

COUNCIL POLICY

REIMBURSEMENT OF LEGAL FEES IN RELATION TO CONFLICT OF INTEREST

1. PURPOSE

To establish guidelines for members of Council who wish to obtain legal advice as to whether the member is (or still is) in potential conflict of interest with respect to a matter that is currently under consideration, or known to be forthcoming for consideration, by Council.

2. SCOPE

This policy applies to all members of Council.

3. DEFINITIONS

CONFLICT OF INTEREST is when a *Member* has a direct or indirect pecuniary interest (financial) in the matter or another interest in the matter that constitutes a *Conflict of Interest* (*Community Charter, S. 100*).

INDEPENDENT LEGAL ADVICE is advice provided by a lawyer not associated with the Municipality of North Cowichan.

MEMBER is a member of Council.

4. POLICY

Member's Obligation

- 4.1. It is the personal responsibility of each *Member* to be aware of any *Conflict of Interest* that they may have and to make a decision, in good faith, whether to declare a conflict. Once making a declaration, the *Member* must conduct themselves in accordance with the legislation, including making every effort to avoid participating in discussions (before, during or after meetings) or voting on issues in which a *Member* has declared a *Conflict of Interest*.
- 4.2. Any *Member* who decides to declare a *Conflict of Interest*, must do so at a properly convened meeting, by stating in general terms why the *Member* believes they have a *Conflict of Interest* and then exit the meeting. If the *Member* is participating electronically at the meeting where the declaration is made, the *Member* must exit the electronic meeting platform.

If a *Member* is Unsure whether a *Conflict of Interest* Exists

- 4.3. Where a *Member* is uncertain whether a *Conflict of Interest* exists, the *Member* may:
 - (a) Contact the Corporate Officer to discuss their potential *Conflict of Interest*;
 - (b) Contact the Chief Administrative Officer to discuss their potential Conflict of Interest; or,
 - (c) Obtain Independent Legal Advice regarding their potential Conflict of Interest.

Obtaining Legal Advice

- 4.4. A *Member* who wishes to seek *Independent Legal Advice* in advance of making a decision to declare a *Conflict of Interest* may be eligible for reimbursement in accordance with sections 4.9 – 4.11.
- 4.5. Any *Independent Legal Advice* remains the property of the *Member* and thus is not required to be provided to Council unless the member wishes to do so.
- 4.6. Where a *Member* does not take advantage of provisions of 4.4 above, Council may, through resolution, direct that a legal opinion be obtained on a perceived or actual *Conflict of Interest*, should the individual *Member* not declare a *Conflict of Interest*.

Withdrawing a Declaration of a *Conflict of Interest*

- 4.7. If a *Member* who has declared a *Conflict of Interest* wishes to rejoin the discussion in respect of the matter (i.e., participate in the discussion before, during and after the meeting), they must first seek *Independent Legal Advice*.
- 4.8. If, after obtaining *Independent Legal Advice*, it is determined the *Member* was wrong or the basis for the declaration no longer applies respecting their entitlement to participate in respect to the matter, the *Member* may withdraw the declaration at a properly convened meeting by stating in general terms the basis on which they have determined they are entitled to participate.

Reimbursement of Legal Advice Expenditures

- 4.9. A *Member* may be reimbursed their legal fees incurred for obtaining *Independent Legal Advice* prior to declaring a *Conflict of Interest* if such expenditure has been pre-approved by the CAO.
- 4.10. Where a *Member* has not discussed the matter with the CAO, the *Member* shall be personally responsible for paying the cost for obtaining their *Independent Legal Advice*.
- 4.11. All expenditures incurred for obtaining *Independent Legal Advice* in order to withdraw a declaration, in accordance with section 4.6, are eligible for reimbursement and will be treated as a taxable benefit to the benefiting *Member*.

RELATED POLICIES & PROCEDURES

- Standards of Conflict Policy

APPROVAL HISTORY

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