

COUNCIL MEMBERS' MOTION

For consideration at the Standing Committee meeting of City Council on July 24, 2024

4. Scope Review for Improved Governance

Submitted by: Councillor Montague

WHEREAS

1. On October 1, 2019, Council passed a motion directing staff to review the operation of the City's [then] current Code of Conduct Policy and report back with recommendations as to how the Code of Conduct could be improved to better promote and enforce ethical standards. In performing the review, Council directed staff to consider best practices in ethics regimes and ethics regimes implemented in other Canadian jurisdictions;
2. In accordance with the motion passed by Council in October 2019, staff conducted a review of the Code of Conduct in use at the time and reported back at the January 20, 2021, Standing Committee on City Finance and Services meeting with recommendations;
3. Chief among the recommendations presented by staff on January 20, 2021, was the direction for the City Solicitor to bring forward a By-law for enactment entitled "The Code of Conduct for Council Members and Advisory Board Members (BY-LAW NO. _____)," which would serve to create a new Code of Conduct By-Law applicable to Council Members and Advisory Board Members;
4. Additionally, the January 20, 2021, staff report to Council identified several other key recommendations, including (but not limited to):
 - Retaining an independent third party on a set term with a mandate for education, advice, and investigation;
 - Minimizing overlap between the new Code and other applicable legislation;
 - Setting a procedure for regular review of the Code;
5. On February 9, 2021, Council enacted the new Code of Conduct By-law as recommended by staff (BY-LAW NO. 12886);
6. Under section 5.1 of the Code of Conduct By-Law No. 12886, the appointment of an Integrity Commissioner is a defined action, as are the respective duties and responsibilities of the Commissioner, which are set out in section 5.7 of the Code. These duties and responsibilities include:
 - to investigate City Council and Advisory Board member's Code of Conduct By-Law complaints;
 - to provide advice and recommendations to City Council and Advisory Board members regarding their ethical obligations and responsibilities;
 - to aid the public in their understanding of the Code of Conduct By-Law, the Vancouver Charter, and the Code of Conduct;

7. In March 2021, Council appointed the first ad hoc Integrity Commissioner for the City of Vancouver under the Code of Conduct By-Law and then in January 2022 appointed the first Commissioner for a two-year term;
8. The Code of Conduct requires the Integrity Commissioner to publish an annual report by December 1 of each year that includes a summary of the work of the Integrity Commissioner and any advice or recommendations that the Integrity Commissioner has that might improve the text or operation of the By-law;
9. On December 1, 2022, the Office of the Integrity Commissioner submitted its first Annual Report to the City Manager for the period January 1, 2022 to October 31, 2022;
10. The Integrity Commissioner's annual report for 2022 identified several recommendations to improve the efficacy of the Code of Conduct By-law. City staff subsequently reviewed these recommendations and, on April 26, 2023 and again on May 10, 2023, presented the results of their review to Council and recommended the adoption of the Integrity Commissioner's recommendations;
11. On April 26, 2023, and again on May 10, 2023, staff presented their review of the Integrity Commissioner's Annual Report recommendations and recommended the adoption of the Commissioner's recommendations;
12. On May 10, 2023, Council considered and endorsed the staff recommendations drawn from the Annual Report of the Office of the Integrity Commissioner. Council instructed staff to bring forward proposed amendments to the Code of Conduct By-law for the consideration of Council to reflect these recommendations;
13. In October 2023, Council subsequently enacted a By-law to amend the Code of Conduct By-law No. 12886 with amending By-law No. 13793 in accordance with Council's May 2023 direction to staff;
14. In due course, the Office of the Integrity Commissioner submitted its Annual Report for the period November 1, 2022, to October 31, 2023, to the City Manager on December 1, 2023;
15. In accordance with the Code of Conduct requirement for the Integrity Commissioner to provide any advice or recommendations that might improve the text or operation of the By-law, the Integrity Commissioner's 2023 Annual Report notes the following along with a recommended course of action:
 - *“Through the handling of inquiries and complaints to the Office in the last two years, we recognize **that the scope of the Integrity Commissioner’s role in providing oversight of the conduct of Council and Advisory Board Members is not always clear.** We recommend this be mitigated through amendments to the Code of Conduct By-law.”;*

16. Carrying out reviews and evaluations of programs, policies, and procedures on an ongoing basis, including external reviews that offer organizations the benefit of outside objectivity and expertise, is a hallmark of good governance best practices and the value of a continuous process of improvement. It is therefore incumbent upon Council to ensure that that the Code of Conduct and the scope of the Integrity Commissioner's role in providing oversight of the conduct of Council and Advisory Board Members is clear and that the text and operation of the By-law effective.

THEREFORE BE IT RESOLVED

THAT Council direct staff to initiate an independent third-party review of the Code of Conduct By-law No. 12886 to ensure that the Code of Conduct and the scope of the Integrity Commissioner Office in providing oversight on the conduct of Council and Advisory Board Members is clear and that the text and operation of the By-law is effective, including but not limited to an examination of the scope, processes, and procedures for receiving and addressing complaints by the Integrity Commissioner;

FURTHER THAT staff be directed to report back to Council for consideration, on or before September 24, 2024, with a list of recommended legal firms or agencies with the relevant expertise to conduct such a review, as well as Terms of Reference to the satisfaction of the City Manager.

* * * * *