



c <u>3</u>
Communication
COUNCIL: <u>Sept 26/17</u>
FAA Rpt. No. <u>8</u> Item <u>10</u>

DATE: September 25, 2017

TO: Mayor and Members of Council

FROM: Demetre Rigakos, Chief Human Resources Officer

COPIES: Daniel Kostopoulos, City Manager, Claudia Storto, Deputy City Manager, Legal and Human Resources, Barb McEwan, City Clerk

RE: **Additional information and options for recruitment of Deputy City Manager, Planning and Growth Management**

Recommendation:

The Chief Human Resources Officer recommends:

1. That Council approve the recruitment process as per Item 10 on the September 20, 2017 Finance, Administration and Audit agenda and as outlined in Option 1 below; and
2. That the City Manager provide progress update(s) to Council on the recruitment process (without disclosing confidential personal information of or pertaining to candidates) prior to making a final recommendation to Council as outlined in Option 3 below.

Purpose:

The purpose of this communication is to address Council's direction to report back on options for Council involvement in the recruitment process for the Deputy City Manager, Planning and Growth Management.

Discussion

At the September 20, 2016 Finance Administration and Audit (FAA) Committee meeting, Council discussed the staff report "Recruitment for Deputy City Manager, Planning and Growth Management".

Council considered the options before them and the following positions were put forward by various individual members of Council as well as by Staff:

1. Accept staff recommendation as per the September 20, 2017 FAA report and have all members of Council participate in an interview of the final qualified candidate or candidates as presented by the selection committee comprised of the City Manager,

Chief Human Resources Officer and Search Consultant.

2. Consider creation of a hiring subcommittee of three members of Council, who will participate in the final interviews along with the City Manager, Chief Human Resources Officer and Search Consultant to assist in the final determination of the recommended candidate by the City Manager for Council's approval. This option was presented by Staff as well in the September 20, 2017 report however, it was not a recommended option.
3. That Staff proceed with the recommended option as per the September 20, 2017 report but that they also provide an update to Council prior to final interviews as to the response to the posting and search consultant's efforts and an explanation of how the selection committee arrived at the preferred candidate(s) for final interview(s).

In addition to these three options, one of the considerations discussed at the meeting was that individual members of Council who wish to participate in the interviews be permitted to attend the interviews and observe without active participation. The purpose of this would be for any member of Council that wishes to monitor the selection process. This option is not recommended due to legal and governance risks (see confidential attachment 1).

In addition, the memorandum from the Office of the Integrity Commissioner (attachment 2) identifies potential violations of certain rules within the Code of Ethical Conduct for Members of Council.

The following is a summary of the benefits and risks of each of the options identified:

Option #	Benefits	Risks
1.	Participation by all of Council in the interview(s) of the finalist(s) prior to deciding on the City Manager's recommendation.	Little to no risk
2.	Council's appointment of 3 members of Council as a hiring subcommittee to be included in the selection panel facilitates the process so that the City Manager's recommended candidate to all of Council has been endorsed by the selection panel that includes members of Council.	Little to no risk. Council needs to identify who will participate.
3.	An update to Council in terms of the steps taken in the recruitment process to arrive at the final candidates is beneficial so that all of Council understands the efforts undertaken to date and how the selection panel arrived at its recommendation.	Little to no risk.

Additional information related to senior executive recruitment and best practices

At the September 20, 2017 FA&A meeting the City Manager highlighted some of the best practices when undertaking a recruitment process for senior executive positions. It is important to follow up on the City Manager's comments with some additional information to support Council in making an informed decision that is in the best interest of the City and public they serve.

- Attracting top talent to senior local government roles is very challenging. One of the factors is the significant demand for talent by many of our neighboring municipalities, as well as from the private and public sector more broadly.
- An important consideration for potential candidates is whether the recruitment process will be discreet and confidential to protect candidate's privacy and their current employment situation. Following discussion at FAA, candidate(s) indicated an intent to withdraw from the competition if there was risk of their identity being exposed as an applicant. Additional legal advice on this risk is provided in confidential attachment 1.
- Municipalities, pursuant to the *Municipal Act, 2001*, are corporations run by a Governance Board; This is to be distinguished from a Management Board. Council is not a business, it is a level of Government controlled by statute. Councillors are not managers nor supervisors. Council as a body is the employer and supervisor only of the City Manager. The Clerk (per the *Municipal Act*), the Fire Chief (per the *Fire Protection and Prevention Act*) and the Chief Building Official (per the *Building Code*) are appointed by Council and have statutory roles but direction flows through the City Manager.
- At the February 2017 Council education session, staff reinforced the distinction between Council hiring a City Manager, Integrity Commissioner or Director of Internal Audit from the City Manager hiring senior roles such as Deputy City Managers or statutory positions. While Council can take an active role in the entire recruitment process when hiring a position that reports directly to them, the same is not appropriate when the City Manager undertakes a recruitment for one of the roles that reports to his office directly or to one of the Deputy City Managers. (Governance briefing as per attachment 3).
- The selection of the search firm to support this process is one that has been carefully considered by the City Manager and staff to achieve the desired outcome. The reputation of the search firm, their competence and skills in identifying talent for senior executive roles and their past performance in achieving results are all important considerations.
- The City of Vaughan undertook a review of its recruitment policy and procedures in late 2015 and in April of 2016, Council approved a revised policy. The policy review process

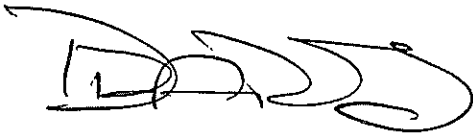
involved a jurisdictional review of practices in other municipalities and review of best practices in the industry. The policy statement is as follows:

The Corporation is committed to a fair and transparent recruiting process that supports hiring the best candidate for all positions. The Corporation ensures all candidates have an equal opportunity. There is no toleration of personal bias or discrimination of candidates in the recruitment process. The Corporation strives to represent the diversity of the community by underscoring the importance of external recruitment to diverse applicant pools.

Conclusion

The recruitment process to fill the role of Deputy City Manager, Planning and Growth Management is extremely important to the Corporation in its efforts to meet Council Priorities and serve the citizens and businesses of Vaughan. Council has an important role to play in considering the City Manager's recommended candidate. Options 1 and 3 are both recommended to Council in an effort to support the effectiveness, confidentiality and success of the recruitment process.

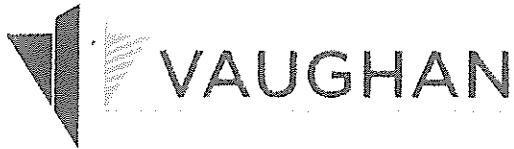
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Demetre Rigakos', with a stylized, flowing script.

Demetre Rigakos
Chief Human Resources Officer

ATTACHMENTS:

1. Confidential legal advice (provided to Mayor and Members of Council under separate cover)
2. Memorandum from the Integrity Commissioner
3. Governance briefing



memorandum

DATE: September 21, 2017

TO: Demetre Rigakos, Chief Human Resources Officer

FROM: Suzanne Craig, Integrity Commissioner

RE: **Role of Members of Council in Recruitment**

I am writing today to provide you with comments from a Code of Conduct perspective with respect to the role of individual Members of Council in City recruitment processes.

Relevant Code of Conduct for Members Rules

Rule 7 (Improper Use of Influence) and Rule 16 (Conduct Respecting Staff) of the Code contain provisions respecting contact between Members of Council and staff, whether that is regularly employed staff or contract consultants acting on behalf of staff.

Rule 16 of the Code prohibits improper interactions between Members of Council and staff. A Member's conduct can be both workplace harassment under Rule 14 and a breach of Rule 16 if it is disrespectful of staff's professional capacity or if it interferes with staff's duties

The Commentary to Rule 7 states that, pursuant to corporate policy, the City Manager directs City Commissioners (now DCMs). Therefore, City Council and **not individual** Members of Council appropriately give direction to the City administration, including in recruitment

Guiding Principles that flow from the Code

It is inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager. Therefore, **individual** Members of Council have no role to play in influencing in any way, the hiring process for any member of staff, except for the position of Executive or Administrative Assistant to the Mayor and/or Members of Council.

Any attempt by individual members of Council to, for example, urge that an individual candidate must be put on the shortlist or to secure additions to or removals from an already determined shortlist, is behavior prohibited under the Code. This kind of conduct amounts to inappropriate meddling and undue use of influence in terms of the Code.

Allowable activities in recruitment models in accordance with the Code:

1. In the context of defining a job profile, competencies and desired skill sets that a potential job description should include, input from individual Members of Council is allowable only through discussion as part of a properly convened sub-Committee of Council;
2. Unless as part of a sub-Committee of Council, contact between/meetings with the executive search team is not an allowable activity (Rule 7 – improper use of influence);
3. Where an independent contractor/search firm reports directly to a sub-Committee of Council or Council under the Memorandum of Understanding (MOU) with the City, any suggestions in respect to the makeup of any short list of candidates should be made before the hiring sub-Committee of Council, not offline in a private meeting or by telephone;

4. The RFP for selection of the executive search firms and MOUs should include reference to the City's Recruitment Policy and should clearly set out the roles and responsibilities of Members of Council ***in their capacity*** of sub-Committee of Council set up as a hiring committee. This should include but not be limited to the reporting relationship of the executive search firm team and whether there will be reports to the sub-Committee.


Suzanne Craig
Integrity Commissioner



BRIEFING FOR THE CITY OF VAUGHAN

GOVERNANCE IMPLICATIONS FOR COUNCIL'S
ROLE IN RECRUITMENT OF DEPUTY CITY
MANAGER, PLANNING AND GROWTH
MANAGEMENT

September 2017

Affordable, superior, accessible, customizable Governance Solutions!

www.governancesolutions.ca

Governance Solutions Since 1991! (formerly known as Brown Governance)

BRIEFING ON COUNCIL'S ROLES

The City of Vaughan asked Governance Solutions Inc. to prepare this briefing on governance implications – alternatives, pros and cons – of Council's role in recruitment of a Deputy City Manager, Planning and Growth Management.

We looked at the different stages of authority / decisions in recruitment, alternative ways and places for Council to engage or be involved, and evaluated these through the lens of governance best practices, opportunities and risks. While this briefing applies to this specific situation, the governance principles apply broadly to recruitment of staff beyond the City Manager.

The matrix below outlines a range of alternatives where Council – or a sub-committee – might engage in stages of this recruitment. These are the main touchpoints in a recruitment process, but it's not a comprehensive list. Following the matrix is a review of pros and cons.

RANGE OF ALTERNATIVES: AUTHORITY STAGES AND APPROVAL LEVELS:

Stage of Recruitment	Prepare	Review	Approve	Monitor	Comment
1. Profile of position: needed attributes	?	?	?	?	
2. Posting of position	?	?	?	?	
3. Initial screen of applicants: reduce to shortlist	?	?	?	?	
4. Interview / meet candidates on shortlist	?	?	?	?	
5. Final screen of applicants: reduce to single top applicant	?	?	?	?	
6. Interview / meet single top candidate	?	?	?	?	
7. Appoint top candidate	?	?	?	Yes	Council needs to approve the recommendation of the City Manager with regard to appointment

Affordable, superior, accessible, customizable Governance Solutions!

www.governancesolutions.ca

Governance Solutions Since 1991! (formerly known as Brown Governance) 1

Key: the stages of governance authority are (the matrix only shows four of these since Council would rarely Recommend or Report):

Prepare: means the process of preparing a document or leading a function

Review: means the process of checking someone else's work to give input, advice and suggestions for improvement and passing it along to someone else for a decision

Recommend: means the process of both reviewing [above] and formally signing-off on a document or function to indicate concurrence, and passing this along to someone else for a decision

Approve: means the process of both reviewing [above] and formally signing-off on a document or function to indicate that a decision has been made to proceed

Report: means being required to provide information in a prescribed form, usually to the next level of authority

Monitor: means to be aware of content and strategic implication of actions, and the process of checking that decisions and recommendations are being carried out effectively after a decision

PROS AND CONS

Clearly, there are many different combinations of ways where Council, or a sub-committee, may play a role in the recruitment process.

Two facts are clear and important here:

- ✓ Council has the legal right under both statute and bylaws to engage in any or all of these recruitment steps: authority of the Corporation vests in Council until and unless Council delegates this to the City Manager (or others, such as a sub-committee);
- ✓ Council has chosen to delegate the overall authority for staff administration to the City Manager (through the City Manager's By-Law 012-2013), and
- ✓ Council needs to approve the recommendation of the City Manager with regard to appointment.

At one end of the spectrum, Council could choose to be "hands-on", directly involved early at each step: to prepare a profile of needed attributes, the posting, initial screen, short-list interviews, final screen and interview, and then the appointment.

By preparing, or actually "doing", the stage, Council would take "ownership" or "hold the pen" on the whole process. This is not generally what Council does or is equipped to do – even in the recruitment of the City Manager, the Council's direct employee, Council would delegate the "prepare" stage to others, human resource professionals qualified to develop profiles, job postings and the like.

Or Council or a sub-committee could choose to conduct the initial screen of candidates and interview / meet candidates on the short-list. When a City Manager is recruited, Council usually strikes a Search Sub-Committee that would take on this role. But by doing this for a Deputy City Manager, Council would be taking direct responsibility for the selection, and more importantly, removing this responsibility from the City Manager.

Affordable, superior, accessible, customizable Governance Solutions!

www.governancesolutions.ca

Governance Solutions Since 1991! (formerly known as Brown Governance) ?

This is at the crux of the governance implications in Council's choice here: what is the City Manager accountable for, and who is the Deputy City Manager accountable to? By directly selecting among the applicants, Council signals to the City Manager that the consequences of the recruitment belong to Council, and the City Manager is no longer accountable for these. This is the governance principle of alignment: that we delegate authority level equivalent to the level of accountability that we expect.

If Council expects to be able to hold the City Manager accountable for the Deputy City Manager's performance and contributions, then it should delegate that selection authority.

There are other implications.

The greater involvement that Council has in the recruitment process, this signals to the Deputy City Manager that she/he is accountable not to or through the City Manager, but perhaps directly to the Council. This risks unclear lines of accountability within the City's management, with multiple positions feeling that they report to Council. This turns Council from a governing body into a managing body, like a management committee.

There are indirect consequences in terms of public and reputational perception. What message do we want to send to the public in terms of Council's role, and its confidence in its City Manager? How is the public interest best served? In governance, while legislative branches always have the right to make decisions directly, they typically delegate the bulk of operational or tactical decisions to the executive branch, precisely so that they can fulfill their governance and oversight roles. Once you make a decision directly, you can no longer independently oversee it and provide the public confidence in this independent (second) line of defence or control.

Another implication is confidentiality. Recruitment of a senior position is a sensitive matter, and if candidates saw that they were going to be interviewed by Council or a sub-committee at an earlier stage, those with a good job with other cities might deselect and not apply. The recruitment process itself needs to be transparent, but the applicants need to stay confidential to encourage the largest number of highly qualified candidates.

Having said that, what is the appropriate role of Council in this recruitment process?

At the other end of the spectrum, Council could choose to be "hands-off", to wait for the final recommendation of the City Manager, and to approve that recommendation.

But what we're aiming to do here in governance is to balance the principle of empowerment – delegating sufficient authority for tactical decisions to capable people that may then be expected to be held accountable – with the principle of consistency and diligence – Council being confident ("gaining reasonable assurance") that the process followed by those people was fair, equitable and reached a reasonable outcome.

By engaging in the recruitment process to the minimum extent necessary to satisfy this governance principle of consistency, diligence and fairness, but no more than that, Council balances its governance accountabilities with its operational empowerment.

Affordable, superior, accessible, customizable Governance Solutions!

www.governancesolutions.ca

Governance Solutions Since 1991! (formerly known as Brown Governance)

One path forward would be for Council to monitor the earlier stages of recruitment, not preparing (doing), reviewing or approving, but overseeing the decisions made by the City Manager in the profile, posting, screening and interviews, and then perhaps meeting or interviewing the top candidate as an opportunity to gain reasonable assurance that this choice – which is being made by the City Manager – is reasonable and fair.

It's not unusual for governing bodies to meet the top candidate for key positions before the approval of their appointment. One reason is diligence – reaching a confidence level that we just talked about. Another is succession – Council is legitimately interested in the qualifications and character of people who may be in line to succeed their one employee, the City Manager, one day. Another reason is that key positions fulfill governance functions that independently give Council assurance that governance is effective: that financial and ethical integrity is in place, not solely relying on the City Manager. This is a sensitive but important area of governance, making sure that other senior positions are clear that, while they report to and are accountable to the City Manager for operations, when it comes to governance (e.g. financial and ethical integrity), they are obliged to communicate with Council without interference from or fear of the City Manager.

This briefing gives Council a sense of the range of alternatives and governance implications involved in their role in recruitment of this senior position, and hopefully will clarify these sufficiently to make a clear choice and path forward.

Affordable, superior, accessible, customizable Governance Solutions!

www.governancesolutions.ca

Governance Solutions Since 1991! (formerly known as Brown Governance) 1

ABOUT GOVERNANCE SOLUTIONS



Governance Solutions Inc. (GSI) (formerly known as Brown Governance Inc) has been trusted for over 25 years by organizations to provide superior governance solutions. Solutions like: The Professional Director Certification Program™, BoardConnex™ the latest in smart board portals, The Board and CEO Evaluation Solutions, strategic planning and The Scorecard Solution, Director Profile, governance best practices research, and consulting. And, our Boardroom 25 is a unique collection of our top 25 governance solutions designed to match your governance needs.

Our expertise spans the globe and sectors. You can count on Governance Solutions to provide independent, affordable, superior, accessible, customizable, professional, governance solutions. You can build, organize, educate, leverage, evaluate and optimize your governance with our integrated portfolio of governance products and services. GSI delivers tools, online resources, benchmarking, knowledge, and advice based on a unique blend of experience, research, and user-friendly technology.

Governance Solutions helps organizations strengthen their governance practices. We understand your challenges and are trusted by leading organizations around the globe because our entire leadership team has deep experience. Each has walked in your shoes as CEOs and Board members and has many years of substantive dialogue with governance leaders. Your board members and senior executives responsible for governance will be empowered by our principle-based approach.

Contact us at: 1-888-698-3971 or info@governancesolutions.ca

Affordable, superior, accessible, customizable Governance Solutions!

www.governancesolutions.ca

Governance Solutions Since 1991! (formerly known as Brown Governance)