

STAFF REPORT: Administration



REPORT TO: Finance and Administration
MEETING DATE: November 17, 2009
REPORT NO.: A.09.11
SUBJECT: Code of Conduct for Members of Council
PREPARED BY: Stephen Keast, Clerk

A. Recommendations

THAT Council receive Staff Report A.09., "Code of Conduct for Members of Council", for information purposes;

AND THAT Council enact a By-law to adopt Corporate Policy POL.AD.07.07, Code of Conduction for Members of Council.

B. Background

Recent revisions to the *Municipal Act, 2001* (the Act), require a municipal government to try to ensure that it is accountable to the public for its actions and that its actions, including decisions, are transparent to the public. As part of the emphasis on accountability and transparency, higher levels of scrutiny have been placed on procedures in place to address conduct of Council and Staff.

Regarding accountability, transparency and clarity for Council, Staff are recommending Council consider a Corporate Policy addressing a Code of Conduct for Members of Council. The attached Policy is based on the Grey County Policy with some modifications to comply with Town practices and Procedural By-law.

The Council Code of Conduct was first considered together with six 2007 Policies previously adopted by Council (Accountability & Transparency, Sale and Other Disposition of Land, Provision of Notice, Delegation of Powers, Purchasing and Hiring) and as each those Policies refer to the other Policies, the Policy number for the Code of Conduct remains noted as 07.07.

Councillors Martin and McGee have assisted in the review and preparation of the Code of Conduct document. Following their review, Staff have suggested some minor revisions which have been incorporated into the proposed Policy. These changes are reflected in Section 14, Interpretation, where a member seeking clarification would consult with their solicitor rather than the Chief Administrative Officer. Further, Section 15 would now permit the Mayor to commence an investigation as well as in response to a written complaint. The Mayor would also be permitted to consult with legal counsel or any other person in investigating the complaint.

Lastly, the Policy review cycle now reads "the CAO *in conjunction with* Council.

A separate exercise is under way to identify ethics and values guidelines regarding the actions and decisions of Staff.

C. The Blue Mountains' Strategic Plan

Providing a strong, well-managed municipal government.

D. Environmental Impacts

None

E. Budget Impact

None

F. Attached

1. Draft Corporate Policy POL.COR.07.07, Code of Conduct for Members of Council

Respectfully submitted,

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TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: Code of Conduct for Members of Council

Corporate Policy (Approved by Council)

Policy Ref. No.: POL.AD.07.07

Administrative Policy (Approved by CAO)

By-law No.: 2010 -

Department Policy: (Approved by Mgr.)

Name of Dept.: Administration

Date Approved:

Staff Report:

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. Such an appointment is not contemplated by this Policy at this time.

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 The Blue Mountains Council, Town Committees and Local Boards of the municipality.

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.

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. (ie 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.

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.

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.

Exceptions to Section 2. shall be approved by the Mayor and in circumstances when the exception is for the Mayor, the Chair of the Finance and Administration Committee shall approve the exception.

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 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. Members are encouraged to attend openings and charity events.

9. Influence on Staff

Members shall comply with Town Policy HR.06.02, Respectful Workplace, and 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 shall be further respectful of the fact that staff carry out 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.

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 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

Members shall encourage public respect for the Town and its by-laws and policies.

13. Harassment

Members shall comply with Town Policy HR.06.01, Discrimination and Harassment-Free Workplace. Discrimination or harassment of another member, staff or any member of the public is misconduct. All persons shall be treated fairly in the workplace in an environment free of discrimination and of personal and sexual 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.

14. Interpretation

Members seeking clarification of any part of this Code should consult with their solicitor.

15. Complaints

The Mayor may commence an investigation of any potential breach of this Code on his or her own accord or in response to a written complaint in the following manner:

- a) Investigate within 30 days of receipt of a formal written request and prepare a written report and recommendation for Council. Additional time, if justified, may be authorized by a resolution of Council.
- b) Determine if a member or members have committed a breach of the Code.
- c) Recommend disciplinary action as set out in the *Municipal Act, 2001*.

The Mayor may consult with legal counsel or any other person as may be required in determining points of law or any other matter.

In the event that the complaint relates to the Mayor, the written submission will be made to the Finance and Administration Committee who shall have the duties and responsibilities of the Mayor to investigate following the provisions of this Section.

Exclusions

None

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.AD.07.01 through and including POL.AD.07.06, as approved, together with this Policy document and the Town of The Blue Mountains Strategic Plan.

Consequences of Non-Compliance

Penalties described in subsection 223.4(5) of the *Municipal Act, 2001* that a municipality may impose if a member has contravened a Code of Conduct include:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or local board, as the case may be, for a period of up to 90 days.

Review Cycle

This policy will be reviewed in each term of Council by the C.A.O. in conjunction with Council.