



Corporation of the City of
NEW WESTMINSTER

A vibrant, compassionate, resilient city where everyone can thrive.

SPECIAL CITY COUNCIL MEETING

MINUTES

Monday, November 4, 2024, 11:00 a.m.

**Meeting held electronically and in Council Chamber
City Hall**

PRESENT: Acting Mayor Ruby Campbell
 Councillor Daniel Fontaine
 Councillor Tasha Henderson
 Councillor Paul Minhas
 Councillor Nadine Nakagawa

ABSENT: Mayor Patrick Johnstone
 Councillor Jaimie McEvoy

Hanieh Berg, Corporate Officer

1. CALL TO ORDER IN OPEN SESSION & LAND ACKNOWLEDGEMENT

The Acting Chair called the meeting to order at 11:00 a.m. and recognized with respect that New Westminster is on the unceded and unsurrendered land of the Halkomelem speaking peoples. She acknowledged that colonialism has made invisible their histories and connections to the land. She recognized that, as a City, we are learning and building relationships with the people whose lands we are on.

2. APPROVAL OF THE AGENDA

MOVED and SECONDED

THAT Council adopt the November 4, 2024 Special Council agenda as circulated.

CARRIED UNANIMOUSLY

3. FINAL DETERMINATION OF CODE OF CONDUCT MATTER

3.1 Code of Conduct

Jennifer Devins; Ethics Commissioner, provided a summary of the findings of her report dated September 23, 2024.

In response to queries from Council, J. Devins advised that she is unable to respond to any questions that may supplement the findings of her report.

Reece Harding, Partner, Young Anderson, joined the meeting by Zoom videoconference and advised that procedural questions regarding the Code of Conduct hearing may be directed to him through the Chair; in order to uphold the principles of procedural fairness, the Ethics Commissioner cannot add anything to her report.

R. Harding then stated that he is unable to respond to queries of a speculative nature. Also, R. Harding remarked that the Ethics Commissioner's report was drafted in advance of the Respondent's submission as provided in the agenda materials.

In reply to further queries from Council, J. Devins advised that she is unable to elaborate on her report and referred Council to her findings as included in her report dated September 23, 2024.

In response to further questions from Council, R. Harding stated that questions that are hypothetical cannot be responded to as they were not facts in the consideration of the matter before the Ethics Commissioner.

In reply to a query from the Chair, the Corporate Officer advised that the Respondent will not be appearing before Council.

Discussion ensued and it was noted that the Respondent's submission as included in the agenda materials does not include an apology. Moreover, there may be an expectation in the community that the Respondent repay the personal benefit received, potentially to a charitable organization; as such, there are other possible motions for Council's consideration in addition to those provided on table (attached to and forming part of these Minutes as Schedule 1).

MOVED and SECONDED

1. **THAT** the Ethics Commissioner's Investigation Report dated September 23, 2024 be accepted; and
2. **THAT**, having considered the factors set out in section 76 of the *Council Code of Conduct Bylaw* No. 8408, 2023, the respondent receive training or coaching in the relevant provisions of the *Community Charter*, SBC 2003, c 26 as per the Ethics Commissioner's recommendation at paragraph 131 of the Investigation Report dated September 23, 2024.

The question on the motion was not called as discussion took place and the following Council comments were noted:

- there is value in considering the remedy provided in the Investigation Report dated September 23, 2024 as the Ethics Commissioner is an independent, non-partisan individual;
- as found by the Ethics Commissioner, the Respondent acted in good faith in attending the COP28 conference;
- the Ethics Commissioner's recommendation that the Respondent receive training or coaching in the relevant provisions of the *Community Charter* is appropriate;
- the Code of Conduct bylaw is to support the responsible conduct of Council members and not intended to be punitive; and
- an apology that is imposed may not be as meaningful.

Discussion further ensued regarding the potential for remedies in addition to the one recommended by the Ethics Commissioner and it was noted that an apology, imposed or not, should be made by the Respondent. Also, it was noted that the Respondent did not bring the matter before Council for its consideration and sought legal advice following his return from the conference. As a result of the discussion, the following amendment motion was introduced:

MOVED and SECONDED

1. **THAT** Part 2 of the main motion be amended by deleting it in its entirety and replacing it with the following:

THAT the Ethics Commissioner's recommendation at paragraph 131 of the Investigation Report dated September 23, 2024 be accepted.

2. **THAT** the following be added as Part 3 to the main motion:

THAT consideration of additional remedies to be imposed on the respondent by Council pursuant to sections 75 and 76 of the Council Code of Conduct Bylaw No. 8408, 2023 be referred to a subsequent Special Council meeting.

The question on the amendment motion was not called as discussion took place and it was noted that generally, a personal benefit would be returned; accordingly in the matter before Council, it may be suitable to impose that the Respondent make a donation to a local charitable organization.

R. Harding advised that should Council wish to impose remedies not contained in the Ethics Commissioner's report, the motion must be clear on what remedies Council will consider; this clarity is required in order to inform the Respondent of precisely what will be considered by Council at a subsequent Special Council meeting and to allow the Respondent to prepare for said meeting.

As a result, the following amendment to the amendment was introduced:

MOVED and SECONDED

THAT the following be added as Part 3 to the amendment motion:

THAT the following be added as Part 4 to the main motion:

THAT the respondent provide the equivalent value of the incremental personal benefit received as a result of accepting business class travel, five-star accommodation and meals for the trip to COP28 in Dubai.

The question on the motion was not called as Council was encouraged to seek legal advice with regard to the amendment motion on the floor.

MOVED and SECONDED

THAT the Special Council meeting held on November 4, 2024 is to be closed to the public and that the basis of this closure is that the item on the agenda complies with Section 90 of the *Community Charter*:

Item 1.1 90 (1) (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

CARRIED UNANIMOUSLY

The meeting recessed at 11:59 a.m.

The meeting reconvened at 12:24 p.m., with all members of Council present, except Mayor Johnstone and Cllr. McEvoy.

The motion to amend the amendment motion was withdrawn by the mover and the following amendment to the amendment was introduced:

MOVED and SECONDED

THAT the following be added as Part 3 to the amendment motion:

THAT the following be added as Part 4 to the main motion:

THAT consideration of an additional remedy pursuant to section 75 (e) (iii) of the City's Code of Conduct Bylaw be recommended to the Respondent that he donate \$5,000 to the Don't Go Hungry charitable organization.

The question on the amendment to the amendment was not called as discussion took place on the proposed recommendation and the following Council comments were noted:

- the proposed recommendation to donate funds to a local charity sends a strong message with regard to a breach of the Code of Conduct and benefits a worthy cause;

- consideration of the Ethics Commissioner’s report and findings have been reviewed in detail and with integrity;
- Council must remain unbiased while seated in an adjudicative capacity;
- the acceptance of the Ethics Commissioner’s recommendation in the matter before Council does not set a precedent; and
- although a breach was found by the Ethics Commissioner, the Respondent’s attendance at the conference was a genuine fact-finding mission to become better informed about a local government matter.

The question on the amendment to the amendment was then called and it was **DEFEATED** with Cllrs. Campbell, Henderson, and Nakagawa opposed.

The question on the amendment was then called and it was **DEFEATED** with Cllrs. Campbell, Henderson, and Nakagawa opposed.

MOVED and SECONDED

THAT the main motion be amended by inserting the word “individualized” immediately before the word “training.”

CARRIED UNANIMOUSLY

Discussion further took place and Council provided their rationale in support of the final determination of the Code of Conduct matter. It was noted that (i) the Respondent’s act did not harm anyone or put anyone in danger, (ii) the breach was a single act, (iii) the Respondent did not knowingly contravene legislation, (iv) the Respondent immediately took steps to mitigate the contravention, (v) this is the Respondent first contravention, and (vi) the breach was an error in judgement made in good faith as determined by the Ethic’s Commissioner.

The question on the main motion, as amended to read:

- “1. *THAT the Ethics Commissioner’s Investigation Report dated September 23, 2024 be accepted; and*
2. *THAT, having considered the factors set out in section 76 of the Council Code of Conduct Bylaw No. 8408, 2023, the respondent receive individualized training or coaching in the relevant provisions of the Community Charter, SBC 2003, c 26 as per the Ethics Commissioner’s recommendation at paragraph 131 of the Investigation Report dated September 23, 2024.”*

was then called and it was **CARRIED** with Cllrs. Fontaine and Minhas opposed.

4. **ADJOURNMENT**

MOVED and SECONDED

THAT Council adjourn the November 4, 2024 Special Council meeting (12:51 p.m.).

CARRIED UNANIMOUSLY

Certified a true and correct copy of the Minutes of the Special Council meeting of the Council of the City of New Westminster held on November 4, 2024.

Ruby Campbell

ACTING MAYOR

Hanieh Berg

CORPORATE OFFICER