



The Role and Significance of the Chief Administrative Officer Position in Canadian Municipal Government: A CAMA “White Paper” on Ontario’s Strong Mayor Legislation and the Pivotal Role of the CAO in Providing Good Governance

EXECUTIVE SUMMARY

Ontario’s Strong Mayor legislation has changed the underpinnings of the role of the Chief Administrative Officer (CAO) in designated Ontario municipalities. New provisions have taken the power to appoint or fire a CAO from Council as a whole and granted it to the Mayor acting alone.¹

CAOs are employed and carry out their duties under detailed regimes articulated by provincial statute. Depending on your province or territory, the CAO has legislated powers related to planning, directing and organizing municipal affairs, the transparency and accountability of decisions and reporting, along with other powers provided by council.

These statutory provisions create a framework within the municipal administrative structure that helps them to do their job effectively.

When those rules change, the balance of responsibilities and powers between Mayors, councillors and CAOs can be altered, with broader implications for the rest of the municipal workforce, and the public.

Good governance must both be done and be seen to be done. While the personal ethical and professional standards that individuals bring to the CAO role are critical to good governance, the rules governing their appointment and dismissal also matter to the perception of the integrity of the system. It makes a big difference if the CAO is perceived as a “serving the Council,” or “the Mayor’s appointee.”

CAMA’s objective with this paper is to shine a light on the CAO profession and summarize its importance to the effective governance of Canadian municipalities. This paper:

- reviews the evolution of the CAO role,
- examines legislation that defines the CAO role in provincial statutes, and
- considers the effect that Ontario’s Strong Mayor legislation has and may have on the CAO in affected municipalities.

The CAO has been called “the lynchpin” between mayors and councils and the municipal public service.² The function they perform is essential to the transmission of political direction to staff, and of impartial, professional advice to the elected council, a crucial role in hundreds of municipalities across Canada.

Overall, this Paper reinforces the benefits of an apolitical public service led by an effective CAO. It considers the potential negative effects of ‘Strong Mayor’ legislation and suggests measures to maintain good governance, administrative stability and sound decision-making processes, including measures to ensure:

- neutrality and objectivity of the CAO and senior municipal officials
- clear accountability for the CAO, and
- the maintenance of public ethics in municipal government.

CAMA is committed to the need to preserve these attributes of our municipal government.

INTRODUCTION

While Canadians consistently rate their municipal governments as the most trusted and responsive order of government, an age of populism and social media has re-ignited the debate about the effectiveness and accountability of municipal governments in Canada. Reports from extensive Judicial and Public Inquiries by Justices Bellamy, Charbonneau, Cunningham, Hourigan and Marrocco document failings in Canadian municipal government but also offer suggestions for reform.

To contribute to an informed discussion of legislative reform of municipal government, the Canadian Association of Municipal Administrators (CAMA) has prepared this *White Paper* on the role and significance of the position of chief administrative officer (CAO, or city manager). It aims to offer measures (and cautions) to CAOs and others, as they support the continued success of the CAO position as a vehicle for ensuring efficiency, effectiveness, accountability and public ethics in Canadian local government.

The position of CAO or city manager is not as well understood by the public in Canada as it is in the United States, where good-governance reform efforts have focused on council-manager (CAO) approaches for a century.³ Yet, as Ontario Associate Chief Justice Frank Marrocco said in his landmark report, the CAO is a “key pillar in the structure of the municipality”.⁴

As with any organization representing professionals (architects, nurses, accountants, etc.), CAMA has a duty to give collective voice to its members and further their professional best interests. CAMA has viewed this duty broadly and actually encourages debate on municipal reform. Local government is important and too-often neglected or misunderstood by policy-makers, public commentators and the general public.

As a non-political organization focused on promoting professionalism and non-partisanship among municipal administrators, CAMA welcomes any well-conceived measures to improve the effectiveness and accountability of Canada’s municipal councils, their mayors (or other heads-of-council) and their municipal administrations. To meet that test, however, CAMA does believe that any provincial or local ‘reform’ initiatives should meet an essential, preliminary criterion: well-intentioned change should not undermine senior municipal public servants’ political neutrality, professional accountability or their ability to defend ethical principles. CAOs are justly proud of their profession and the

important contribution it has made to their communities and to good municipal government in Canada.

Some popular reform proposals attempt to achieve outcomes by making structural administrative changes that may not result in any outcomes at all. Unless you work in the municipal field, some municipal reform ideas sound seductively simple. They appear to enhance democratic political accountability, focusing on the mayor, and to respond to calls for action on problems in a complex environment. Still, Canadians should recall the caution of legendary editor H.L. Mencken: "For every complex problem, there's a solution that is simple, neat, and wrong."

This *White Paper* aims to provide information that may be useful in understanding the important role of the CAO. We hope to instill an evidence-supported rigour into any reviews of municipal administrative process and decision-making, so that we can preserve the crucial balance of relationships involving councils, mayors and CAOs, upon which successful municipal governments depend.

THE ORIGIN OF THE CAO POSITION

At the beginning of the 20th century, city governments in Canada and the United States were facing challenges associated with urbanization, industrialization, and large-scale immigration. Some urban problems were simply a result of the Industrial Revolution and the rapid growth of cities. There was an apparent inability of many civic governments to deal with housing, infrastructure, public health, and fiscal sustainability. Other municipal problems were self-inflicted wounds: the prevalence of transactional "brokerage" politics infected civic hiring, procurement and purchasing, development approvals, municipal servicing, and trades regulation. In the US, "political machines" and their "bosses" gave cities like Chicago, New York, Boston, Atlantic City and Philadelphia colourful but corrupt civic administrations.

The actions of political executives – and their consequences – generated widespread public dissatisfaction and a demand for civic reform. Community leaders and progressive state legislators in the U.S. sought to avoid the spread of an ineffective or corrupt political culture to growing municipalities and county governments. Many reforms were undertaken, from improvements to electoral processes and creating special-purpose bodies, to merit-based hiring of municipal employees. But one reform stands out.⁵

Early 20th century progressives, civic activists and reform organizations promoted the Model City Charter and the council-manager plan, with the position of city manager at its core. (In Canada, the council-CAO model established the position of CAO). The council-manager model of municipal governance was developed to counteract the lack of management competence and the corrupt practices prevailing in many city governments.⁶

Although its origins date back to the City of Westmount QC in 1913 (and the Ontario City of Guelph makes similar claims), the position of CAO or city manager evolved more slowly and on a different track in Canada. This slow growth reflects, in part, the preeminent role of provincial 'municipal affairs' statutes in Canada and the absence of US-style 'home rule' legal authority.

The International City/County Management Association (ICMA) describes the distinction between the council-manager reform model and its predecessor, in this way:

“The council-manager form places all governmental authority in the hands of the council, with certain functions assigned by law, charter, or convention to the manager appointed by the council. Authority is unified in the collective leadership body of the council. To the early reformers citing the practice of English local government, eliminating separation of powers and strengthening the council was as important to the council-manager form as the creation of the manager’s position.

“With separation of powers, the mayor can limit the policy advice given to the council and can shield staff from council oversight. In the mayor-council form, mayors can also have a substantial impact on the amount and quality of professional advice they receive and share with the council and on the level of professionalism that is present in the administrative organization. In contrast with the council-manager form in which the council has authority over the manager, the mayor in the mayor-council form is a separate and independent executive.”⁷

The council-manager reform movement made steady progress throughout the 20th century. It is now, in one form or another, the preponderant model of municipal governance across Canada and the United States, and increasingly in democratic societies across the globe.⁸ Membership in CAMA represents 85% of Canada’s population.

Although diverse and not definitive, the Director of the University of Toronto’s School of Cities, Prof. Karen Chapple says the evidence suggests four reasons for the trend to adopt the council-manager model: reduced external ‘corporate’ influence; higher quality public services; more engaged citizenry; and less conflict among elected officials.⁹

Protecting a strong CAO role can help to ensure good governance principles are upheld in municipal governments, both in council-manager municipalities and also in ‘strong mayor’ municipalities. In other words, even a ‘strong’ mayor needs a strong CAO.

UNDERSTANDING THE POSITION OF THE CAO IN CANADIAN LOCAL GOVERNMENT

Excluding a few Canadian cities that sought special provincial legislation, the council-manager plan made limited progress in Canada until the early 1970s, as its propagation depended on municipal affairs ministries that generally did not support it. That situation began to change with the urbanization boom in the last quarter of the 20th century, and the resulting wholesale restructuring of municipal governments in many provinces.¹⁰

In Canada, the CAO is usually vested with full managerial authority for the daily operation of municipal government and for managing its staff and resources. This includes developing coordinated policy and budgetary recommendations for the mayor and municipal council, and then effectively implementing whatever policy and budgetary decisions are made by council.

Under the Canadian council-CAO model, the position of mayor is often viewed as first-among-equals on the municipal council. with responsibility for political leadership and communications, but with no directional power absent a majority vote of council. As former Mississauga City Solicitor M.E. Bench explained to Justice Hourigan's Public Inquiry in Ottawa, the position of mayor is often one associated with leadership that can guide the direction of council and support the needs of the CAO.¹¹ While an effective CAO dutifully respects the fact that they function in a democratic political environment, the discharge of executive and professional duties within the municipal corporation is attenuated from political control and direction exercised by formal and informal power.

The council-CAO plan is founded on the idea that running a municipal organization is a complex and sophisticated undertaking, operating dozens of distinct functions. Even in smaller municipalities, professional management is required. Subject to broad council oversight, the job is best entrusted to those with the professional training and career experience to do it competently. The CAO is the 'sole employee' who reports directly to council, and as such, he or she is head of the public service, accountable for the operation of the administrative apparatus of municipal government.¹²

THE ROLES OF THE MAYOR, THE COUNCILLOR AND THE CAO

In Canada and much of the US, our current model of municipal government is occasionally called the 'weak-mayor' system, to distinguish it from the historical US municipal model, where an elected mayor sits apart from the municipal council. In keeping with American separation-of-powers political philosophy, under the US 'strong mayor' system, the mayor (and elected county executive) enjoys many discretionary powers and wide legislative authority, operating largely independently from council and, at the senior levels, from the strictures of a merit-based career civil service system.

The general public may be surprised by the limited legislated power entrusted to mayors, but those powers are buoyed by the "soft powers" naturally assumed by many heads of council. In some municipalities, those soft powers are credited to the pan-municipal mandate of a mayor elected at-large or the longevity and experience of the incumbent

(Hazel McCallion as an example). In some upper-tier and rural municipalities those soft powers are conferred by council, as heads-of-council are voted-in by councillors rather than by the electorate at large.

It is also important to distinguish the powers of a mayor in relation to municipal council (political leadership and policy agenda-setting) from the powers of a mayor who is a managerial executive with authority over the management of the civic administration and local boards. A 'strong mayor' model may have either feature, or both.

Under our traditional Canadian municipal model, the mayor and councillors elected by popular vote are expected to have a commitment to good government and efficient service delivery, but no one expects them to know the details of bridge building, sewage treatment or debenture financing. Even if they have some specific professional background (accountant, union official, lawyer, etc.), the legitimacy of councillors flows from the fact that they must face the electorate to explain and defend their past actions. The verdict on whether they do a good job will be delivered by the voters.

While the CAO and management staff need to be sensitive to local concerns as they carry out their duties, the nature of their tenure gives them a different perspective compared to their council counterparts that face re-election. Senior staff members derive their legitimacy from specialized professional expertise and career experience. It also imposes on them an obligation to consider the long term, as well as future residents and other, non-voting stakeholders, like the disenfranchised and the business community.

The foundational principle underlying the CAO model is the separation of policymaking (by council) from the development and implementation of policy and programs (by the CAO and staff). Of course, policy and administration can never be separated into watertight compartments, but it is important for councillors and staff to accept that they have different roles.

In practice, the Canadian CAO model can become more complicated because certain career officials, such as the municipal solicitor, sometimes need direct access to council to carry out their duties, or are legally obliged to carry-out certain statutory responsibilities (e.g., building and fire codes, public health regulations). The CAO does not interfere with the ability of certain staff members to report directly to council on purely professional matters. However, the CAO still serves as the administrative supervisor of all department heads and, in many provinces, the municipality's administrative point-of-contact for local boards.

The CAO is frequently consulted by council on how to handle the advice provided by specialized officials and to co-ordinate and reconcile multi-departmental recommendations.¹³ The presence of a "sole employee" allows council to provide instructions to that one employee and expect that he or she will carry out its instructions. The CAO's job is to ensure that the public service carries out the will of council in an efficient manner. This provides an important accountability link between council and the public service.

In the pre-CAO Canadian model, the council attempted to hold as many as eight or ten department heads accountable. This approach became particularly difficult as policies became more complex and required the coordination of the activities of multiple departments. In some cases, the chair of a council committee developed a strong relationship with their department head. This was effective for some senior managers, but it could shut the full council out of the decision-making process. It also violated the principle that staff members work for council, not for individual councillors, and constrained council's ability to develop integrated policy affecting several functions. It is arguable that 'strong mayor' powers in relation to the administration create a similar risk.

The CAO's position in the public service can be precarious. On the one hand, he or she must carry out the instructions of council in a conscientious manner, provided those decisions are legal and ethical. On the other hand, a CAO must also be loyal to the best interests of the municipal corporation and its residents, which may occasionally mean telling councillors truths that they would rather not hear. In practice, this means that the CAO must fulfill the contradictory roles of being an agent of the council while having a sufficient degree of independence to allow her or him to advise council in a forthright manner ("without fear or favour").¹⁴ No-one should want a CAO who is reluctant to give good advice.

THE ROLE OF THE CAO IN PROVINCIAL AND TERRITORIAL LEGISLATION

All provinces and territories now recognize the role of the CAO in their municipal statutes – but with much variety. Among the provinces, the appointment of a CAO is required in Alberta, Manitoba, Québec, and PEI, and Saskatchewan requires an "administrator" with specific qualifications. Newfoundland and Labrador requires regional councils to appoint a "chief executive and administrative officer", but local councils have discretion on the appointment of a CAO. By contrast, the appointment of a CAO is permissive in British Columbia, Ontario, New Brunswick and Nova Scotia (but mandatory for Halifax and Cape Breton), although CAO models are widespread in these provinces.

The powers and authorities of CAOs also vary by province and territory. Some provinces, like Alberta and Québec, legislate at a high-level and permit varying degrees of managerial delegation by councils. In addition, the Québec *Municipal Code* confers executive management powers on the CAO, while the *Cities and Towns Act* provides similar powers to some Mayors.¹⁵ Management staff also relate to the mayor and council through the CAO and vice versa.¹⁶ Other provinces, like British Columbia, anticipate substantial and specific grants of authority and recognizing the scope of delegation, it requires a 2/3rd vote of council and approval of a referendum to establish a council-manager model and a 2/3rd vote of council to dismiss a "manager".¹⁷ Manitoba makes clear where the balance should lie: "(d) *except as the council may decide otherwise, [the CAO] is responsible for the management and supervision of the employees of the municipality;*".¹⁸ Newfoundland and Labrador does likewise, including requiring a 2/3rd vote of a local council to establish a manager position: "A manager is the chief executive and administrative officer of the council and head of its administrative branch and is responsible to the council for the proper planning, execution, conduct and the proper administration of the affairs of the council."¹⁹

One of the most complete statutory provisions dealing with the roles and responsibilities of the CAO is in Nova Scotia's *Municipal Government Act*. It is comprehensive and it covers many areas of potential ambiguity in the relationship with mayor and council. It also makes the accountability framework crystal clear. (See **Endnote**²⁰).

THE IMPACT OF ONTARIO-STYLE STRONG MAYOR PROVISIONS

Part of the impetus for this *White Paper* was a series of statutory changes to municipal legislation made by the Ontario government in 2022-23. Identifying more powerful mayors as a key ingredient to producing more housing in Ontario's largest cities, the new legislation aimed to strengthen the position of mayor in relation to the municipal council and to allow the mayor a wider grant of authority over municipal staff and municipal budgeting.

While these measures were initially proposed for the mayors of Toronto and Ottawa, the provincial government has proposed extending these powers to other municipalities with populations greater than 100,000 residents. The response of mayors of municipalities that could be affected by this has been mixed, with many taking a "wait and see" approach to the Premier's offer to make them more widely available.

Unlike other jurisdictions, where the consent of municipal councils or even public referenda are preconditions for changing municipal structure, under the Canadian *Constitution*, as confirmed recently by the courts, provincial and territorial legislatures have the legal discretion to make changes unilaterally.

The 'strong mayor' legislation enacted in Ontario can be summarized as follows:²¹

- The mayor's ability to initiate or stop municipal activity has been formally enhanced by giving the mayor control over committee structure and committee leadership appointments, as well as more control over the 'municipal purse';
- The ultimate responsibility for preparing and presenting the city's annual operating and capital budgets and for proposing annual tax rates has been transferred from the city manager and treasurer to the mayor. The ability of the council to change the mayor's budget proposals has also been cut back, as it now requires a 2/3rd vote to approve any amendment;
- Although the CAO position may be maintained, the staff organization now effectively reports to the mayor, rather than to the council and the CAO. The mayor has direct hire/fire/direct authority over the city manager and a range of senior officials (chief planner, city engineer, heads of human resources, IT, parks and recreation, etc.), although with some key exceptions (clerk, treasurer, chief building official, police chief, fire chief, municipal integrity commissioner or ombudsman, etc.). (For a large municipality such as Toronto, the mayor's personnel authority descends well into the professional civil service.)
- Most controversially, for designated 'provincial priorities' (as the mayor interprets them locally), the mayor can veto council measures - subject to a 2/3rd override by council. More remarkably, the mayor can force through a legislative proposal related to provincial priorities, provided it enjoys the minimum support of 1/3rd of council.

THE EFFECTS OF ‘STRONG MAYOR’ ON ADMINISTRATIVE STABILITY

While municipal councillors and community stakeholders may be concerned about the weakening of the position of the local councillor and local democratic accountability, the case for giving mayors more capacity for political leadership and overall political accountability has its advocates. From the perspective of CAMA, that is an issue for elected representatives and their constituents to resolve, both within the municipality and with their provincial or territorial governments, directly and through their municipal associations.

Measures that erode professionalism or undermine a non-partisan, merit-based senior municipal staff organization are always areas of legitimate concern and advocacy for organizations such as CAMA, their members and all those concerned about municipal good-governance and accountability.

To this end, in Ontario, the two largest organizations of municipal managers took the unprecedented step of presenting their case to the Ontario Legislature when the ‘strong mayor’ legislation was briefly before the relevant Legislative Committee. In its brief, the Ontario Municipal Administrators Association (OMAA) called for more substantive statutory recognition of the role of the CAO, including providing draft legislation crafted by one of Ontario’s leading municipal solicitors.^{22, 23} Despite the implicit risk of alienating mayors with whom their members must work closely, the AMCTO brief took a firm tone and the draft amendments in the OMAA submission addressed several controversial issues, including Justice Marrocco’s finding that the title of mayor as “CEO” in Ontario legislation was inappropriate and confusing and should be removed from the Ontario *Municipal Act*.

To date, the logical arguments for requiring all municipalities of any size to appoint CAOs²⁴ (ideally accountable to council rather than to the mayor) and to give the CAO position appropriate statutory recognition (similar to that of Nova Scotia) have gone unheeded. As some contributors to this paper said, a strong Mayor requires a strong CAO. In fact, a book published by Québec’s municipal administrators’ association (ADGMQ) elaborates on the importance of a constructive relationship between mayor and CAO (“directeur-général”): *Tandem: réussir la relation maire-DG* (“*Tandem: Succeeding in the Mayor-Directeur-Général Relationship*”).²⁵

In any democratic society, one should expect elected representatives, particularly those in a leadership position, to exhibit a standard of public ethics and policy competence. Most do. As people accountable to the community, elected municipal leaders are also expected to consult with their fellow legislators and to welcome evidence-based professional advice and the input of their community. Most do that, too. Good policy initiatives and decision-making processes are designed with those hopes and assumptions in mind.

In reality, as we regularly learn, there remain risks of system failure through short-sightedness, lack of expertise, favoritism, parochialism, and even unethical behaviour. The checks-and-balances within Canada's municipal government systems reflect that reality: one hopes for the best, but one must guard against the unforeseen.

One such risk is too much power in any one pair of hands, especially when leaders are chosen by an electorate that demonstrates limited interest as long as things in the community appear to run smoothly and efficiently or unless some crisis emerges. Recent history tells us, even with auditors, ombudsmen and integrity commissioners, if an elected representative's actions raise concerns, neither the council nor the community have much effective recourse between elections.

In Canada, municipal government is designed to be a balance of three decision-making parties:

- a political executive, in the form of a mayor's office (or an executive group of municipal politicians);
- a legislative, policymaking and oversight body, in the form of a municipal council comprised of locally elected community representatives; and,
- professional staff under the managerial leadership of the CAO, to develop policy proposals and to implement programs and services for dozens of disparate 'lines of business' in an efficient, effective, even-handed, inclusive and sustainable fashion.

This "three-legged stool" depends on each leg being able to support its role. Through a network of rules and values, this 'triangular' set of dynamic relationships – mayor with council; mayor and CAO; council and CAO – must retain an essential equilibrium to ensure the success of the municipality and its community.

Some CAOs may not focus on legislated changes affecting the balance between the position of mayor and the role and influence of council members. It might be viewed as a political matter into which they should not introduce themselves. However, these "political" changes can materially affect the relationships between CAOs and council, between the CAO and the mayor and between the CAO and municipal staff.

While many would argue the merits of greater political and fiscal authority for the mayor as a pre-condition for greater mayoral accountability, it inevitably comes at the expense of the traditional role of other council members. Our Canadian municipal system has evolved with legislative collaboration and shifting majorities on council. By contrast, 'strong mayors' and their chosen allies on council tend to create two classes of council members – the "ins" and the "outs" – or in parliamentary terms, "government" and "opposition". Since all council members are elected on the same basis, no-one wants to be a 'second-class' councillor. Council members will understandably want limits on the ability of the mayor to direct the administration and to preserve council's (and in some jurisdictions, councillors') access to senior staff.

Beyond the municipal governance case, the real risk of administrative instability may come in the form of the cost and disruptive impact of staff turnover. Well-qualified and experienced public executives are in demand and do not need to work in an unprofessional or politically fraught environment. They will be recruited by other local governments.

Costly and politically embarrassing severance packages may temper the intemperate, but a poor municipal reputation can also leave councils and mayors searching with difficulty for top-quality municipal professionals.

THE POTENTIAL IMPACT OF THE ‘STRONG MAYOR’ PROVISIONS ON THE CAO FUNCTION IN ONTARIO

Virtually every mayor would pledge to respect the independence of a merit-based civil service, and most do in fact. Indeed, as Prof. Zack Taylor observes, several Ontario mayors have said they would not use ‘strong mayor’ powers.²⁶ In reality, as with our *Constitution’s* “notwithstanding clause”, *in extremis* any authority that is available will eventually be used.

Human nature also tells us that bureaucracies understand power relationships. Senior public servants know for whom they are *really* working and on whom their career success depends. Even without the introduction of ‘strong mayor’ powers governing the administration, the risks of unfettered political discretion over the civil service are recurrent and well-documented, as Taylor explains citing Chicago and other cities.

There would be real merit in developing and adopting a foundational code in each municipality, specifying the respective roles and inter-relationship of mayors, councils and councillors, and the CAO and senior management. Dealing beforehand with the inevitable tensions in these dynamic relationships would help to forestall the kind of system failures documented by public inquiry reports, ombudsman’s findings,²⁷ social-media bloggers and entertaining but cautionary books like “*Mayors Gone Bad*”²⁸ and “*Boss*”²⁹.

An October 2022 Institute of Municipal Finance and Governance (IMFG) seminar³⁰ on the topic of ‘strong mayors’ featured municipal experts professors Karen Chapple, Gabriel Eidelman, Alison Smith and Zack Taylor, along with veteran Toronto City Hall journalist Matt Elliott.

Dr. Eidelman of the University of Toronto’s School of Cities argued the case for what might be termed “guiderails” in relation to situations where the positions of CAO and senior municipal managers are “in the gift” of the mayor.³¹ Citing the protections that provincial and federal civil servants enjoy, he suggests the four safeguards against political overreach.

While they are a solid beginning, these proposed safeguards pre-suppose a continuing willingness of council members to defend the concept of an independent, professional senior public service in the face of a determined mayor or the exigences of political events. Statutory protection of the CAO position, including the authority to appoint a CAO, is more legally meaningful and more politically durable.

THE RISK OF COMPROMISING ETHICS AND OBJECTIVITY IN DECISION MAKING

Proponents of 'strong mayor' legislation suggest that concerns about eroding public ethics are overblown: most elected officials act in an ethical way, and they are further constrained by a plethora of legal and procedural protections, ranging from integrity commissioners and civil service rules to codes of conduct and conflict-of-interest legislation. In response, those who oppose 'strong mayor' powers as a threat to public ethics have ready-to-hand egregious examples historically and in recent history with which we are all familiar.

It is notable that when abuses occur, the sanctions often prove ineffective, both in punishing misdeeds and in forestalling repetition. In fact, concern over loss of a high standard of public ethics can be more subtle than in the corruption scandals of the past. The ethical environment for public servants can be undermined when decision-makers can safely ignore professional standards or canons of professional ethics. For example, there may be less risk of awards of patronage employment, such as can be seen in some US cities, since the mayor's powers do not formally extend to such positions. But the fact that positions ranging from senior human resources officer to city works boss are under the mayor's appointment power make constraints on favouritism in promotion, assignments and hiring less meaningful.

One measure that operates as a more effective protection in the provincial and federal government is the designation of deputy ministers, cabinet secretaries and crown corporation CEOs as "ethics executives" for purposes of 'whistleblowing', conflict of interest, and wrongdoing by public employees and political staff.³² Why is this important? The staff of a mayor's office can ignore professional advice and professional standards that bind treasurers, planners, engineers, etc., when crafting budgets, making recommendations on provincial priorities (e.g., housing, zoning, infrastructure) or providing land-use planning advice. The mayor and the mayor's political staff are similarly under no professional obligation to provide objective advice, to offer viable alternatives, or to dismiss unworkable options, which can materially influence the 'marketing' of public policy options or when advancing a political objective.

Even where there is no overt threat to political neutrality or professional objectivity, some senior professionals will recognize the benefits of making recommendations that, in addition to being grounded in evidence and legislation, might be tailored to a position supported by the mayor and the mayor's supporters, both in the development of policy and program proposals, and in making budgeting and staffing recommendations.

Ironically, this is something over which a well-intended mayor will have limited influence: it will manifest itself as a feature of bureaucratic culture.

We can also see erosion of the civil service accountability hierarchy under the CAO. One can think of celebrated examples of 'freelance' senior staff in fields ranging from planning to engineering, who earn the favour or deference of the mayor in a 'strong mayor' municipality, such as Robert Moses in New York City.

Conversely, experienced professionals may not choose to work in this environment, ceding the ground to those whose political connections exceed their professional credentials. In a competitive municipal talent marketplace, a 'strong mayor' municipality may find that it has trouble recruiting and retaining the best senior officials, including experienced CAOs.

Finally, making the annual capital and operating budgets "the mayor's budget" reduces the accountability and obligations of the CAO and the treasurer. In the Ontario case, the 'strong mayor' can impose budgetary priorities and provisions in furtherance of designated provincial policy objectives, as interpreted locally by the mayor. Staff inevitably have a reduced incentive to present objective fiscal advice, especially if those recommendations are at variance from the budget's priorities, projected revenues and expenditures, or financing assumptions.

WHERE DO WE GO FROM HERE? MAINTAINING GOOD GOVERNANCE

To support intelligent municipal reform, CAMA believes that there are a number of measures that should be considered by municipal CAOs in each province and territory, depending on their circumstances. Some will find it useful to engage their mayor and council in this conversation. Others will find it more practical to work through their provincial and territorial associations, or to engage other concerned stakeholders like business and community leaders, good governance organizations, academics and/or municipal affairs ministry officials.

The CAO plays an important role in the implementation of municipal services. Effective and efficient service delivery while complying with provincial and federal laws, along with municipal by-laws, is at the heart of the CAO role. In an abstract way, the CAO does not change the outcome of a council decision in one way or another, the CAO simply advises and implements. In that sense, the CAO profession may be looked to as an important advisor, not just to municipal councils, but also to provincial and federal civil servants tasked with finding solutions to problems that transcend one jurisdiction, as is often the case in Canada.

To ensure the sound decision making processes are maintained...

'Strong mayor' powers have an obvious impact on a mayor's relationship with council, but they also affect the CAO and other senior staff. Even if existing incumbent mayors are committed to collaboration and consensus on these matters, new people and new circumstances can result in unilateral action. If the decision-making balance is to be maintained, the potential use of 'strong mayor' powers requires clear guidance and safeguards. The expected behaviours of the mayor, the council and the CAO should be codified before issues arise. 'Strong mayor' powers don't need to be used to have the desired effect, such as overcoming NIMBYism or favouring the mayor's budget priorities. Clearly, like the "notwithstanding clause" in our *Constitution*, the full force and effect of 'strong mayor' powers would work best if they were held in reserve. They should be used sparingly, selectively and only as narrowly as anticipated in the legislation and regulations. Councils, mayors, CAOs and provincial rule-making authorities would be wise to consider the policies and best practices that might be developed to support prudent exercising of any strong mayor powers.

To preserve the neutrality and objectivity of the CAO and senior municipal officials...

'Strong mayor' powers risk compromising administrative neutrality. In areas like budgeting and land-use planning advice, recommendations to council that are filtered through or developed by the mayor's office make it more difficult to rely upon the information that council receives and for council to perform its oversight and policy-making functions. The CAO position is designed to ensure that the mayor and council receive the best professional advice on an even-handed basis – "without fear or favour" – and to manage the municipal organization in an efficient, dispassionate, inclusive, sustainable and balanced fashion.

To establish clear accountability for the CAO...

Given that having a CAO is key to professionalism, objectivity and policy coordination in municipal organizations, it follows that all Canadian municipalities should have a CAO. Once established, the position needs to be filled by an incumbent who has the uncontroverted ability to do the job.

Even if the CAO position reports through the mayor or is technically hired by the mayor, a really effective 'strong mayor' benefits from having a strong CAO. The CAO recruitment and performance-review process should involve council (as recommended by the Association of Municipalities of Ontario).

Ongoing assessments of CAO performance and decisions to extend the CAO's employment contract would also benefit from a regular, council-engaged goal-setting and review process, such as the CAO performance-evaluation program developed by CAMA.

To protect public ethics in municipal government...

In US 'strong mayor' cities, as with state and federal administrations, senior US public servants are appointed by the political executive and often leave their positions when the mayor, governor or president leave office. This reality is a vivid illustration that these positions are "politicized". "Politicization" manifests itself in working to support the mayor's political agenda and ensuring that developments within the administration do not adversely affect the agenda or image of the political executive.

One of the principal risks of politicizing the senior municipal public service is that complaints of wrongdoing and potential conflict of interest cannot be easily handled without reference to their political implications. By contrast, in the council-CAO model, in-house complaints are ultimately referred to the CAO, who has the discretion of referring them on to internal audit, human resources, the integrity commissioner or the police, depending on the subject matter, scope and gravity, while discreetly but confidentially informing the mayor and council.

As the head of the public service, the CAO can determine penalties and disciplinary measures, including dismissal. In provincial and federal legislation (e.g., the Ontario *Public Service Act*), this responsibility is designated as the 'ethics executive'. As discussion turns to defining the role of CAO more effectively in statute and CAO appointment by-laws, the CAO should be designated an 'ethics executive'.

CONCLUSION

CAMA believes that the rules surrounding municipal decision making and senior administrative appointments must be made in ways that can give the public faith in the administration of government services. CAOs can use their knowledge and position to help outline the CAO role in municipal administration and ensure that provincial rules help provide an environment for ethical and objective decision making to thrive.

Endnotes

- ¹ Strong Mayors, Building Homes Act, 2022, S.O. 2022, c. 18 - Bill 3
- ² Michael Fenn, John Matheson, Shirley Hoy and Ian Smith, "**Ontario Municipal Chief Administrative Officer Survey 2016: A candid look at the issues on the minds of Ontario CAOs**", (Toronto: 2016) at p 3.
- ³ James H. Svava and Kimberly L. Nelson, "**Taking Stock of the Council-Manager Form at 100**", Public Management magazine (ICMA, Washington DC: August 2008) pp.6-15; quote pp.7-8
- ⁴ Michael Fenn, David Siegel, "**The Marrocco-Collingwood Inquiry (Part 3): The impact on the municipal management profession**", Municipal World magazine, Vol. 131, No. 10 (Sparta Line, ON: October 2021) pp.23-25.
- ⁵ Michael Fenn, David Siegel, "**The Evolving Role of City Managers and Chief Administrative Officers**", IMFG Papers on Municipal Finance and Governance, No. 31 – 2017, Institute on Municipal Finance & Governance (IMFG), University of Toronto (Toronto: May 2017); 30 pp.; page 11.
Found at: https://tspace.library.utoronto.ca/bitstream/1807/81203/1/imfgpaper_no31_CAO_fennsiegel_may_5_2017.pdf
- ⁶ Fenn, Siegel, pg. 11-12
- ⁷ James H. Svava and Kimberly L. Nelson, "**Taking Stock of the Council-Manager Form at 100**", **Public Management** (Washington DC: August 2008) pp.6-15; quote pp.7-8.
- ⁸ Fenn, Siegel, pg. 12.
- ⁹ Karen Chapple in: "**Strong(er) Mayors in Ontario – What Difference Will They Make?**", *op.cit.*, pg. 11.
- ¹⁰ Fenn, Siegel, pg. 15.
- ¹¹ Affidavit of Mary Ellen Bench, to the Honourable C. William Hourigan, Commissioner of the Ottawa Light Rail Transit Inquiry, Sworn July 29, 2022, page 2:
"The Mayor is often the only elected official that represents the entire municipality, and while the Mayor only has one vote at Council, the role of the Mayor is often significantly larger than that of a councillor. The Mayor has a leadership role and is called upon to advocate for the interests of the municipality with higher levels of government. The Mayor's leadership role is also recognized in the Emergency Management and Civil Protection Act which provides authority for the Mayor to declare and cancel a state of emergency. The Mayor, as the Chief Executive Officer, is also a signing officer for the municipality. The role of the Mayor however is not clearly defined in legislation. Commissioner Bellamy, in her report on the Toronto Judicial Inquiry reviewed significant literature on the role of the Mayor and Council and senior staff, and in terms of the Mayor's role as Chief Executive Officer (CEO) she defined it as to supervise the senior administrative staff on behalf of Council."
- ¹² Fenn, Siegel, pp. 3, 6.
- ¹³ Fenn, Siegel, pp. 6-7.
- ¹⁴ Fenn, Siegel, pp. 3-8.
- ¹⁵ Cities and Towns Act, sections 52, 112 and 113
Municipal Code of Québec, section "211. Under the authority of the council or of the executive committee, the director general is responsible for the administration of the municipality and for that purpose he shall plan, organize, direct and supervise the activities of the municipality." Municipal Code of Québec, CQLR c C-27.1 Found at: <https://www.canlii.org/en/qc/laws/stat/cqlr-c-c-27.1/latest/cqlr-c-c-27.1.html>
- ¹⁶ "212. (1) he shall ensure communication between the council, the executive committee and other committees on the one hand, and the other officers and employees of the municipality on the other hand;..."
- ¹⁷ British Columbia **Municipal Act**, RSBC 1996, Chapter 323:
Municipal manager
241 (1) The council of a city, town or district may, by bylaw adopted by at least 2/3 of all council members,
(a) establish the position of municipal manager,
(b) make provision for the appointment of the municipal manager, and
(c) subject to subsection (3), delegate to the municipal manager any power conferred on the council by this Act.
(2) Before it is adopted, a bylaw under subsection (1) must receive the assent of the electors.

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- (3) A municipal manager does not have the power
- (a) to pass bylaws or resolutions, or
 - (b) to appoint or dismiss the municipal clerk, municipal treasurer, chief election officer or auditor.

Replacement of municipal manager

242 (1) A municipal manager continues in office until he or she resigns, is dismissed or is relieved of duties and powers by a vote of at least 2/3 of all council members.

(2) On the office of the municipal manager becoming vacant, the council must appoint another person as municipal manager if the bylaw under section 241 is still in force.

Duties of municipal manager

243 The municipal manager is the chief administrative officer of the municipality, and under the control of the council has the following responsibilities:

- (a) to supervise and direct municipal affairs and employees;
- (b) to put into effect and carry out council policies;
- (c) to advise the council on matters within its control;
- (d) to inspect and report on municipal works as the council requires;
- (e) to be responsible for preparing for the council the estimates of revenue and expenditure annually or as the council requires;
- (f) to prepare, or have prepared, and to award all contracts as the council specifies;
- (f.1) to be responsible for appointing, promoting, disciplining and dismissing employees, subject to any restrictions and conditions established by bylaw;
- (g) to carry out other duties established by bylaw or resolution.

¹⁸ Subsection 127(1)(d) of the Manitoba **Municipal Act**, CCSM, c.M225

¹⁹ Part III, subsection 54.(1) of the **Municipalities Act, 1999** (SNL 1999, Chapter M-24)

²⁰ Nova Scotia **Municipal Government Act**, chapter 18, Part II, section 31:

Responsibilities of chief administrative officer

31 (1) *The chief administrative officer shall*

- (a) *coordinate and direct the preparation of plans and programs to be submitted to the council for the construction, rehabilitation and maintenance of all municipal property and facilities;*
- (b) *ensure that the annual budget is prepared and submitted to the council;*
- (c) *be responsible for the administration of the budget after adoption;*
- (d) *review the drafts of all proposed by-laws and policies and make recommendations to the council with respect to them;*
- (e) *carry out such additional duties and exercise such additional responsibilities as the council may, from time to time, direct.*

(2) *The chief administrative officer may*

- (a) *attend all meetings of the council and any board, committee, commission or corporation of the municipality and make observations and suggestions on any subject under discussion;*
- (b) *appoint, suspend and remove all employees of the municipality, with power to further delegate this authority;*
- (c) *act, or appoint a person to act, as bargaining agent for the municipality in the negotiation of contracts between the municipality and any trade union or employee association and recommend to the council agreements with respect to them;*
- (d) *subject to policies adopted by the council*

- (i) *make or authorize expenditures, and enter into contracts on behalf of the municipality, for anything required for the municipality where the amount of the expenditure is budgeted or within the amount determined by the council by policy, and may delegate this authority to employees of the municipality,*
- (ii) *sell personal property belonging to the municipality that, in the opinion of the chief administrative officer, is obsolete, unsuitable for use, surplus to requirements of, or no longer needed by, the municipality, and may delegate this authority to employees of the municipality,*
- (iii) *personally, or by an agent, negotiate and execute leases of real property owned by the municipality that are for a term not exceeding one year, including renewals,*
- (iv) *establish departments of the municipal administration,*

(v) adopt a system of classification of positions of municipal officers and employees and specify offices that may not be filled by the same person,

(vi) determine the salaries, wages and emoluments to be paid to municipal officers and employees, including payment pursuant to a classification system,

(vii) where not otherwise provided for, fix the amount in which security is to be given by municipal officers and employees, the form of security, the manner in which security is to be given and approved and the nature of the security to be given;

(e) authorize, in the name of the municipality, the commencement or defence of a legal action or proceedings before a court, board or tribunal, including reporting the commencement of the legal action, defence or proceeding to the council at the next meeting and may, if the council so provides by policy, delegate this authority to employees of the municipality;

(f) where the council so provides by policy, settle a legal action or proceeding in accordance with the policy.

(3) A lease executed by the chief administrative officer is as binding on the municipality as if it had been specifically authorized by the council and executed by the mayor or warden and clerk on behalf of the municipality.

(4) Notwithstanding subsections 33(1), 37(1), 39(1) and Section 41, the chief administrative officer may, with the consent of council, perform the duties of the clerk, treasurer, engineer and administrator, or any of them, pursuant to this Act.

(5) The chief administrative officer may from time to time appoint an employee of the municipality to act in the place of the chief administrative officer when the chief administrative officer is absent or unable to act. 1998, c. 18, s. 31.

²¹ John Mascarin, Jennifer Bilas, **“Strong Mayors, Weak Plan”**, Digest of Municipal Planning and Law, Issue 22, 10 D.M.P.L. (2d), October 2022, Issue 22., Carswell (Toronto: October 2022); Found at: <https://www.airdberlis.com/insights/publications/publication/strong-mayors-shifting-the-municipal-governance-model>

²² AMCTO Submission to the Ontario Legislature... https://www.amcto.com/getmedia/65eb4986-48b3-48ce-8fc8-563c05ad26af/AMCTO-Submission-to-Standing-Committee-Bill-3-Strong-Mayors-Building-More-Homes_FINAL.aspx

OMAA Submission to Ontario Legislature, including proposed amendments to entrench the CAO position... <https://files.constantcontact.com/7df54cab201/47ac1b6b-f30f-4a72-a245-40fda4103b2c.pdf>

²³ PROPOSED AMENDMENTS TO MUNICIPAL ACT, 2001 TO STRENGTHEN THE ROLE OF THE CHIEF ADMINISTRATIVE OFFICER

Chief administrative officer

229 (1) A municipality shall appoint a chief administrative officer who is the head of the municipal administration to whom every other officer and employee of the municipality shall be ultimately responsible, and who shall be responsible to the council for,

(a) the general control and management of the affairs of the municipality in accordance with the resolutions, by-laws, and policies of the municipality;

(b) ensuring the efficient and effective operation of the municipality;

(c) implementing council’s decisions, policies and programs; and

(d) performing such other duties as are assigned by the municipality.

Sole employee of the council

(2) The chief administrative officer is the only employee of the municipality directly responsible to the council, and, except as otherwise provided in this or any other Act, no other officer or employee of the municipality shall be directly responsible to the council.

Same, communications

(3) Subject to a policy described in paragraph 270(1) 2.1 or as otherwise provided in the Act, the council shall communicate with the officers and employees of the municipality solely through the chief administrative officer and shall provide all direction on the administration, plans, policies and programs of the municipality to the chief administrative officer.

Head of municipal administration

(4) The chief administrative officer shall, as the head of the municipal administration, supervise and have authority over all officers and employees of the municipality, which shall, subject to the policies of the council, include the following:

1. The establishment and structure of departments of the municipal administration.
2. Subject to any contract of employment, collective agreement, or this or any other Act, the hiring, appointment, suspension, discipline, and dismissal of officers and employees of the municipality.
3. The adoption of a system of classification of positions of officers and employees of the municipality.
4. The determination of the salary, wages and other remuneration of officers and employees of the municipality.
5. To act, or appoint a person to act, as bargaining agent for the municipality in the negotiation of contracts between the municipality and any trade union or employee association, and to make recommendations to council with respect to labour relations matters.

Promotion of ethical conduct

(5) The chief administrative officer shall be responsible for promoting the ethical conduct of all officers and employees of the municipality.

Delegation

(6) The chief administrative officer may delegate in writing to any person, other than a member of council, any of the chief administrative officer's duties and powers under this or any other Act, and the chief administrative officer may continue to exercise the delegated powers and duties, despite the delegation.

Substitution, acting chief administrative officer

(7) Where the office of chief administrative officer is vacant, or the chief administrative officer is unable to carry out his or her duties, the council may appoint a person to act as acting chief administrative officer and the acting chief administrative officer has and may exercise the powers and shall carry out the duties of the chief administrative officer.

Promotion of ethical conduct

229.1 (1) Without limiting subsection 229(5), the chief administrative officer shall ensure that the officers and employees of the municipality are familiar with the conflict of interest and other ethics policies of the municipality relating to officers and employees of the municipality, and promote the ethical conduct by the officers and employees of the municipality in accordance with this section.

Role of chief administrative officer - Request for determination

(2) An officer or employee of the municipality, or their supervisor, may request the chief administrative officer determine any question concerning the application of any conflict of interest or other ethics policy of the municipality relating to officers and employees of the municipality.

Inquiries

(3) The chief administrative officer may make such inquiries as he or she considers appropriate in response to a request under subsection 229.1(2), or where the chief administrative officer has concerns that a conflict of interest or other ethical rule has been or is about to be contravened by an officer or employee of the municipality.

Determinations and directions

(4) The chief administrative officer shall,

- (a) make a determination with respect to any matter brought to his or her attention under subsection 229.1(2); and
- (b) in the case of a determination that there is a conflict of interest or potential conflict of interest or contravention of another ethical rule, give the officer or employee directions, if any, that he or she considers appropriate,

which determinations shall be final.

Compliance with direction

(5) An officer or employee of the municipality shall comply with any directions of the chief administrative officer given pursuant to this section.

Effect, members of council, local boards

(6) Nothing in this section affects the application of Part V.1.

Consequential Amendments

Role of head of council, chief elected official

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- 225** *It is the role of the head of council, as the chief elected official of the municipality,*
- (a) *to uphold and promote the purposes of the municipality;*
 - (b) *to preside over council meetings so that its business can be carried out efficiently and effectively;*
 - (c) *to provide leadership to the council;*
 - (c.1) *without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1);*
 - (d) *to act as the representative of the municipality at official functions, to represent the municipality within and outside the municipality, and to promote the municipality locally, nationally and internationally;*
 - (e) *to promote public involvement in the municipality's activities;*
 - (f) *to participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents; and*
 - (g) *to carry out the duties of the head of council under this or any other Act.*

Head of council as chief executive officer

226.1 [REPEALED]

Municipal administration

- 227** *It is the role of the officers and employees of the municipality,*
- (a) *to implement council's decisions and establish administrative practices and procedures to carry out council's decisions;*
 - (b) *to undertake research and provide advice to council, through the chief administrative officer, on the policies and programs of the municipality; and*
 - (c) *to carry out other duties required under this or any Act and other duties assigned by the municipality.*

Exception

- 239** (6) *Despite section 244, a meeting may be closed to the public during a vote if,*
- (a) *subsection (2) or (3) permits or requires the meeting to be closed to the public; and*
 - (b) *the vote is for a procedural matter or for giving directions or instructions to the chief administrative officer or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board.*

Adoption of policies

- 270** (1) *A municipality shall adopt and maintain policies with respect to the following matters:*

...

- 2.1 *The manner in which communications between council, members of council, and the officers and employees of the municipality will be directed through the chief administrative officer.*

Restrictions

- 275** (3) *The actions referred to in subsection (1) are,*
- (a) *the appointment or removal from office of any officer of the municipality;*
 - (b) *[REPEALED];*
 - (c) *the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and*
 - (d) *making any expenditures or incurring any other liability which exceeds \$50,000.*

²⁴ S. Hushion, S. Matheson, M. Fenn, D. Szwarc, R. Shaw, T. Haddad, S. Hoy, M.E. Bench, D. Manahan and D. Blazecovic "Ontario Municipal Chief Administrative Officer Survey 2021/22", StrategyCorp Institute of Public Policy and Economy (Toronto: 2022) 94pp.; found at: <https://strategycorp.com/2022/04/cao-survey-2022/>
Page 88: "[Justice Marrocco's Collingwood Judicial Inquiry] Report made two legislative recommendations regarding the role of CAO that StrategyCorp's Municipal Services Practice Group endorses: "Amendments to the Ontario Municipal Act, 2001

70 *The Province of Ontario should amend section 229 of the Municipal Act to mandate that municipalities the size of the Town of Collingwood appoint a chief administrative officer.*

71 *The Province of Ontario should amend the Municipal Act to describe fully the role and responsibilities of the chief administrative officer."*

In our view, the current legislative description of the CAO role does not do justice to the reality of the position, either in terms of what it is or what it needs to be to enable good municipal governance and management. The critical importance of the CAO function must rest on a proper legislative foundation.

Similarly, we think that it is time to rethink the optionality of the CAO function in the municipal organizational chart. No matter how big the municipality, there is a need for the CAO role to be discharged in every municipal organization. If properly defined, as per the previous recommendation, there are circumstances where it could be flexibly combined with other roles, but the role itself, in our view, should no longer be optional.

Justice Marrocco's recommendations on the role of the CAO built on the findings of Madam Justice Bellamy in the City of Toronto Judicial Inquiries nearly two decades ago, in which she observed:

"The relationship between Council and the City Manager is a very important one. The City Manager is a leadership position...Council should give the City Manager clear and unequivocal responsibility and accountability for the overall management of the administration of the City. Not doing so undermines the City Manager's effectiveness."

In sum, the need for clear delineation of the authority of the head of the municipal administration is not a new idea – but only legislation can make it a reality in the municipal world."

²⁵ **"Tandem : réussir la relation maire-DG"**, Edition 01, ADGMQ (Québec, QC: November 2018); Found at: <https://adgmaq.qc.ca/produit/tandem-reussir-la-relation-maire-dg/>

²⁶ Zack Taylor in "Strong(er) Mayors in Ontario – What Difference Will They Make?", *op.cit.*, pg. 7. *"Importantly, the Act is not permissive. Municipalities listed in the regulation cannot opt out of the Act's application. However, the mayor is not compelled to use the new powers. Mayors may voluntarily choose not to use them, and the regulation permits them to delegate certain powers back to the council. Mayors in several Ontario cities, including Ottawa, have pledged not to use the new powers."*

²⁷ Ombudsman of Ontario's report on the role of the Niagara Regional Chair in hiring the CAO, entitled: **"An Inside Job"**. Found at: <https://www.ombudsman.on.ca/resources/news/press-releases/2019/ombudsman-finds-niagara-cao-hiring-was-inside-job>

²⁸ Philip Slayton, **"Mayors Gone Bad"**, Viking Press (Toronto: May 19 2015) 288 pp. Found at: <https://www.amazon.ca/dp/B00TY3ZL6M?tag=prhca-20>

²⁹ Mike Royko, **"Boss: Richard J. Daley of Chicago"**, New American Library of Canada (Toronto: 1971), 224pp.

³⁰ "Strong(er) Mayors in Ontario – What Difference Will They Make?", **Institute of Municipal Finance and Governance**, School of Cities, University of Toronto (Toronto: October 29, 2022); transcript 25 pp.

Found at:

https://imgf.munkschool.utoronto.ca/uploads/604/commentary_on_municipal_governance_changesdocx.pdf

³¹ Gabriel Eidelman, "On Stronger Mayors in Toronto, Ottawa (and maybe other Ontario municipalities, too)"; School of Cities, University of Toronto, Twitter, posted Oct. 20, 2022): Found at:

<https://twitter.com/GabrielEidelman/status/1606172944195063808>

*"...I do think there are a number of things that both city council and the provincial government can and should do to ensure that the mayor's power to hire and fire staff is **never** abused.*

Here are four ideas to start:

1. Council should clarify, in writing, the political role and responsibilities of the mayor as CEO vs. the administrative role and responsibilities of the city manager as CAO, as well as their respective reporting relationships to council.

Under no circumstance should the mayor be able to tell the CAO "you work for me, and only me." The CAO should remain accountable to council as a whole, not just the mayor, including answering questions in public about the administrative operations of government.

2. Council should codify, in the strongest possible terms, that staff must conduct themselves at all times in a neutral, objective, and impartial manner.

I'm not the first person to suggest this. Justices Bellamy, in the Computer Leasing Inquiry report, and more recently, Justice Marrocco, in the Collingwood inquiry, have made similar recommendations.

In Toronto, this would mean strengthening the professional code of conduct known as the Public Service By-law (found in Chp. 192 of Toronto Municipal Code) to emphasize: (a) the importance of professional, independent, expert advice; and (b) that the CAO, in particular, has a responsibility to provide truthful, impartial advice to the mayor and council.

In Ottawa, this would mean doing the same with the City Manager By-law (No. 2021–6) and Procedure By-law (2021–2).

The province could help by amending the City of Toronto Act and Municipal Act with similar language, or perhaps drafting separate legislation akin to the Public Service of Ontario Act or federal Public Service Employment Act.

3. Council should clarify, again in writing, the nomination process for hiring new senior leadership, to ensure that all appointees are highly qualified. (One idea: establish an independent nomination committee).

It could also expand existing whistleblower protections — which typically focus on mismanagement or misuse of public funds — to also apply to hiring practices.

4. Finally, mandatory training should be required for mayors, councillors, and staff to help adapt to these new reporting relationships and institutionalize the dividing line between politics and administration as best practices and norms of local public administration.

These kind of protections, I believe, would bolster transparency and accountability in the system.”

³² *“Ethics Executive Role & Resources”*, Office of the Ontario Integrity Commissioner; Found at:

<https://www.oico.on.ca/en/public-sector-ethics-executive-role-and-resources>