
Governance Committee

Date: March 1, 2021
Time: 1:00 PM
Location: Online Video Conference

Members

Mayor Bonnie Crombie	
Councillor Karen Ras	Ward 2
Pat Saito	Ward 9 (Chair)
George Carlson	Ward 11
Carolyn Parrish	Ward 5
John Magill	Citizen Member
Sandy Milakovic	Citizen Member (Vice-Chair)

Participate Virtually and/or via Telephone

Advance registration is required to participate and/or make a comment in the virtual meeting. **Questions for Public Question Period are required to be provided to Clerk's staff at least 24 hours in an advance of the meeting.** Any materials you wish to show the Committee during your presentation must be provided as an attachment to the email. Links to cloud services will not be accepted. Comments submitted will be considered as public information and entered into public record.

To register, please email michelle.sanstra@mississauga.ca and for Residents without access to the internet via computer, smartphone or tablet, can register by calling Michelle Sanstra at 905-615-3200 ext. 5411 no later than Friday, February 26, 2021 before 12:00PM. You will be provided with directions on how to participate from Clerks' staff.

Contact

Michelle Sanstra, Legislative Coordinator, Legislative Services
905-615-3200 ext. 5411
Email michelle.sanstra@mississauga.ca

Find it Online

<http://www.mississauga.ca/portal/cityhall/governancecommittee> Meetings of Council streamed live and archived at Mississauga.ca/videos

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **DECLARATION OF CONFLICT OF INTEREST**
4. **MINUTES OF PREVIOUS MEETING**

4.1. Governance Committee Draft Meeting Minutes - January 25, 2021

5. **PRESENTATIONS - Nil**

6. **DEPUTATIONS - Nil**

7. **PUBLIC QUESTION PERIOD - 15 Minute Limit**

Public Comments: Advance registration is required to participate and/or to make comments in the virtual public meeting. Any member of the public interested in speaking to an item listed on the agenda must register by calling 905-615-3200 ext. 5411 or by emailing michelle.sanstra@mississauga.ca by Friday, February 26, 2021 before 4:00 PM.

Pursuant to Section 42 of the Council Procedure By-law 0139-2013, as amended:

Governance Committee may grant permission to a member of the public to ask a question of Governance Committee, with the following provisions:

1. Questions shall be submitted to the Clerk at least 24 hours prior to the meeting;
2. A person is limited to two (2) questions and must pertain specific item on the current agenda and the speaker will state which item the question is related to;
3. The total public question period time is 15 minutes maximum and shall not be extended by the Chair; and
4. Any response not provided at the meeting will be provided in the format of a written response.

8. **CONSENT AGENDA**

9. **MATTERS TO BE CONSIDERED**

9.1. Options for Closed Meeting Investigation Services

9.2. Governance Subcommittee Terms of Reference and Work Plan

As per Council Resolution 0017-2021, the Governance Subcommittee - Elections Terms of Reference was referred back to the Governance Committee.

9.3. Status of the Governance Committee Work Plan

10. MATTERS PERTAINING TO THE COUNCIL PROCEDURE BY-LAW

- 10.1. Amend the By-law to include reading the agenda item and title for consent agenda as requested by the Accessibility Advisory Committee
- 10.2. Procedure By-law Review
- 10.3. Public Question Period – request for follow up question/clarification

11. INFORMATION ITEMS - Nil

12. OTHER BUSINESS

- 12.1. Councillor's use of Social Media

13. DATE OF NEXT MEETING - May 10, 2021

14. ADJOURNMENT

Governance Committee

Date: January 25, 2021
Time: 1:01 PM
Location: Online Video Conference

Members Present

Mayor Bonnie Crombie	
Councillor Karen Ras	Ward 2
Councillor Pat Saito	Ward 9 (Chair)
Councillor George Carlson	Ward 11
Councillor Carolyn Parrish	Ward 5
John Magill	Citizen Member
Sandy Milakovic	Citizen Member (Vice-Chair)

Staff Present

Paul Mitcham, City Manager and Chief Administrative Officer
Andrea Maxwell, City Solicitor
Diana Rusnov, Director, Legislative Services and City Clerk
Jason Bevan, Director, City Planning Strategies
Sacha Smith, Manager, Legislative Services and Deputy Clerk
Megan Piercey, Legislative Services

1. CALL TO ORDER – 1:01 PM

2. APPROVAL OF AGENDA

Approved (Councillor K. Ras)

3. DECLARATION OF CONFLICT OF INTEREST - Nil

4. MINUTES OF PREVIOUS MEETING

4.1 Governance Committee Minutes - November 16, 2020

Approved (Councillor K. Ras)

5. PRESENTATIONS - Nil

6. DEPUTATIONS - Nil

7. PUBLIC QUESTION PERIOD - 15 Minute Limit

No members of the public registered to speak.

8. CONSENT AGENDA

The following items were approved on the consent agenda:

- 9.1 Governance Subcommittee Minutes - January 15, 2021

- 9.3 Status of the Governance Committee Work Plan

Approved (Councillor J. Kovac)

9. MATTERS TO BE CONSIDERED

9.1 Governance Subcommittee Minutes - January 15, 2021 (CONSENT)

RECOMMENDATION GOV-0001-2021

Moved By Councillor J. Kovac

That the Governance Subcommittee Minutes from January 15, 2021 be approved.

Approved

9.2 Governance Subcommittee Terms of Reference and Work Plan

Members of the Committee engaged in discussion regarding the timelines for developing the subcommittee and appointing citizen members. Committee Members spoke to the application for the call for membership and noted that questions should be added to have interested candidates explain why they are interested, to note what current associations within the City they are a part of and to ask them their opinion on what elements should be essential to ward composition. Committee Members also noted that the application should note that there are no vacancies for citizen members for Wards 1 and 2.

RECOMMENDATION GOV-0002-2021

Moved By S. Milakovic

That the Governance Subcommittee Terms of Reference and Work Plan be approved.

Approved

9.3 Status of the Governance Committee Work Plan (CONSENT)

RECOMMENDATION GOV-0003-2021

Moved By Councillor J. Kovac

That the status of the Governance Committee Work Plan items, updated for the January 25, 2021 Governance Committee meeting, be received.

Approved

10. MATTERS PERTAINING TO THE COUNCIL PROCEDURE BY-LAW - Nil

11. INFORMATION ITEMS - Nil

12. OTHER BUSINESS - Nil

13. DATE OF NEXT MEETING - March 1, 2021

14. ADJOURNMENT – 1:14 PM (Councillor G. Carlson)

City of Mississauga
Corporate Report



<p>Date: February 18, 2021</p> <p>To: Chair and Members of Governance Committee</p>	<p>Originator's files:</p>
<p>From: Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor</p>	<p>Meeting date: March 1, 2021</p>

Subject

Options for Closed Meeting Investigation Services

Recommendation

That the Corporate Report from the City Solicitor dated February 18, 2021, entitled "Options for Closed Meeting Investigation Services" be received for information.

Report Highlights

- Meetings of City Council and its committees must be open to the public unless a matter falls within an exception that permits it to be considered in a closed session. Under the *Municipal Act, 2001*, a municipality must appoint a closed meeting investigator to respond to complaints that a matter ought to have been public, or the Ontario Ombudsman will be the default appointed investigator.
- In 2007, Council appointed Local Authority Services, owned by the Association of Municipalities of Ontario, to act as the City's closed meeting investigator and on February 3, 2021, Council approved the renewal of the City's agreement with LAS for the 2021 term.
- In appointing a closed meeting investigator, Council must have regard to the investigator's independence, impartiality, confidentiality and credibility of the investigative process.
- A private closed meeting investigator such as LAS and the Ontario Ombudsman generally have the same powers under the *Municipal Act, 2001*, with the Ontario Ombudsman having certain additional powers under the *Ombudsman Act*.
- There is a split of GTA municipalities using LAS and the Ontario Ombudsman.
- LAS charges a \$200 annual administrative fee and an hourly fee of \$325-\$775 in the event of a closed meeting investigation. The Ontario Ombudsman's closed meeting investigation services are free.
- Since 2007, the City has not been the subject of any closed meeting investigations and has incurred only the LAS annual administrative fee.

Background

In 2007, Council appointed Local Authority Services (“LAS”) as the City’s closed meeting investigator, should an investigation be requested. Since appointing LAS in 2007, the City has not received any requests for a closed meeting investigation.

LAS was created in 1992 by the Association of Municipalities of Ontario (“AMO”) and has offered its Closed Meeting Investigator Program since 2008. The City entered into an Investigator Services Agreement (the “Agreement”) with LAS in 2007. In 2020, LAS’s service provider for the Closed Meeting Investigator Program changed from Amberley Gavel Ltd. to Aird & Berlis LLP. The Agreement automatically renews at the start of each year unless terminated by either Party by giving 90 days prior written notice.

On February 3, 2021, Council adopted General Committee’s January 27, 2021 recommendation (GC-0042-2021) to renew the Agreement for the 2021 term in accordance with its automatic renewal provisions and for staff to draft a corporate report on the options for closed meeting investigation services to a future Governance Committee meeting.

The purpose of this report is to outline the options available to the City for appointing a closed meeting investigator pursuant to the *Municipal Act, 2001*.

Comments

Applicable Legislation

Section 239.1 of the *Municipal Act, 2001* provides that a person may request an investigation into whether a municipality, a local board, or a committee of either has complied with the closed meeting provisions of the *Municipal Act, 2001*. Such an investigation may be undertaken by:

- (a) an investigator appointed by the municipality; or
- (b) the Ontario Ombudsman appointed under the *Ombudsman Act*, if the municipality has not appointed an investigator.

The *Municipal Act, 2001* requires that, in carrying out his or her functions, the investigator shall have regard to:

- (a) the investigator’s independence and impartiality;
- (b) confidentiality with respect to the investigator’s activities; and
- (c) the credibility of the investigator’s investigative process.

A closed meeting investigator appointed by a municipality, such as LAS, and the Ontario Ombudsman generally have the same powers under the *Municipal Act, 2001*, with the Ontario Ombudsman having certain additional powers under the *Ombudsman Act*. Closed meeting investigators derive their powers from the *Municipal Act, 2001*, whereas the Ontario Ombudsman derives its authority from both the *Municipal Act, 2001* and the *Ombudsman Act*.

This means that the Ontario Ombudsman has all of the powers of closed meeting investigators set out in the *Municipal Act, 2001*, as well as its own broad powers in the *Ombudsman Act*.

The investigation powers of either an independent investigator or the Ontario Ombudsman include the following:

- to hear or obtain information and make inquiries as deemed necessary;
- to require any officer, employee, or member of a municipality that, in their opinion, is able to give information relating to any matter being investigated to furnish information and produce any documents or things in their possession or under their control; and
- to summon and examine on oath any complainant, officer, employee or member of a municipality that is able to give relevant information and any other person who the investigator thinks is able to provide relevant information.

Once a closed meeting investigation is over, both independent investigators and the Ombudsman must report their opinions, including their reasons. Both may make recommendations as they deem fit. The reports must be made public by the municipality; however, the Ombudsman may also publish or make a report available itself on its own website.

In addition, the Ontario Ombudsman has the following broad powers under the *Ombudsman Act*:

- the power to make an investigation on his/her own motion;
- the ability to refuse to investigate certain matters;
- the power to refer a matter to the appropriate authority if, during or after an investigation, the Ombudsman is of opinion that there is evidence of a breach of duty or of misconduct on the part of any officer or employee of any public sector body; and
- the power to enter the premises of any public sector body and conduct an inspection.

The *Ombudsman Act* also establishes offences under its broad powers for those who interfere with investigations of the Ombudsman. The *Ombudsman Act* provides that it is an offence to:

- wilfully obstruct, hinder or resist the Ombudsman in the performance of its functions;
- refuse or wilfully fail to comply with any lawful requirement of the Ombudsman; or
- wilfully make any false statement to, or mislead or attempt to mislead, the Ombudsman in the exercise of its functions.

These offences are punishable by a fine of not more than \$500, a term of imprisonment of not more than three months, or both.

A more detailed comparison between the closed meeting investigation powers under the *Municipal Act, 2001* and the *Ombudsman Act* can be found in Appendix 1 to this report.

Closed Meeting Investigators in other Municipalities

Within the GTA, there appears to be an even split of municipalities using LAS and the Ontario Ombudsman. The Region of Peel, City of Brampton and Town of Caledon all use LAS. According to the City of Toronto's website, it is currently taking steps to retain a closed meeting investigator and in the interim, the Provincial Ombudsman will investigate complaints.*

The chart below provides an overview of closed meeting investigators for GTA municipalities, as outlined on the Ontario Ombudsman's website.

Closed Meeting Investigator- GTA Municipalities

LAS	Ontario Ombudsman	Other
City of Brampton Township of Brock City of Burlington Township of Caledon Municipality of Clarington City of Markham Town of Milton City of Mississauga Town of Oakville Township of Uxbridge City of Vaughan Town of Whitby Regional Municipality of Halton Regional Municipality of Peel Regional Municipality of Durham	Town of Ajax Town of East Gwillimbury Town of Georgina Town of Halton Hills Township of King Town of Newmarket City of Oshawa City of Pickering City of Richmond Hill Township of Scugog City of Toronto Township of Whitchurch-Stouffville Regional Municipality of York	Town of Aurora (Principles Integrity)

There also appears to be a split between municipalities using LAS and those using the Ontario Ombudsman outside of the GTA. Some of the larger municipalities that use LAS include Kingston, Waterloo, and Barrie. Larger municipalities that use the Ontario Ombudsman include London, Hamilton, Sudbury, and Niagara Region.

The chart below provides an overview of closed meeting investigators for select municipalities outside of the GTA, as outlined on the Ontario Ombudsman's website.

Closed Meeting Investigator- Select Other Municipalities

LAS	Ontario Ombudsman	Other
City of Brantford	City of Brockville	City of Ottawa (Robert Marleau)

* The City of Toronto has appointed its own Ombudsman pursuant to section 170 of the *City of Toronto Act, 2006*. However, Toronto's Ombudsman is not the City of Toronto's closed meeting investigator.

City of Cambridge City of Waterloo City of Windsor Town of Lincoln Town of Niagara-on-the-Lake Township of Wainfleet City of Stratford City of Kingston City of Peterborough City of Barrie Regional Municipality of Waterloo City of Guelph	City of Greater Sudbury City of Kitchener City of Hamilton City of Niagara Falls City of Port Colborne City of St. Catharines City of Thorold City of Welland Town of Fort Erie Town of Grimsby Town of Pelham Township of West Lincoln City of London Town of Orangeville City of Owen Sound City of Bellville City of Pembroke City of Sarnia City of Cornwall Town of Collingwood Regional Municipality of Niagara	City of St. Thomas City of Woodstock (Gregory F. Stewart) City of Orillia (Principles Integrity) City of Thunder Bay (Paul S. Heayn)
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Options

In appointing a closed meeting investigator, a municipality is to consider the investigator's independence, credibility and impartiality. An investigator must also ensure confidentiality with respect to their activities. As such, an investigator with legal training, or knowledge and experience with the *Municipal Act, 2001* and Council procedures, is recommended.

The options available to the City are to:

- 1) continue with the City's appointment of LAS;
- 2) appoint another independent closed meeting investigator; or
- 3) default to the Ontario Ombudsman as the closed meeting investigator.

1) Continuing with the appointment of LAS into 2022

According to LAS's 2019 Annual Report, 140 municipalities subscribed to LAS's closed meeting services in 2019. LAS is a reputable service provider that provides closed meeting investigation services to many other municipalities, including Brampton, Caledon and the Region of Peel.

For 2021, LAS's annual administrative fee is \$200 and its hourly investigation fee ranges between \$325 and \$775 per hour in the event of an investigation. The City is also responsible for reasonable actual expenses incurred in the course of conducting an investigation. LAS offers a sizeable roster of experienced investigators from the law firm Aird & Berlis LLP. The hourly rate of the investigator depends on their seniority and level of experience.

LAS offers a cost effective, defined and confidential process for handling closed meeting investigations, as well as the availability of on-going education and information for municipalities. There is cost associated with using its Closed Meeting Investigator Program, as opposed to using the Ontario Ombudsman, whose closed meeting investigation services are free. While LAS's administrative fee was reduced from \$330 to \$200 in 2020, its hourly investigation fee increased from \$225/hour in 2019 to \$325-\$725 per hour in 2020. A small increase in the investigation fee to \$325-\$775/hour was made in 2021.

2) Appoint an another private closed meeting investigator

The City may also wish to explore the services of another private closed meeting investigator and issue a Request for Proposals. The cost of appointing a specific individual with the same level of experience in law and municipal government as LAS's review officers may exceed the cost of retaining LAS.

3) The Ontario Ombudsman as Closed Meeting Investigator

The Ontario Ombudsman offers closed meeting investigator services at no charge. Its 2019-2020 Annual Report states that the number of municipalities using the Ombudsman for closed meeting investigations was 239 during this period. The Ontario Ombudsman's 2012-2013 Annual Report stated that 189 municipalities used the Ontario Ombudsman in 2012-2013, which suggests an upward trend towards municipalities using the Ontario Ombudsman.

The Ontario Ombudsman's Open Meetings Guide for Municipalities states:

"In the field of open meetings, the Ombudsman makes findings on whether or not municipal meetings complied with the open meeting rules, and may make recommendations or suggest best practices for improvement. Ombudsman staff who specialize in open meetings can also provide guidance and education to municipalities and members of the public on the open meeting requirements and best practices."

The Ontario Ombudsman's investigation services are free, transparent, and independent, with confidentiality being maintained throughout the process. As noted earlier in the report, any closed meeting investigation by the Ontario Ombudsman would also trigger the broader Ombudsman powers under the *Ombudsman Act*, including the broad powers of entry to inspect records. Further, the *Municipal Act, 2001* does not contain a penalty provision such as that found in the *Ombudsman Act*, which imposes penalties for wilfully obstructing, hindering or resisting the Ombudsman in the performance of his or her functions; failing to comply with any lawful requirements of the Ombudsman; or wilfully making false statements. Such offences can result in a fine of up to \$500 and/or imprisonment of up to three months.

Financial Impact

The City currently has a contract with LAS to provide closed meeting investigation services. The City pays an annual administrative fee of \$200.00 to LAS. In the event that an investigation was required, the investigation fee would range from \$325 to \$775 per hour, depending on the seniority of the investigator appointed from the roster. Since appointing LAS in 2007, the City has not been the subject of any closed meeting investigations and has paid only the annual administrative fee.

If the City were to use the Ontario Ombudsman instead, there would be no cost to the City.

Conclusion

The purpose of this report is to outline the options for closed meeting investigator services available to the City. Under the *Municipal Act, 2001*, a municipality must either appoint a closed meeting investigator or the Ontario Ombudsman will act as the municipality's default investigator. Many municipalities have decided to rely on the Ontario Ombudsman, whose services are free, to carry out closed meeting investigations; however, a large number of municipalities have either appointed their own investigator or are utilizing the services offered by LAS, which is owned by AMO.

In 2007, Council opted for the latter option, and has appointed LAS as the City's closed meeting investigator since January 1, 2008. The City's agreement with LAS has been renewed for the 2021 term in accordance with the automatic renewal provisions in the Agreement.

Attachments

Appendix 1: Comparison between the closed meeting investigation powers under the *Municipal Act, 2001* and the *Ombudsman Act*



Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor

Prepared by: Nupur Kotecha, Legal Counsel

Appendix 1

Comparison between the closed meeting investigation powers under the *Municipal Act, 2001* and the *Ombudsman Act*

	Investigator (<i>Municipal Act, 2001</i>)	Ontario Ombudsman (<i>Ombudsman Act</i>)
Authority	Investigators can conduct closed meeting investigations pursuant to s. 239.1(a) of the <i>Municipal Act, 2001</i> .	The Ombudsman can conduct closed meeting investigations pursuant to: <ul style="list-style-type: none"> - <i>Municipal Act, 2001</i>, s. 239.1(b) - <i>Ombudsman Act</i>, s. 14.1(3)(a).
Powers and Duties	Investigators can exercise powers, and perform duties, as assigned by the municipality (s. 239.2(3) of the <i>Municipal Act, 2001</i>).	The Ombudsman has the power to investigate actions and decisions of public bodies, including municipalities (s. 14(1) of the <i>Ombudsman Act</i>). The Ombudsman is not limited to investigating complaints made to it. The Ombudsman can initiate investigations on its own accord (s. 14(2) of the <i>Ombudsman Act</i>).
Delegation of Authority	An investigator can, in writing, delegate its powers and duties to anyone other than a member of council (s. 239.2(6) of the <i>Municipal Act, 2001</i>).	The Ombudsman can, in writing, delegate its powers to those in its office, with the exception of the power to make a report (s. 26(1) of the <i>Ombudsman Act</i>).
Privacy of Investigation	Closed meeting investigations conducted by investigators are private (ss. 239.2(9); 223.14(1) of the <i>Municipal Act, 2001</i>).	Closed meeting investigations conducted by the Ombudsman are private (s. 18(2) of the <i>Ombudsman Act</i>).
Obtaining Information	An investigator can make inquiries and obtain information as it deems necessary throughout an investigation (ss. 239.2(9); 223.14(2) of the <i>Municipal Act, 2001</i>). An investigator does not need to hold hearings or give anyone an opportunity to make representations throughout an investigation. However, if the investigator anticipates making a report or recommendation that	The Ombudsman can make inquiries and obtain information as it deems necessary throughout an investigation (s. 18(3) of the <i>Ombudsman Act</i>). The Ombudsman does not need to hold hearings or give anyone an opportunity to make representations throughout an investigation. However, if the Ombudsman anticipates making a report or

	could adversely affect a municipality, the municipality has the right to make representations on those matters (ss. 239.2(9); 223.14(2) of the <i>Municipal Act, 2001</i>).	recommendation that could adversely affect a municipality, the municipality has the right to make representations on those matters (s. 18(3) of the <i>Ombudsman Act</i>).
Collecting Evidence	An investigator can require officers, employees, or members of a municipality to provide information and documents related to the investigation (ss. 239.2(9); 223.14(3) of the <i>Municipal Act, 2001</i> ; s. 19(1) of the <i>Ombudsman Act</i>).	The Ombudsman can require officers, employees, or members of a municipality to provide information and documents related to the investigation (s. 19(1) of the <i>Ombudsman Act</i>).
Conducting Examinations under Oath	An investigator can summon and examine anyone who may have relevant information about the investigation under oath, including the complainant and officers, employees, or members of the municipality (ss. 239.2(9); 223.14(3) of the <i>Municipal Act, 2001</i> ; s. 19(2) of the <i>Ombudsman Act</i>).	The Ombudsman can summon and examine anyone who may have relevant information about the investigation under oath, including the complainant and officers, employees, or members of the municipality (s. 19(2) of the <i>Ombudsman Act</i>).
Powers of Disclosure	Although an investigator must keep information that it obtains through a closed meeting investigation private, an investigator can disclose such information in a report if it thinks that the information ought to be disclosed to establish grounds for the investigator's conclusions and recommendations (ss. 239.2(9); 223.15(1); 223.15(2) of the <i>Municipal Act, 2001</i>).	Although the Ombudsman must generally keep any information received through a closed meeting investigation private, the Ombudsman can disclose such information in a report if it thinks that the information ought to be disclosed to establish grounds for the Ombudsman's conclusions and recommendations (ss. 7.3(1), 7.3(3) of the <i>Ombudsman Act</i>).
Finality of Decisions	Investigations by an investigator can only be challenged for lack of jurisdiction. Decisions made by the investigator are final (ss. 239.2(9); 223.16 of the <i>Municipal Act, 2001</i>).	Investigations by the Ombudsman can only be challenged for lack of jurisdiction. Decisions made by the Ombudsman are final (s. 23 of the <i>Ombudsman Act</i>).
Immunity from Compelled Testimony	An investigator cannot be compelled to testify about information obtained through a closed meeting investigation in any court or judicial proceeding (ss. 239.2(9); 223.17(1) of the <i>Municipal Act, 2001</i>).	The Ombudsman cannot be compelled to testify about information obtained through a closed meeting investigation in any court or judicial proceeding (s. 24(2) of the <i>Ombudsman Act</i>).

	Information supplied, or documentation produced, during a closed meeting investigation is privileged (ss. 239.2(9); 223.17(2) of the <i>Municipal Act, 2001</i>).	Information supplied, or documentation produced, during a closed meeting investigation is privileged (s. 24(3) of the <i>Ombudsman Act</i>).
Report and Recommendation Power	<p>If an investigator determines that a municipality held a closed meeting unlawfully, the investigator must report its opinion and reasons, and can make recommendations for the municipality (s. 239.2(10) of the <i>Municipal Act, 2001</i>).</p> <p>An investigator's report must be made public (s. 239.2(11) of the <i>Municipal Act, 2001</i>).</p> <p>Upon receiving a report from an investigator, a municipality must pass a resolution stating how it intends to address the report (s. 239.2(12) of the <i>Municipal Act, 2001</i>).</p>	<p>If the Ombudsman determines that a municipality held a closed meeting unlawfully, the Ombudsman must report its opinion and reasons, and can make recommendations for the municipality (s. 14.1(7) of the <i>Ombudsman Act</i>).</p> <p>Reports must be made public and the municipality must ensure the same (s. 14.1(8) of the <i>Ombudsman Act</i>).</p> <p>The Ombudsman may also publish its report (s. 14.1(9) of the <i>Ombudsman Act</i>).</p> <p>Upon receiving a report from the Ombudsman, a municipality must pass a resolution stating how it intends to address the report (s. 239.2(12) of the <i>Municipal Act, 2001</i>).</p>
Authority to Refuse to Investigate	N/A	The Ombudsman may refuse to investigate closed meeting complaints for a variety of reasons, including if the complaint is trivial or frivolous, vexatious, or not made in good faith (ss. 17(1); 17(2) of the <i>Ombudsman Act</i>).
Power to Refer Breaches of Duty/ Misconduct	N/A	The Ombudsman can alert the appropriate authority if, during its investigation, it uncovers misconduct on the part any officer or employee of a municipality (s. 18(6) of the <i>Ombudsman Act</i>).
Power of Entry	N/A	The Ombudsman can enter onto and inspect a premises occupied by a municipality as part of its investigation (s. 25(1) of the <i>Ombudsman Act</i>).

		<p>However, before entering onto and inspecting a premises occupied by a municipality, the Ombudsman must:</p> <ul style="list-style-type: none"> - notify the head of the municipality; and - provide the head of the municipality a reasonable opportunity to explain why entering onto the premises is inappropriate (s. 25(2) of the <i>Ombudsman Act</i>).
Statutory Penalties	N/A	<p>Everyone is guilty of an offence who, throughout the Ombudsman's investigation:</p> <ul style="list-style-type: none"> - wilfully obstructs, hinders or resists the Ombudsman; - refuses or wilfully fails to comply with a lawful demand of the Ombudsman; or - wilfully makes false statements, misleads, or attempts to mislead the Ombudsman <p>Those found guilty of an offence are liable to a fine of up to \$500, a term of imprisonment up to 3 months, or both (s. 27 of the <i>Ombudsman Act</i>).</p>

Terms of Reference for Governance Subcommittee - Elections

Subcommittees

That, as per the Procedure By-law 139-2013, a Committee of Council may establish a subcommittee which shall consist of members of the parent Committee, as may be determined by such parent Committee and any other member approved by Council.

- Subcommittees will be formed to deal with specific issues, and will make recommendations to the parent Committee. Once the specific issue is dealt with the subcommittee shall cease.
- All appointed members of the subcommittee have the right to vote.
- The Chair of the subcommittee will be appointed at the first meeting of the subcommittee.

Mandate/Work Plan

The mandate of the Governance subcommittee (Elections) is to review and provide input into the following matters in preparation for the 2022 municipal elections:

- Ward boundary review
 - to allow for implementation for the 2022 election, by-law is to be approved by Council and any appeals dealt with prior to December 31, 2021
 - Planning and Building staff to lead the project, with input and comments from the Governance Subcommittee as noted in Appendix 1 – Governance Subcommittee Workplan for implementation for the 2022 municipal election.
 - A revised timeline will be prepared if direction is provided to pursue the ward boundary review for subsequent elections
- Election sign by-law, subject to schedule availability

The subcommittee will report to Governance Committee with final approval of any recommendations requiring final approval from Council.

Procedures and Frequency of Meetings

All Committees are subject to Council Procedure By-law, which outlines the procedures for Council and Committee meetings.

http://www7.mississauga.ca/documents/bylaws/procedural_by-law_2013.pdf

Appendix 1 outlines the workplan and timelines for various stages of the process should a potential 2022 election year implementation be desired. The Subcommittee meetings will be scheduled in accordance with the workplan timelines.

Membership

The Subcommittee will be comprised of appointed Governance Committee members and one citizen member from each ward in the City. Existing citizen members of the Governance Committee shall be deemed to represent the ward in which they reside.

Members of the Subcommittee shall provide input and comments with their local ward understanding as well as a wider City perspective on matters that are important to consider when evaluating ward boundaries. The Subcommittee members shall understand that their input is for the purpose of providing advice, sharing local neighbourhood knowledge and priorities to the Planning and Building staff as they undertake the Ward Boundary review.

All members are subject to the Code of Conduct and Complaint Protocol for Local Boards.

http://www7.mississauga.ca/documents/CityHall/pdf/2014/Local_Boards_Code_of_Conduct.pdf.
and Corporate Policy 02-01-01:

Notwithstanding the Citizen Appointments to Committees, Boards and Authorities policy. <http://inside.mississauga.ca/Policies/Documents/02-01-01.pdf>, opportunities for membership to the Subcommittee shall be advertised through the City's social media channels, and on the website for a period of two weeks. The applications will be reviewed by the Subcommittee's Governance Committee members and those members shall make recommendations to Council on the proposed citizen appointments.

Role of Chair

The Chair of the Subcommittee will be appointed at the first meeting of the Committee.

The role of the Chair is to:

1. Preside at the meetings using City of Mississauga's Procedure By-law, and keep discussion on topic.

2. Provide leadership to Governance Subcommittee - Elections to encourage that its activities remain focused on its mandate as an Advisory Committee of Council.
3. Recognize each Member's contribution to the Committee's work.

Role of Committee Members

The role of Committee Members is to:

1. Ensure that the mandate of Governance Subcommittee - Elections is being fulfilled.
2. Provide the Chair with solid, factual information regarding agenda items.
3. Notify the Legislative Coordinator if they are unable to attend meetings to ensure that quorum will be available for all meetings.

Quorum

1. Quorum of the Governance Subcommittee - Elections shall be reached with the presence of a majority of the appointed and elected members, at a time no later than thirty (30) minutes past the time for which the beginning of the meeting was scheduled and so noted on the agenda or notice of the meeting.
2. The issuance of an Agenda for a meeting of this Committee will be considered as notice of that meeting.
3. The presence of one (1) of the appointed Council members shall be required to establish quorum.

APPENDIX 1

Date	Workplan Items
February	Receive Council direction to proceed with Governance Subcommittee workplan Appoint citizen representatives
March	Inaugural meeting of Governance Subcommittee. Presentation from Planning and Building Staff (P&B) outlining Ward Boundary review process and prior work undertaken. Review and provide direction/suggestions related to principles for ward boundary review.
April	P&B to develop revised ward boundary scenarios
May	P&B present Governance Subcommittee with scenarios for ward boundaries. Subcommittee to provide input on scenarios and preferred option(s).
June	P&B address feedback and finalize scenarios
July	Hold broader public consultation session Subcommittee to participate in consultation process
August	Report to Governance Subcommittee on comments received through public consultation process. Subcommittee to provide input on public comments. P&B to make refinements to scenarios
September	Governance Subcommittee provide recommendation on scenario(s) Report back to Governance Committee with final proposed scenario(s)
October	Recommendation Report and Statutory Public Meeting
November	Council Approval of Ward Boundary By-law
December	Appeal Period – to proceed for 2022 Municipal Election by-law must be approved without appeals prior to December 31, 2021.

Status of Governance Committee Workplan Items – March 1, 2021

Issue	Timeline	Details
1. Governance Subcommittee- Elections Terms of Reference	Included in the March 1, 2021 Governance Committee Agenda	GOV-0002-2021 To be amended to refer the Governance Subcommittee - Elections Terms of Reference back to the Governance Committee and that Councillor Mahoney be appointed to the Governance Subcommittee.
2. Follow up from Council Strategic Direction Setting Workshop	Ongoing	Update: GOV-0008-2019 That the report dated September 4, 2019, from the City Manager and Chief Administrative Officer: Council Strategic Direction Setting Workshop Debrief, be received and referred to staff to obtain feedback from Members of Council and report back to Governance Committee.

3. RFP Integrity Commissioner and Evaluation of Proposals	To be completed prior to July 2021	<p>GC-0386-2020</p> <ol style="list-style-type: none"> 1. That the mandate of the Integrity Commissioner shall be to act as an advisor to members of Council and local boards on matters relating to ethics, their respective codes of conduct and the <i>Municipal Conflict of Interest Act</i>, to act as an educational resource in this respect, and to independently receive and investigate complaints regarding a possible breach of the code of conduct or <i>Municipal Conflict of Interest Act</i> by a member of Council or a local board; 2. That the qualifications of an Integrity Commissioner, beyond being independent and impartial, as set out in this report be affirmed; 3. That staff be authorized to issue a request for proposals (RFP) seeking applicants for the position of Integrity Commissioner for a four-year non-renewable term, to carry out this mandate and any additional duties that may be placed upon the Integrity Commissioner by legislation; 4. That the Governance Committee Members be appointed to the evaluation committee responsible for evaluating proposals and making a recommendation to City Council on a new Integrity Commissioner; and 5. That the new Integrity Commissioner be appointed for a four-year non-renewable term commencing July 2021 and ending June 2025. <p>(GOV-0011-2020)</p>
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Updated items in **Bold**

Status of Governance Committee Workplan Items

Issue	Timeline	Details
4. Proxy Voting at Council Meetings	Deferred until Fall 2021	<p>GC-0387-2020</p> <p>That a decision regarding Proxy Voting at Council meetings be deferred and that a report be brought back to the Governance Committee in the fall of 2021 to review both “Electronic Participation” and “Proxy Voting”.</p>

5. Review of Code of Conduct	Completed.	<p>GC-0399-2018 That the review of the Council Code of Conduct be deferred until the 2018-2022 term of Council.</p> <p>GOV-0003-2019 That the Governance Committee meet to review the Council Code of Conduct and discuss possible amendments, upon completion of the citizen appointments to the Committee for the current term of Council.</p> <p>Update:</p> <p>GC-0672-2019 That the report dated December 2, 2019 titled "Council Code of Conduct Review" from Principals Integrity, Integrity Commissioner for the City of Mississauga be approved.</p>
6. Electronic Participation at meetings.	Completed.	<p>GC-0064-2020</p> <ol style="list-style-type: none"> 1. That the report dated October 28, 2019 from the Commissioner of Corporate Services and Chief Financial Officer be approved as outlined with the following amendments: 2. That electronic participation be permitted for Accessibility Advisory Committee members to allow voting and to count for quorum. 3. That the current procedure for the Consent Agenda remain the status quo. <p>(GOV-0004-2020)</p>

7. Survey of Election Candidates	Completed	<p>GC-0152-2020</p> <ol style="list-style-type: none"> 1. That the Corporate Report dated June 1, 2020 from the Director of Legislative Services and City Clerk titled Election Administration Information Report: City of Mississauga Campaign Contribution Rebate Program and Consolidated Statistics be received. 2. That the Mississauga's 2022 Election Campaign Contribution Rebate Program be referred to the Budget Committee.
8. Tour de Mississauga Delivery Model for 2016 and beyond	<p>Completed.</p> <p>Adopted by Council on February 10, 2016.</p>	<p>MCAC-0004-2016</p> <ol style="list-style-type: none"> 1. That the letter dated December 18, 2015 from Glenn Gumulka, Executive Director, SustainMobility, regarding the management of the Tour de Mississauga, be received for information. 2. That the Members of the Mississauga Cycling Advisory Committee support the transfer of the management of the Tour de Mississauga to SustainMobility. 3. That the Tour de Mississauga Subcommittee of the Mississauga Cycling Advisory Committee continue to work with SustainMobility on the Terms and Conditions relating to the transfer of the management of the Tour de Mississauga to SustainMobility.
9. Feasibility Study for Internet Voting	Completed	<p>The following recommendation was approved by Governance on June 20, 2016:</p> <ol style="list-style-type: none"> 1. That the Corporate Report dated June 7, 2016 from the Director of Legislative Services and City Clerk, outlining the potential enhancements for the 2018 Municipal Election be received for information. 2. That staff be directed to implement Vote Anywhere for the 2018 Municipal Election on Election Day and Advance Poll Days and that the City of Mississauga will wait for the Province to test the ranked ballot option before it is implemented for a municipal election.

Updated items in **Bold**

Status of Governance Committee Workplan Items

Issue	Timeline	Details
10. Procedure By-law Review	Completed	<p>The following recommendation was approved by Governance on November 14, 2016:</p> <p>That a by-law be enacted to amend By-law 0139-2013, being the Corporation of the City of Mississauga Council Procedure By-law as amended, in accordance with the Corporate Report dated October 5, 2016, from the Commissioner of Corporate Services and Chief Financial Officer titled 'Proposed Amendments to the Council Procedure By-law 0139-2016.</p>
11. Report on Pilot Committee of Adjustment Streaming	Completed	<p>The following recommendation was approved by Governance Committee on September 19, 2016:</p> <p>GOV-0014-2016</p> <ol style="list-style-type: none"> 1. That the Corporate Report dated August 8, 2016 from the Commissioner of Corporate Services and Chief Financial Officer titled. "Video streaming and On-demand videos for Additional Committee meetings" be received. 2. That staff be directed to implement video streaming and on-demand videos for the Audit and Governance Committees as a one year pilot project.
12. Municipal Election Campaign Contribution Rebate Program for the 2018 Election	Completed	Adopted by Council on February 22, 2017.
13. Review of Section 29 of the Committee of Adjustment Procedure By-law	Completed	Adopted by Council on September 14, 2016.

Updated items in **Bold**

Status of Governance Committee Workplan Items

Issue	Timeline	Details
14. Election Lawn Signs	Completed	<p>Resolution 0220-2016 adopted by Council on November 16, 2016 to establish the period of time that the signs can be up.</p> <p>Resolution 0221-2016 adopted by Council on November 16, 2016 which gives direction to staff to provide further information on the Sign By-law as it relates to Municipal Elections.</p>
15. Community Group Support	Completed	<p>The following recommendation was approved by Governance Committee on March 6, 2017:</p> <p>GOV-0001-2017 That the report entitled Community Group Support Program Policy 08-01-01 dated February 28, 2017 from the Commissioner of Community Services be received for information.</p>
16. Budget Allocation Process for Advisory Committees	Completed	Adopted by Council on December 14, 2017.
17. Integrity Commissioner RFP and Recruitment	Completed	Integrity Commissioner appointed by Council on June 21, 2017.
18. Posting of comments from Planning Staff with respect to Committee of Adjustment applications	Completed	
19. Bill 8 (Accountability Act) implementation	Completed	

Updated items in **Bold**

Status of Governance Committee Workplan Items

Issue	Timeline	Details
20. Procedure for establishing committees or task forces	Completed	
21. Corporate Policy Review pertaining to Municipal Elections	Completed.	<p>The following recommendation was approved by General Committee on November 15, 2017:</p> <p>GC-0742-2017 That the draft Corporate Policy titled ‘Use of City Resources During an Election Campaign, attached as Appendix 2 to the Corporate Report dated November 2, 2017 from the Commissioner of Corporate Services and Chief Financial Officer titled ‘Corporate Policy and Procedure - Use of City Resources During an Election Campaign’, be approved with the exception of paid campaign ads in City facilities and that staff report back on campaign material as it relates to the Placing Advertisement with the City Policy 03-09-01.</p>
22. Corporate Policy Review - Citizen Appointment Process (including a review to limit citizen member appointments to one committee)	Completed	<p>The matter was considered by General Committee at its meeting on March 21, 2018 and the following recommendation was issued:</p> <p>GC-0175-2018</p> <ol style="list-style-type: none"> 1. That the report dated January 25, 2018, entitled ‘Requirements for Citizen Appointments to Committees of Council’, from Gary Kent, CPA, CGA, Commissioner of Corporate Services and Chief Financial Officer, be received 2. That the Canadian citizenship remain as a requirement for citizen appointments to Committees of Council, as outlined in Corporate Policy 02-01-01 Citizen Appointments to Committees, Boards and Authorities.

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Status of Governance Committee Workplan Items

Issue	Timeline	Details
23. Citizen appointments to committees (membership/composition)	Completed.	Arising from discussion at General Committee on June 15, 2016.
24. Review of committees for 2018-2022 term of Council	Completed	
25. Review of Protocol Corporate Policy 06-02-01	Completed	<p>The following recommendation was approved at General Committee on November 15, 2017:</p> <p>GC-0732-2017</p> <p>That staff be directed to incorporate the following changes to the Civic Protocol Policy 06-02-01 and report back to General Committee:</p> <ul style="list-style-type: none"> a) Move the Regional Chair to appear directly following Members of Council in the Order of Precedence for Processions. b) Move the Regional Chair to speak directly following the Mayor or Acting Mayor in the Speaking Order at Official City Openings/Events. c) Clarify that Federal and Provincial Government representatives be invited to speak if there is a partnership/funding agreement in place.

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Status of Governance Committee Workplan Items

Issue	Timeline	Details
26. Government Relations with Federal and Provincial Governments	Completed	<p>The following recommendation was approved by General Committee on February 28, 2018.</p> <p>GC-0137-2018 That the Draft Government Relations Protocol as outlined in Appendix 1, attached to the memorandum dated, February 6, 2018 from Robert Trewartha, Chief of Staff, Office of the Mayor, be approved as amended at the February 28, 2018 General Committee meeting.</p>
27. Governance Subcommittee - Municipal Governance Leadership Challenge	<p>GC-0138-2018</p> <p>Completed.</p> <p>Implementation of Recommendations Ongoing.</p>	<p>The following recommendation was approved by General Committee on February 28, 2018.</p> <p>GC-0138-2018</p> <ol style="list-style-type: none"> 1. That the report from John Magill, Citizen Member, entitled ‘Governance Subcommittee Report –Municipal Governance Leadership Challenge’, dated February 5, 2018, be received. 2. That the Guide to Good Municipal Governance Concluding Chapters Question Review be reviewed on a semi-annual basis by the Governance Committee to maintain and update the document. 3. That the recommendations from the Citizen members outlined in this report be added to the Governance Committee work plan.

Updated items in **Bold**

Status of Governance Committee Workplan Items

Issue	Timeline	Details
	<p>GOV – 0004-2018</p> <p>1. a. Completed at the beginning of each term. b. Completed at the beginning of each term.</p> <p>2. a. Completed during the annual budget process.</p>	<p>(GOV-0004-2018)</p> <p>As a result of the review and discussions, the Citizen Members of Governance Committee have the following recommendations:</p> <ol style="list-style-type: none"> 1. That a more comprehensive orientation be prepared for new/incoming Council Members. <ol style="list-style-type: none"> a. The orientation at the beginning of each term would establish agreed upon City priorities and the principles upon which decisions and strategic priorities will be based and prioritized. Councillors will understand the fit of their ward priorities and appropriate ward actions. b. Create a governance culture supportive of consensus building among councillors beginning with the early mandate orientation sessions and a strategy to reinforce it throughout the mandate. 2. Ensure decisions are being made aligned with and have a balance between City-wide and ward specific issues. <ol style="list-style-type: none"> a. Annually as staff begin to prepare next year’s budget Council should be informed of potential challenges and priorities. 3. Ensure Strategic and Master Plans are provided in an

Updated items in **Bold**

Status of Governance Committee Workplan Items

Issue	Timeline	Details
	<p>3. a. & b. Ongoing by the Community Relations section of the Planning and Building Department. c. Ongoing by staff as required and during the budget process.</p> <p>4. a., b., & c. Ongoing by the Community Relations section of the Planning and Building Department as part of the Community Engagement Strategy.</p> <p>5. a. Ongoing by staff in the City Manager's Office and with direction from Council.</p> <p>6. a. Completed b., c., d., e., Ongoing implementation of recommendations.</p>	<p>informative and user friendly format.</p> <ul style="list-style-type: none"> a. Include an executive summary to large documents b. Provide simplified information for the public c. Staff to present an executive summary to Council following approval of the Budget regarding major projects coming forward. <p>4. Effectively and efficiently expand and experiment with methods for consultation with the public including the hard to access for:</p> <ul style="list-style-type: none"> a. Consensus building around priorities and unique City characteristics b. Strategic planning c. Decision making <p>5. Manage relationships more effectively</p> <ul style="list-style-type: none"> a. Establish a plan of action with specific objectives and resources for approaching other levels of government for support of the City's strategic priorities and asset requirements utilizing all appropriate staff and Council members. <p>6. Process improvements and the role of the Governance Committee</p> <ul style="list-style-type: none"> a. Report to Governance Committee and Council on the

Updated items in **Bold**

Status of Governance Committee Workplan Items

Issue	Timeline	Details
		<p>implications of Bill 68</p> <ul style="list-style-type: none"> b. Continue to identify opportunities for improvements in governance c. Consider the impact on governance improvements contained in procedural rules for Council and in the Code of Conduct d. Add the City's core values to signature blocks e. Monitor the progress of achievement of recommendations applicable to staff contained in Appendix 2
28. New Council Orientation	Completed	<p>GOV-0010-2018 That staff be directed to organize orientation and strategic direction setting sessions for the Members of Council for the 2018-2022 term, as outlined in the report entitled, 'New Council Orientation and Strategic Direction Setting' dated March 15th, 2018, from the City Manager and Chief Administrative Officer. (GOV-0010-2018)</p>
29. Issues resulting from the Region of Peel representation discussions	Completed	<p>Council adopted Resolution 0394-2020 on December 23, 2020 consenting to the Regional By-law 83-2020 to change the composition of Regional Council.</p>

City of Mississauga
Memorandum



Date: 2021/02/24
To: Chair and Members of Governance Committee
From: Sacha Smith, Manager, Legislative Services and Deputy Clerk
Meeting Date: 2021/03/01
Subject: Procedure By-law Review

Please be advised that staff will be undertaking a full review of the Council Procedure By-law 139-2013. The purpose of the review is to reorganize the By-law to include separate schedules for Council, Committees and the Committee of Adjustment Procedure By-law to provide ease of reference and clarity.

We anticipate that the staff review will be completed in the Fall, and a report to the Governance Committee with the new By-law. A Public Notice will be issued prior to the Committee's consideration of the by-law to ensure the public are aware of the new by-law.

In March, members of Council will be contacted to request comments on changes or issues with the existing By-law that should be addressed during the review. As the review progresses status updates will be provided to the Governance Committee.

A handwritten signature in black ink that reads 'S. Smith'.

Sacha Smith, Manager, Legislative Services and Deputy Clerk