

Item No. 11.1.5

**Halifax Regional Council
May 26, 2009**

TO: Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Geri Kaiser, Deputy CAO, Corporate Services and Strategy

DATE: May 22, 2009

SUBJECT: **Code of Conduct for Municipal Elected Officials**

ORIGIN

At its March 24, 2009 meeting Halifax Regional Council approved the following motion:

MOVED by Councillor Mosher, seconded by Councillor Smith that a report be provided on the adoption of the new UNSM Code of Ethics for elected officials.

Councillor Karsten further requested that the report look into the best practices that are used in other municipalities; and coordinate Administrative Order 40 (Illegal and Irregular Conduct Policy) with the report. In addition, the report should look at the opportunity to have sanctions or repercussions for noncompliance to the code of ethics.

RECOMMENDATION

It is recommended that:

1. Halifax Regional Council adopt the HRM Code of Conduct for Elected Municipal Officials, which has been modified from the Union of Nova Scotia Municipalities Code of Conduct framework, with the exception of articles V111 and 1X and upon approval, the Clerk's Office assist the individual Councillors in the execution of the statement of commitment.
2. That a letter be sent to the Province in support of the Union of Nova Scotia Municipalities resolution to seek changes to the Municipal Government Act/HRM Charter to allow for sanctions for violations of the Code of Conduct.
3. That Articles VIII and IX of the UNSM Code of Conduct related to sanctions be brought back to Council for approval following adoption of the required enabling provisions by the Province of Nova Scotia.

BACKGROUND

The Union of Nova Scotia Municipalities (UNSM) is a non profit organization mandated to represent the Provincial interests of municipal government across Nova Scotia. The membership is composed of elected officials representing 55 municipalities including Halifax Regional Council as an active and contributing member .

At the November 26, 2006 UNSM Board meeting Councillor Linda Mosher tabled a motion directing that UNSM conduct research on developing a Code of Conduct for Municipal Elected officials. This motion was put and passed on that date. The issue was researched and a model was developed and presented to the UNSM Board of Directors.

In May of 2008, a draft Code of Conduct was presented to the membership at UNSM's Spring Workshop resulting in general acceptance. The final Code of Conduct was approved by the UNSM Board in October 2008 and circulated to all municipal units requesting that Councils consider adopting the Code verbatim or amended to meet the needs of individual municipalities.

On February 10, 2009, the President of UNSM, Warden Lloyd Hines, attended an informal session with HRM elected officials where he provided those in attendance with the background and context for the UNSM Code of Conduct. During the same session, Catherine Mullally, Director of Human Resources, presented an overview of the HRM Values and Ethics Handbook which was developed to provide direction to staff on their conduct in relation to all work related decisions, actions and behaviours.

DISCUSSION

Generally, the public expects the highest standard of professional conduct from elected officials. The establishment of guidelines for ethical and interpersonal behaviour may enhance the credibility and integrity of Council in the community.

As an employer, the Halifax Regional Municipality requires the ability to attract and retain a skilled, responsive and dedicated workforce to enable the delivery of high quality programs and services. Council, as the governing body of the organization, can enhance HRM's ability to become a preferred employer by contributing to a positive work environment through the establishment of and commitment to a standard of behaviour which applies to all.

As the largest municipality in Atlantic Canada, HRM also has the opportunity to demonstrate excellence in governance through leading by example and reaffirming the importance of ethical and interpersonal conduct in the public service. To date 40 of the 55 municipalities in Nova Scotia have adopted the UNSM Code of Conduct for Municipal Officials.

In consideration of the motion, the UNSM Code of Conduct includes sanction/censure provisions which are not enabled by the HRM Charter or the Municipal Government Act and legislation would be required to support the UNSM Code of Conduct as drafted. In a similar situation, the Province of Nova Scotia Education Act was recently amended to provide for a means of supporting a Code of Conduct for school board members.

In addition the Union of Nova Scotia Municipalities as their Fall conference passed the following resolution :

Resolution 8A

WHEREAS improving all areas of municipal public administration and governance can be achieved by encouraging the highest standards of conduct on the part of all government officials; and

WHEREAS the public is entitled to expect the highest standards of conduct from the members who are elected to local government and from those who serve as employees in the municipal public sector; and

WHEREAS high standards of conduct are essential to the maintenance of public confidence and respect for the municipal public sector; and

WHEREAS the Nova Scotia *Municipal Government Act* does not provide a means for municipal Councils to address the conduct of elected officials when such is considered to be of a nature that public confidence in the institution of local government is threatened or jeopardized;

THEREFORE BE IT RESOLVED that the Union of Nova Scotia Municipalities take immediate action to establish a working committee to develop and to bring forward to the general membership at its spring 2009 meeting, or earlier, wording for a proposed amendment to the *Municipal government Act* which will address the matter of conduct and public confidence. Such proposed amendment will include expectations of municipal public sector conduct by council members and will provide the means whereby a municipal council and/or head of council may legally reprimand a member, suspend remuneration for a period of time, or take such other action which, after due consideration, is viewed to be appropriate.

At this point, Council could adopt the Code without articles V111 and 1X or could defer the decision until the enabling legislation is in place.

It should also be noted that under the Nova Scotia Elections Act, elected officials swear an oath which also directs the conduct of elected officials. Additionally, there are a number of provisions under the Halifax Regional Municipality's Administrative Orders that provide direction to both staff and elected official on matters related to conflict of interest (Administrative Order #41) and irregular and illegal conduct (Administrative Order #40), which were approved by Halifax Regional Council on June 27, 2006.

As requested by Council, a summary of best practice and sanctions used by other municipalities is attached.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

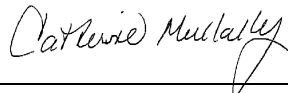
ALTERNATIVES

1. Halifax Regional Council could defer the adoption of the UNSM Code of Conduct until the enabling legislation addressing sanctions is in place.
2. Halifax Regional Council adopts another alternative.
3. Halifax Regional Council could reject the adoption of a Code of Conduct for elected officials.

ATTACHMENTS

1. HRM Code of Conduct for Elected Municipal Officials
2. UNSM Code of Conduct for Elected Municipal Officials
3. Summary Document prepared by staff on best practices and sanctions for violations re: Municipal Codes of Conduct for Elected Officials in Canada

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.



Report Prepared & Approved by:

Catherine Mullally, Director, Human Resources, 490-7239

**HALIFAX REGIONAL MUNICIPALITY
CODE OF CONDUCT
FOR
ELECTED MUNICIPAL OFFICIALS**

I. PURPOSE

The public expects the highest standards of professional conduct from Members elected to local government. The purpose of this Code is to establish guidelines for the ethical and inter-personal conduct of Members of Council ("Members"). Council is answerable to the community through democratic processes and this Code will assist in providing for the good government of the Halifax Regional Municipality.

II. STANDARDS OF CONDUCT

Members shall uphold the law and at all times:

- (a) Seek to advance the common good of the municipality as a whole while conscientiously representing the communities they serve;
- (b) Perform the functions of office truly, faithfully and impartially to the best of their knowledge and ability in accordance with the following core values:
 - (i) **Integrity** - giving the municipality's interests absolute priority over private individual interests;
 - (ii) **Honesty** - being truthful and open;
 - (iii) **Objectivity** - making decisions based on a careful and fair analysis of the facts;
 - (iv) **Accountability** - being accountable to each other and the public for decisions taken;
 - (v) **Leadership** - confronting challenges and providing direction on the issues of the day.
- (c) Uphold this Code as a means of promoting the standards of behaviour expected of Members and enhancing the credibility and integrity of Council in the broader community.

III. COUNCIL RESPONSIBILITIES

The Council (or its designated committee) will:

- (a) review the **Halifax Regional Municipality's** Code of Conduct for Elected Officials as required and make any amendments considered appropriate
- (b) review, consider or take other action concerning any violation of the Code of Conduct which is referred to Council for consideration.

- (c) Where there is any conflict between the Code of Conduct and the requirements of any statute of the provincial or federal government, provincial or federal statutes shall take precedence.

IV. MEMBER RESPONSIBILITIES

CONDUCT TO BE OBSERVED

Members are agents of the public whose primary objective is to address the needs of the citizens. As such, they're entrusted with upholding and adhering to the by-laws of the municipality as well as all applicable provincial and federal laws. As public servants, Members must observe a high standard of morality in the conduct of their official duties and faithfully fulfill the responsibilities of their offices, regardless of their personal or financial interests.

DEDICATED SERVICE

All Members should faithfully work towards developing programs to address the needs of the citizens in the course of their duties. Members should strive to perform at a level which is expected of those who work in the public's interest.

RESPECT FOR DECISION-MAKING PROCESS

All Members recognize the responsibility of the Mayor to accurately communicate the decisions of the Council, even if they disagree with such decisions, such that respect for the decision-making processes of Council is fostered.

CONDUCT AT MEETINGS

Members shall respect the chair, colleagues, staff and members of the public present during Council meetings or other proceedings of the municipality. Meetings shall provide an environment for transparent and healthy debate on matters requiring decision-making.

RELEASE OF CONFIDENTIAL INFORMATION PROHIBITED

No Member shall disclose or release to any member of the public any confidential information acquired by virtue of their office, in either oral or written form except when required by law or authorized by the municipality to do so. Nor shall Members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.

GIFTS AND BENEFITS

No Member shall show favouritism or bias toward any vendor, contractor or others doing business with the municipality. Members are prohibited from accepting gifts or favours from any vendor, contractor or others doing business with the municipality personally, or through a family member or friend, which could give rise to a reasonable suspicion of influence to show favour or disadvantage to any individual or organization.

USE OF PUBLIC PROPERTY

No Member shall request or permit the use of municipal-owned vehicles, equipment, materials, or property for personal convenience or profit, except where such privileges are granted to the general public. Members shall ensure that the business of the municipality is conducted with efficiency and shall avoid waste, abuse and extravagance in the provision or use of municipal resources.

OBLIGATIONS TO CITIZENS

No member shall grant any special consideration, treatment, or advantage to any citizen or group of citizens beyond that which is accorded to all citizens.

INTERPERSONAL BEHAVIOUR

Members shall treat every person, including other Members, corporate employees, individuals providing services on a contract for service, and the public with dignity, understanding and respect and ensure that their work environment is free from discrimination, bullying and harassment.

COMMUNITY REPRESENTATION

Members shall observe a high standard of professionalism when representing the municipality and in their dealings with members of the broader community.

V. GOOD GOVERNANCE

Members accept that effective governance of the municipality is critical to ensuring that decisions are taken in the best interests of all stakeholders and to enable the municipality to function as a good corporate citizen.

VI. GOVERNMENT RELATIONSHIPS

Members recognize the importance of working constructively with other levels of government and organizations in Nova Scotia and beyond to achieve the goals of the municipality.

VII. CONFLICT OF INTEREST AVOIDANCE

Members are committed to making decisions impartially and in the best interests of the municipality and recognize the importance of fully observing the requirements of the *Municipal Conflict of Interest Act*, R.S.N.S. 1989, c. 299 with regard to the disclosure and avoidance of conflicts of interest.

VIII COMPLIANCE WITH CODE

Members acknowledge the importance of the principles contained in this Code which will be self-regulated by Council. Councillors are required to sign a "Statement of Commitment to the Code" (Attachment A) within seven (7) days of taking the Councillors' oath pursuant to section 147 of the *Municipal Elections Act*, R.S.N.S. 1989, c. 300.

IX OVERALL RESPONSIBILITIES

The Halifax Regional Municipality Code of Conduct for elected Municipal Officials applies to all members of Council. In addition to the standards noted above, members are also required to observe the relevant provisions of the following policies:

- Illegal and Irregular Conduct Policy (Administrative Order 40)
- Ethical Conduct Policy (Administrative Order 41)

ATTACHMENT A

***STATEMENT OF COMMITMENT TO THE ELECTED OFFICIALS CODE OF
CONDUCT OF THE HALIFAX REGIONAL MUNICIPALITY***

I, (Full Name) _____ declare that as a member of ***Halifax***

HALIFAX REGIONAL COUNCIL acknowledge and support the elected official's Code of
Conduct.

Signed: _____

Declared this _____ day of _____, 2009.

Before me:

Municipal Clerk

CODE OF CONDUCT FOR ELECTED MUNICIPAL OFFICIALS

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No member shall grant any special consideration, treatment, or advantage to any citizen or group of citizens beyond that which is accorded to all citizens.

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VIII. REPORTING BREACHES

Persons who have reason to believe that this Code has been breached in any way are encouraged to bring their concerns forward. No adverse action shall be taken against any Member or municipal employee who, acting in good faith, brings forward such information.

IX. CORRECTIVE ACTION

Any reported violation of the Code will be subject to investigation by the Council. Violation of this Code by a Member may constitute a cause for corrective action. If an investigation finds a Member has breached a provision of the Code, Council may impose corrective action commensurate with the nature and severity of the breach, which may include a formal warning or reprimand to the Member.

X. COMPLIANCE WITH CODE

Members acknowledge the importance of the principles contained in this Code which will be self-regulated by Council. Councillors are required to sign a "Statement of Commitment to the Code" (Attachment A) within seven (7) days of taking the Councillors' oath pursuant to section 147 of the *Municipal Elections Act*, R.S.N.S. 1989, c. 300.

ATTACHMENT A

STATEMENT OF COMMITMENT TO COUNCILLORS' CODE OF CONDUCT

I, (Full Name) _____ declare that as a Councillor of the

I acknowledge and support
the Councillors' Code of Conduct.

Signed: _____

Declared this _____ day of _____, 2008.

Before me:

Chief Administrative Officer/Clerk-Treasurer

Attachment 3

Municipal Codes of Conduct for Elected Officials containing Enforcement Provisions

The Codes of Conflict noted below operate along with and as supplements to existing statutes that govern the behaviour of elected officials (eg. various Municipal Acts and Charters, Conflict of Interest legislation, the Criminal Code of Canada, Freedom of Information and Protection of Privacy Act, etc.).

City/Municipality and Name	Summary/Highlights of Enforcement Provisions
<p>City of Toronto, ON</p> <p><i>Code of Conduct for Members of Council</i></p>	<ol style="list-style-type: none"> 1. Complaint protocol is through the City’s Integrity Commissioner 2. Commissioner can advise on recommended actions for any contravention of the Code of Conduct pursuant to the <i>City of Toronto Act, 2006</i>. Options include: <ul style="list-style-type: none"> - A reprimand - Suspension of remuneration for up to 90 days • Integrity Commissioner may also recommend that Council or a local board may take the following actions (regarding a member of a board or committee): <ul style="list-style-type: none"> - removal from membership of a Committee or local board - removal of chair of a Committee or local board - repayment or reimbursement of moneys received - return of property or reimbursement of its value - request fo an apology to Council, the complainant, or both
<p>City of London, ON</p> <p><i>Code of Conduct for Elected Officials of Municipal Council</i></p>	<ul style="list-style-type: none"> - If an employee complains of harassment or discrimination by a member of Council, the Councillor may participate in the Informal Resolution and/or Mediation process under the Workplace Harassment/Discrimination Prevention Policy and Complaint Procedure for employees - Depending on the nature of the allegation, complaints may be made by any person through the London Police Department (via s. 122 or 123 of the <i>Criminal Code of Canada</i>) against a member of Council - Any person may advise the Councillor verbally or in writing of the activity they believe contravenes the by-law, or they may encourage the Councillor to stop the prohibited activity, or they refer their complaint to the Ontario Human Rights Commission where the alleged misconduct involves a violation of the Human Rights Code - In circumstances where liability is denied and the misconduct is serious in nature, Council may pass a resolution pursuant to s.274(1) of the <i>Municipal Act</i> requesting a judicial investigation

City/Municipality and Name	Summary/Highlights of Enforcement Provisions
<p>City of Vaughan, ON</p> <p><i>Policy: Code of Ethics and Conduct for Members of Council</i></p>	<ul style="list-style-type: none"> • The policy document noted that it is currently under review • Complaint Protocol is through the City’s Integrity Commissioner • Commissioner can advise on recommended actions for any contravention of the Code of Conduct pursuant to the <i>Municipal Act, 2001</i> (Ch. 25 Ss.223.3 to 223.8) • Individuals are encourage to pursue an informal complaint procedure first with the option of having the Integrity Commissioner act as a mediator/conciliator • A formal complaint procedure may be followed which is initiated by a Complaints Form/Affidavit • Complaint form is filed with the City Clerk and forwarded to the Integrity Commissioner for action • The Integrity Commissioner reports to Council outlining findings of any investigation, the terms of any settlement, or recommended corrective action. • Pursuant to the <i>Municipal Act</i>, the municipality may impose the following penalties on a member of council who has contravened the code of conduct: <ul style="list-style-type: none"> - A reprimand - Suspension of remuneration for up to 90 days • All reports from the Integrity Commissioner to Council will be made available to the public
<p>City of Vancouver</p> <p><i>Corporate Policy - Code of Conduct</i></p>	<ul style="list-style-type: none"> • Not exclusive to elected officials: corporate policy is applicable to Council, Staff, and advisory body members • Policy states that Mayor receives alleged breaches of policy by Councillors, makes necessary enquiries, and recommends appropriate disciplinary action to Council • By a resolution of Council, options include: <ul style="list-style-type: none"> - Censure of the individual for misbehaviour - Apologies to those adversely affected by the breach - Counselling for the individual - In the case of advisory body members, termination of appointment
<p>Village of Hill Spring, AB</p> <p><i>Code of Conduct for Elected Officials of Municipal Council of the Village of Hill Spring</i></p>	<ul style="list-style-type: none"> • Self-regulated by Council • Council must sign copy of the policy as indication of their support and contractual agreement to abide by it • The Mayor deals with allegations at his/her discretion and reports back to complainant in writing on actions taken • If allegations are against the Mayor, then the Deputy Mayor will receive them and act accordingly • If the member of council who made the allegation is not

City/Municipality and Name	Summary/Highlights of Enforcement Provisions
	<p>satisfied with the actions taken, s/he may request an <i>in camera</i> meeting of Council for discussion</p> <ul style="list-style-type: none"> • Provides that under no circumstances will an allegation of misconduct be discussed or disclosed during a public council meeting, nor the circumstances surrounding the allegation to be disclosed publicly • Depending on the nature of the complaint, directions are also provided for submitting complaints via the RCMP under Ss. 122 and 123 of the <i>Criminal Code of Canada</i>, the Alberta Human Rights and Citizenship Commission, or through Workplace Harassment/Discrimination Prevention Policy and Complaint Procedure • Any person may also advise the Councillor verbally or in writing of the activity they believe contravenes the by-law, or they may encourage the Councillor to stop the prohibited activity
<p>City of Whitehorse, YK</p> <p><i>Code of Conduct for Councillors</i></p>	<ul style="list-style-type: none"> • Self-regulated by Council • Councillors sign a “Statement of Commitment to the Councillors’ Code of Conduct” • Councillors shall be cognizant of their responsibilities under the Code • Councillors are to endeavour to resolve disputes among themselves first. Failing that, any Councillor may submit a “Notice of Complaint” form to the Mayor in confidence to request a resolution to the dispute • If one complainant will not participate in the resolution process, Council may request an <i>in camera</i> meeting (in accordance with s. 213(3)(b)(iii) of the <i>Municipal Act</i>) to discuss the dispute and may request that the City Manager commence formal Mediation/Conciliation • Participation in mediation/conciliation is compulsory • The mediator/conciliator prepares a report to the City Manager which includes recommendations and actions to be taken.