



Notice and Agenda
United Counties of Leeds and Grenville
Code of Conduct Committee

Wednesday, February 19, 2020
Immediately following the Council Meeting
Council Chambers
25 Central Avenue West, Brockville, Ontario

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1. Call to Order	
2. Adoption of Agenda	
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9. Closed Meeting - Nil	
10. Adjournment	

**United Counties of Leeds and Grenville
Code of Conduct Ad Hoc Committee
Minutes**

Wednesday, October 16, 2019

9:00 a.m.

Council Chambers

25 Central Avenue West, Brockville, Ontario

Members Present: Arie Hoogenboom, Chair
Pat Sayeau, Warden, Doug Malanka, Nancy Peckford,
Doug Struthers

Staff Present: Andy Brown, Chief Administrative Officer
Lesley Todd, Clerk
Andrea Bolton, Deputy Clerk (Recording Secretary)

1. Call to Order

The Chair called the meeting to order at 9:03 a.m.

2. Adoption of Agenda

Resolution No. CO-004-2019

Moved by Doug Malanka

Seconded by Pat Sayeau

THAT the Agenda for the October 16, 2019 meeting of the Code of Conduct Committee be adopted as circulated.

CARRIED

3. Disclosure of Pecuniary Interest and General Nature Thereof - Nil

4. Adoption of the Minutes of the Previous Meeting

4.1 Meeting Minutes Dated February 11, 2019

Resolution No. CO-005-2019

Moved by Pat Sayeau

Seconded by Doug Malanka

THAT the Minutes of the Code of Conduct Committee meeting held on February 11, 2019 be adopted as circulated.

CARRIED

5. Staff Reports

5.1 Report No. CO-002-2019: Code of Conduct Review by Integrity Commissioner

Mrs. Todd stated after the last meeting of the Committee the draft Code of Conduct was circulated to Tony Fleming, the Integrity Commissioner, for review. He has provided a section pertaining to a complaint process. Mrs. Todd followed-up with Mr. Fleming to acquire forms, including a form for the member of Council to fill out when seeking an opinion from the Integrity Commissioner.

Ms. Peckford joined the meeting at 9:08 a.m.

Mr. Hoogenboom noted he recently discussed Code of Conduct with Fred Dean and Nigel Bellchamber and it was emphasized the Codes cannot cover every possible ramification and every possible complaint. The Codes work better when they are minimal in scope. Warden Sayeau said this draft Code of Conduct is highly prescriptive. Mr. Hoogenboom stated the Integrity Commissioner reviewed it and it is hard not to take his advice. Mrs. Todd noted this Code started with the previous Committee and staff attended training by Rick O'Connor, Solicitor/Clerk, City of Ottawa. This is the third draft of the Code. It was clarified the draft would go to Committee of the Whole and then to Council for adoption by by-law.

The Committee reviewed the draft Code section by section.

Authority and Preamble – No comments or changes.

1. Definitions – It was noted the section previously listed "child, parent, and spouse". The Integrity Commissioner changed it to say "family member". The Committee had previously questioned whether this concerns local boards. Mr. Fleming inserted a section on local boards that covers all other boards

members might sit on. It was noted multiple Codes of Conduct may apply to members; it was suggested the members must follow the most stringent Code.

2. Statutory Provisions Regulating Conduct – No comments or changes.
3. Application – No comments or changes.
4. Gifts and Benefits – The Committee discussed how this section would be applied using specific examples. Mr. Malanka said the key line in the section is that the gift or benefit is not available to the general public and is not consequent to the member's official duties. The Committee discussed the proposed value of \$100 for consumables and chose to raise this amount to \$200. The phrase "examples are not limited to" was added before the list of possible exceptions to the Gifts and Benefits section. The value of gifts or benefits was left at \$300. Following further discussion by the Committee, the Clerk was instructed to send the Gifts and Benefits section back to the Integrity Commissioner to acquire clarity.

Mr. Struthers joined the meeting at 9:30 a.m.

5. Confidential Information – It was noted there were no suggested changes to this section by the Integrity Commissioner. The Committee discussed the phrase "and broadly as the confidence applies" and under what circumstances confidential information can be made public. The Committee made no changes to the section.
6. Use of Counties Property, Services and Other Resources – No comments or changes.
7. Election Campaign Work – The Committee discussed whether or not this section would prohibit election signs on County Road Allowances. It was noted the Municipal Elections Act speaks to election signage, and election signs are permitted on County Road Allowances. The Committee discussed the section prohibiting campaigning activities on Counties' property during regular business hours. The Committee chose to remove the sentence.
8. Improper Use of Influence – No comments or changes.

9. Business Relations/Conflict of Interest – It was noted the Integrity Commissioner changed this section significantly, removing the words “business relations” and changing it to “conflict of interest”. The Committee made no additional changes to this section.
10. Conduct Regarding Current and Prospective Employment – This item was removed.
11. Conduct at Counties Council and Committee Meetings – The Committee noted an “ing” was needed in the third paragraph on the word “bring”, and in the fourth paragraph on the word “include”. The Committee discussed what type of conduct is considered offensive. It was noted what may be offensive to one person may not be the same for others. Mr. Malanka said if an item is not defined in legislation then the practice is to go to the dictionary definition. Staff stated the body should try and govern themselves as much as possible without going to the Integrity Commissioner. Mr. Struthers said an apology can be requested before going to the entire body for a ruling. Warden Sayeau noted the purpose of the section is that everyone is responsible for the decorum of the meeting.
12. Conduct Respecting Staff – It was noted this section was added at the last meeting with the possible exception of the addition of “except the Chief Administrative Officer” to the end of the sentence “members have no individual capacity to direct members of staff to carry out particular functions”. The Clerk advised if this is added to the sentence an amendment to By-law 18-65, Council Staff Relations Policy, will be necessary. In paragraph four it was noted the word “respective” should be changed to “respectful”. In the third bullet the word “attend” was changed to “attempt”. In the fourth bullet, Mr. Brown noted the word “comply” should be changed to “interfere”. The Committee noted the entire fourth bullet requires re-phrasing; the Clerk will return to an earlier version of the Code.
13. Discreditable Conduct – No comments or changes.
14. Failure to Adhere to Council Policies and Procedures – The Committee discussed possible exemptions from the Code and whether they would be acceptable. It was noted in some instances it is impossible to comply with policies, for example when attending events in markets that are more expensive, resulting in expenses over the daily limit established in policy. It

was discussed whether or not exemptions must be requested in advance. Staff were instructed to ask Mr. Fleming if the sentence "the provision does not prevent a Member from requesting exemption from a policy" is necessary. Regarding the policies surrounding discreditable conduct, Ms. Peckford noted the definition of abuse, intimidation, and harassment are evolving; she asked if the test used is from the Human Rights Code. Mr. Brown said the Human Rights Code and the Counties' Respect in the Workplace Policy are the key pieces of legislation.

15. Reprisals and Obstruction – No comments or changes.
16. Acting on Advice of the Integrity Commissioner – It was noted this is a completely new section. The Committee discussed the section removed by Mr. Fleming, which discussed binding the Integrity Commissioner to written advice given to a member if all the relevant facts known to the member were disclosed to the Integrity Commissioner. Warden Sayeau noted if the member has approached the Integrity Commissioner in good faith then they should be able to rely on the Integrity Commissioner's advice should the matter be referred back to the Integrity Commissioner. Mr. Hoogenboom stated it is difficult not to feel there is a conflict of interest for the Integrity Commissioner. The Committee discussed whether or not the decision and advice of an Integrity Commissioner can be appealed to an arbitrator. The Committee agreed to delete the section regarding binding the Integrity Commissioner to written advice in subsequent matters.
17. Role of the Integrity Commissioner – The Committee discussed the last paragraph of the section, which states the Integrity Commissioner shall prepare and submit an annual report to Council, and sets out what shall be included in the report. Warden Sayeau asked who holds the IC to those standards and if the Integrity Commissioner would file a Nil Report so Council will know if there were no complaints received in that year. The Clerk is responsible for reminding the Integrity Commissioner when the date of the report is approaching. The Committee chose to insert, that the report be submitted by October 1st of each year. Staff were instructed to check the contract with the Integrity Commissioner to confirm the date is appropriate.
18. Compliance with the Code of Conduct – Staff reported this section is an addition to the Code and is straight from the legislation. The Committee had no changes.

19. Complaint Protocol – It was noted the 90 day deadline for proceeding with a complaint and requesting an investigation is a legislated number. No comments or changes.

The Committee reviewed the Appendices:

Appendix 1 Part A – Sections 1 to 2 - Informal Complaint Procedure – No comments or changes.

Appendix 1 Part B – Sections 1 to 5 - Formal Complaint Procedure – No comments or changes.

Appendix 1 Part B – Section 6 - Formal Complaint Procedure - Refusal to Conduct Investigation – No comments or changes.

Appendix 1 Part B – Section 7 - Formal Complaint Procedure – Opportunities for Resolution – No comments or changes.

Appendix 1 Part B – Section 8 - Formal Complaint Procedure – Investigation – No comments or changes.

Appendix 1 Part B – Sections 9 to 12 - Formal Complaint Procedure – Timing of Complaints in Relation to Municipal Elections – No comments or changes.

Appendix 1 Part B – Sections 13 to 19 - Formal Complaint Procedure – Complaints Under the Municipal Conflict of Interest Act – No comments or changes.

Appendix 1 Part B – Section 20 - Formal Complaint Procedure – Complaints Under the Municipal Conflict of Interest Act – The Committee discussed the 180 day timeframe of the Integrity Commissioner’s investigation, noting it is a lengthy period. The Clerk will ask if this is a legislated timeframe. The Committee chose to leave 180 days in this section.

Appendix 1 Part B – Section 21 - Formal Complaint Procedure – Complaints Under the Municipal Conflict of Interest Act – No comments or changes.

Appendix 1 Part B – Sections 22 to 24 - Formal Complaint Procedure – Section 22 to 24 – Recommendation Report – No comments or changes.

Appendix 1 Part B – Sections 25 to 26 - Formal Complaint Procedure – Member Not Blameworthy – No comments or changes.

Appendix 1 Part B – Sections 27 to 28 - Formal Complaint Procedure - Public Disclosure – No comments or changes.

Appendix 1 Part B – Section 29 – Formal Complaint Procedure –Public Disclosure – Warden Sayeau noted at the time of the Integrity Commissioner’s annual report the identify of the person who is the subject of the complaint will not be treated as confidential if the IC finds it necessary. Mr. Hoogenboom said the name of the person who is the subject of the complaint is always public, it is the identity of the complainant that is confidential. No changes were made to this section.

Mrs. Todd asked if the Committee would like to meet again following Mr. Fleming’s next review of the draft Code. Mr. Hoogenboom stated the revised Code could be circulated electronically and a meeting called if necessary. He stated he would like to have this process completed by the end of the year. Mr. Struthers noted the Committee cannot approve anything electronically and suggested the Committee hold a quick meeting following Council to pass a recommendation for the Committee of the Whole. Mrs. Todd said because of the review by Mr. Fleming the document will not go to the November Committee of the Whole, and noted there will be regular meetings in December.

Resolution No. CO-006-2019

Moved by Nancy Peckford

Seconded by Doug Struthers

THAT the Code of Conduct Committee recommends Draft 3, as amended, of the Council Code of Conduct be forwarded to the Integrity Commissioner for final review.

CARRIED

6. Unfinished Business - Nil

7. Questions from the Media

No members of the media were present.

8. Questions from the Public

No members of the public were present.

9. Closed Meeting - Nil

10. Adjournment

Resolution No. CO-007-2019

Moved by Doug Struthers

Seconded by Nancy Peckford

THAT the Code of Conduct Committee adjourn at 10:45 a.m.

CARRIED

Arie Hoogenboom, Chair

Lesley Todd, Clerk

FEBRUARY 19, 2020

CODE OF CONDUCT COMMITTEE

REPORT NO. CO-001-2020

CODE OF CONDUCT - REVIEW BY INTEGRITY COMMISSIONER

**LESLEY TODD,
COUNTY CLERK**

RECOMMENDATIONS

THAT the Code of Conduct Committee recommends Draft 4 of the Council Code of Conduct be forwarded to the Committee of the Whole.

BACKGROUND

The Code of Conduct Committee last met on October 16, 2019 to continue its review of the draft Council Code of Conduct. The Committee had previously instructed staff to ask Tony Fleming, the Counties Integrity Commissioner to review the draft and provide feedback. The Committee reviewed the draft section by section, and provided its feedback and adopted the changes suggested by Mr. Fleming.

The Committee had a few areas they wished additional advice on from Mr. Fleming. They included:

Section IV - Gifts and Benefits - the Committee increased the amount from \$100 to \$200 which staff agreed with, but struggled with wording related to gifts versus consumables.

Section XIV - Failure to Adhere to Council Policies and Procedures – sentence “This provision does not prevent a Member from requesting exemption from a policy”. The Committee was questioning whether to include or remove this section.

Section XVI - related to reporting to Council by the Integrity Commissioner and questioned the dates and where there should be an earlier reporting in an election year.

DISCUSSION/ALTERNATIVES

The third draft of the Code of Conduct was reviewed and following are the changes suggested by Tony Fleming:

Section IV Gifts and Benefits

Mr. Fleming has provided their normal suggested language for Gifts and has suggested that if the Committee wished to include a value, that could be included in the a) and h) sections below. This also better differentiates between the two (gifts versus consumables).

The objective of the Gift provisions is to ensure that Members make Council decisions based on impartial and objective assessments of each situation, free from influence of Gifts, favours, hospitality or entertainment.

The term Gifts, commissions, hospitality, rewards, advantages or benefits of any kind, may be used interchangeably and shall be deemed to include all of the aforementioned.

Any stipend paid to a Member is intended to fully remunerate the Member for service to the Municipality.

Members are prohibited from soliciting, accepting, offering or agreeing to accept any Gifts, commissions, hospitality, rewards, advantages or benefits of any kind, personally or through a Family Member or associate (business or otherwise), that is connected directly or indirectly with the performance of duties of office or could reasonably be construed as being given in anticipation of future, or recognition of past, special consideration by the Member.

Members are prohibited from accepting, directly or indirectly, any Gifts, hospitality or other benefits that are offered by persons, groups or organizations having dealings with the Municipality.

The above policy does not preclude Members from accepting:

- a)** Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee, for speaking at an event or

- for representing the Municipality at an event; **(this is where the dollar value can be added if the Committee decides)**
- b) Political contributions that are otherwise offered accepted and reported in accordance with applicable law;
 - c) Food and beverages at meetings, banquets, receptions, ceremonies or similar events;
 - d) Food, lodging, transportation, entertainment provided by other levels of governments, by other local governments or by local government boards, commissions and committees;
 - e) A stipend from a board or commission that the Member serves on as a result of an appointment by Council;
 - f) Reimbursement of reasonable expenses incurred in the performance of office;
 - g) Reimbursement of reasonable expenses incurred, and honorariums received in the performance of activities connected with municipal associations;
 - h) Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office; (this is where the dollar value can be added if the Committee decides)**
 - i) Services provided without compensation by persons volunteering their time for election campaign, provided the services are properly valued in accordance with the *Municipal Elections Act*.

Where it is not possible to decline unauthorized Gifts, hospitality or other benefit, Members shall report the matter to the Chief Administrative Officer. The Gift shall become the property of the Municipality and the Chief Administrative Officer may require that the gift be retained by the Municipality or be disposed of for charitable purposes in the Chief Administrative Officer's sole discretion.

Section XIV Failure to Adhere to Council Policies and Procedures

Mr. Fleming suggested this could be taken this out, but ultimately a Member would need to be exempted by a resolution of Council, as Council always has this authority regardless (to exempt by way of a resolution). It is up to the Committee to decide whether to leave it in or be removed.

Section XVI Role of the Integrity Commissioner

Mr. Fleming stated they prepare all the annual reports for January 31st and suggested they prepare Council's for January 31st and in election years, for October 1st.

Mr. Fleming has also suggested an additional change to Appendix 1, Part B: Formal Complaint Procedure (8) of the Code of Conduct for the Committee's review:

Investigation Preliminary Review/Investigation

8. The Integrity Commissioner will proceed as follows, except where otherwise required by the Public Inquiries Act:
 - a) provide the complaint and supporting material to the Member whose conduct is in question within 10 business days of the determination that an investigation will proceed. A request will be included that the Member provide any written response to the Integrity Commissioner within 10 business days;
 - b) provide a copy of any response from the Member to the complainant within 10 business days. A request will be included that the complainant provide any written response to the Member's response within 10 business days;
 - c) provide a copy of any response from the complainant to the Member within 10 business days. A request will be included that the Member provide any written response to the complainant's response within 10 business days;
 - d) If, after reviewing all materials as part of the preliminary review, the Integrity Commissioner proceeds with a formal investigation, the following steps may be utilized as part of the investigation process:
 - e) the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any work location of the Municipality relevant to the complaint for the purpose of investigation and potential resolution;
 - f) the Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation; and
 - g) ~~the Integrity Commissioner shall retain all records related to the complaint and investigation; and~~ (not really part of the investigation process)
 - h) the Integrity Commissioner may extend deadlines at his discretion.

If the Committee is in agreement with the recommended changes staff will make the final changes to the draft Code of Conduct. The draft can then be forwarded it to the Committee of the Whole for review in March. Steps after a review by the Committee of the Whole will be for the Code of Conduct to be adopted by by-law, after which staff will arrange for Mr. Fleming to provide Council training on the Code of Conduct. This may be done in conjunction with local municipalities who have appointed Mr. Fleming as their Integrity Commissioner if they wish to participate.

FINANCIAL IMPLICATIONS

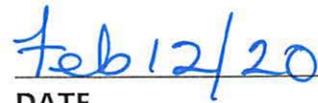
Nil.

ATTACHMENTS

Nil.



LESLEY TODD
COUNTY CLERK



DATE

ANDY BROWN
CHIEF ADMINISTRATIVE OFFICER

DATE