Minutes
Code of Conduct Review Sub-Committee

Meeting Date: September 5, 2019
Meeting Time: 3:30 p.m.
Location: Council Chambers
Prepared by: Sarah Merrifield, Executive Assistant Committees of Council

A. Call to Order

Mayor Soever called the meeting to order at 3:30 p.m. with Deputy Mayor Bartnicki and Councillor Potter present.

Staff in attendance was Director of Human Resources Jennifer Moreau.

 Approval of Agenda

Moved by: Rob Potter Seconded by: Odette Bartnicki

THAT the Agenda of September 5, 2019 be approved as circulated, including any additions to the Agenda being Item E.1.1 Motion from Councillor Potter regarding Request to Ministry of Municipal Affairs and Housing Database for Matters before Integrity Commissioners, Carried.

DECLARATION OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF

NOTE: In accordance with the Municipal Conflict of Interest Act and the Town Procedural By-law 2018-20, Code of Conduct Review Committee Members must file a written statement of the interest and its general nature with the Clerk for inclusion on the Registry.

None

 Previous Minutes (July 15, 2019)

Moved by: Odette Bartnicki Seconded by: Rob Potter

THAT the Minutes of July 15, 2019 be approved as circulated, including any revisions to be made, Carried.

B. Staff Reports and Deputations

B.1 Deputations, if any

None
B.2 Public Comment Period (each speaker is allotted three minutes)
NOTE: In accordance with the Town Procedural By-law 2018-20 fifteen minutes is allotted at the Meeting to receive public comments regarding Code of Conduct Sub-Committee matters included on the Agenda. The speaker shall provide their name and address, and shall address their comments to the Chair. Comments shall not refer to personnel, litigation or potential litigation matters.

None

B.3 Staff Reports, if any

None

C. Matters for Discussion

C.1 Updated DRAFT POL.COR.07.07 Code of Conduct for Members of Council and Local Boards Policy

The Code of Conduct Review Sub-Committee (“Sub-Committee”) members reviewed the updated DRAFT POL.COR.07.07 Code of Conduct for Members of Council and Local Boards Policy, which includes suggested revisions from the Town’s Integrity Commissioner (“IC”).

The following further revisions were requested by the Sub-Committee:

1. Under Clause 8 – Discreditable Conduct, include the following “in the case of Criminal Code offences, the IC or staff shall refer the matter immediately to the appropriate authorities.”
2. Revise Confidential Information definition to reflect the following:

   Even though material may have been discussed in Closed Session the following will not be considered Confidential Information:
   
   1) information that is or has become publicly known through no fault or act of a Member;
   2) information that is lawfully known by the Member prior to it being discussed in Closed Session;
   3) at the time of discussion in Closed Session is not subject to restriction; and
   4) information that is lawfully obtained, without a duty of confidentiality, from a third party that rightfully makes such disclosure without breach of a duty of confidentiality or other wrongful act.

The above does not release a Member from the obligation to maintain the confidentiality of details discussed in Closed Session.
A Member may disclose Confidential Information if required to do so by law; provided that the Member promptly provides written notice of such legally required disclosure and cooperates with Council and the municipality’s reasonable efforts, at municipality’s cost and expense, to obtain a protective order or other appropriate protection of the Confidential Information.

3. Include Closed Session guidelines in the Definition for Confidential Information.
4. Confirm the definition of Immediate Relative is consistent with the Municipal Conflict of Interest Act.
5. Under Clause 11 – Representing the Town, remove IC’s suggested addition regarding “participate diligently”.
6. Under Clause 19 – Respect for Code of Conduct, revise to state that “Failure to comply with Council’s decision shall constitute a contravention of this Code and shall be subject to penalties in accordance with the Policy for Complaints Related to Local Boards and Advisory Committees – Consequences of Failure to Adhere to Code of Conduct, as found on p.29.
7. Under Clause 14 – Delegation, leave this section in but include the following: “other than a Member of Council or Local Board, or staff member, any of the IC’s powers and duties”.
9. Under Part B – Formal Complaint Procedure, Clause 5 – Refusal to Conduct Investigation, confirm with IC if both the Complainant and Respondent can be advised when an investigation is terminated for reasons outlined in Clause 5.
10. Under Part B – Formal Complaint Procedure, Clause 5 – Refusal to Conduct Investigation e) Confirm with IC the difference between Findings and a Report and include reference to IC providing the draft Report to both the Complainant and the Respondent prior to the final investigation report being submitted to Council.
11. Seek IC opinion regarding whether Confidentiality of Complainant is maintained if a complaint is filed by a Member of Council, given the recent IC opinion regarding whether a Member of Council may submit comments to Council as a member of the public.
12. Request IC to clarify Clause 14 – Delegation on p.22.
14. Include a Statutory Declaration section into Appendix C – Formal Complaint Form / Affadavit.

The Sub-Committee also noted a forthcoming Council training session which could highlight the need for Council members to exercise caution when discussing or considering closed session materials.
C.3 Example Integrity Commissioner Code of Conduct Complaint Form with Statutory Declaration – City of Vaughan

The Sub-Committee confirmed a Statutory Declaration section can be added into Appendix C – Formal Complaint Form / Affadavit, per the IC’s recommendation.

C.3 Confirmation of The Blue Mountains Attainable Housing Corporation inclusion in POL.COR.07.07 Code of Conduct for Members of Council and Local Boards Policy

Note: at the August 1, 2019 Blue Mountains Attainable Housing Corporation meeting, the following motion was passed:

WHEREAS The Blue Mountains Attainable Housing Corporation is a separate, wholly-owned Corporation of the Town of The Blue Mountains;

AND WHEREAS The Blue Mountains Attainable Housing Corporation acknowledges the Municipal Act, 2001 and the Town’s Procedural By-law do not apply to Corporation proceedings;

AND WHEREAS The Blue Mountains Attainable Housing Corporation Board of Directors, with the exception of the appointed Municipal Members, do not formally adhere to POL.COR.07.07 Code of Conduct for Members of Council and Local Boards;

AND WHEREAS The Blue Mountains Attainable Housing Corporation is amending its operating procedures to reflect the Town of The Blue Mountains Procedural By-law relating to the calling and conduct of meetings;

THEREFORE BE IT RESOLVED THAT The Blue Mountains Attainable Housing Corporation approves use of POL.COR.07.07 Code of Conduct for Members of Council and Local Boards, as amended from time-to-time, for Corporation purposes, and agrees that members of The Blue Mountains Attainable Housing Corporation, both Municipal Members, and non-Municipal Members, shall adhere to POL.COR.07.07 Code of Conduct for Members of Council and Local Boards, as amended from time-to-time, Carried.

The Sub-Committee acknowledged that The Blue Mountains Attainable Housing Corporation will utilize POL.COR.07.07 Code of Conduct for Members of Council and Local Boards, and Board Members will adhere to the Code of Conduct outlined therein.

D. Correspondence

None
E. New and Unfinished Business

E.1 Additions to the Agenda

E.1.1 Motion from Councillor Potter regarding Request to Ministry of Municipal Affairs and Housing Database for Matters before Integrity Commissioners

Moved by: Rob Potter  Seconded by: Odette Bartnicki

WHEREAS the system of justice in Ontario is based on the British system of Common Law which bases decisions on legal precedents;

AND WHEREAS the decisions of Integrity Commissioners in settled cases could provide guidance to all involved in Municipal Government in Ontario as well as to the people they serve;

BE IT THEREFORE RESOLVED that the Code of Conduct Sub-Committee recommends that the Council of the Town of The Blue Mountains requests that the Ontario Ministry of Municipal Affairs and Housing create a searchable database of all matters placed before all Integrity Commissioners within the province and the resolution on such matters;

AND FURTHER BE IT RESOLVED THAT this resolution be circulated to all municipalities in Ontario via the Association of Municipalities of Ontario;

AND THAT this matter by considered by Council of the Town of The Blue Mountains through a formal Notice of Motion by Councillor Potter at a subsequent Council meeting, Carried.

E.2 Items Identified for Discussion at the Next Meeting

F. Notice of Meeting Dates

No additional meetings have been scheduled at this time.

G. Adjournment

Moved by: Rob Potter  Seconded by: Odette Bartnicki

THAT the Code of Conduct Review Sub-Committee does now adjourn at 5:13 p.m. to meet again at the call of the Chair, Carried.