

Committee of the Whole Report

DATE: Tuesday, June 04, 2019

WARD(S): ALL

TITLE: AMENDMENTS TO THE CODE OF CONDUCT FOR MEMBERS OF COUNCIL, LOCAL BOARD AND COMMITTEES (DEFERRED)

FROM:

Nick Spensieri, Deputy City Manager, Corporate Services

ACTION: DECISION

Purpose

To forward a deferral from the Council meeting of May 1, 2019, seeking approval of a revised Code of Conduct that will apply to Members of Council, and to include members of Local Boards, in accordance with the requirements of the *Municipal Act*. Approval of an updated Complaint Protocol is also being sought.

Report Highlights

- *Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017*, requires codes of conduct for members of Council and local boards
- Role of the Integrity Commissioner has expanded, including jurisdiction over *Municipal Conflict of Interest Act*
- The existing Code of Ethical Conduct for Members of Council and Complaint Protocol have been updated to reflect the Bill 68 amendments

Recommendations

Council, at its meeting of May 1, 2019, deferred consideration of the following recommendations of the Deputy City Manager, Corporate Services, dated April 2, 2019 (Report No. 14, Item 10) to the Committee of the Whole meeting of June 4, 2019:

1. That the revised “Code of Ethical Conduct for Members of Council and Local Boards” be approved, substantially in the form of the Draft Code included as Attachment #1; and
2. That the revised “Complaint Protocol” be approved, substantially in the form of the Draft Complaint Protocol included as Attachment #2.

Background

Council, at its meeting of May 1, 2019, adopted the following (Report No. 14, Item 10, Committee of the Whole meeting of April 2, 2019):

1. That consideration of this matter be deferred to the Committee of the Whole meeting of June 4, 2019; and
2. That communication C2, from the Deputy City Manager, Corporate Services, dated April 30, 2019, be received.

Recommendation of the Committee of the Whole meeting of April 2, 2019:

1. The Committee of the Whole recommends approval of the recommendations contained in the following report of the Deputy City Manager, Corporate Services, dated April 2, 2019, subject to adding language to the code portion clarifying the definition of Family Members.

Report of the Deputy City Manager, Corporate Services, dated April 2, 2019

Bill 68, Modernizing Ontario’s Municipal Legislation Act, 2017

On November 16, 2016, *Bill 68, Modernizing Ontario’s Municipal Legislation Act, 2017*, was introduced in response to the Province’s review of the *Municipal Act, 2001* and *Municipal Conflict of Interest Act, 1990*. On May 30, 2017, *Bill 68* received Royal Assent.

Bill 68 amended Section 223 of the *Municipal Act* to require all Ontario municipalities to establish codes of conduct for members of municipal council and local boards. Bill 68 also enacted various changes relative to the content of codes as well as the activities of municipal Integrity Commissioners. These changes include the following:

- Changes to the responsibilities of a municipally appointed Integrity Commissioner, including the addition of *Municipal Conflict of Interest Act* complaints to their jurisdiction.

- Requests for advice from the Integrity Commissioner to a councillor or local board member must be in writing, and if the Integrity Commissioner provides advice it shall also be in writing.
- If the Integrity Commissioner provides educational information to the public, they may summarize advice they provided to a councillor or councillors but shall not disclose confidential information that could identify a person concerned.
- A municipality must now indemnify the Integrity Commissioner and any person acting under their instruction for costs reasonably incurred in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance of the Integrity Commissioner's duties.
- Imposing restrictions on inquiries requested during a regular election year

Previous Reports/Authority

- [Report – Code of Ethical Conduct for Members of Council \(Council, September 21, 2008\)](#)
- [Code of Conduct for Members of Council](#)
- [Report - Compliant Protocol and Implementation by Integrity Commissioner \(Committee of the Whole, June 16, 2008\)](#)
- [Complaint Process](#)

Analysis and Options

Code of Ethical Conduct for Members of Council

The City of Vaughan first instituted a Code of Conduct for Members of Council in 1996. On [September 21, 2009](#), Vaughan City Council adopted the Code of Ethical Conduct for Members of City Council, in the form that is used today.

A written Code of Ethical Conduct protects the public interest and helps to ensure that the Members of Council, and now members of Local Boards, share a common basis for acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate.

Local Boards

The term "local board" is defined in the *Municipal Act* (the "Act") as:

"means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority; ("conseil local")"

This definition encompasses the various Committees established by the City of Vaughan, including:

- Accessibility Advisory Committee
- Committee of Adjustment
- Heritage Vaughan Committee
- Property Standards

The revised Code of Conduct will apply to the members of these boards.

With respect to the Vaughan Public Library Board, Section 223.1(e) of the *Act* specifically excludes the Library Board from the definition of local boards for the purposes of Part V.1 of the *Municipal Act* dealing with Codes of Conduct. The proposed “Code of Ethical Conduct for Members of Council and Local Boards” will therefore not apply to the Vaughan Public Library Board.

Integrity Commissioner

The role of the Integrity Commissioner has been expanded by *Bill 68, Modernizing Ontario’s Municipal Legislation Act, 2017*, including, Section 223.3(1) of the *Municipal Act* expanded the functions of the Integrity Commissioner to allow:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behavior of members of council and of local boards.
3. The applications of sections 5, 5.1, and 5.2 of the *Municipal Conflict of Interest Act* (MCIA) to members of council and of its local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behavior of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the MCIA.
7. The provision of educational information to members of council, Members of local boards, the municipality and the public about the municipality’s codes of conduct for members of council and members of local boards and about the MCIA.

A table containing the full list of the Bill 68 amendments relative to the Code of Conduct, as well as the role and responsibilities of the Integrity Commissioner, is included as Attachment “3” for information.

Amendments to the Code of Ethical Conduct for Members of Council

Proposed amendments to the Code of Ethical Conduct for Members of Council are included in a draft version of the Code, included as Attachment “1”. The amendments reflect to changes necessary to address the Bill 68 requirements, including the addition of Local Boards.

Complaint Protocol

The Complaint Protocol emphasizes and encourages informal resolution of complaints, with or without assistance from the Integrity Commissioner. Formal complaints must be made on the prescribed Complaints Form/Affidavit attached to the Complaint Protocol. Complaints must reference a specific provision of the Council Code of Conduct. The Complaint Protocol was first approved by Council on [June 23, 2018](#).

Proposed amendments to the Complaint Protocol are identified in a draft version of the Complaint Protocol, included as Attachment “2”. The amendments reflect to changes necessary to address the Bill 68 requirements.

Financial Impact

There are no financial impacts associated with this report.

Broader Regional Impacts/Considerations

There are no broader regional impacts or considerations associated with this report.

Conclusion

A written Code of Ethical Conduct protects the public interest and helps to ensure that the Members of Council and now, Members of local boards, share a common basis for acceptable conduct. The public is entitled to expect the highest standards of conduct from the Members that it elects to local government and Members that serve on its local boards. Adherence to the standards set out in this Code will protect and enhance the City of Vaughan’s reputation and integrity. This goal will be furthered by the approval of the amended “Code of Ethical Conduct for Members of Council and Local Boards” and amended “Complaint Protocol”.

For more information, please contact: Todd Coles, City Clerk, Extension 8281

Attachments

1. DRAFT “Code of Ethical Conduct for Members of Council and Local Boards”
2. DRAFT “Complaint Protocol”
3. Municipal Act (Bill 68) Changes Regarding Municipal Codes of Conduct

4. Communication C2, dated April 30, 2019

Prepared by

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In consultation with:

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