



Staff Report

Administration – Chief Administrative Officer

Report To: Committee of the Whole
Meeting Date: June 29, 2021
Report Number: FAF.21.109
Title: Council Code of Conduct Follow Up from Public Meeting
Prepared by: Shawn Everitt, Chief Administrative Officer

A. Recommendations

THAT Council receive Staff Report FAF.21.109, entitled “Council Code of Conduct Follow Up from Public Meeting”;

AND THAT Council direct staff to bring forward a final draft of the Code of Conduct for Members of Council, Local Boards and Advisory Committees for final approval and establishment of a revised Code of Conduct;

AND THAT Council extend the mandate of the Code of Conduct Review Committee to include the development of appropriate training and education materials that identify and outline a clear expectations of proper Committee decorum, governance and procedural respect and fairness and conflict resolution for Committees of Council and to report back to Council during the first quarter of 2022;

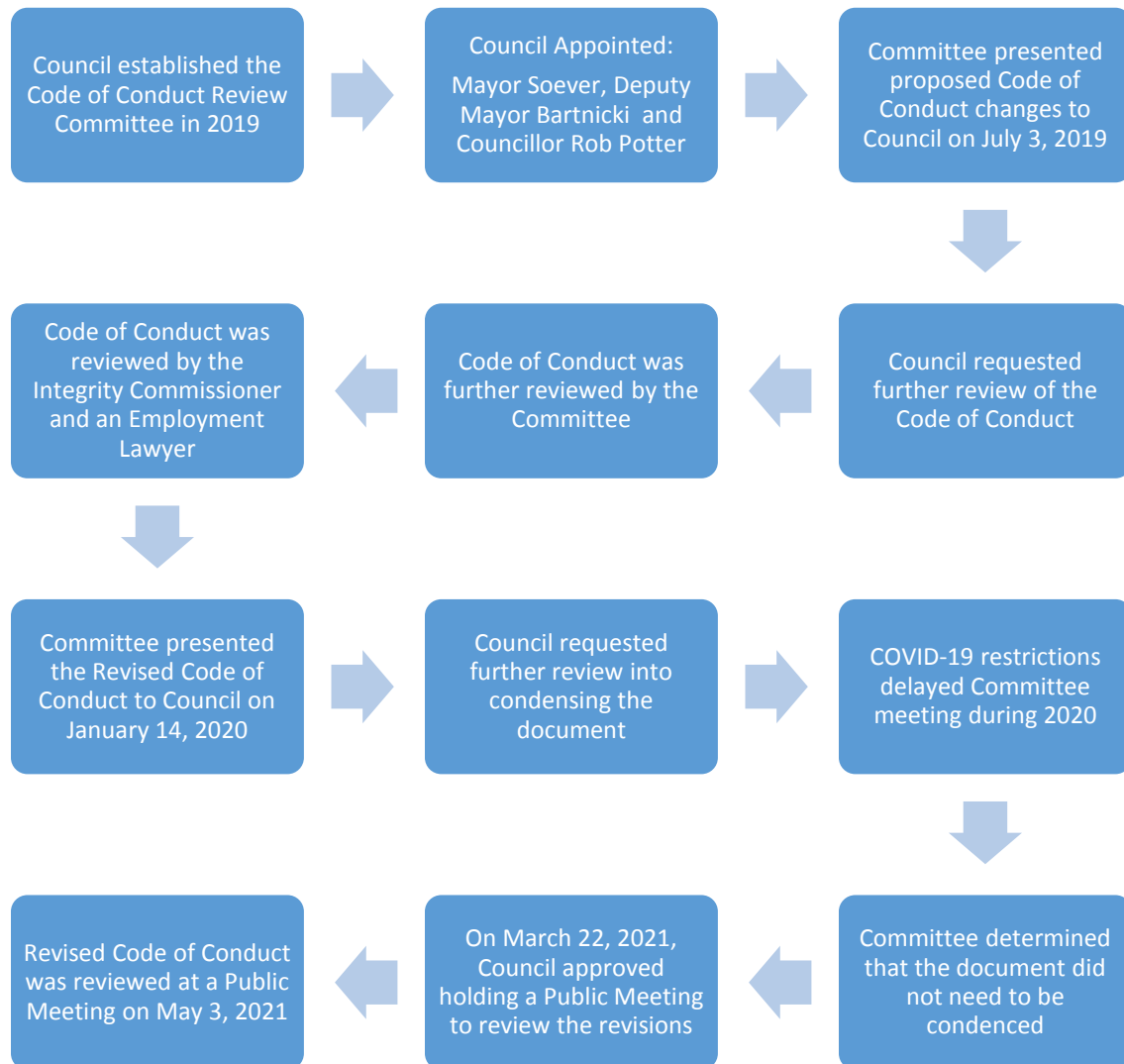
AND THAT Council direct staff to bring forward a report in the first quarter of 2022 outlining a draft Council Training Policy including a menu of possible training options, costs and scheduling throughout the full Term of Council.

B. Overview

The purpose of this report is to provide a follow up to the Public Meeting held on May 3, 2021 at the regular scheduled meeting of Council.

C. Background

As noted in previous reports that were brought forward to Council for their consideration as outlined in the flow chart below.



The review of the Code of Conduct to date has been completed by the Council appointed Code of Conduct Review Committee. The current membership of the Committee is as follows:

- Mayor Alar Soever
- Deputy Mayor Rob Potter
- Councillor Jim Uram (appointed January 27, 2020)

Over the course of this review process, the [Code of Conduct for Members of Council and Local Board POL.COR.07.07](#) as drafted, under Confirmation By-law 2018-86, has received a series of modifications from the current Code of Conduct.

As noted in staff report [FAF.20.006](#) entitled Proposed Changes to the Code of Conduct, presented at the January 14, 2020 Committee of the Whole meeting, the following revisions were identified.

The Code of Conduct for Members of Council, Local Boards and Advisory Committees (the Code) sets standards that are intended to enhance public confidence that the Town of The Blue

Mountains elected, and appointed officials operate from a basis of integrity, justice and courtesy.

The following changes were proposed and have been implemented in the draft Code of Conduct presented in this report:

Policy Format: Due to the length of the policy it has been formatted to include an Index to improve ease of use.

Slight revisions noted with the * asterisk have been suggested by the Town's Integrity Commissioner to the following definitions for Council consideration.

Significant suggested revisions are highlighted with two ** asterisks.

Abuse*

Advisory Committee*

Harassment*

Local Board*

Integrity Commissioner*

Members*

**** Removal of Assault Definition:** With the benefit of the Town's Integrity Commissioner's review of the latest draft Code of Conduct, it was noted that the Integrity Commissioner does not have jurisdiction to receive or review matters of a criminal nature consistent with the Criminal Code of Canada. As a result, a definition of Assault in the Code is problematic because it infers that the Integrity Commissioner will be able to determine if a Member's conduct constitutes "assault".

Bullying Definition: The definition has been updated as suggested by the Town's Integrity Commissioner to tie back to the Town's Workplace Harassment and Human Rights Policies and the Ontario Human Rights Code.

**** Suggestion to remove Business Hospitality definition** on the basis that "Official Hospitality" is provided as a defined Term within the document.

Intimidation Definition: The definition has been updated to include the following: Intimidation includes incivility, which is low intensity behavior with ambiguous intent to harm the target, usually characterized by rude or discourteous behaviour displaying a lack of regard for others. An action that was not repetitive or so serious that it rises to the threshold of harassment, nevertheless can constitute *intimidation*.

**** Person Definition was changed** for the purposes of the Code of Conduct and the eligibility to file a Code complaint, "person" is a member of the public, member of staff and member of Council.

**** Respondent Definition changed** to any Member named in a Code complaint who is alleged to be in violation of non-compliance of the Code of Conduct rules.

**** Removal of Violence Definition:** With the benefit of the review completed by the Town's Integrity Commissioner, it was noted that the Integrity Commissioner does not have jurisdiction to receive or review matters of a criminal nature consistent with the Criminal Code of Canada. As a result, a definition of Violence in the Code is problematic because it infers that the Integrity Commissioner will be able to determine if a Member's conduct constitutes "Violence".

Gifts and Benefits: This section has been revised to note that Immediate Relative shall mean parent, spouse or child as defined by s. 1 of the Municipal Conflict of Interest Act.

Confidentiality: This section has been updated to include the phrase: or where disclosure would contravene a Town policy (i.e. confidential information relating to investigations conducted pursuant to the Town's harassment policies and procedures, which is intended to remain confidential to the extent possible). It was also updated to include the word exhaustive.

Discreditable Conduct: This section was updated to include the word: violence. In addition, it has been updated to include the sentence: The *Occupational Health and Safety Act* requires that the Town take every reasonable precaution to protect the safety of workers, including as it relates to workplace violence and harassment. In addition, it has been updated to include the phrase: among other applicable legislation. The definition of harassment has been removed in this section since it is formally in the definition section and it was deemed to be repetitive.

Discrimination and Harassment: This section has been updated to revise the following language, Members are responsible for avoiding communications that may constitute harassment, intimidation, bullying or disrespectful behaviour, whether in person, in writing, by public comment and on-line, including via Social Media. Included the sentences: A Member will be found to have breached this Rule if any of the above have occurred. A pattern of conduct in which a Member's actions are intimidating, incivil, disrespectful or rule, may lead to a finding of harassment. A pattern of behaviour that is perceived to be harmful (e.g. disrespectful or frustrating) by the target, may constitute harassment or intimidation even if the Member did not intend their behaviour to have that effect.

References and Related Policies: The section has been updated to include: Occupational Health and Safety Act.

Part A – Informal Complaint Procedure: This section has been updated to: Ask the Integrity Commissioner to participate in an informal discussion of the Complaint with the Member to resolve the issue. Individuals are encouraged to seek guidance from the Integrity Commissioner on how to conduct the informal complaint process.

Parallel Proceedings of the Same Complaint: This section has been updated to add the phrase: complaint pertaining to human rights, discrimination, harassment or workplace violence.

Investigation (Section (g)): This section has been revised to state: It is intended that all reports will be submitted to the Clerk, by the Integrity Commissioner. Where due to relevant circumstances the investigation is not completed within 90 days the Integrity Commissioner shall advise the parties and provide them with an approximate date of when the investigation will be complete. The Integrity Commissioner may submit an interim report to Council and address the reasons for any delay within the report.

Reporting and Recommendations (Section (a)): This section has been revised to state: The Integrity Commissioner shall provide his or her draft findings to the complainant and the Member whose conduct has been investigated, generally no later than ninety (90) days after the official receipt of the Complaint and prior to providing the final investigation report to Council. If the investigation process takes more than ninety (90) days, the Integrity Commissioner shall advise the parties of the date, if possible, that the report will be available.

Reporting and Recommendations (Section (b)): This section has been revised to state: It is recommended that the Integrity Commissioner will cite jurisprudence including, but not limited to, decisions related in scope by other provincial Integrity Commissioners and decisions related in scope at common law. This information will aid Council in determining the appropriate decision when evaluating recommendations from the Integrity Commissioner. In addition, the Consequences for Contraventions of the Code of Conduct has been repeated in this section to ensure clarity.

Reporting and Recommendations (Section (i)): This section has been revised to state: The Integrity Commissioner may attend at Council at his or her next available opportunity to present the report formally for Council's consideration. It is recommended that where a report recommends a sanction the Clerk will schedule a meeting for the Integrity Commissioner to attend at Council to present. Where possible the meeting will be scheduled at the next available Council meeting. If the Integrity Commissioners schedule does not permit this, the Clerk will schedule a special meeting of Council to receive the report. The Member shall, subject to Subsection 9(5), have the right to address the report when it is considered by Council or the Local Board.

Public Disclosure: This section has been updated to include the phrase: in accordance with applicable legislation.

Appendix D: The policy has been updated to include an application for a municipal conflict of interest investigation as recommended by our Town Integrity Commissioner.

D. Analysis

During the Public Meeting held on May 3, 2021, input was received by staff noting that the previous reports that were presented to Council caused some confusion in understanding the review process and clearly understanding what modifications were being suggested by the Committee that were being considered by Council.

Staff have taken this input and have included additional information for clarity in the form of a tracked change document (Attachment 1) that identifies the changes recommended by the Committee. Staff have also included a final draft of the Code of Conduct for Members of Council, Local Boards and Advisory Committees (Attachment 2) that is being considered by Council at this time.

During the Public Meeting, Councilor Paula Hope provided comments relating to the Draft Code of Conduct for Members of Council, Local Boards and Advisory Committees. Councillor Hope brought forward the following points:

- Consider distilling the Code of Conduct for ease of understanding

- Need for training in relation to the Code of Conduct in particular for Committee Chairs
- Need to create and maintain healthy workplace environment

In January 2020, as a follow up to Councillor Hope's comments, Council recommended that the Committee review the Code of Conduct to see if further revisions should be implemented to possibly condense the Code of Conduct. As a result of those reviews, the Committee determined that the Code of Conduct as drafted meets the needs of the organization and should not be condensed.

Regarding the need for training, staff recommend that Council consider developing a formal full Council term Training Policy that would provide clear direction and consistent understanding for staff of what training Council wishes to have provided throughout the full term of Council. Staff are prepared to work on providing a menu of training options in consultation with the Town's Integrity Commissioner as well as the network of Town Clerks and CAOs who may be able to provide suggestions regarding applicable training options.

Staff suggest that the timing of establishing a formal Council Training Policy is appropriate with this Council setting the Policy after the benefit over 3 years of Council experience and a firsthand understanding of Council training needs.

If Council requests further review of the Code of Conduct presented in this report, the Code of Conduct Review Committee would reconvene meetings on the basis of the input received to date.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

2. Organizational Excellence

We will continually seek out ways to improve the internal organization of Town Staff and the management of Town assets.

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

4. Quality of Life

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

F. Environmental Impacts

Ensuring the provision of a healthy work environment.

G. Financial Impacts

Staff time to develop staff reports along with commitment of Code of Conduct Review Committee members' time to meet and review.

If Council requests further review of the draft Code of Conduct, staff will be utilizing the Electronic Time Tracking system to provide the details on staffing costs related to this project.

H. In Consultation With

Town's Integrity Commissioner

Corrina Giles, Town Clerk

Mayor Alar Soever

Deputy Mayor Rob Potter

Councillor Jim Uram

I. Public Engagement

The topic of this staff report has been subject to a Public Meeting and/or a Public Information Center which took place on May 3, 2021. Those who provided comments at the Public Meeting and/or Public Information Centre, including anyone who has asked to receive notice regarding this matter, has been provided notice of this Staff Report.

The topic of this Staff Report was the subject of a Public Meeting and/or a Public Information Centre in accordance with the following schedule:

- March 9, 2021 Committee of the Whole – Initial staff report (FAF.21.005 – Council Code of Conduct Follow Up Report) with recommendation to proceed to public consultation;
- March 22, 2021 Council – Recommendations from March 9, 2021 Committee of the Whole confirmed;
- May 28, 2021 Public Meeting Notice posted to the Town's website
- April 8, 2021 Public Meeting advertised in Collingwood Connection
- May 3, 2021 Council – Public Meeting at 5:00 p.m.
- June 29, 2021 Committee of the Whole – Follow-up report with Public Meeting feedback;
- July 12, 2021 Council – Recommendations from June 29, 2021 Committee of the Whole confirmed, along with any required By-law

Comments regarding this report should be submitted to Shawn Everitt,
cao@thebluemountains.ca.

J. Attached

1. Tracked Change Document of Current Code of Conduct POL.COR.07.07
2. Draft of Code of Conduct for Members of Council, Local Boards and Advisory Committees

Respectfully submitted,

Shawn Everitt
Chief Administrative Officer

For more information, please contact:
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519-599-3131 extension 234

Report Approval Details

Document Title:	Council Code of Conduct Follow Up from Public Meeting FAF.21.109.docx
Attachments:	- Attachment 1 - Tracked Changes to Code of Conduct POL.COR.07.07.pdf - Attachment 2 - Draft Code of Conduct for Members of Council Local Boards and Advisory Committees.pdf
Final Approval Date:	Jun 21, 2021

This report and all of its attachments were approved and signed as outlined below:

Shawn Everitt - Jun 21, 2021 - 2:45 PM