

REPORT

Office of the Chief Administrative Officer

To: Mayor Johnstone and Members of Council
Date: June 26, 2023

From: Lisa Spitale,
Chief Administrative Officer
File:

Item #: 2023-452

Subject: Council Code of Conduct Bylaw No. 8408, 2023

RECOMMENDATION

That Council approve the Code Conduct Bylaw No. 8408, 2023 for First Reading and direct staff to commence a search for an Ethics Commissioner.

PURPOSE

The purpose of this report is to obtain Council approval of a new proposed Code of Conduct Bylaw No. 8408, 2023 that will replace the existing Council Code of Conduct Policy. Mr. Reece Harding from the law firm of Young Anderson will make a presentation at this Council meeting on the proposed Code of Conduct Bylaw and answer any questions that Council may have.

BACKGROUND

New legislative requirements for codes of conduct came into force on June 13, 2022, with the Municipal Affairs Statutes Amendment Act. It requires that within six months after the first regular Council meeting following the 2022 election, Council must decide whether to adopt or review an existing code of conduct for the Council members. Council before making this decision under section 113.1 of the Community Charter, must consider the principles for codes of conduct prescribed by regulation.

The principles for Council Codes of Conduct are prescribed by BC Regulation 136/2022 and are as follows:

- 1) Council members must carry out their duties with integrity;
- 2) Council members are accountable for the decisions that they make, and the actions that they take in the course of their duties;
- 3) Council members must be respectful of others;
- 4) Council members must demonstrate leadership and collaboration.

Council considered these principles when it made its decision to review the existing Code of Conduct.

DISCUSSION

The proposed Code of Conduct Bylaw (see Attachment 1) contains, in part, the following provisions that are considered best practices and follow the prescribed principles noted above:

- 1) **An Ethics Commissioner Model.** The City of Surrey and City of Vancouver are the only other jurisdictions in British Columbia with dedicated Ethics Commissioners. This removes both staff and elected officials from the receipt and processing of all complaints, creating a more neutral process. An Ethics Commissioner also serves an ongoing educational and advisory role. While the Code allows for the appointment of *ad hoc* commissioners, full implementation will require a search for a qualified Ethics Commissioner.
- 2) **Complaints Process.** To enhance transparency and accountability, the draft Code creates a complaints process that can be triggered by City residents, staff, volunteers, employees and Council Members.
- 3) **Preliminary Authority.** The draft Code creates substantial preliminary authority, which allows the Ethics Commissioner to summarily dismiss, place into abeyance, or decline jurisdiction over any complaints that are not compliant with the Code or that may (or must) be addressed through other avenues.
- 4) **Informal Resolution.** The draft Code includes robust informal resolution provisions that incorporate culturally appropriate or transformative, restorative or Indigenous justice approaches, which may be with the Ethics Commissioner or with a third-party mediator or facilitator to help aid in resolution of the complaint.
- 5) **Formal Resolution.** Where a formal investigation is deemed necessary, the Ethics Commissioner must conclude the investigation and make a determination regarding the alleged breach within 90 days (with the possibility

of an extension). The Ethics Commissioner is required to prepare an investigation report whether or not a breach of the Code has occurred.

- 6) **Transparent Decision-Making.** Where a Council member is found to have contravened the Code, Council will have 45 days to decide on appropriate measures, if any, that are warranted by the breach, and will do so in an open meeting (unless the specific circumstances require it to be closed). After making that decision, the investigation report must be released to the public (or a summary of the report, FIPPA dependent in either case).

OPTIONS

There are two options for Council's consideration; they are:

1. That Council approve the Code Conduct Bylaw No. 8408, 2023 for First Reading and direct staff to commence a search for an Ethics Commissioner; or
2. That Council provide alternate direction to staff.

Staff recommend Option 1.

ATTACHMENTS

Attachment 1 – Bylaw No. 8408, 2023

APPROVALS

This report was prepared by:
Craig MacFarlane, Manager, Legal Services (City Solicitor)

This report was reviewed by:
Young Anderson, Barristers and Solicitors

This report was approved by:
Lisa Spitale, Chief Administrative Officer