



Staff Report

Human Resources

Report To: Committee of the Whole
Meeting Date: January 8, 2018
Report Number: FAF.18.06
Subject: Code of Conduct for Members of Council and Local Boards Policy Revisions
Prepared by: Jennifer Moreau, Human Resources Manager

A. Recommendations

THAT Council receives the Staff Report FAF.18.06 “Code of Conduct for Members of Council and Local Boards Policy Revisions”;

AND THAT Council approve the revised policy Code of Conduct for Members of Council and Local Boards POL.COR.07.07.

B. Overview

This is a report that details revisions to the Code of Conduct for Members of Council and Local Boards Policy as recommended by our Integrity Commissioner.

C. Background

On November 14, 2016 at a Committee of the Whole meeting Staff Report FAF.16.99 Town’s Workplace Harassment and Violence Program was presented for consideration of Council. The report provided a recommendation to Council to approve a revision to the Town’s Workplace Harassment and Violence Program.

On November 28, 2016 at a Council meeting Councillor John McGee moved the following motion:

THAT Council receive correspondence from Patrick Delaney dated November 24, 2016 regarding the Town’s proposed changes to the Workplace Harassment and Violence Policies;

AND THAT Council direct staff to compile the written concerns of residents regarding the proposed changes to the Workplace Harassment and Violence Policies and summarize the same in a staff report to Council before changes to the policy are made.

The motion was seconded by Councilor Gamble and approved by Council.

A subsequent Staff Report FAF.17.02 provided Council with a summary of themes from Public Comment received and asked Council to consider as a next step having the policy reviewed by our Integrity Commissioner.

On January 23, 2017 at a Council meeting Councillor Bob Gamble moved the following motion:

THAT Council receive Staff Report FAF.17.02 “Workplace Harassment and Violence Program Public Comments”;

AND THAT Council provide staff direction to engage our Integrity Commissioner, Janet Leiper, to provide recommended revisions to the Workplace Violence and Harassment Program, Code of Conduct Policy for Members of Council, and Complaint Protocol.

The motion was seconded by Councillor McGee and approved by Council.

Staff have been working with the Integrity Commissioner to review and revise the Code of Conduct for Members of Council and Local Boards.

D. Analysis

The attached policy incorporates required legislative revisions based on Bill 68 Modernizing the Municipal Act Legislation Act and includes revisions based on the Integrity Commissioners knowledge and expertise of what is best practice for a Code of Conduct for municipalities.

E. The Blue Mountains Strategic Plan

Goal #4: Promote a Culture of Organizational & Operational Excellence

F. Environmental Impacts

N/A

G. Financial Impact

N/A

H. In consultation with

- Janet Leiper, Integrity Commissioner

I. Attached

1. Code of Conduct for Members of Council and Local Boards Draft

Respectfully Submitted,

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Code of Conduct for Members of Council and Local Boards

POL.COR.07.07

Policy Type: Corporate Policy
Date Approved: December 14, 2007
Last Revision: August 22, 2016
Department: Administration
Staff Report:
By-Law No.: 2018-

Policy Statement

Policy direction for the behaviour of Members of Council in the performance of their duties and responsibilities as elected community representatives.

Purpose

Subsection 223.2(1) of the *Municipal Act, 2001* authorizes a municipality to establish codes of conduct for Members of the council of the municipality and of local boards. Subsection 223.3(1) also authorizes a municipality to appoint an Integrity Commissioner who would be responsible for performing in an independent manner the functions assigned by Council with regard to the application of a Code of Conduct.

Subsection 223.2(1) of the *Municipal Act, 2001* requires a municipality to establish codes of conduct for Members of the council of the municipality and of local boards. Subsection 223.3(1) also authorizes a municipality to appoint an Integrity Commissioner who is responsible for performing in an independent manner the functions assigned by Council with respect to the application of the code of conduct, the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards, the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards, requests for advice by members of council and of local boards about obligations under the code of conduct, procedures, rules, policies or the *Municipal Conflict of Interest Act* and the provision of education information to

Code of Conduct for Members of Council and Local Boards

members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of local council and members of local boards and about the *Municipal Conflict of Interest Act*.

Where a municipality has not appointed an Integrity Commissioner, subsection 223.3(1.1) of the *Municipal Act* requires it to make arrangements for all of the responsibilities set out in subsection 223.3(1) to be provided by the Commissioner of another municipality.

The Code of Conduct sets minimum standards for the behaviour of Council Members in carrying out their functions. It has been developed to assist Council to:

1. Understand the standards of conduct that are expected of them and the law that applies in relation to these standards;
2. Fulfill their duty to act honestly and exercise reasonable care and diligence; and
3. Act in a way that enhances public confidence in local government.

Application

This policy applies to Members of the Council of The Corporation of the Town of The Blue Mountains in the performance of their duties and responsibilities as elected community representatives, as well as Members of Town Committees and Local Boards.

Definitions

Municipality – means The Corporation of the Town of The Blue Mountains.

Members – means Members of Council, Town Committees and Local Boards of the Town of The Blue Mountains.

Committee - means any advisory or other committee, subcommittee or similar entity of which at least 50 per cent of the Members are also Members of one or more Councils or local boards.

Local Board - means a local board established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities but does not include The Blue Mountains Police Services Board or The Blue Mountains Public Library Board, a school board, a hospital board or a conservation authority.

Integrity Commissioner -The person appointed by Town Council By-Law in accordance with Section 223.3 of the *Municipal Act, 2001* and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the application of the Code of Conduct for Members of Council and Local Boards.

Integrity Commissioner -The person appointed by Town Council By-Law in accordance with Section 223.3 of the *Municipal Act, 2001* and who is responsible for performing in an independent manner the functions set out in subsection 223.3(1) 1-7.

Procedures

1. Statement of Principle

A written Code of Conduct helps to ensure that the Members of Council, Committees and Local Boards of the municipality share a common basis of acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the Members must operate. These standards should serve to enhance public confidence that The Blue Mountain's elected and appointed representatives operate from a base of integrity, justice and courtesy.

Members are responsible for making honest statements. No Member shall make a statement when they know that statement is false. No Member shall make a statement with the intent to mislead Council Members and the public.

The Town of The Blue Mountain's Code of Conduct is a general standard that augments Provincial laws and municipal policies and by-laws that govern conduct. It is not intended to replace personal ethics.

This Code of Conduct is consistent with the existing statutes governing the conduct of Members. (i.e. the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act* and the *Municipal Freedom of Information and Protection of Privacy Act*) The *Criminal Code of Canada* also governs the conduct of Members of Council.

All Members whom this Code of Conduct applies to shall serve their constituents in a conscientious and diligent manner. No Member shall use the influence of office for any purpose other than the exercise of his or her official duties.

2. Gifts and Benefits

No Member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly to the performance of his or her duties of Office, unless permitted by law. Members shall make decisions based on impartial and objective assessment, free from the influence of gifts, favours, hospitality and entertainment.

Members shall decline any personal gift where the acceptance of such gift would imply a contractual agreement with or obligation to the donor. In particular, Members shall decline any gift, payment, hospitality or entertainment paid for by a person or persons seeking to do business with the Town or of anyone known to the Member to be lobbying a Member on behalf of such a person.

This section does not apply to tokens, mementoes, souvenirs, or such gifts or benefits up to and including a value of \$300.00 that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of office. Tokens, mementoes, souvenirs or gifts with a value of greater than \$300.00 shall be the property of the municipality.

This section does not apply to compensation authorized by law, services provided without compensation by persons volunteering their time, a political contribution otherwise reported by law, in the case of Members running for office or food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity.

No Member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to Town services not otherwise available to the general public and not consequent to his or her official duties.

3. Confidentiality

All information, documentation or deliberation received, reviewed or taken in closed session of Council and its Committees and Local Boards are confidential.

Members shall not disclose or release by any means to any Member of the public either in verbal or written form any confidential information acquired by virtue of their office, except when required by law to do so. Where a matter has been discussed at a closed session meeting and the information remains confidential, no Member shall disclose the content of the matter or the substance of deliberations of the closed session meeting.

Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential.

Particular care should be exercised in ensuring confidentiality of the following types of information:

- Labour relations and personnel matters;
- Information about suppliers provided for evaluation which might be useful to other suppliers;
- Matters relating to the legal affairs of the Town of The Blue Mountains;
- Information that infringes on the rights of others (i.e. sources of complaints where the identity of the complainant was given in confidence);
- Items under litigation or negotiation;
- Price schedules in contract tender or Request for Proposal submissions if so specified;
- Information deemed to be “personal information” under the *Municipal Freedom of Information and Protection of Privacy Act*; and

- Statistical data required by law not to be released (e.g. certain census or assessment data).

This list is provided as an example and is not exclusive. It is recommended that requests for information be referred to the Office of the Clerk to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

4. Use of Town Property

Subject to Section 5, no Member shall use for personal purposes any Town property, equipment, services, supplies or services of consequence other than for purposes connected with the discharge of Town duties or associated community activities of which Town Council has been advised.

No Member shall obtain financial gain from the use of Town developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Town of The Blue Mountains.

No Member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties.

5. Use of Town Technology Resources

The Town of The Blue Mountains licenses the use of computer software from a variety of vendors. The Town does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable licence.

6. Work of a Political/Personal Nature

Members shall comply with Town Policy A.POL.01, Use of Corporate Resources for Election purposes and no Member shall use Town facilities, services or property for his or her re-election campaign. Further, no Member shall use the services of Town employees for his or her re-election campaign, during hours in which the employees are in the paid employment of the Town.

No Member shall use Town facilities, services or property for his or personal business gain. No Member shall use the services of Town employees for his or her personal business during the hours in which the employees are in the paid employment of the Town.

7. Conduct at Meetings

Members shall conduct themselves with decorum at Council, Committee and Local Board meetings in accordance with the provisions of the Town's Procedural By-law.

Respect for deputations and for fellow Members and staff requires that all Members show courtesy and not distract from the business of Council, Committees and Local Boards during presentations and when other Members have the floor.

8. Representing the Town

Members shall make every effort to participate diligently in the activities of the Agencies, Committees and Local Boards to which they are appointed.

9. Respect for the Role of Staff

Members shall be respectful of the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective. Members must not falsely or maliciously injure the professional reputation of staff Members. Members shall be respectful of the fact that staff carry out the directions of Council and administer the policies of the municipality, and are required to do so without any undue influence from any individual Member or group of Members of Council.

Where a Member has a concern about personnel matters, he or she should speak with the Mayor and/or the Chief Administrative Officer about the concern or alternatively raise the issue with Council during an *in camera* session.

Members must not invite or pressure any Member of staff to engage in partisan political activity nor subject staff to discrimination or reprisal for refusing to engage in such activities.

10. Business Relations

No Member shall borrow money from any person who regularly does business with the Town unless such person represents an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

No Member shall act as a paid agent before Council or any Committee or Local Board of Council or any Agency at which the Town is represented.

11. Expenses

Members shall comply with the provisions of the Town's applicable policies relative to per diem payments and expenses governing reimbursement for attendance at conferences, seminars, training courses and workshops.

Members shall be reimbursed for their out-of-pocket expenses incurred in accordance with approved Town policies while attending official functions and representing the Town in their official capacity.

12. Encouragement of Respect for the Town and its By-Laws and Policies

Code of Conduct for Members of Council and Local Boards

Members shall encourage public respect for the Town and its by-laws and policies. Members shall abide by the provisions of any policies adopted by Council, committees or local Boards which apply to the conduct of Members.

13. Discrimination and Harassment

Members have a duty to treat members of the public and one another with respect and without abuse, bullying or intimidation.

All persons shall be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment. Members are not to engage in any course of conduct or make comments that would constitute workplace harassment.

Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the Ontario Human Rights Code.

Members are responsible for communications that may constitute harassment, whether in person, in writing, by public comment and on-line, including via social media.

14. Advice

Members seeking information about their responsibilities under this Code of Conduct are encouraged to request advice from the Integrity Commissioner appointed by Town Council.

A request by a Member for advice from the Integrity Commissioner under the Code of Conduct, any procedure, rule or policy of the municipality or of the local board, as the case may be, or for advice respecting their obligations under the *Municipal Conflict of Interest Act* shall be made in writing. If the Integrity Commissioner provides such advice, that advice shall be in writing.

Advice provided by the Integrity Commissioner to a Member may be released with the member's written consent. If a member releases only a part of the advice provided to the member by the Commissioner, the Commissioner may release part or all of the advice provided to the Member without obtaining the Member's consent.

15. Respect for Code of Conduct

Members should respect the process for complaints made under the Code of Conduct. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or against a person who provides information to the Integrity Commissioner during an investigation.

Consequences of Non-Compliance

Where Council or a Local Board (as applicable) receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member of Council or Local Board, Council or the Local Board may impose either of the following penalties on the Member as permitted by the *Municipal Act, 2001*:

- (a) a reprimand;
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council for a period up to 90 days.

Council or the Local Board as the case may be, may, on the basis of a recommendation from the Integrity Commissioner take any or all of the following actions and require that the Member:

- (i) provide a written or verbal apology;
- (ii) return property or make reimbursement of its value or of money spent;
- (iii) be removed from the Membership of a Committee; or
- (iv) be removed as chair of a Committee.

References and Related Policies

The *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, Procedural By-law No. 2007-29, Town Policies:

- POL.COR.07.01 Accountability & Transparency;
- POL.COR.07.02 Sales & Other Disposition of Land;
- POL.COR.07.03 Provision of Notice & Manner of Giving Notice;
- POL.COR.07.04 Delegation by Council of Powers & Duties;
- POL.COR.07.05 Purchase of Goods & Services;
- POL.COR.07.06 Hiring of Employees;
- POL.COR.18.xx Protocol Policy for Complaints Related to Members of Council and Local Boards;
- Town of The Blue Mountains Strategic Plan.

Review Cycle

This policy will be reviewed in each term of Council by Council in conjunction with the Integrity Commissioner.