



## THE REGIONAL MUNICIPALITY OF NIAGARA SPECIAL COUNCIL AGENDA

CL 1-2020

Thursday, January 23, 2020

4:00 p.m.

Council Chamber

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

---

Pages

1. CALL TO ORDER

2. ADOPTION OF AGENDA

2.1 Changes in Order of Items

3. DISCLOSURES OF PECUNIARY INTEREST

4. CLOSED SESSION

4.1 Confidential Verbal Update

Confidential Verbal Update - A Matter of Advice that is Subject to Solicitor-Client Privilege & A Matter of Litigation or Potential Litigation under s. 239(2) of the Municipal Act, 2001 - Legal Advice respecting litigation concerning Former Senior Administration Officials Employment Contracts

4.2 Confidential Presentation - Burgoyne Bridge Litigation

A Matter Respecting Litigation or Potential Litigation and A Matter of Advice that is Subject to Solicitor-Client Privilege under s. 239(2) of the Municipal Act, 2001 – Burgoyne Bridge Litigation Update

4.3 Confidential Memorandum CL-C 2-2020

A Matter of Litigation or Potential Litigation under s. 239(2) of the Municipal Act, 2001 - Litigation concerning Former Senior Administration Officials Employment Contracts - Councillor Information Request – December 5, 2019

**5. BUSINESS ARISING FROM CLOSED SESSION**

**6. ITEMS FOR CONSIDERATION**

6.1 HR 1-2020 3 - 22  
Chief Administrative Officer (CAO) Recruitment, Selection, Offer of  
Employment and Performance Management Policy and Procedures

6.2 CLK 1-2020 23 - 29  
Chief Administrative Officer Roles and Responsibilities Draft By-law

**7. BY-LAWS**

7.1 Bill 2020-01 30  
A by-law to adopt, ratify and confirm the actions of Regional Council at its  
special meeting held on January 23, 2020.

**8. ADJOURNMENT**

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or [accessibility@niagararegion.ca](mailto:accessibility@niagararegion.ca) (email).

---

**Subject:** Chief Administrative Officer (CAO) Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures

**Report to:** Regional Council

**Report date:** Thursday, January 23, 2020

---

## Recommendations

1. That the Chief Administrative Officer Recruitment, Selection, Offer of Employment and Performance Management Policy, attached to Report HR 01-2020 as Appendix 1, **BE APPROVED**;
2. That the corresponding Procedure Chief Administrative Officer Recruitment, Selection, and Offer of Employment, attached to Report HR 01-2020 as Appendix 2, **BE APPROVED**;
3. That the Chief Administrative Performance Management Procedure, attached to Report HR 01-2020 as Appendix 3, **BE APPROVED**.

## Key Facts

- The purpose of this report is to obtain Council's approval of the CAO Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures.
- The Chief Administrative Officer Recruitment, Selection, and Offer of Employment Procedure includes a Terms of Reference for a CAO Recruitment Committee made up of the Regional Chair, specific members of Council, and applicable staff as noted therein.
- Council approval of the attached Policy and Procedures will satisfy the previous direction given to staff in Report CAO 17-2019 to take the necessary steps to implement the corresponding recommendations provided in the Ontario Ombudsman Report "Inside Job" dated November 2019 related to the CAO Recruitment process.
- The Policy and Procedures are newly created with research conducted of best practices and surveys of other municipal partners; if approved these would come into effect immediately upon Council approval.
- The approval of the Policy and associated Procedures will provide Council the mechanisms to move forward with the recruitment of a permanent CAO should they wish to do so and it will ensure any CAO Recruitment is undertaken in a way that will address the concerns raised as a result of the 2016 hiring process.

## Financial Considerations

The recommendations, as a result of the Ombudsman Report, are primarily policy and procedure focused and do not have any direct financial implications, save and except staff time to undertake the work, members of Council time to sit on the noted Committee, and the future costs associated with the services of an external Executive Search Firm to undertake the CAO recruitment and selection process in the future.

Should Council wish to proceed with the recruitment of a permanent CAO, any costs related to CAO recruitment activities in 2020 will be funded through the existing, and Council approved, 2020 budget.

## Analysis

On November 29, 2019, the Ontario Ombudsman released his report titled “Inside Job” respecting the investigation he conducted regarding the process Niagara Region undertook in the 2016 hiring of its Chief Administrative Officer (CAO); the administration of the CAO’s contract, including any extension and amendment; and Niagara Region’s response to concerns about the CAO’s hiring, including the municipal ombudsman’s investigation and the external governance auditor.

The Ombudsman put forward 15 recommendations within the report to address the issues that were identified as part of his investigation (and a 16th recommendation requiring Niagara Region to report back at six-month intervals on progress in implementation of the recommendations). This Report and the corresponding Appendices serve to directly address the following numbered recommendations from the Ontario Ombudsman Report:

3. *The Regional Municipality of Niagara should require all officials and staff with access to confidential hiring process information to sign a specific confidentiality agreement at the outset of the process.*
4. *The Regional Municipality of Niagara should ensure that the terms of reference it establishes for a recruitment committee provide for a complete list of the staff and officials permitted to access confidential information.*
6. *The Regional Municipality of Niagara should adopt a policy clarifying that employees should not engage in any behaviour that provides an unfair advantage to a candidate during a hiring process, including assisting candidates by providing inside information such as interview questions and suggested answers.*
9. *The Regional Municipality of Niagara should adopt a policy setting out the process for hiring a Chief Administrative Officer, including the appropriate roles of staff and their accountability to council or a committee of council charged with the hiring.*
12. *Before making changes to a contract affecting its legal interests, the Regional Municipality of Niagara should require staff to consult legal and human resources staff to ensure the terms are lawful and consistent with the municipality’s interests.*

*13. The Regional Municipality of Niagara should adopt a policy governing the process for CAO performance appraisals.*

The attached CAO Recruitment, Selection, Offer of Employment and Performance Management Policy and corresponding Procedures are entirely new; they were drafted in response to the recommendations contained within the Ombudsman Report. In accordance with the recommendations of this report, staff have reviewed what is currently in place, researched best practices, considered tools and resources suggested in the Ombudsman Report, including reached out to a number of upper and lower tier municipalities to ensure that any Policy and Procedures that are put in place, subject to Council approval, would satisfy the recommendations of the Ombudsman.

Regarding the Terms of Reference for the CAO Recruitment Committee, staff are recommending that this Committee be comprised of the 3 Chairs, and in the case of the Public Health and Social Services Committee 1 of the Co-Chairs, of each of the 4 Standing Committees (it also does include the process to select replacement members), plus the Regional Chair who will also assume the Chair of the CAO Recruitment Committee. The recommendation regarding the participation of the Chair's of the Standing Committee's is based primarily on how their respective roles work closely with the role of the CAO, and that in their role as Chair of their respective Committee are required to work within a mandate and make recommendations to be considered by Council.

Niagara Region currently has some other policies in place that are relevant to the aforementioned recommendations such as: Code of Ethics/Conflict of Interest, Accountability and Transparency, Delegation of Powers and Duties, Execution of Documents By-law, and Employment and Staffing. Staff will ensure, in light of the Ombudsman's recommendations, that those policies are strengthened and consistent with the attached Policy and Procedures and will be respectively brought back to Council at a future date.

The recruitment of a permanent CAO has been held in abeyance pending the completion of the Provincial governance review and the Ombudsman's Report into the 2016 CAO hiring process. Given that both of those matters have now been concluded, staff have created the Policy and Procedures as directed by Council in Report CAO 17-2019. The approval of these items will ensure that the corresponding Policy and Procedures, and the amended By-law that has been prepared under separate report, are in place prior to a CAO recruitment process being initiated. As a result, should Council approve this report, staff recommends proceeding with the recruitment of a permanent CAO in accordance with this Policy. Should Council provide such direction, a report outlining next steps in the CAO recruitment process will be brought to the next Corporate Services Committee meeting on February 12, 2020.

## **Alternatives Reviewed**

Municipalities, both local and beyond, were contacted for information on their CAO recruitment practices, including requests for copies of any policies related to same. Although the existence of a policy specific to the recruitment of a CAO are not generally in place, there is a fairly consistent approach that Human Resources facilitate the engagement of an external executive search firm to guide any candidate search, and to form a committee of Council tasked to be a recruitment committee.

Consideration was given to have internal staff and resources from Human Resources conduct the CAO Recruitment process; this alternative is not recommended for a number of reasons; namely Human Resources currently reports to the CAO and the optics of hiring their own manager are not favourable to the corporation. The inclusion of an Executive Search Firm (ESF) as part of the Policy brings the objectivity, specialized skills, and ability to perform a broader search for optimal candidates and still allows the Region to set the scope of work any ESF would undertake in the CAO recruitment process.

## **Relationship to Council Strategic Priorities**

This report is based on the recommendations of the Ontario Ombudsman and Council's prior confirmation of same; however, the implementation of this Policy and corresponding Procedures aligns with Council's Strategic Priority of Sustainable and Engaging Government.

## **Other Pertinent Reports**

- CAO 17-2019 – Recommendations from the Ontario Ombudsman Report "Inside Job" November 2019

---

### **Prepared and Recommended by:**

Franco Meffe  
Director, Human Resources

---

### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Ann-Marie Norio, Regional Clerk, and Jodie Middleton, Manager Organizational Development and Talent Acquisition.*

## **Appendices**

Appendix 1 – DRAFT Chief Administrative Officer Recruitment, Selection, Offer of Employment and Performance Management Policy

Appendix 2 – DRAFT Chief Administrative Officer Recruitment, Selection, and Offer of Employment Procedure

Appendix 3 – DRAFT Chief Administrative Officer Performance Management Procedure

|                        |  |
|------------------------|--|
| <i>Policy Category</i> | <i>Name of Policy</i>  |
| Human Resources        | Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management |

Page 1 of 4

|                       |   |
|-----------------------|---|
| <b>Policy Owner</b>   | Corporate Administration, Human Resources, Director Human Resources |
| <b>Approval Body</b>  | Regional Council  |
| <b>Approval Date</b>  |   |
| <b>Effective Date</b> |   |
| <b>Review by Date</b> |   |

## 1. Policy

Regional Council is committed to engaging in good governance through approved policy and procedures for both the recruitment (attraction, selection and offer of employment) and performance management (performance appraisal, objective setting and development plan) for the position of Chief Administrative Officer (CAO).

## 2. Purpose

The CAO is the senior appointed official of the Regional Municipality and provides leadership in all operational areas, policy, government affairs, business/service delivery, and implementation of Council's strategic priorities. Ensuring the CAO is qualified for the role; that the terms and conditions of their employment are appropriate; that their annual performance is properly aligned to key priorities; and that the incumbent is functioning at an appropriate level, is a key accountability of Council.

## 3. Scope

This policy applies to the role of the CAO, Council, Recruitment Committee, and key designated external vendors and staff roles accountable for execution of the policy.

There are to be no acts of favouritism or discrimination in the CAO recruitment process. Members of Council, staff, external vendors, and anyone else approved to be part of the recruitment process shall not attempt to influence the hiring of any applicant in a manner that is inconsistent with this policy. This includes that no one shall engage in any behaviour that provides an unfair advantage to a candidate during the CAO recruitment process to assist any candidates by providing inside information, such as but not necessarily limited to, interview questions and suggested answers, presentation materials, information about other candidates, or any information gathered in meetings, conversations, email or any other form of communication or discussion.



|                        |  |
|------------------------|--|
| <i>Policy Category</i> | <i>Name of Policy</i>  |
| Human Resources        | Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management |

Page 2 of 4

All Niagara Region staff and members of Regional Council involved in the recruitment process are required to hold in strict confidence all confidential information concerning matters dealt with by the Recruitment Committee.

The following Niagara Region staff, or their respective designate, will be involved by the Recruitment Committee in the recruitment process and permitted to access related confidential information:

- Director, Human Resources
- Regional Clerk
- Director, Legal and Court Services
- Any other staff as approved by the Recruitment Committee

Any breach of the above requirements by a Niagara Region employee may result in disciplinary action up to and including dismissal.

### 3.1. Roles and Responsibilities

#### 3.1.1. CAO New Hire Recruitment, Selection and Offer of Employment

- Regional Chair: Serves as Chair of the evaluation and selection committee; ensures the requirements of XXX Policy is fulfilled. Includes establishing committee membership, working with any external executive search firm, enforcement of roles and responsibilities, along with integrity and confidentiality requirements. Oversees hiring process through Recruitment Committee and Executive Search Firm (ESF) selection, to candidate offer of employment.
- Recruitment Committee Member: Engages in all procedural elements as outlined in respective XXX Procedure. Includes mandatory attendance at all meetings and interviews, engaging in the development of selection criteria and position profile development as required. Requires alignment to all integrity and confidentiality requirements.
- Director, Human Resources: Facilitates the recruitment process on behalf of the Regional Chair and Recruitment Committee. Serves as primary contact point for any ESF; provides guidance and advice to the Chair and Recruitment Committee members ensuring best practices and legal interests of the corporation are upheld, leads the procurement of an ESF based on the scope of work as approved by Council, facilitates Legal consultation and candidate offer of employment and/or offer letter creation, and any amendment to the employment contract; is required to attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.
- Executive Search Firm (ESF): An external firm or specialized consultant who works with the Chair and Recruitment Committee to confirm the CAO profile, position competencies, and search, selection and offer strategy. Firm accountabilities will

| <i>Policy Category</i> | <i>Name of Policy</i>   |
|------------------------|---|
| <i>Human Resources</i> | <i>Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management</i> |

Page 3 of 4

align with the scope of work approved by Council which include but not necessarily limited to attraction, screening of prospective candidates, development of short list of candidates to be interviewed by the Committee, including they may support the interview, reference and offer of employment process as required.

- **Acting/Interim CAO:** A member of the Region's Corporate Leadership Team or an external person appointed by Council to fulfil the duties of the CAO on an acting or temporary basis. The appointment of the Acting CAO does not preclude their candidacy in the selection process for a permanent CAO. If they are not a candidate for the permanent role, they may participate as a member of the Recruitment Committee if approved by the Chair and Recruitment Committee. However, if they are a candidate for the position as permanent CAO, they are not permitted to participate or influence the recruitment process and must excuse themselves from all business associated with same.
- **Regional Clerk:** Ensures required governance related supports and advice to ensure effective completion of the process; provides agenda and meeting management functions; is required to attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.
- **Regional Council:** Responsible for the hiring of the CAO and all associated approvals noted within this Policy and its Procedures.

### 3.1.2. Performance Management

- **Regional Chair:** Ensures the mandate of the XXX Procedure is fulfilled annually. Includes development and execution of annual performance management schedule, providing feedback to CAO; enforcement of roles and responsibilities, annual rating selection, report creation to Council, annual objective and development plan setting with the CAO as well as integrity and confidentiality requirements.
- **Chief Administrative Officer:** Completing annual assessment; engaging in all aspects of the process as laid out in this XXX policy and the procedure document. Engaging in the performance appraisal process, and development of annual objectives and development plan.
- **Director, Human Resources:** Initiates and facilitates the performance appraisal process and creation of annual objective and development plan on behalf of the Regional Chair in accordance with the Region's Non-Union Performance Management Program. Sources and serves as primary point of contact for additional resources or supports such as Legal or Consultants. Provides guidance and advice to the Chair as required, is required to attend all meetings with Council, and any other meetings upon request of the Chair.
- **Regional Clerk:** Ensures required governance related supports and advice to ensure effective completion of the process; provides agenda and meeting management functions; is required to attend all meetings with Council, and any other meetings upon request of the Chair.

|                        |   |
|------------------------|---|
| <i>Policy Category</i> | <i>Name of Policy</i>   |
| <i>Human Resources</i> | <i>Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management</i> |

Page 4 of 4

- Regional Council: Responsible for the evaluation of the performance of the CAO and all associated approvals noted within this Policy and Procedures.

#### 4. References and Related Documents.

List related legislation, directives, By-laws and associated procedures

##### 4.1. Legislation, By-Laws and/or Directives

- Municipal Act, 2001
- Employment Standards Act, 2000
- CAO By-law # XXX

##### 4.2. Procedures

- XXX – Chief Administrative Officer Recruitment, Selection, Offer of Employment
- XXX – Chief Administrative Officer Performance Management

#### 5. Related Policies

- Non-Union Compensation C-HR-001
- Employment and Staffing C-HR-010

#### 6. Document Control

The electronic version of this document is recognized as the only valid version.

#### Approval History

| Approver(s) | Approved Date | Effective Date |
|-------------|---------------|----------------|
|             |               |                |

#### Revision History

| Revision No. | Date | Summary of Change(s) | Changed by |
|--------------|------|----------------------|------------|
|              |      |                      |            |

|                           |   |
|---------------------------|---|
| <i>Procedure Category</i> | <i>Name of Procedure</i>  |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i> |

Page 1 of 7

|                        |  |
|------------------------|--|
| <b>Procedure Owner</b> | Corporate Administration, Human Resources, Director Human Resources  |
| <b>Parent Policy</b>   | XXX – Chief Administrative Officer Recruitment, Selection, Offer of Employment, and Performance Management |
| <b>Approval Body</b>   | Regional Council   |
| <b>Approval Date</b>   |  |
| <b>Effective Date</b>  |  |
| <b>Review by Date</b>  |  |

The following procedure outlines the Chief Administrative Officer (CAO) Recruitment, Selection, and Offer of Employment:

1. The Regional Chair notifies the Director, Human Resources (HR) to initiate the recruitment process to fill the permanent CAO vacancy as per the XXX Policy and XXX Procedure.
2. Director HR will provide a recommendation to Council on a Request for Proposal (RFP) including scope of work, methodology, and estimated timeframes in alignment with XXX Policy for the procurement to contract an external Executive Search Firm (ESF) to lead the CAO Recruitment process.
3. The Regional Chair will assemble a Recruitment Committee comprised of the 3 Chairs, and in the case of the Public Health and Social Services Committee (PHSSC) 1 of the Co-Chairs, of each of the 4 Standing Committees, plus the Regional Chair, to a maximum of five (5) members. Should any of the above 3 Chairs, and in the case of the Public Health and Social Services Committee 1 of the Co-Chairs, of each of the 4 Standing Committees decline participation, their respective Vice-Chair or Co-Chair (in the case of the PHSSC), would assume a position on the Recruitment Committee; should any Vice-Chair or Co-Chair decline participation their replacement requires approval of Council for another member of Council to participate on the Recruitment Committee. The Recruitment Committee will be orientated to By-laws, Policies, and Procedures relevant to the recruitment of a CAO. They will be educated on the roles, responsibilities and accountabilities of their role including confidentiality

|                           |   |
|---------------------------|---|
| <i>Procedure Category</i> | <i>Name of Procedure</i>  |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i> |

Page 2 of 7

and ethics based expectations, along with executing a confidentiality agreement at the outset of the recruitment and selection process.

The Terms of Reference for the CAO Recruitment Committee are attached as Appendix A.

4. Based on the results of an RFP, with the support of the Director HR, the Recruitment Committee will select a preferred ESF. Selection of an ESF will include the scope of work to be undertaken; including will be consistent with Niagara Region's Procurement By-law.
5. The Recruitment Committee, with the support of the Director HR and ESF, will engage in a thorough and comprehensive analysis of the position requirements of Senior Leader Competencies, skills, experience, knowledge and qualifications of the role. Due to the importance of this position, consultation with the Corporate Leadership Team, other relative staff, and community stakeholders may be initiated and incorporated into the recruitment and selection process.
6. The recruitment methodology inclusive of any testing and/or evaluations will be determined by the Recruitment Committee through consultation with the ESF and Director HR, and will be aligned to Regional Policy. The position will be advertised both internally and externally.
7. In consultation with the Recruitment Committee and Director HR, the ESF will undertake CAO recruitment activities within the approved scope of work, which may include but not be limited to: posting the vacant position through appropriate channels, targeted recruitment, review of all applicant resumes and follow up to clarify applicant experience for short listing purposes, screen prospective candidates and develop a formal short list of candidates to be recommended to the Recruitment Committee, leadership assessment, reference checking, and preparation of a written summary of a specific number of candidates as agreed to with the Recruitment Committee for consideration for short listing.
8. The Recruitment Committee and the ESF will interview and assess selected candidates with the intent to identify a preferred candidate.
9. Based on the results of interview(s), any testing, evaluation, or assessment, reference checking, etc... the Recruitment Committee will make a recommendation on a preferred candidate in a Report to Council for their approval.
10. Prior to a Report being prepared, the Director, HR will be responsible for the preparation of a conditional offer of employment to the preferred candidate, including the responsibility to engage either internal and/or external Legal Counsel when preparing the conditional offer of employment, and negotiation with the preferred candidate, if any. The Offer of Employment

| <i>Procedure Category</i> | <i>Name of Procedure</i>  |
|---------------------------|---|
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i> |

Page 3 of 7

documentation will align to corporate practice and meet all legal requirements, including the parties will ensure compensation is aligned to the Non-Union Compensation Policy and Salary Administration Procedures.

11. The Report to Council as noted above will include a detailed summary of the recruitment and selection process undertaken by the Recruitment Committee. It will also include the final candidate recommendation, including the associated terms of the conditional offer of employment for the approval of Council.

## Definitions

**Regional Chair:** Serves as Chair of the evaluation and selection committee; ensures the requirements of XXX Policy is fulfilled. Includes establishing committee membership, working with Director HR and the ESF, enforcement of roles and responsibilities, along with integrity and confidentiality requirements. Oversees hiring process through Recruitment Committee and ESF selection, to candidate offer of employment.

**Recruitment Committee Member:** Engages in all procedural elements as outlined in respective XXX Procedure. Includes attendance at meetings and interviews, engaging in the development of selection criteria and position profile development as required. Requires alignment to all integrity and confidentiality requirements.

**Director, Human Resources:** Facilitates the recruitment process on behalf of the Regional Chair and Recruitment Committee. Serves as primary contact point for any ESF; provides guidance and advice to the Chair and Recruitment Committee members ensuring best practices and legal interests of the corporation are upheld, leads the procurement of an ESF based on the scope of work, facilitates Legal consultation and the candidate offer of employment and/or offer letter creation, and any amendment to the employment contract; is required to attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.

**Executive Search Firm (ESF):** An external firm or specialized consultant who works with the Chair and Recruitment Committee to confirm the CAO profile, position competencies, and search, selection and offer strategy. ESF accountabilities will align with the defined scope of work which may include but not necessarily limited to attraction, screening of prospective candidates, and development of short list of candidates to be interviewed by the Committee, including they may support the interview, reference checking, and offer of employment process as required.

**Regional Clerk:** Ensures required governance related supports and advice to ensure effective completion of the process and provides agenda and meeting management functions; is required to

|                           |   |
|---------------------------|---|
| <i>Procedure Category</i> | <i>Name of Procedure</i>  |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i> |

Page 4 of 7

attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.

Competencies: In addition to high character traits, are the attitudes and behaviours required at a high level of performance for an individual to be successful in a role.

## 1. Appendices

- Appendix A – Terms of Reference – CAO Recruitment Committee

## 2. Document Control

The electronic version of this document is recognized as the only valid version.

### Approval History

| . Approver(s) | . Approved Date | . Effective Date |
|---------------|-----------------|------------------|
| .             | .               | .                |

### Revision History

| . Revision No. | . Date | . Summary of Change(s) | . Changed by |
|----------------|--------|------------------------|--------------|
| .              | .      | .                      | .            |



|                           |   |
|---------------------------|---|
| <i>Procedure Category</i> | <i>Name of Procedure</i>  |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i> |

Page 5 of 7

## Appendix A

### Chief Administrative Officer Recruitment Committee

#### Terms of Reference

#### Mandate / Scope

The mandate of the Chief Administrative Officer (CAO) Recruitment Committee is to facilitate the recruitment process for the CAO and recommend to Regional Council a preferred candidate for the role of CAO.

#### Goals/Purpose

##### 1. Engagement of an External Executive Search Firm (ESF)

- a. CAO Recruitment Committee to approve scope of ESF work and select ESF, as per the Niagara Region Procurement By-law.
- b. ESF to develop recruitment and selection plan based on approved scope of work, all in order to drive results forward in Niagara.
- c. ESF to undertake such candidate search, with active engagement of the CAO Recruitment Committee

##### 2. CAO Selection Process

- a. CAO Recruitment Committee members actively participate in a transparent, competitive, and comprehensive recruitment process, while holding in strict confidence all confidential information concerning matters dealt with by the Committee.
- b. Upon completion of the recruitment process, CAO Recruitment Committee will recommend to Regional Council for approval a preferred candidate along with terms for a conditional offer of employment. Prior to this occurring, the Director, HR will be responsible for the preparation of a conditional offer of employment to the preferred candidate, including the responsibility to engage either internal and/or external Legal Counsel when preparing the conditional offer of employment, and negotiation with the preferred candidate, if any.
- c. Upon Council's approval of the Recruitment Committee's recommendations, Council delegates to the Recruitment Committee and Director HR authority to extend the approved terms of employment to the preferred candidate.

#### Membership

The membership structure of the CAO Recruitment Committee will be comprised of the 3 Chairs, and in the case of the Public Health and Social Services Committee (PHSSC) 1 of the Co-Chairs,



|                           |   |
|---------------------------|---|
| <i>Procedure Category</i> | <i>Name of Procedure</i>  |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i> |

Page 6 of 7

of each of the 4 Standing Committees, plus the Regional Chair, to a maximum of five (5) members. Should any of the above 3 Chairs, and in the case of the Public Health and Social Services Committee 1 of the Co-Chairs, of each of the 4 Standing Committees decline participation, their respective Vice-Chair or Co-Chair (in the case of the PHSSC), would assume a position on the Recruitment Committee; should any Vice-Chair or Co-Chair decline participation their replacement requires approval of Council for another member of Council to participate on the Recruitment Committee.

### **Privacy Considerations**

The CAO Recruitment Committee will comply with all open meeting provisions. Information provided to the CAO Recruitment Committee, specifically pertaining to applicants for the position of the CAO, will be protected under the *Municipal Freedom of Information and Protection of Personal Privacy Act* (MFIPPA).

The CAO Recruitment Committee shall hold in strict confidence all confidential information concerning matters dealt with by the Committee, members of the Recruitment Committee, and any approved staff who support the recruitment process, will be required to execute a confidentiality agreement at the outset of the recruitment and selection process.

### **Attendance**

A recruitment best practice is that all candidates are interviewed by a consistent interview panel, in support of a fair, transparent, and comprehensive recruitment process. It is mandatory on members of the CAO Recruitment Committee to actively participate in all stages of the CAO recruitment process, with specific attention paid to attending all CAO candidate interviews, at any/all steps of the process.

As is the practice with Regional Standing Committees, a member of the Recruitment Committee who has had unauthorized absences for three (3) consecutive meetings shall be deemed to have resigned from the committee. A notification will be provided to Regional Council advising a re-appointment is necessary. Nothing precludes Regional Council from re-appointing the Councillor in question.

### **Staff Support to Committee**

The Director, HR, Director, Legal and Court Services, and the Regional Clerk, or their respective

| <i>Procedure Category</i> | <i>Name of Procedure</i>  |
|---------------------------|---|
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i> |

Page 7 of 7

designates, will function in an advisory capacity to the CAO Recruitment Committee, and the selected ESF. Involvement of any staff not noted herein will require Recruitment Committee approval prior to being engaged to provide any support to the Committee or be in attendance at meetings. In any event, any staff engaged to support the Recruitment Committee shall hold in strict confidence all confidential information concerning matters dealt with by the Committee, including all such staff will be required to execute a confidentiality agreement prior to engaging in support of the Committee. The Director HR, and the Regional Clerk, or their respective designates, are required to attend all Recruitment Committee and Council meetings.

### **Financial Resources**

The CAO Recruitment Committee will consult with the Director, HR, to secure the required financial resources to fulfill the direction of the committee to facilitate the CAO recruitment.

### **Frequency of Reporting**

Regular update(s) to Regional Council will be provided, through the Regional Chair, as significant progression of the CAO Recruitment Committee is realized.

### **Termination of CAO Recruitment Committee**

The CAO Recruitment Committee shall cease at the conclusion of a successful recruitment of a new CAO.

### **Meetings**

Meetings shall be governed by Niagara Region's Procedural By-law as may be amended from time to time.

### **Amendments to the Terms of Reference**

Proposals to amend the Terms of Reference shall require approval of the majority of the Recruitment Committee members present. Proposed amendments to the Terms of Reference shall be submitted to Regional Council for approval and only take effect upon the approval of Regional Council.

|                           |  |
|---------------------------|--|
| <i>Procedure Category</i> | <i>Name of Procedure</i>                                     |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Performance Management</i> |

Page 1 of 4

|                        |  |
|------------------------|--|
| <b>Procedure Owner</b> | Corporate Administration, Human Resources, Director Human Resources  |
| <b>Parent Policy</b>   | XXX - Chief Administrative Officer Recruitment, Selection, Offer of Employment, and Performance Management |
| <b>Approval Body</b>   | Regional Council   |
| <b>Approval Date</b>   |  |
| <b>Effective Date</b>  |  |
| <b>Review by Date</b>  |  |

The following procedure outlines the annual Chief Administrative Officer (CAO) Performance Management process:

1. On an annual basis, the Director Human Resources (HR) initiates the Performance Appraisal process in consultation with Regional Chair (Chair)
  - Director HR initiates with Chair within the same timelines as the Non-Union Performance Management Program cycle.
  - Director HR and Chair prepare Performance Appraisal documents for approval by Chair, and then completion by CAO.
  - Director HR and Chair prepare CAO Performance Evaluation Survey to be distributed to all members of Council for completion.
  - Director HR and Chair assume accountability for process to begin CAO consultation and preparation for the annual performance appraisal process.
2. CAO is issued Performance Appraisal documents
  - CAO provided Performance Appraisal documents to complete first part of assessment process; completion of their self-assessment based on senior leader competencies, their annual objectives and development plan.
  - CAO submits completed Performance Appraisal documents to Regional Chair by required submission date.
3. Regional Council invited to participate in CAO Performance Appraisal
  - Chair distributes CAO Performance Evaluation Survey to all members of Council.

|                           |  |
|---------------------------|--|
| <i>Procedure Category</i> | <i>Name of Procedure</i>                                     |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Performance Management</i> |

Page 2 of 4

- Members of Council complete CAO Performance Evaluation Survey and return to Chair by required submission date.
4. Chair reviews all documentation to determine final rating, and creates Performance Appraisal report to Council.
    - Reviews Council feedback provided in CAO Performance Evaluation Survey that contain aggregated results and comments summary.
    - Reviews CAO submission of Performance Appraisal documents.
    - In consideration of the above, completes the Leader section of the CAO Performance Appraisal form
    - Provides feedback to CAO taking into account Council CAO Performance Evaluation survey, the CAO self-appraisal, and any additional Chair feedback.
    - Determines final performance rating.
  5. CAO Performance Appraisal Report for submission to Council prepared by the Chair.
    - Report based on Council CAO Performance Evaluation survey, the CAO self-appraisal, and any additional Chair feedback.
    - Report structured to answer questions, such as:
      1. How well did the CAO's performance align with Council's Strategic Priorities.
      2. How well did CAO's performance align with annual objectives.
      3. What themes or key discussion points emerged?
      4. Is there a recommendation for performance development planning for next cycle?
      5. What is the final performance rating?
  6. Regional Chair meets with the CAO to review CAO Performance Appraisal Report
    - Chair and CAO engage in feedback discussion, discuss any revisions of the Report for consideration by the Chair.
    - Once discussion(s) are complete, sign off by the CAO and Chair will then occur.
  7. Chair report out to Council for Performance Appraisal approval.
    - Chair presents Report to Council, which will include Performance Rating.
  8. Council approval of CAO Performance Rating and CAO compensation
    - Council approves Chair Report on CAO Performance, and the Rating
    - Any improvement to CAO compensation aligns with Non-Union Compensation Policy and Salary Administration Procedure, unless approved otherwise by Regional Council.
    - Amendment of CAO employment contract, if any, is subject to Council approval.

|                           |  |
|---------------------------|--|
| <i>Procedure Category</i> | <i>Name of Procedure</i>                                     |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Performance Management</i> |

Page 3 of 4

9. CAO with Chair completes next year Performance Objectives and Development Plan draft within the same timelines and utilizing all documents of the Non-Union Performance Management Program.
  - CAO and Chair complete the Objective and any Development plan for coming year.
10. Council approves Objectives and Development Plan
  - CAO Objectives and Development Plan for the performance year are approved.

## Definitions

**Regional Chair:** Ensures the mandate of this XXX Procedure is fulfilled annually in accordance with the Non-Union Performance Management program. Includes, development and execution of annual performance management schedule, providing feedback to CAO; Objective and Development Plan setting for the performance year, as well as integrity and confidentiality requirements.

**Chief Administrative Officer:** Completing annual performance appraisal; engaging in all aspects of the performance management process as laid out in XXX Policy. Engaging in development of annual Objectives and Development Plan. Report(s) provided to Chair and Council as required.

**Director, Human Resources:** Responsible for facilitating with the Chair and CAO the Performance Management Program process and all associated tools used to support same. Sources and serves as primary point of contact for additional resources or supports such as Legal or Consultants. Provides guidance and advice to Chair, CAO, and Council as required, is required to attend all meetings with Council, and any other meetings on request of the Chair.

**Regional Clerk:** Ensures required governance related supports and advice to ensure effective completion of the process and provides agenda and meeting management functions. Attends all meetings of Council.

**Performance Appraisal:** is a key performance indicator of the effectiveness of the CAO's strategic management decisions and actions. This is executed through a standardized set of documents prepared by Human Resources as part of the Performance Management Program that allows for both the CAO and Chair to document performance. A performance assessment and rating are attached to the appraisal. This performance appraisal and rating are then aligned to the Non-Union Compensation Policy and Salary Administration Procedure to determine any increase in annual compensation, or compensation as otherwise approved by Council.

**Performance Appraisal process:** Is the standardized and approved methodology used to ensure a quality, equitable performance process is conducted. It entails a standard timeline, series of steps and evaluation methodology and tools.

**Performance Management Program:** Is the complete set of documents, tools and instructions as well as pictorial workflow for the performance appraisal process. The program consists of performance appraisal documents; objective and development planning documents for the upcoming year; CAO

|                           |  |
|---------------------------|--|
| <i>Procedure Category</i> | <i>Name of Procedure</i>                                     |
| <i>Human Resources</i>    | <i>Chief Administrative Officer – Performance Management</i> |

Page 4 of 4

competencies; instructions and workflow document as well as open appendices for any additional documentation deemed relevant by the CAO, Chair, or Council.

Competencies: Are the attitudes and behaviours required at a high level of performance for an individual to be successful in a role.

Council Performance Evaluation Survey: a qualitative and quantitative method based on a questionnaire to gather information and feedback on CAO impact and performance in the performance evaluation year.

CAO Performance Appraisal Report: A Report prepared by the Chair, which may include support of the Director HR, based on constructive feedback that summarizes findings from the assessment process as well as recommendations on a performance rating and performance objective and development planning.

## 1. Appendices

None

## 2. Document Control

The electronic version of this document is recognized as the only valid version.

### Approval History

| Approver(s) | Approved Date | Effective Date |
|-------------|---------------|----------------|
|             |               |                |

### Revision History

| Revision No. | Date | Summary of Change(s) | Changed by |
|--------------|------|----------------------|------------|
|              |      |                      |            |

---

**Subject:** Chief Administrative Officer Draft Roles and Responsibilities By-law

**Report to:** Regional Council

**Report date:** Thursday, January 23, 2020

---

## Recommendations

1. That the draft by-law respecting the Chief Administrative Officer Roles and Responsibilities attached as Appendix 1 to Report CLK 1-2020, **BE APPROVED**;
2. That the final by-law **BE PREPARED** and **PRESENTED** to Council for consideration.

## Key Facts

- The purpose of this report is to seek Council's approval of a draft by-law outlining the roles and responsibilities of the Chief Administrative Officer (CAO).
- At its special meeting held on December 5, 2019, Regional Council considered Report CAO 17-2019 that directed staff to prepare a by-law setting the parameters of the relationship between Council and the CAO.
- Recommendation 11 of the Ontario Ombudsman Report "Inside Job", recommended a by-law that would clearly set out the relationship between the CAO and Council including the role of Council with respect to amending the CAO's contract and salary.

## Financial Considerations

There are no financial considerations associated with this report.

## Analysis

In November 2019, the Ontario Ombudsman released the report "Inside Job" which were the results of his investigation into the 2016 CAO hiring process. The report provided 16 recommendations, one of which was to pass a by-law that would set out the parameters of the relationship between Council and the CAO including the role of Council with respect to amending the CAO's contract and salary.

Staff undertook research of other Regions, including Peel, Durham, York, Halton and Waterloo as well as other municipalities to gain an understanding of the provisions included in their CAO by-laws. In addition, staff reviewed the reference material that was included in the Ontario Ombudsman Report to ensure an understanding of best practices. In some cases, the municipality only had an appointment by-law in place



without any specific provisions related to the CAO's role or their relationship with Council. Other municipalities had extensive by-laws that were written in a manner that laid out the specific duties of a CAO in a similar fashion to a job description.

The draft by-law ensures a clear relationship between Regional Council and the CAO through provisions that provide that the CAO is directly responsible to Regional Council for ensuring administration of all programs and policies initiated and adopted by Council.

The draft by-law contains specific provisions that provide Regional Council authority to establish the terms and conditions of the appointment of the CAO including salary and benefits and that salary and benefit changes require Council approval. These provisions satisfy the Ombudsman's recommendation related to the role of Council with respect to the CAO's contract and salary.

Further, the draft by-law includes provisions that are used in other municipal CAO by-laws that would be considered best practices with respect to the role of the CAO and were not included in our current CAO appointment by-law or within the CAO job description. One such example is that the CAO shall attend all meetings of Council.

Staff have included specific provisions within the draft by-law respecting the performance appraisal of the CAO. This provision provides that the CAO shall meet annually with Council to review and assess the CAO's performance during the past year. Recommendation 13 of the Ombudsman's report requested that a policy be prepared governing the process for CAO performance appraisals. This provision ensures that Council is provided with the authority to review and assess CAO performance.

The draft by-law strikes a balance between setting the parameters of the relationship between Council and the CAO and not being as specific as to restrict Council or CAO authority or to provide overlapping responsibilities between the by-law and the CAO job description.

## **Alternatives Reviewed**

Staff did not review any alternatives with respect to preparing a draft by-law as the direction to prepare this by-law was provided through Council approval of Report CAO 17-2019. Council could consider other formats to provide for the roles and responsibilities of the CAO such as including them as a schedule to the appointment by-law of the CAO. This format is not recommended as it combines an appointment by-law with the roles and responsibilities of the CAO which should stand alone.



## **Relationship to Council Strategic Priorities**

This report is based on specific recommendations of the Ontario Ombudsman; however, the implementation of a by-law outlining the roles and responsibilities of the CAO aligns with Council's Strategic Priority of Sustainable and Engaging Government.

## **Other Pertinent Reports**

CAO 17-2019      Recommendations from the Ontario Ombudsman Report "Inside Job" November 2019

---

### **Prepared and Recommended by:**

Ann-Marie Norio  
Regional Clerk  
Administration

---

### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with F. Meffe, Director, Human Resources, D. Gibbs, Director, Legal and Court Services, and D. Barnhart, Executive Officer to the Regional Chair.*

## **Appendices**

Appendix 1    DRAFT – A by-law to provide for the duties and responsibilities  
of the Chief Administrative Officer

Page 4

## THE REGIONAL MUNICIPALITY OF NIAGARA

## BY-LAW NO. &lt;&gt;

A BY-LAW TO PROVIDE FOR THE ROLES AND  
RESPONSIBILITIES OF THE CHIEF ADMINISTRATIVE  
OFFICER

---

WHEREAS section 229 of the *Municipal Act, 2001*, S.O. 2001, C. 25, as amended, provides that a municipality may appoint a chief administrative officer who shall be responsible for exercising general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality and performing such other duties as are assigned by the municipality; and

WHEREAS Council wishes to establish the general roles and responsibilities of the Chief Administrative Officer;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the Chief Administrative Officer shall be directly accountable and responsible to Regional Council as a whole acting in its corporate capacity and nothing contained in Regional by-laws shall be deemed to empower the Chief Administrative Officer to perform, do or direct any act which shall in any manner encroach upon the legislative powers of Council.
2. That the Chief Administrative Officer is the head of the administrative branch of the Region and shall be responsible to Regional Council for coordinating, supervising, and ensuring the effective administration of all programs and policies initiated and adopted by Regional Council.
3. Regional Council will establish the terms and conditions of the appointment of the Chief Administrative Officer including the term of the appointment and the salary and benefits to be paid or provided to the Chief Administrative Officer, which may be varied from time to time by resolution of Regional Council.
4. General Roles and Responsibilities
  - a. The Chief Administrative Officer shall administer the business affairs of the Region and to that end lead and direct the members of the Corporate Leadership Team in carrying out the responsibilities of the Region, in accordance with the policies and plans approved and established by Regional Council;

- b. The Chief Administrative Officer shall be accountable to Regional Council as a whole for the exercise of all the powers, duties and functions delegated to the Chief Administrative Officer by this or any other by-law, resolution or policy adopted by Regional Council from time to time, whether such powers, duties and functions are exercised by the Chief Administrative Officer personally or by someone to whom the Chief Administrative Officer has delegated that power, duty or function.
- c. The Chief Administrative Officer shall recommend to Regional Council the appointment, suspension or dismissal of Commissioners;
- d. The Chief Administrative Officer (or a designate of the Chief Administrative Officer) shall attend all meetings of Regional Council and its Committees as required, with the right to speak when recognized by the Regional Chair or presiding Officer;
- e. The Chief Administrative Officer shall establish, liaise and maintain relationships with the Federal and Provincial governments, the Region's local municipalities, other government agencies, and the residents of the Region in general;
- f. The Chief Administrative Officer shall act as a spokesperson and representative of the Region to ensure the best interests of The Regional Municipality of Niagara are met;
- g. The Chief Administrative Officer shall have the right to represent and speak on behalf of the Corporation, in documents and meetings, in a manner consistent with the policies and direction of Regional Council but does not bind the Corporation to legally enforceable arrangements unless otherwise authorized to do so by specific by-law, resolution or policy of Council;
- h. The Chief Administrative Officer shall ensure that Regional Council is provided with complete, impartial and accurate information for the purposes of decision-making and by-law approvals, including all information that a reasonable person would consider relevant to the matter under consideration including suitable alternatives;
- i. The Chief Administrative Officer shall co-ordinate and direct, where appropriate, the compilation, consideration, preparation and presentation of recommendations to Regional Council for consideration and shall propose by-laws and resolutions to give effect to such recommendations as are adopted by Regional Council.

- j. The Chief Administrative Officer shall meet regularly and collectively with members of the Corporate Leadership Team for purposes of:
    - i. Advising and assisting the Chief Administrative Officer in carrying out the Chief Administrative Officer's duties and responsibilities;
    - ii. Ensuring representation from each operational and support service department concerning the effects or implications on it of corporate or departmental matters;
    - iii. Achieving efficient and effective co-operation and co-ordination of all departments of the Region;
    - iv. Ensuring that members of the Corporate Leadership Team are familiar with: the duties and responsibilities of the Chief Administrative Officer; Council direction, policies, processes and procedures; issues being addressed by Regional Council; and issues of concern to the Region.
  - k. The Chief Administrative Officer shall carry out such additional duties and exercising such additional responsibilities as may be required in the interests of the Region and as Regional Council may assign;
  - l. The Chief Administrative Officer shall have the authority to designate a member of the Corporate Leadership Team to act on the Chief Administrative Officer's behalf during any absence of the Chief Administrative Officer due to illness, vacation or otherwise;
  - m. The Chief Administrative Officer shall meet annually, and as requested, with Regional Council to review and assess his or her performance during the past year and review and discuss salary and benefits provisions as well as determining priorities to be pursued during the following year; and
  - n. The Chief Administrative Officer will hold office at the pleasure of Regional Council for the agreed upon term. Regional Council may in its sole discretion, suspend or dismiss the CAO, subject to compliance with any statutory requirements or contractual agreements approved by Regional Council.
5. The provisions of this by-law apply with the necessary modifications to a person designated under section 3 (l) of this by-law or, where the office of Chief Administrative Officer is vacant, to an appointed official designated by or under the authority of a by-law or resolution of Regional Council to act as Chief Administrative Officer.

Bill <>

Authorization Reference:

6. That this by-law shall come into force and effect on <the day upon which it is passed> OR <date>.

THE REGIONAL MUNICIPALITY OF NIAGARA

---

James Bradley, Regional Chair

---

Ann-Marie Norio, Regional Clerk

Passed: <date>

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO ADOPT, RATIFY AND CONFIRM THE ACTIONS OF  
REGIONAL COUNCIL AT ITS SPECIAL MEETING  
HELD JANUARY 23, 2020

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, Ch. 25, as amended, provides that, except if otherwise authorized, the powers of Regional Council shall be exercised by by-law; and,

WHEREAS it is deemed desirable and expedient that the actions of Regional Council as herein set forth be adopted, ratified and confirmed by by-law.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the actions of the Regional Council at its special meeting held January 23, 2020, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
2. That the above-mentioned actions shall not include:
  - a) Any actions required by law to be taken by resolution; or
  - b) Any actions for which prior Local Planning Appeal Tribunal approval is required, until such approval is obtained.
3. That the Chair and proper officials of The Regional Municipality of Niagara are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
4. That unless otherwise provided, the Chair and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of The Regional Municipality of Niagara to all documents necessary to give effect to the above-mentioned actions.
5. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

---

James Bradley, Regional Chair

---

Ann-Marie Norio, Regional Clerk

Passed: < >