

Staff Report



To	Committee of the Whole
Service Area	Corporate Services
Date	Tuesday, June 6, 2023
Subject	2023 Governance Review

Recommendation

1. That the amended Procedural By-law, included as Attachment-1 to the 2023 Governance Review dated June 6, 2023, be approved.
 2. That the amended Closed Meeting Protocol, included as Attachment-2 to the 2023 Governance Review dated June 6, 2023, be approved.
 3. That the amended Chief Administrative Officer Recruitment, Selection and Performance Sub-committee Terms of Reference, included as Attachment-3 to the 2023 Governance Review dated June 6, 2023, be approved.
 4. That the amended Chief Administrative Officer Evaluation Process Terms of Reference, included as Attachment-4 to the 2023 Governance Review dated June 6, 2023, be approved.
 5. That the amended Recruitment, Appointment and Contract Administration for Municipal Officers Reporting Directly to City Council policy, included as Attachment-5 to the 2023 Governance Review dated June 6, 2023, be approved.
 6. That the amended Recruitment, Hiring and Involuntary Departures Procedures for Municipal Officers policy, included as Attachment-6 to the 2023 Governance Review dated June 6, 2023, be approved.
 7. That the City Clerk and Mayor be directed to review the current governance framework for the Strategic Advisory Group on Downtown Guelph to ensure compliance with all applicable legislation and report back to City Council as required.
 8. That the Delegation of Authority By-law be amended as outlined in Attachment-7 to the 2023 Governance Review dated June 6, 2023.
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Executive Summary

Purpose of Report

Every two years the City Clerk's Office conducts a governance review. The reviews are an opportunity to update policies, procedures and by-laws which impact corporate governance.

Key Findings

The 2023 Governance Review includes updates to seven existing policies and by-laws and responds to two outstanding resolutions of City Council. Most of the policy and by-law changes are administrative in nature and are being made to ensure consistency with current and best practices. A summary of the more significant proposed changes included in the report are as follows:

Procedure By-law

- Four-month limit on the pulling of an information report from the weekly information items unless a Committee of the Whole Service Area Chair agrees to pull an older report.
- Delegation of authority to the City Clerk to make administrative edits to motions moved at committee and City Council meetings.
- All delegate time limits set at five minutes (including statutory public meetings held under the Planning Act).

Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers

- Establishes a process for the hiring and involuntary departure of statutory municipal officers whose appointment or removal from office can only be made by City Council per [Section 23.3 of the Municipal Act](#).

Delegation of Authority By-law Amendments

- Additions to the Delegation of Authority By-law are being sought by five City departments to ensure the continued efficient and effective operation of City business.

Task Force Governance

- In accordance with recent court decisions and in consultation with the Mayor, City staff are recommending that task forces led by elected officials be supported in a manner similar to Advisory Committees of City Council (ACOCs) to ensure compliance with applicable provisions of the Municipal Act and Municipal Conflict of Interest Act (MCIA).

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](#).

Financial Implications

None.

Report

Policy, Procedure and By-law Updates

Procedure By-law

The following are proposed amendments to the City of Guelph Procedural By-law:

- Change the name of the Procedural By-law to the Procedure By-law to align with the wording found in [Section 238 \(2\) of the Municipal Act](#).
- Allow for the reconsideration of a resolution at the same meeting as the original resolution was approved, with a 2/3 majority. This fills a gap in the current By-law which is silent on reconsiderations occurring at the same meeting as the original resolution was passed.
- Place a four-month limit on the pulling of an information report from the weekly information items unless a Committee of the Whole Service Area Chair agrees to pull an older report.
- Formally delegate authority to the City Clerk to make administrative edits to motions and amendments moved at meetings. This clarifies the City Clerk's role regarding motions moved at meetings by granting formal authority for what is a common practice that contributes to effective and efficient meetings. Council will confirm any edits by way of approving the minutes at a subsequent Council meeting. Edits to motions made by the City Clerk:
 - Will not change the intention of the motion;
 - May include grammatical and typographical corrections;
 - Will maintain or clarify the original intent of the motion; and
 - Can occur prior to, during or following adjournment of a meeting.
- Add language clarifying it is a best practice to move staff recommendations prior to motions from members of City Council but not require this to always be the case.
- Update the agenda order of business to have the closed meeting summary immediately follow closed sessions of City Council. This change reflects the current practice in use at City Council and committee meetings.
- Clarify that rules regarding reconsiderations do not apply to failed motions as failed motions are not resolutions.
- Prohibit information reports pulled from the weekly information items from being added on revised agendas.
- Prohibit public correspondence on City Council orientation and education workshop agendas (delegations are already prohibited).
 - City Council orientation and education workshops are convened for the purpose of educating or training members of City Council, to provide advice, information or to solicit feedback. No decisions are permitted at orientation and education workshops. Any items discussed at an orientation and education workshop which require a future City Council decision, are brought forward to regular meetings which allow for public correspondence and delegations.
- Add language to clarify delegate and correspondence deadlines when the normal deadline falls on a statutory holiday.
- Move all delegates to a five-minute time limit (including delegations for statutory public meetings).

- Moving all delegations to a five-minute time limit creates equity across the spectrum of decisions that come before City Council. This ensures, for example, that delegates have the same time allotment when speaking to a wide range of matters, including routine items on committee or City Council agendas, significant operating or capital budget items and land use planning decisions.
- In 2022, if all 10-minute delegates used their full allotted time, this change would save five hours of meeting time out of 20.75 total hours in Council Planning meetings (an approximately 25 per cent reduction).
- As many delegates do not use the full 10 minutes, this change is likely to save closer to three hours total.
- This change will increase meeting efficiency considerably at the 3-4 longest Council Planning meetings that occur each year.
- Administrative edits to better align the Procedure By-law with current practices.
- Changes to the order and structure of the Procedure By-law to enhance readability and document navigation.

A redline version of the amended Procedural By-law is included as Attachment-1.

Closed Meeting Protocol

The following are proposed amendments to the Closed Meeting Protocol:

- Add language clarifying that the Closed Meeting Protocol applies to all ACOCs.
- Add language to explicitly permit the release of previous closed meeting materials to newly elected members of City Council by request.
- Administrative updates to better align the Closed Meeting Protocol with the Municipal Act and current practices.

A redline version of the amended Closed Meeting Protocol is included as Attachment-2.

Chief Administrative Officer Recruitment, Selection and Performance Sub-committee Terms of Reference

Administrative update to clarify that the Sub-committee may conduct regular monitoring of Chief Administrative Officer (CAO) performance outside of the required annual review.

A redline version of the amended CAO Recruitment, Selection and Performance Sub-committee Terms of Reference is included as Attachment-3.

Chief Administrative Officer Evaluation Process - Terms of Reference

Updates to match current practices, improve the readability of the Terms of Reference and increase the efficiency of the CAO performance evaluation process.

An amended version of the CAO Evaluation Process Terms of Reference is included as Attachment-4.

Recruitment, Appointment and Contract Administration Policy for Municipal Officers Reporting Directly to City Council

Minor update to clarify that this Policy applies only to municipal officers who report directly to City Council.

A redline version of the amended Recruitment, Appointment and Contract Administration Policy for Municipal Officers Reporting Directly to City Council is included as Attachment-5.

Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers

This Procedure has been updated to apply to all municipal officers who are appointed and removed from office by City Council in accordance with the Municipal Act and other relevant legislation. While City Council retains the right to appoint and remove statutory municipal officers, the process for the hiring and involuntary departure of employees who hold statutory roles will continue to be completed in general accordance with the recruitment and hiring practices for Non-Union Municipal Employees as set out by the CAO and Deputy CAO, Corporate Services.

The revised procedure:

- Identifies the CAO, Integrity Commissioner, City Treasurer, City Clerk, Chief Building Official and the Fire Chief as the current positions which require the adoption of a by-law by City Council for appointment or removal from office.
- Adds to the existing sections regarding the CAO and Integrity Commissioner to outline, at a high level, the process taken to remove an individual in either position from office.
- Adds a section on the hiring and involuntary departure of statutory municipal officers whose appointments and removals are the authority of City Council under relevant legislation.

A redline version of the amended Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers is included as Attachment-6.

Outstanding Resolution – Task Forces of City Council

On March 22, 2021 City Council passed the following resolution as part of the 2018-2022 Mid-Term Governance Review:

That staff report back on best practices for task forces through the next Governance Review.

Since this resolution was passed, court rulings have significantly expanded what qualifies as a local board under the Municipal Act and, as such, any task force created, approved or appointed by City Council is likely to qualify as a local board. Furthermore, any body that is carrying on the affairs of the municipality is deemed to be a local board. As a local board, any task force established by City Council is required to meet the same transparency and accountability requirements as City Council and ACOCs. At a high level, the Municipal Act requires that local board meetings administered by the City be open to the public, chaired in accordance with the City's Procedure By-law, and with agendas and minutes posted publicly on guelph.ca. In addition, any members of such a task force would be required to adhere to the Code of Conduct for Council and Local Boards (Code of Conduct) and

the MCIA. Any apparent or alleged violations of the Code of Conduct or the MCIA would be open to investigation by the Integrity Commissioner.

As a result, City staff, in consultation with the Mayor as Chair of the Governance Committee, are recommending that any task forces established by City Council in the future be created through the approval of a terms of reference. The process to establish a new task force would be very similar to existing processes used for ACOCs. The terms of reference for a task force could, however, operate notwithstanding specific provisions of the policies governing ACOCs, if all other legislative requirements are met. As an example, the terms of reference for a task force could stipulate the composition of the body and delegate to the chair the ability to appoint members. Existing task forces, through the recommendations contained in this report, will be supported in this transition.

In cases where a member of City Council wishes to establish a task force that does not qualify as a local board, they are free to do so. Such a body would not be considered a local board if it is not established, created or appointed by City Council, is not directly connected to or controlled by the municipality and is not carrying on the affairs of the municipality. In such a case, City staff would not provide administrative support to the body and no content related to the body would be posted on guelph.ca.

Outstanding Resolution – Advisory Committee of Council Working Groups

On July 19, 2021 City Council passed the following resolution as part of the Advisory Committees of Council Governance Policies Update:

That the definition of working groups/task groups [of advisory committees of City Council] be referred back to staff for greater clarity to report back as part of the next Governance Review in the 2022 term of Council.

Since this resolution was passed, the legislative landscape governing advisory ACOCs has shifted. Recent court rulings have labelled all ACOCs as local boards under the Municipal Act. As local boards, they are required to operate within the same transparency and accountability framework as City Council. This means that any sub-committees or working groups of ACOCs must meet the same standards as the ACOC itself; this includes holding open meetings and producing meeting minutes.

The City's current policies governing ACOCs are already compliant with these new legislative requirements. As a result, City staff are not recommending any policy changes regarding the definition of working groups or sub-committees as they relate to ACOCs.

Delegations of Authority

In April 2023 City Council approved a revised Delegation of Authority By-law (2023) – 20794 which combined the Delegation of Authority By-law and Execution of Documents By-law; streamlining the two documents into one to create a more user-friendly document for the public, City Council and staff. This revision to the Delegation of Authority By-law did not include any new delegations or the deletion of existing delegations. However, through the review of the Delegation of Authority By-law and consultations with staff across the organization, staff identified several opportunities for the amendment, deletion or addition of delegations that would

better align with current practices, streamline decision-making and improve service delivery.

The proposed changes to Schedule "A" Delegation of Powers and Duties in the Delegation of Authority By-law (2023) – 20794 are described below.

Attachment-7 Amended Schedule "A" – Delegation of Powers and Duties of the Delegation of Authority By-law outlines the proposed amendments and additions.

Corporate Services

Legal, Realty and Court Services

Upon review of the monetary limits set out in the current Delegation of Authority By-law (2023)- 20794, Legal, Realty and Court services staff are recommending an increase in financial thresholds from \$100,000 to \$200,000. The rationale for these updates in monetary limits is primarily inflationary and also corresponds with an increase in the threshold in the courts for "simplified procedure" matters. This would reduce the necessity to go to City Council for instructions on the retention of legal counsel and experts except in the most complex matters and would allow "smaller" matters to be resolved by the department. The highest deductible for the City remains at \$100,000 and staff have identified that there is not currently a need to update the threshold for setting insured claims entirely within the deductible.

Finance

Staff are recommending removing the delegated authority to approve successful bids where the procurement is budgeted but does not have specific approval listed in 5.5 in Schedule "A"- Delegation of Powers and Duties of the Delegation of Authority By-law (2023) – 20794. This process is currently handled through the Procurement By-law (2018) – 20259 and therefore does not need to be included in the Delegation of Authority By-law. The deletion of this delegated authority removes the identified duplication and helps streamline contents listed within the City's by-laws.

Public Services

Culture and Recreation

Staff are recommending extending the length of an agreement, contract or application from less than five years in length to ten years while maintaining all the other powers, conditions and limitations listed in 1.2 under Schedule "A" – Delegation of Powers and Duties of the Delegation of Authority By-law. The authority to enter into these types of agreements through the Delegation of Authority By-law (2023) -20794 advances City businesses and services effectively and efficiently.

In response to and through the recovery of the pandemic, organizations seek to partner and collaborate in different ways. The relationship and support of the City needs to be more flexible for community response yet offer longer term stability. Longer term agreements support organizations that rely on the City and other funders to offer stability to general operations, community programs and to reduce staffing vacancies and turn over.

Not all applications, contracts and agreements will support longer term contracts, but this change removes barriers and allows for more timely responses. The risk of not extending the opportunity would be passed along to the partners and the community they serve on our behalf. A gap in support while waiting for rental or approvals could result in services pausing or not being able to continue.

Operations

Operations staff are recommending amendments to 15.1 under Schedule "A" – Delegation of Powers and Duties of the Delegation of Authority By-law regarding the authority to approve minor amendments to exemptions to the Noise Control By-law. The suggested amendment removes some of the current language within the delegation, allowing staff to process requests in a timely manner for all events. This includes exemptions that would normally be supported by staff but are not processed due to the time constraints created by having to bring the request before City Council.

Similar in nature, staff are recommending amending the current language in 17.2 under Schedule "A" – Delegation of Powers and Duties of the Delegation of Authority By-law regarding the approval of exemptions to the Exotic Animal Control By-laws. The suggested amendments listed under the delegation and limitation sections would support staff in granting exemptions in a more timely and efficient manner, while allowing the exemption to be reviewed annually and revoking an exemption in the event of a health and safety issue.

Infrastructure, Development and Enterprise Services

Economic Development and Tourism

Staff are recommending adding 10.4, a new delegation to the current Schedule "A" – Delegation of Powers and Duties of the Delegation of Authority By-law regarding the authority to execute the acquisition and disposition of strategic properties within the City up to a value of \$1,500,000. The proposed delegation allows staff to achieve efficient operational level decision making when there is a need for short term approval routing. Although the existing process which involves bringing to City Council decisions around large scale strategic real estate acquisitions and dispositions is an appropriate and transparent process, the work to identify an opportunity, confirm alignment to corporate policy, evaluate and recommend a decision to City Council can take an extensive amount of time.

There are times when small to medium sized parcels of land are available for acquisition on the open market or when market participants identify an opportunity to utilize under-programmed City owned lands. These opportunities tend to be short term and opportunistic. There is an interest in the City becoming a more active participant in the market to better realize opportunities for the City to expand or acquire assets and infrastructure as the City grows.

This new delegated authority is intended to target small to medium sized land parcels that may be available on the open market, and not alter current process around large strategic acquisitions and dispositions. This will reduce the risk of process impeding opportunities for acquisition or disposition of strategic real estate assets within a competitive open market. Decision making will be aligned to realize the objectives of the Official Plan, Strategic Plan and departmental master plans in consultation with the Strategic Property Advisor. This will improve the City's ability

to react to market conditions in a more time effective manner and continue to utilize City Council decision making around larger asset decisions. The amount identified is intended to focus on smaller, shorter-term objectives and is based upon analysis of City retained appraisals for small to medium sized land parcels. Budget approval to fund this program will remain subject to City Council approval.

Staff will identify specific use of this delegated authority as part of the annual delegation of authority information report.

Environmental Services

Staff are recommending amendments to 13.1 under Schedule "A" – Delegation of Powers and Duties of the Delegation of Authority By-law. The changes proposed support a more efficient process to execute wastewater agreements associated with the City Council approved Sewer Use By-law. Overstrength agreements and wastewater discharge agreements are considered the operational components of the Sewer Use By-law and amending the current language listed will provide for an overall more efficient process.

Financial Implications

None.

Consultations

Comparator research was gathered from the City Council approved list of comparator municipalities.

Attachments

Attachment-1 Amended Procedure By-law (redline)

Attachment-2 Amended Closed Meeting Protocol (redline)

Attachment-3 Amended Chief Administrative Officer Recruitment, Selection and Performance Sub-committee Terms of Reference (redline)

Attachment-4 Amended Chief Administrative Officer Evaluation Process - Terms of Reference

Attachment-5 Amended Recruitment, Appointment and Contract Administration Policy for Municipal Officers Reporting Directly to City Council (redline)

Attachment-6 Amended Recruitment, Hiring and Involuntary Departures Procedures for Municipal Officers (redline)

Attachment-7 Amended Schedule "A" – Delegation of Powers and Duties of the Delegation of Authority By-law

Departmental Approval

Tara Baker, General Manager, Finance/City Treasurer

Christopher Cooper, General Manager, Legal, Realty and Court Services/City Solicitor

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