

CITY OF HAMILTON

CORPORATE SERVICES DEPARTMENT/CITY MANAGERS OFFICE
City Clerk's Division / Legal Services Division

Report to: Mayor and Members of Committee of the Whole	Submitted by: Kevin C. Christenson City Clerk Peter A. Barkwell City Solicitor
Date: December 4, 2007	Prepared by: Kevin Christenson x2728 Peter A. Barkwell x 4636

**SUBJECT: Amendments to the Municipal Act, 2001 Respecting: Accountability
and Transparency Policy (CL07010 / LS07025) (City Wide)**

RECOMMENDATION:

- a) That the Accountability and Transparency Policy attached as Appendix "A" to Report CL07010, be adopted;
- b) That the Accountability and Transparency Policy be referred to the Subcommittee on Accountability and Transparency for their review and recommendations regarding any future improvements and amendments to the Policy.

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City Clerk
Corporate Services

Peter A. Barkwell
City Solicitor
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EXECUTIVE SUMMARY:

Section 270 (1) of the *Municipal Act, 2001*, referring to the adoption of policies will come into force on January 1, 2008.

Paragraph 270 (1) of the revised *Municipal Act, 2001* requires all municipalities to adopt and maintain certain policies for:

1. The sale and disposition of land;
2. The hiring of employees;
3. The procurement of goods and services;
4. The circumstances in which the municipality shall provide notice to the public, including:
 - the form
 - manner; and
 - times, that notice shall be given;
5. The manner in which the municipality will try to ensure that it is accountable to the public for its actions and that its actions are transparent and public;
6. The delegation of its powers and duties.

In accordance with the requirements of s. 270 (1), it is anticipated that Council, at its meeting to be held Dec. 13, 2007 will adopt a revised by-law, to be enacted and passed as a notice policy, as well as the adoption of a policy with respect to the delegations of powers and duties.

The City of Hamilton is already in conformance with the requirements of the amended act as they relate to “the sale and disposition of land”, “the hiring of employees” and “the procurement of goods and services”.

The attached Accountability and Transparency Policy addresses the requirements respecting item 5. “The manner in which the municipality will try to ensure that it is accountable to the public for its actions and that its actions are transparent and public”.

Other matters pertaining to Accountability and Transparency are being addressed by the Accountability and Transparency Sub-Committee which will be reporting to COW as their work progresses.

BACKGROUND:

Bill 130, which amended the *Municipal Act, 2001* as of January 1, 2007 requires “That all municipalities adopt and maintain a policy with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.” The purpose of this policy is to provide guidance in achieving these objectives.

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Specifically, issues to be considered in this regard include:

- practices and procedures (procedural by-laws, minutes, open meetings, access to agendas);
- Municipal Conflict of Interest Act;
- Bill 130 tools (i.e. Code of Conduct, Lobbyist Registry, Meetings Investigator, Auditor General, etc.) for Council and/or local boards;
- MFIPPA;
- OMBI and other performance or outcome measurements and reporting requirements;
- Public Notice and meeting requirements;
- Delegation of Authority By-law.

The attached Accountability and Transparency Policy addresses the issues noted above and fulfils the requirements of the Municipal Act on the City of Hamilton.

ANALYSIS/RATIONALE:

The Accountability and Transparency Policy attached to this Report as Appendix “A” is, in essence, restates and reaffirms existing City policies and practices. Adoption of it by Council will enable the City to comply with S. 270 of the Municipal Act, 2001.

Referral of the Accountability and Transparency Policy to the Accountability and Transparency Subcommittee will help to fulfil the City’s obligation to “maintain” the Policy and provide an opportunity for possible refinements or improvements to the Policy.

ALTERNATIVES FOR CONSIDERATION:

n/a – Provincially Legislated Requirements

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

There are no financial or staffing implications.

All municipalities are required by legislation to have an Accountability and Transparency policy in place by January, 01, 2008. Failure to comply with this legislation would constitute a breach of the Municipal Act.

POLICIES AFFECTING PROPOSAL:

N/A

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RELEVANT CONSULTATION:

Clerks and Legal staff have consulted with the Ministry of Municipal Affairs and Housing, and other Regional and Single Tier Clerks.

CITY STRATEGIC COMMITMENT:

By evaluating the “**Triple Bottom Line**”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. **Yes** **No**

Public services and programs are delivered in an equitable manner, co-ordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. **Yes** **No**

Economic Well-Being is enhanced. **Yes** **No**

Does the option you are recommending create value across all three bottom lines?

Yes **No**

Do the options you are recommending make Hamilton a City of choice for high performance public servants?

Yes **No**

ACCOUNTABILITY AND TRANSPARENCY POLICY

POLICY STATEMENT:

A policy to establish the manner in which the City of Hamilton will try to ensure that it is accountable to the public for its actions, and the manner in which the City of Hamilton will try to ensure that its actions are transparent to the public, as required by the *Municipal Act, 2001*.

APPLICATION:

This policy applies to City Council, Standing Committees, and Subcommittees of Council and City staff.

PURPOSE:

The *Municipal Act, 2001* requires that all municipalities adopt and maintain a policy with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public. The purpose of this policy is to provide guidance in achieving these objectives.

DEFINITIONS:

In this policy, the terms “accountability” and “transparency” shall have the following meanings:

Accountability – The principle that the City will be responsible to its constituents for the decisions it makes and policies it implements, as well as its actions or inactions.

Constituents – The individuals who reside in the City of Hamilton and businesses, institutions, and other entities which have premises in the City of Hamilton.

Transparency – The principle that the City’s decision making process should be open and accessible to the public. Also, that the City ought to actively encourage and foster public access to and participation in its decision making process.

DESCRIPTION:

The City of Hamilton acknowledges that it is responsible for providing good government with respect to matters within its jurisdiction in an accountable and transparent manner by:

- facilitating public access to information about the City’s services and programs, and encouraging public participation to ensure that the City’s decision making process is conducted openly and in a manner that is responsive to the needs of constituents and receptive to their opinions
- delivering high quality services to constituents and actively seeking input for enhancing service delivery and achieving best practices
- promoting the efficient and effective use of public resources in a manner that permits constituents the opportunity to evaluate the City’s performance in this regard

The City of Hamilton has enacted policies and implemented practices that contribute to creating an accountable and transparent municipal organization. Specific policies and practices are identified below. The City will continue to support accountability and transparency in its future initiatives.

1. Financial Matters

The City will be accountable and transparent to its constituents and other affected parties in its financial dealings. Practices and procedures supporting this principle include the following:

- a) *internal audits*: The City’s Internal Auditor conducts independent assessments to evaluate risk and monitors compliance with purchasing and other procedures. The Auditor reports directly to the Audit and Administration Committee in public session, except where the matters touched upon require consideration in a closed meeting.
- b) *external audits*: The City complies with the statutory requirement to appoint an auditor who conducts an annual independent audit and reports on financial statements. The auditor’s report is available to the public.
- c) *budget process*: The City has adopted a budget process that provides opportunities for public consultation and input prior to approval of the annual budget. The City provides public quarterly reporting on budget variances. The City publishes an Annual Report, including its financial statements.

- d) *procurement policy*: The City’s purchasing policy and procedures establish a mandatory process for the purchase of goods and services in order to ensure transparency and competitive procurement. Delegated authority to staff is subject to clear limits and is monitored through regular reporting to Council and internal audits.
- e) *sale of land*: The City’s sale of land policy requires that property be declared surplus to the City’s needs and be subject to a market value appraisal prior to being offered for sale

2. Members of Council

- a) *code of conduct*: Members of Council are subject to a code of conduct contained within the Procedural By-law and the City has established a Subcommittee to make recommendations regarding the content and enforcement of this Code of Conduct.
- b) *integrity commissioner*: The City of Hamilton has approved, in principle, the establishment of an Integrity Commissioner pursuant to the *Municipal Act, 2001* and has established a Subcommittee to make recommendations regarding the creation of that office.

3. Administrative Management

The City’s administrative practices work to ensure accountability on the part of its employees through the following initiatives:

- a) *code of conduct*: City staff are subject to a code of conduct governing financial responsibilities and ethical behaviour. Managers are responsible for ensuring compliance with the code of conduct.
- b) *hiring policy*: The City has adopted a hiring policy under the *Municipal Act, 2001* which provides for a fair and transparent process and includes provisions governing hiring of relatives.
- c) *delegated authority*: Where matters have been delegated to staff, such authority is given within clear limits and Council retains the right to hold its delegates responsible for their actions. This ensures that decisions affecting interested parties will not be made without accountability.

- d) *operational reviews*: The City conducts operational reviews of City Departments or Divisions to ensure that it is attaining operational efficiency and effectiveness and in pursuit of best practices in service delivery.
- e) *human resource policies*: The City has adopted a series of Human Resource Policies governing its employees, designed and intended to promote accountability of City employees in their workplace conduct. Managers are responsible for ensuring compliance with these policies.

4. **Public Participation**

The goal of the City of Hamilton is to ensure that as much as possible meetings of its Council, Standing Committees, and Subcommittees of Council are conducted in open and public session. There will, however, be occasions when it is necessary and/or prudent to conduct part or all of a meeting in closed session, and on those occasions the City will comply with the requirements of the Procedural By-law, the *Municipal Act, 2001*, and such other legislation as may be applicable.

The City facilitates public involvement in its activities by ensuring adequate notice and relevant information are provided to the public of all meetings and public information sessions. The City has adopted the Public Notice Policy under the *Municipal Act, 2001*, which demonstrates this commitment to transparency.

The City facilitates public involvement in its activities by providing in its Procedural By-law for public delegations to appear before Standing Committees of Council.

The City facilitates public involvement in its activities by providing for and hosting a variety of public meetings, open houses, public workshops and public presentations to inform constituents of initiatives being considered by the City.