## The Governance Zone A Council-CAO Covenant

One of the most significant issues facing any Council is how they interrelate with their chief administrative officer (CAO). While this issue varies from Council to Council and from term to term it is almost inevitable that issues will arise in this very important relationship unless steps are taken to manage the relationship.

One of the techniques which I have recommended is a Council-CAO Covenant which simply draws together into one place the various commitments that a Council should be prepared to make to their chief administrative officer and conversely, the commitments that ought to be a part of the “sign on” process of any CAO. While these do not have the legislative weight of the contract and bylaw, they speak to issues which will surely become germane or central to the relationship which will unfold. Such a Covenant is proactive: it recognizes that there will inevitably be issues of dispute between a Council and its senior advisor and that without contemplating these, the fact that they occur at all might be viewed with more credence (and surprise) than need be.

A Covenant tries to identify the basis of some of these issues and to agree in advance to what actions and attitudes are deemed by all to be appropriate and helpful. Such a document will never be fully inclusive nor will it anticipate every situation. But, it can be a useful start.

What Should a Council Covenant?

Council members ought to be prepared to covenant with each other and with their CAO that they will:

* carry out their responsibilities as set out in the applicable legislation to the best of their abilities
	+ this presumes a comprehensive orientation to those responsibilities and to the matters which are actually ascribed to the Council
* make decisions which we believe to be in the best interests of the majority of citizens while recognizing that the needs and voices of the minority(s) need to be thought through and reflected in such decisions
	+ Council members are not elected to represent minorities; they are elected to make decisions which would seem to be in the best interests of the majority as though the will of the people had been tested by some process of referendum
* review the background information and advice made available by the administration prior to rendering a decision
	+ this suggests two critical aspects: a) that the administration are capable of providing comprehensive and forthright analysis of a situation and clearly-written advice on what course of action the Council should take; and b) that the Council members are sufficiently competent and committed to actually read the materials prepared for them and think through their consequences
* seek further input when we are unsure of the issues or uncertain as to the preferred course of action
	+ this implies that the Council members will not rush to judgment but will check on questions relating to policy issues that may not be sufficiently clear before committing to a resolution; thus Councillors would be loathe to commit themselves to any course of action UNTIL the actual Council meeting wherein such determinations are to be made
* refer any complaints, either written or verbal, about the decisions of Council or the actions of administration, to the CAO for review, comment and follow-up (as appropriate)
	+ Council members acknowledge that complaints will be raised with them by various forms of media and that there is a reasonable process whereby they can be heard without alarm; Council agrees that referring such matters to the CAO (or to another senior level staff member(s) if so agreed is a reasonable course of action
	+ Council members will thus refrain from exaggerating such complaints as if there was a hallelujah chorus of the public behind each complaint
* refrain from making any commitments on behalf of Council to individual citizens or groups other than to take the request up with the Council or CAO and to respond appropriately
	+ Council members thus acknowledge their limitations as imposed by legislation that individually they cannot make any such commitments without breaking both the law and Council’s own protocols
* seek to participate actively in the decision-making process
	+ Democracy works if the elected members agree to participate; Councillors agree that while each does not have to speak to every issue, each has an obligation to express aloud to other members of Council why they will not support a particular resolution
* refrain from any public or private criticism of our administration wherein individual employees are identified
	+ Councillors recognize that they hold a powerful position relative to members of the administration and in so doing, they gracefully and rightfully agree to refrain from bashing individual members of the administration simply because this or that project did not turn out to their satisfaction
* act as good stewards of the municipality and as public servants of the citizenry through ethical conduct
	+ All members of Council realize the expectation of the public that their elected representatives will hold themselves accountable for ethical standards that may be above that expected of the general populace; Councillors will thus encourage their independent auditor to examine their actions from time to time to ensure that decisions pertaining to possible conflicts of interest, pecuniary benefit or personal expense accounts are all handled within the approved policies of the Council
* provide effective leadership through guiding the corporation and the municipality through annual or longer term goals and priorities, through the budget approval process and by agreeing to reasonable policies which reflect, in their view, the best interests of a majority of our citizens
	+ Council members are expected to lead through a thoughtful process of examination of the challenges before the community and the best and most logical steps to a successful conclusion; Council members agree to participate in an annual process of corporate planning and to abide by the results of such a process as they will be used to guide the business plan and budget development processes of the municipality
* ensure that there is a formal evaluation of the performance of the CAO at least once annually and involve the CAO in this process so as to ensure a full understanding of the Council’s candid assessment
	+ a key part of the covenant with the CAO is the commitment to regularly evaluate the work of the CAO in light of Council’s expectations as well as the achievement of the CAO’s stated objectives; this process is undertaken in a planned, sober-minded way which all can agree is enveloped with sincerity and a desire to seek improvement.

What have I missed? I may have inadvertently overlooked a number of issues which could be included in this “covenant”! What is included reflects my perspective and experience relative to the key issues which can arise and befuddle what should be cherished as the key and core relationship between a Council and its CAO.

Next Month: The Covenant of a Chief Administrative Officer

The following month: Romance in the Office

**The Governance Zone A Council-CAO Covenant (Part Two)**

In part one of this mini-series on a Council-CAO Covenant, I wrote “One of the most significant issues facing any Council is how they interrelate with their chief administrative officer (CAO). While this issue varies from Council to Council and from term to term it is almost inevitable that issues will arise in this very important relationship unless steps are taken to manage it. One of the techniques which I have recommended is a Council-CAO Covenant which simply draws together into one place the various commitments that a Council should be prepared to make to their chief administrative officer and conversely, the commitments that ought to be a part of the “sign on” process of any CAO”. In my last article I suggested a number of commitments that a Council should be prepared to make to their CAO. In this article I follow up with the other side of the coin: what should a chief administrative officer be prepared to commit to his or her Council?

**What Should a CAO Covenant?**

A chief administrative officer ought to be prepared to covenant with his/her Council that he/she will:

* ***conduct myself as your chief policy advisor in an honest and ethical manner***

There are two key and very significant aspects to this element of the covenant: one that the CAO will act as your chief policy advisor; the second that he/she will do so in an honest and ethical manner. While I could write a book describing the CAO as a chief policy advisor perhaps it is sufficient to express briefly that if he/she is not advising Council on EVERY policy decision, either the Council is not expecting very much or the CAO does not have a good grasp on what the single most important thing an advisor to Council should be doing. And despite the degree of importance that I place on the advisory aspect of a CAO’s position, none of that will matter if the CAO is not acting in an ethical manner. The administrative organization is known by its leadership. If it is tainted by scandal the fact that the rest of the organization is suffering should not be that surprising.

* ***ensure that the Mayor and Councillors are accorded respect in all of my personal and public comments***

It’s too easy to fall in with the rest of an audience and say disparaging things about a Council which may be struggling through an issue(s). This proviso underlines the importance of two separate yet intertwined concepts: that the CAO will be very careful to always show respect to his/her elected officials regardless of any personal misgivings about this Councillor or that and secondly that there are no “off site” locations wherein a CAO can freely express any negative impressions.

* ***provide advice (on all issues) which is professionally sound, ethical, legal and in accordance to the policies and objectives of Council***

Council has the right to expect that all advice either authored or signed off by the CAO will be the absolute best that he/she can offer on that issue with the resources and information they have available. The Council should never be looking behind the report to see what the CAO may be hiding. If he/she is guilty of doing that, the trust is broken and the relationship at an end.

* ***guide the actions of the administration so that they are in accordance with the policies and objectives of Council***

It is the responsibility of a CAO to set the standard, communicate the expectations of his/her department heads and expect them to do the same with their direct reports. The standard is that which ought to be expected if staff is following the direction of management as intended and if that direction is in concert with the policies of Council. This neither too much to expect or too onerous a burden on the CAO. Council needs to have this assurance.

* ***act only on the will of Council as a whole as established by the resolutions, policies and bylaws of Council***

The CAO agrees to follow the will of Council as expressed by the official statements of the Council as conveyed by policies, resolutions and bylaws. The CAO is not expected to follow the will of the Mayor if that is contrary to the will of Council nor the whim of a member of Council regardless of how vigorously stated.

* ***forward any complaints or concerns of Council to the appropriate department and individual so that reasonable and prompt follow-up is assured***

Council members are not expected to find their way through the organization to the “best” person to handle a complaint or enquiry. A protocol should inform Councillors of the right course of action to follow. The CAO is ultimately responsible for ensuring that such a protocol exists and that any inquiries are responded to promptly and within policy.

* ***ensure that Council is made aware of the full picture with regard to each issue at least to the extent that the administration is aware of such information and ensure that Council has access to the reasonable decision options as well as my recommendation as your CAO***

Council’s decisions depend upon good inputs. The latter is generally in the form of an agenda package largely constructed by the administration. This commitment by the CAO stipulates that he/she will ensure that Council will have access to the full picture on any issue as well as a thoughtful recommendation from the CAO.

* ***seek to ensure that Council is aware of any key issues as they arise and thus avoid the problems associated with surprises***

In my 12 year life as an elected official (during which I also worked full-time as a consultant) I had an ongoing arrangement with our CAO: he would endeavour to make sure I was not confronted by a surprise in terms of what was happening in my community. While this took some degree of scheduling given our travels, he was excellent at making sure that to the best of his ability I was not caught “off guard” about an incident at home. Even when the issue might have been embarrassing, the CAO would claim full responsibility and express his commitment to getting the issue resolved.

* ***maintain a current understanding of the applicable legislation as well as relevant programs, policies and initiatives of the Provincial and Federal governments***

The CAO has an obligation to be informed. He/she has an administration who have access to their counterparts in the Provincial or federal governments and can find out what changes of substance they should be aware of which may impact the municipality. It is not the function of elected officials to do this legwork.

* ***admit to any mistakes of substance made by myself or my staff and take corrective action***

Similar to the point above relative to no surprises, the CAO makes a commitment to be accountable for mistakes in the actions of his/her administration and to take the necessary actions to make sure such mistakes are reduced or eliminated.

* ***listen carefully to the concerns of Council vis-à-vis my performance and seek to improve any deficiencies on an ongoing basis***

In some pieces of legislation the Council is obligated to provide the CAO with an annual review of his/her performance. This is a very significant component of good governance and should be religiously pursued by both the Council and CAO. In this instance the CAO is committing to making any needed improvements noted by the Council.

The relationship of a CAO to his/her Council is a complex one and core to the well-being of any community. This “covenant” seeks to embrace most of the significant pieces of that relationship and sets out what I believe to be central to the “marriage vows” undertaken by both parties whenever a CAO is hired.

**The Governance Zone A Council-CAO Covenant (Part Three)**

Having just had a series of conversations around the issue of Council’s degree of involvement with the affairs of management, I decided to add a third chapter to this mini-series on a Council-CAO Covenant. In part, I want to address why this issue (if not the covenant) is so relevant and difficult and in part to try to address why the Council-CAO relationship still seems so fragile.

**The Council** (see Part One) should covenant that it will:

* carry out their responsibilities to the best of their abilities
* make decisions which we believe to be in the best interests of the majority of citizens
* review the background information and advice from the administration
* seek further input when unsure of the issues/preferred course of action
* refer any complaints, either written or verbal, to the CAO
* refrain from making any commitments on behalf of Council to individual citizens or groups
* seek to participate actively in the decision-making process
* refrain from any public or private criticism of our administration
* act as good stewards of the municipality and as public servants of the citizenry through ethical conduct
* provide effective leadership through annual or longer term goals
* conduct a formal evaluation of the performance of the CAO at least once annually

**A CAO** (Part Two)should also covenant that he/she will:

* conduct myself as your chief policy advisor in an honest and ethical manner
* ensure that the Mayor and Councillors are accorded respect
* provide advice (on all issues) which is professionally sound, ethical, legal
* guide the actions of the administration according to Council’s policies
* act only on the will of Council as a whole as established by the resolutions, policies and bylaws of Council
* forward any complaints or concerns of Council to the appropriate department and individual so that reasonable and prompt follow-up is assured
* ensure that Council is made aware of the full picture with regard to each issue
* seek to ensure that Council is aware of any key issues as they arise and thus avoid the problems associated with surprises
* maintain a current understanding of the applicable legislation, programs and policies of other orders of Government
* admit to any mistakes of substance made by myself or my staff and take corrective action
* listen carefully to the concerns of Council vis-à-vis my performance and seek to improve any deficiencies on an ongoing basis

**Why is this Relevant?**

Regardless of the numbers of articles I and others have written on this topic and the number of consulting assignments this has generated, the issues are often still on the front burner. Council members often prefer to become administrators and ironically, administrators can sometimes act as though they were members of Council. The issue cuts both ways. And, it inflicts damage regardless of who is being “cut”.

My thesis is that a professional administrator respects his/her professional preparation and that of their administrative colleagues. They rightly recognize that if they need “help” to administer, they somehow failed the training program and have abandoned their degree(s). They would be astounded to believe that someone off the street with a completely different background with perhaps equal skills but in very separate occupations would not be able to occupy their position of municipal administrator.

Could this person “off the street” be capable of understanding other people in their community? Certainly! Could that same person (s) be capable of choosing between policy alternatives? Absolutely! Could this person “off the street” be capable of delivering speeches and manage to get themselves elected? Well, yes; in fact that is how this person moved into the Council Chambers! Ah, but did you think you should have moved them into the administrator’s office or did you feel that is why you were hired?

**Differing Skills Required**

You see, the roles are vastly different and the skill set one which requires not only considerably different preparation but also distinctly different skills once on the job. In some instances the CAO has an engineering degree or background; in other instances the CAO might have been the City Treasurer or Clerk; in some he/she would have a degree in finance or community services or planning. In each instance (and with very few exceptions) these people have considerable experience guiding administrative staff in a municipal, provincial or federal department or not-for-profit organization. In other words they generally have a background that enables them to function as a first rate administrator (and not therefore as a first rate politician).

These roles are not interchangeable. If they were we would see evidence in countless communities of successful Council members resigning from office and becoming equally successful administrators. With very few exceptions that does not happen. The approach of an administrator is based on “what works?” The approach of an elected official is “what works politically?”

The key to this Council-CAO covenant being of some help lies in the willingness of both parties to govern their behavior accordingly. This is a considerable presumption and one which can and frequently does fall apart. It is fragile because it is not nurtured and respected. The relationship between a Council and its CAO is either taken for granted because it has always seemed healthy enough or it is tenuous because Council has in its midst a rogue member who insists on undermining the professionalism of the administration.

**Requires More than a Code**

Success in this critical relationship requires much more than a code of conduct or a covenant or even a legal agreement. There are a number of such documents in municipal offices, sometimes adorning the walls of the Council Chambers. The intent when such documents are created is admirable. Those agreeing to the document(s) have often long since left the municipal scene and have entrusted the commitments they represent to others.

With any change in Council or in who is hired to serve as the CAO, a fresh start is strongly recommended. A new relationship must be forged.

It requires the commitment of all parties to the agreement including the senior staff who act as subordinates and colleagues to the CAO and the Council and Mayor who are to provide policy leadership, generally on the advice of the CAO. These commitments ought not to be taken lightly.

Next Month: Romance in the Office