

Staff Report



To	Committee of the Whole
Service Area	Office of the Chief Administrative Officer
Date	Wednesday, September 6, 2023
Subject	Updates Resulting from the Extension of Strong Mayor Powers

Recommendation

1. That the City Clerk be directed to report back regarding the opportunities, benefits and costs of a municipal lobbyist registry for City Council's consideration in Q1, 2024.
 2. That the City Clerk be directed to amend the previously approved Special City Council Budget Meeting dates based on the outline of the new multi-year budget approval process included in the Updates Resulting from the Extension of Strong Mayor Powers report dated September 6, 2023.
 3. That the amended Procedure By-law, included as Attachment-1 to the Updates Resulting from the Extension of Strong Mayor Powers report dated September 6, 2023, be approved.
 4. That the amended Code of Conduct for Members of City Council and Local Boards, included as Attachment-2 to the Updates Resulting from the Extension of Strong Mayor Powers report dated September 6, 2023, be approved.
 5. That the amended CAO Performance Evaluation Process – Terms of Reference, included as Attachment-3 to the Updates Resulting from the Extension of Strong Mayor Powers report dated September 6, 2023, be approved.
 6. That the amended CAO Recruitment, Selection and Performance Subcommittee Terms of Reference, included as Attachment-4 to the Updates Resulting from the Extension of Strong Mayor Powers report dated September 6, 2023, be approved.
 7. That the amended Recruitment, Appointment and Contract Administration Policy for Municipal Officers, included as Attachment-5 to the Updates Resulting from the Extension of Strong Mayor Powers report dated September 6, 2023, be approved.
 8. That the amended Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers, included as Attachment-6 to the Updates Resulting from the Extension of Strong Mayor Powers report dated September 6, 2023, be approved.
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Executive Summary

Purpose of Report

The purpose of this report is to provide Council with an update on impacts resulting from the extension of strong mayor powers to Guelph. This report details urgent by-law and governing document updates, confirms the budget process for the 2024 – 2027 Multi-Year Budget (MYB) and looks ahead to future considerations that may come forward for Council to consider.

Key Findings

Updates have been identified and recommended to the following policies and by-laws as a result of the expansion of strong mayor powers to Guelph:

- Procedure By-law
- Code of Conduct for Members of City Council and Local Boards
- CAO Performance Evaluation Process – Terms of Reference
- CAO Recruitment, Selection and Performance Sub-committee Terms of Reference
- Recruitment, Appointment and Contract Administration Policy for Municipal Officers
- Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers

Updates to the identified documents have been made to codify provincial legislation and ensure that the City’s core governing policies and by-laws continue to reflect best practices in municipal governance.

In light of the changes to the budget process and the role of the Mayor, staff are providing information regarding the new process for the approval of the 2024-2027 MYB and recommending that staff investigate and report back on the merits of instituting a municipal lobbyist registry in Guelph.

Strategic Plan Alignment

Reviewing and updating governance practices and policies to meet the highest standards of accountability and transparency, while respecting provincial legislation, reinforces the Strategic Plan value of integrity by ensuring honest and ethical decision-making at the City of Guelph.

Financial Implications

There are no direct financial costs as a result of this report.

Report

General Update

On July 1, 2023 the Ministry of Municipal Affairs and Housing expanded strong Mayor powers to 26 large and fast-growing municipalities, including the City of Guelph. As a result, several updates are required to City of Guelph by-laws and governing documents to reflect the special powers and duties of the head of council as noted in part VI.1 of the Municipal Act. This report builds on the information

provided in the [Council Memo dated June 26, 2023 – Strong Mayor Powers: Overview and Next Steps](#).

This report outlines the most urgent updates required to provide immediate clarity of process and procedure. Those include:

- Procedure By-law
- Code of Conduct for Council and Local Boards
- Chief Administrative Officer (CAO) Performance Evaluation Process – Terms of Reference
- CAO Recruitment, Selection and Performance Sub-committee Terms of Reference
- Recruitment, Appointment and Contract Administration Policy for Municipal Officers
- Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers

For the purposes of updating the above-mentioned documents, staff used several guiding principles to support the updates. Firstly, policies and procedures must be updated to conform with the special powers and duties of the head of council as articulated in Part VI.1 of the Municipal Act. Secondly, staff looked to achieve longevity in our guiding documents. As the head of Council may choose to delegate or revoke powers, now or in the future, staff looked to point to the mayoral decision of the day to guide the process, versus exclusively updating policy and process to reflect the mayoral decisions that stand today. Lastly, staff attempted to capture, as appropriate, the spirit of collaboration that unites City Council, the Mayor and City staff together as we work to implement the Future Guelph: 2024-2027 Strategic Plan.

The extension of strong mayor powers has implications for the previously proposed 2024 – 2027 Multi-Year Budget (MYB) process and as a result, a revised MYB process is detailed below in this report.

As staff continue to understand the impacts of this legislation, future updates to by-laws and governing documents may be necessary and would come forward for Council discussion as part of the twice-per-term governance reviews conducted by the City Clerk's Office, or as needed.

One such item is to review the need for a lobbyist registry. Section 223.9 of the Municipal Act, provides municipalities with discretion and authority to establish a lobbyist registry. A lobbyist registry is a publicly accessible accountability and transparency tool that generally involves recording and regulating the activities of those who try to influence public office holders. Staff previously [undertook a review in 2019](#), however given the extension of strong mayor powers, it is appropriate to revisit that work and bring forward any additional information for Council's consideration. Staff are working to bring forward an updated report to review the opportunities, benefits and costs of a municipal lobbyist registry in the first quarter (Q1) 2024.

Lastly, we've heard from our community that transparency is critical to support understanding of these new powers. In advance of July 1, 2023, the City published a new [web page](#) to house all mayoral decisions and directions related to strong mayor powers. The City Clerk's Office facilitates the communication of mayoral decisions and directions to the CAO and members of Council as prescribed in the

legislation. Additional communications supporting mayoral decisions rest with the Mayor’s Office given the nature of the powers.

Multi-Year Budget Process Update

The extension of strong mayor powers requires changes to the previously proposed budget process for the 2024-2027 MYB. The Act stipulates that:

The Mayor must, by February 1st of each year, prepare and propose a municipal budget to City Council for consideration. The authority to prepare and propose the municipal budget rests solely with the Mayor and cannot be delegated to City Council or City staff.

On July 26, 2023 [Mayoral Direction 2023-B1](#) was issued to City staff regarding the preparation of the budget.

A revised MYB schedule that conforms with the legislation is provided in Table 1. A key item to note is the new 30-day period for Council to table budget amendments, which begins when the budget is released to the public. In the revised schedule set out below the budget will be released on the revised agenda date to maximize the time available for Council to review and bring forward questions related to the budget.

Table 1: Budget Timeline

Key Dates	Purpose	Description
November 3	Budget material live on guelph.ca	30-day timeline starts for Council to review and consider amendments
November 7 and 9	Budget presentation – two days held	November 7 – Budget presentation November 9 – Hold only
November 15	Budget public delegation night	
November 29	Special Council budget meeting – Council amendments to budget	Day 26 of 30 within the amendment period
November 30 – December 9	Mayor provides Mayoral Decision regarding any budget amendments that have been vetoed including the reasoning	10-day veto period This may be shortened via Mayoral Decision, but must occur on or before December 9 (Day 10)
December 10 – December 25	Opportunity for Council meeting for an attempt to override Mayoral veto	15-day override period This may be shortened by Council but must occur on or before December 25 (Day 15) Budget is deemed adopted once the full process is completed

Staff will work closely in collaboration with the Mayor's Office throughout this new process to ensure alignment of the budget presented to Council in November.

Procedure By-law

The extension of strong mayor powers requires updates to the City's Procedure By-law to clarify and codify specific powers and authorities which now rest with the Mayor. Updates to the Procedure By-law have been proposed to accommodate the delegation of Mayoral powers and authorities (where permitted) as well as the retention of those same powers and duties. This is a governance best practice because it prevents a recurring need to update the Procedure By-law based on any future Mayoral decisions or delegations.

Several sections regarding new powers for the Mayor have been added to the Procedure By-law to provide clarity and guidance for members of City Council. However, despite the power to approve the Procedure By-law resting with City Council, City Council does not have the authority to amend or approve any by-law in a way that does not align with provincial legislation. As a result, sections of the Procedure By-law covering strong mayor powers, including but not limited to the proposal of by-laws, proposal of other matters, veto of by-laws and budget process are not within the jurisdiction of City Council to change unless those changes continue to comply with provincial legislation. Any attempt to amend the Procedure By-law to circumvent or override provincial legislation would be of no force or effect even if approved by City Council.

A high-level summary of the new strong mayor powers is included as Attachment-7. This quick reference guide is a plain language outline of the new Mayoral powers designed to offer City Council and the public an easier to understand version of the relevant sections of the Act and O. Regs. It does not cover every situation or nuance of the legislation but is a good starting point for understanding Mayoral authorities/powers and the processes/procedures used to exercise them.

The following is a summary of proposed amendments to the Procedure By-law. More details regarding specific sections are included in the section below the summary.

- **Definitions:** Updates to the definitions of acting Mayor, ad hoc committee, ad hoc advisory committee, advisory committee, committee, Mayor, resolution and vice-chair.
- **Definitions:** New definitions added for Mayoral decision, Mayoral direction and staff.
- **Throughout the Procedure By-law:** Replacement of references to City Council 'decisions' with 'resolutions' to clarify that resolutions are motions of City Council which have been passed by City Council and received Mayoral approval.
- **Section 2.3:** Clarify that sections of the Procedure By-law that are prescribed by provincial legislation may not be suspended by City Council.
- **Section 4.11:** Clarify that, unless otherwise prescribed within the Procedure By-law or provincial legislation, a motion of City Council is approved with a simple 50 per cent + 1 majority of the members present.

- **Section 5.8:** Clarify that only Council resolutions may be formally reconsidered because failed motions or approved motions which were successfully vetoed by the Mayor, are not considered resolutions and therefore cannot be reconsidered.
- **Section 5.8:** Clarify that motions which are reconsidered at the same meeting in which the original motion was considered do not require a two-thirds majority to pass.
- **Section 5.9:** Clarify that the by-laws section of a City Council agenda only includes staff proposed by-laws and not by-laws proposed by the Mayor.
- **Section 5.9:** Clarify that by-laws adopted by City Council now require Mayoral approval before coming into effect.
- **Section 5.9:** Outline the various processes which are required before a by-law can come into effect, including possible Mayoral vetoes and City Council overrides.
- **Section 5.11.1:** Clarify that the Mayor may add motions to Council agendas notwithstanding the notice of motion process or the Procedure By-law more broadly if the Mayor is of the opinion that the proposed motion may advance a provincial priority.
- **Section 8.1:** Clarify that the existing process permitting a majority of City Council members to petition the City Clerk to hold a meeting is the process that would be used in order for City Council to consider overriding a Mayoral veto to a by-law.
- **Section 8.3:** Outline, at a high-level, the new process used for the preparation and adoption of the municipal budget including presentation, amendment, veto and override.
- **Section 12:** Added language codifying the Mayor's power to establish, dissolve and assign functions to committees as well as to appoint chairs and vice-chairs of committees, unless that power is delegated to City Council.
- **Section 18:** Updated the motions table to reflect a variety of new motions which require different thresholds to pass.

New and Revised Definitions in the Procedure By-law

Definitions related to committees and advisory committees have been updated to better reflect the Mayor's new powers regarding committees that are comprised entirely of members of City Council versus advisory committees for which no new Mayoral powers apply.

The definitions of Mayor and Acting Mayor have been updated to reflect that Acting Mayors do not have any of the new strong mayor powers or authorities.

Definitions for Mayoral decisions and directions have been added to codify the means by which the Mayor can exercise some of the new strong mayor powers and authorities.

The definition of resolution has been amended to codify that motions approved by City Council only become resolutions once they have been confirmed by a Mayoral decision or where a Mayoral veto has been overridden by City Council.

A definition of staff has been added to codify the difference between a by-law proposed by staff and a by-law proposed by the Mayor.

Section 2.3 Suspension of Rules

An added sub-section clarifies that City Council may not suspend any rules contained within the Procedure By-law that are required because they are prescribed by legislation. This change is necessary to ensure that a suspension of procedural rules is not used to circumvent provincial legislation.

Section 5.8 Reconsideration of a Council Resolution

Several small changes clarify that reconsiderations only apply to resolutions (motions which are approved by City Council and the Mayor).

The threshold to successfully reconsider a motion which was approved at the same meeting of City Council as the proposed reconsideration has been lowered to a simple majority vote. Motions which are approved by City Council but do not yet have Mayoral approval are not resolutions and therefore should not require the two-thirds majority vote required to reconsider a resolution.

Section 5.9 By-laws

Several changes to outline and codify the revised processes and timelines associated with new strong mayor powers and authorities regarding by-laws. This includes a provision which codifies the Mayor's power to propose a by-law which potentially advances a prescribed provincial priority, notwithstanding the Procedure By-law, as well as the requirement that City Council vote on such a by-law with one-third (five members) required for the by-law to be approved.

Section 5.11.1 Notice of Motion for the Mayor

Added section to codify the Mayor's ability, notwithstanding the Procedure By-law, to add motions which potentially advance prescribed provincial priorities and the requirement that City Council consider such motions.

Section 8.1 Calling of Special Council Meetings

Amendments to codify that City Council's ability to override a Mayoral veto may be exercised through a written petition from the majority of City Council (seven members) to the City Clerk requesting a Special City Council meeting for that purpose.

Requiring a petition from the majority of City Council to call a meeting to consider overriding a Mayoral veto (which itself requires a two-thirds majority) reduces the chances of a small number of councillors repeatedly attempting to override Mayoral vetoes when the possibility of success is highly unlikely. This provision reduces the possibility of numerous lengthy and highly politicized City Council meetings regarding Mayoral vetoes unless seven members of City Council are in favour of an attempted override.

Section 8.3 Budget

Codifies the new process used for the preparation and adoption of the municipal budget including presentation, amendment, veto and override as well as associated prescribed timelines. More details regarding the new budget process are included earlier in this report.

Section 12 Committees

Amendments made to clarify that the Mayor's new powers and authorities regarding committees only apply to bodies which are comprised entirely of members of City

Council and not, for example, to advisory committees comprised of members of the public.

Section 18 Appendix 1 (motions table)

The motions table was amended for clarity and readability and four new motions were added to account for by-laws proposed by the Mayor, other matters proposed by the Mayor, overrides of Mayoral by-law vetoes and overrides of Mayoral budget amendment vetoes.

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

Code of Conduct

The Integrity Commissioner was requested to review the provisions of Part VI.1 of the Municipal Act in conjunction with the Code of Conduct for Council and Local Boards (the "Code") to consider whether any revisions are required to the Code to address the changes implemented by the strong mayor powers and duties.

The Integrity Commissioner is cognizant that Mayor Guthrie has made two delegations of his strong mayor powers back to Council (Decisions [2023-A1](#) and [2023-A2](#)) in accordance with [section 284.13 of the Municipal Act](#).

The Integrity Commissioner has indicated that the only amendment that is necessary to be made to the Code at this time relates to Section 11 – Influence on Staff. Section 11 was originally drafted to accord to the weak mayor system which essentially recognized that only City Council, as a whole, could direct staff, establish policies and take other executive actions. Section 11 is the only provision in the Code that requires modification to reflect that the City's head of Council has strong mayor powers and duties that may supersede City Council. The Mayor is statutorily authorized to direct City staff in certain areas and this needs to be made clear in the Code, notwithstanding that the Mayor has delegated such powers back to Council given that the delegation can be revoked at any time, and the proposed amendments address this fact.

The Integrity Commissioner has noted that there is a ministerial regulation-making authority in clauses [284.17 \(1\) \(b\) and \(c\)](#) of the Municipal Act that could possibly impact the confidentiality provisions in Section 6 of the Code but that no changes are required at this time.

No revisions are being recommended to Appendix 1 – Integrity Commissioner Complaint Protocol at present.

A redline version of the amended Code of Conduct for City Council and Local Boards is included as Attachment-2.

CAO Performance Evaluation Process – Terms of Reference

The CAO Performance Evaluation Process – Terms of Reference has been amended to reflect scenarios where the Mayor has delegated authority regarding employment matters related to the CAO to City Council or retained them.

A redline version of the amended CAO Performance Evaluation Process – Terms of Reference is included as Attachment-3.

CAO Recruitment, Selection and Performance Sub-committee Terms of Reference

The CAO Recruitment, Selection and Performance Sub-committee Terms of Reference have been amended to reflect scenarios where the authority to hire and dismiss the CAO rests with the Mayor or has been delegated to City Council.

A redline version of the amended CAO Recruitment, Selection and Performance Sub-committee Terms of Reference is included as Attachment-4.

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

The Recruitment, Appointment and Contract Administration Policy for Municipal Officers Reporting Directly to the Mayor or City Council has been amended to reflect scenarios where the authority to hire and dismiss specific municipal officers who must report either to the Mayor or City Council has been retained by the Mayor or delegated to City Council.

A redline version of the amended Recruitment, Appointment and Contract Administration Policy for Municipal Officers is included as Attachment-4.

Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers

The Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers has been amended to apply to all municipal officers who are appointed and removed from office by City Council or the Mayor in accordance with the Municipal Act and other relevant legislation. These amendments reflect the Mayor's authority regarding employment matters related to the CAO and cover scenarios where those powers are retained or delegated.

While the new Mayoral powers regarding employment matters cover the majority of City staff, several statutory municipal officers are specifically exempted from the new Mayoral authority in the Municipal Act.

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 Integrity Commissioner, City Treasurer, Deputy City Treasurer, City Clerk, Deputy City Clerk, Chief Building Official and the Fire Chief as the current positions which always 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-4.

Financial Implications

There are no direct financial costs as a result of this report.

Consultations

This report was developed in collaboration with the City Clerks Office, Finance, Legal, Realty and Risk Services, Human Resources, and Strategy, Innovation and Intergovernmental Services.

Staff continue to collaborate externally with other municipalities to learn and share experiences of implementing the extension of strong mayor powers.

Attachments

Attachment-1 Procedure By-law

Attachment-2 Code of Conduct for City Council and Local Boards

Attachment-3 CAO Performance Evaluation Process – Terms of Reference

Attachment-4 CAO Recruitment, Selection and Performance Sub-committee Terms of Reference

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

Attachment-6 Recruitment, Hiring and Involuntary Departure Procedures for Municipal Officers

Attachment-7 Strong Mayor Powers and Authorities Quick Reference Guide

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