

# 2<sup>nd</sup> DRAFT

## INTERIM REPORT OF THE EFFECTIVE GOVERNANCE AND OVERSIGHT TASK FORCE

September 2021

*The proper office of a representative assembly is to watch and control the government.*

John Stuart Mill

*Quite as important as legislation is vigilant oversight of administration.*

Woodrow Wilson

*Oversight bridges the gap between policy and practice.*

Unknown

### INTERACTIONS

In exercising its governance and oversight responsibilities, Council interacts with a wide range of stakeholders within the corporation. These include the City Manager, Deputy City Managers, statutory officials (e.g., the Clerk, Chief Building Official) and others who report directly to Council (e.g., the Integrity Commissioner, the Director of Internal Audit).

### DIRECTIONS ALREADY BEING PURSUED

It is gratifying to note developments already underway which would meet the intent of any task force on effective governance and oversight; namely,

1. The creation of an audit committee, separate and apart from other functions (e.g., a Finance, Administration & Audit Committee, an Audit & Budget Committee, etc.). A separate audit committee, especially one populated by external, arms-length members meets the appropriate degree of transparency in any public function.
2. The creation of the position of Diversity & Inclusion Officer is recognition of the critical importance of such matters.

### RECOMMENDATIONS IN PROCESS

1. **Amend the Management By-law**, to provide that newly-appointed (i.e., already employed at the City) and newly-hired (i.e., not previously employed by the City) senior staff members (including the City Manager and Deputy City Managers ) be subject to a performance review at the end of the six-month probationary period stipulated in the By-law, and that responsibility for initiating the process of such a review be assigned to the City Clerk to be commenced no later than four weeks prior to the subject-employee's six-month anniversary. Any proposed deviation

from this rule, as presently stated in the Management By-law, must be provided by the Director of Human Resources in a written report to Council in closed session prior to approval of any employment contract.

*Rationale: The Peter Principle (after Canadian educator Laurence J. Peter) states that employees in a hierarchy tend to be promoted to levels above their competency; hence the need for probationary periods following a new hire or an internal promotion. To ensure that a future Council does not ignore this amendment, if adopted, two safeguards are in place: (1) any proposed deviation from the rule in a draft employment contract at this level must be reported to Council in writing, and (2) formally assigning the task of initiating such a probationary review to the Clerk will ensure the task will not be forgotten (as no clerk forgets explicit directions from Council).*

2. **Amend the City Manager's By-law** to include a robust process for the annual review of the City Manager's performance, both in term of achieving Council's strategic goals and enhancing the overall performance of the corporation---such process to commence with the start of the annual budget cycle. In addition, the amended by-law should
  - a. Explicitly state the responsibilities of the City Manager regarding conflicts of interest, integrity, codes of conduct, ethics, risk, diversity, inclusion, equity, and sustainability; and
  - b. Ensure that at the time of the City Manager's appointment, he/she shall formally review the current strategic goals with Council to ensure that key performance indicators are clearly defined and strategic goals clear; such goals to be tracked on a regular and recurring basis thereafter, to assess performance and make course corrections as required.
  - c. Indicate that the commencement of the annual performance review process shall be the specific responsibility of the Clerk, reporting directly to Council; and
  - d. As recommended in the Marrocco Report on the Collingwood Judicial Inquiry:
    - i. state that the Office of the City Manager falls within the purview of the Integrity Commissioner; and that
    - ii. termination of the City Manager shall be permitted on a 2/3 vote prior to contract end

*Rationale: Emphasis on performance is best placed at the beginning of a city manager's term of office, so that the expectations of Council---both as a whole and individually---is clear. Reference to the Integrity Commissioner is appropriate as it ensures that in the event of a complaint against the City Manager, an objective assessment of the complaint can inform any Council response.*

- 3. Create a policy** to ensure that each deputy city manager provides at the start of the calendar year following a municipal election a workplan indicating which tasks in furtherance of the City's strategic and operational goals will be undertaken over the course of the term by departments accountable to him/her, with tasks laid out in a four-year calendar broken down by quarters.

*Rationale: Good governance is best delivered when Council knows in advance where its oversight will be required. One set of departments is already providing this information---a sort of operational dashboard, which has benefits within the department ("We're focused because know where we're headed") and with Council ("What questions should I be asking that will indicate proper oversight")*

- 4. Amend the process by which Council receives legal advice** from internal or external counsel, by stipulating in departmental policy that all such advice be provided in writing (either via confidential memorandum prior to closed session discussion of the advice, or at the closed session); that such advice not be limited to one option only, but that all reasonable options be included, and appropriately weighted as to risk

*Rationale: It has been said that "to govern is to choose". Thus, in pursuit of good governance, Council must know when it has choices; particularly so when it comes to legal issues, given their potential impacts. As well, legal opinions (other than those requested "on the spot") should be received in writing, to ensure accountability, as verbal opinions are easily forgotten or mis-remembered.*

**5. Reinstate monthly Report on Outstanding Reports**

This very effective oversight tool---for keeping tabs on what reports have been requested and are yet to be supplied---must be re-instated as soon as possible.

**6. Revise the Committee Structure**

*Rationales:*

- 1. In their years on Council, the chair and vice chair of this task force have been participants in a number of committee models. Recognizing that there must be a middle ground between models that result in committees "right down into the weeds" or "too far away from operations to see what's really going on", we recommend the following re-structuring. What we wish to see are committees with at least two members of Council that have the time to look at substantive issues with appropriate staff, rather than just receiving a report on how staff thinks such issues might be dealt with, along with the expectation that a committee of the whole will approve the recommendation, and if not, make up its mind by the time the item comes to Council.*

2. *The work accomplished by this and the other task forces demonstrates what can happen when members of Council committed to finding solutions to pressing matters on the city’ agenda have the requisite resources at their disposal. The revised structure detailed below is based on the conviction that such good results can become commonplace if this committee model is adopted.*

To give councilors a chance to deal more effectively with substantive issues at the appropriate level (neither weed-high nor from a distance), we propose the following:

<b>COUNCIL COMMITTEES</b> <i>Committees composed of all members of Council</i>					
<b>Committee of the Whole</b>		<b>CW (Closed)</b>		<b>CW (Public Meeting)</b>	
<b>TASK-ORIENTED COMMITTEES (list open to change)</b> <i>Composed of at least two members of Council and appropriate staff *</i>					
<b>Smart Technology</b>	<b>Finance &amp; Budget</b>	<b>Planning &amp; Infrastructure</b>	<b>Environmental Sustainability</b>	<b>Audit &amp; Risk</b>	<b>Programs &amp; Services</b>
Future-oriented issues/matters relating to the built environment, as well as civic operations	Balancing income and expenses	Growing public assets, managing growth of private assets	Protecting and enhancing the natural environment	Ensuring money is well-spent, risks well-managed (* non-statutory committee with public members)	Monitoring service delivery in a value-based manner that honours diversity and ensures inclusion
<b>STATUTORY BOARDS &amp; COMMITTEES</b> <i>Composed of members of Council and of the public</i>					
Heritage Vaughan		Vaughan Public Library		Accessibility Advisory	