, it will not capture payments made through the City's accounts payable process so manual work would still be required to capture cellular and mobile data expenses and any conference expenses paid through accounts payable.

If City Council wishes to proceed with additional expense tracking and reporting, the following resolution could be passed:

That total monthly expenses by members of City Council and the Executive Team be disclosed quarterly and posted online, beginning in 2022, following the implementation of an expense management system in mid-2021.

Committee of the Whole Chairing

On August 24, 2020 City Council passed the following resolutions:

5. That the Mayor be appointed as a Committee of the Whole vice-chair for all service areas for the purpose of chairing electronic Committee of the Whole meetings until the next Governance Review to be completed by the end of Q1 2021.
6. That staff be directed to review chairing in the context of electronic meetings and report back as part of the next Governance Review.

These resolutions were approved to ensure the effectiveness and stability of meetings as City Council and staff transitioned from the emergency remote meeting schedule used in the first half of 2020 to a normalized meeting schedule beginning in September 2020. Since that time, members of City Council, staff and the public have grown more comfortable with the remote meeting format. As a result, staff are recommending that the Mayor's appointment as vice-chair for all service areas be allowed to lapse at the end of March and Committee of the Whole service area chairs return to their full roles beginning April 1, 2021.

No action is required on the part of City Council in order to facilitate this transition. After the Mayor's appointment as vice-chair lapses, service area chairs will again be required to chair meetings under the Procedural By-law.

Financial Implications

None.

Consultations

Karl Hutchinson, Internal Auditor

Tara Baker, General Manager, Finance/City Treasurer

Mark Ellis, General Manager, Human Resources

Shanna O'Dwyer, Manager, Financial Reporting and Accounting

Strategic Plan Alignment

Reviewing and updating governance practices and policies to meet the highest standards of accountability and transparency reinforces the Strategic Plan value of integrity by ensuring honest and ethical decision-making at the City of Guelph. In addition, several recommendations in this report serve to improve how the City communicates with residents and delivers services in accordance with the [Working Together for our Future Strategic Plan](#) pillar.

Attachments

Attachment-1 Revised Procedural By-law

Attachment-2 Procedural By-law Review Engagement Data

Attachment-3 Revised Committee of the Whole Terms of Reference

Attachment-4 Revised City Council Vacancy Policy

Attachment-5 Recruitment, Appointment and Contract Administration for Municipal Officers Policy

Attachment-6 Recruitment Procedures for Municipal Officers

Departmental Approval

Dylan McMahon, Manager, Legislative Services/Deputy City Clerk

Report Author

Lindsay Cline, Council and Committee Coordinator

Trista Di Lullo, Council and Committee Coordinator / Secretary Treasurer,
Committee of Adjustment

Dylan McMahon, Manager, Legislative Services / Deputy City Clerk

Juan Da Silva, Council and Committee Assistant

Tara Sprigg, General Manager, Corporate Communications and Customer Service

This report was approved by:

Stephen O'Brien

General Manager, City Clerk's Office, City Clerk
Corporate Services

519-822-1260 extension 5644

stephen.obrien@guelph.ca

This report was recommended by:

Trevor Lee

Deputy Chief Administrative Officer
Corporate Services

519-822-1260 extension 2281

trevor.lee@guelph.ca