

Municipality of North Cowichan

# Agricultural Advisory Committee

Procedural Guide

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# Welcome!

Welcome to your role as a Municipality of North Cowichan Agricultural Advisory Committee volunteer. This manual is intended to help make your experience a rewarding one.

Contained within this manual are the basics of how the system works. It includes an overview of roles and responsibilities and the support that Agricultural Advisory Committee shall receive to assist their work. You will also find meeting guidelines and procedural tips for committee members in this material.

We hope committee members find this information helpful.

Your feedback is always welcome.

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# Who Does What?

## Role of Agricultural Advisory Committee (AgAC)

### Mandate under the Terms of Reference

The Agricultural Advisory Committee's (AgAC) mandate is to provide advice to Council on a range of agricultural issues and initiatives.

Under the [Terms of Reference](#), adopted by Council, the AgAC exists to provide support to Council by:

- (1) Assisting staff and Council to conceive, develop and implement practical Agricultural and Food Security related programs and policies that both:
  - a) Support an increasingly vibrant/viable and sustainable/regenerative agricultural and food sector; and,
  - b) Advance the Municipality's goals related to economic development, climate/ environment, and agricultural/food security, as described in the Official Community Plan (OCP) and other policies or plans of Council, such as the Climate Action and Energy Plan (CAEP) and the Biodiversity Protection Policy.
- (2) Working with staff (and a consultant) and Council toward the development of an Agriculture and Food Security Strategic Plan (AFSSP).
- (3) Advising on issues referred to the Committee by Council related to:
  - a) agricultural and food related issues, such as any land use applications, bylaws, policies, temporary use permits, etc. that impact agricultural land;
  - b) the practice of agriculture, food processing, industry, and food security issues;
  - c) agricultural impacts on natural areas;
  - d) water protection; climate adaptation; and,
  - e) other emerging issues.
- (4) Proactively advising Council on issues of concern to the agricultural/food security sector, as described in bullet (3) above.
- (5) Acting informally as a conduit of understanding between the municipality, the community and the agricultural/food sector, by raising broader awareness of the Committee's work as well as of agriculture and food production and its role in the local economy.

Once the committee submits a recommendation to Council, the decision is in Council's hands and may be adopted as is, amended, referred to staff or other committees, or not proceeded with at all. It is also possible that at some point in the future, the action taken could be altered without referral back to the committee.

### Reporting to Council

Council receives advice from the committee through various channels which include:

- a staff report prepared by the Staff Liaison;

- a presentation by the committee at a Committee of the Whole or Council meeting; and
- through the minutes that are shared with Council through the Consent Agenda.

It is **best practice** for the Committee to speak to Council as one body, and to not have individual Committee Members providing their individual opinions on a matter to a member of Council or all of Council.

The Staff Liaison will advise the committee if a report recommendation to Council is required before staff activity on the issue can commence. For example, committees must seek Council approval for new initiatives and projects requiring a significant amount of staff time or costs to determine if resources can be allocated to the committee's initiative.

### Meeting Schedule

The committee shall meet quarterly (four times per year) or at the call of the Chair. At its first meeting after its establishment, the committee must establish a regular schedule of meetings.

Each year on or before December 15, the committee shall prepare a schedule of the dates, times and place of their regular meetings for the following year. The Legislative Services Coordinator will then make that schedule available to the public by posting on the notice board at the main entrance to the Municipal Office and the Municipality's website.

### Role of the Chair

The role of the Chair is critical for effective meetings. If the Chair is absent, the committee members must select a member present at the meeting to preside.

The [Council Procedure Bylaw](#) authorizes Council members who are not members of the committee to attend to observe its deliberations. The exception under the bylaw is that the Mayor is an ex-officio member of all committees and commissions and as such has the same rights as other committee members.

### The Chair:

- works with the Staff Liaison and the Corporate Officer, or delegate, to set the agenda
- presides and ensure that the rules established under the [Council Procedure Bylaw](#) and the [Council Advisory Body Policy](#) are being followed
- uphold [Council's Standards of Conduct Policy](#) and help guide members whenever ethical dilemmas arise during the meeting
- prevents new issues from side-tracking meetings
- establishes order and decorum
- respects members' views and understands the issues
- seeks agreement and builds consensus
- is open-minded
- closes debate and guides the group to resolution in timely manner
- assists committee members to word motions clearly and succinctly

- ensures all members have the opportunity to participate, encourages those who hold back, prevents others from dominating
- ensures a member is not present where a conflict of interest has been declared
- reports back to the committee the outcome of any Council decisions pertaining to their recommendations
- focuses on presiding over the meeting but may participate in debate

#### **The Chair's duties during a meeting are to:**

- check if a quorum is present and open the meeting at the prescribed time
- announce the business in the proper sequence (as on the agenda)
- ensure the committee sticks to the agenda
- recognize members entitled to speak, in the order in which they request to speak (mover of a motion has the right to speak first)
- state and put the questions (resolutions which have been moved and seconded) to a vote
- enforce the rules of decorum
- expedite business
- assist committee members to word motions clearly and succinctly
- decide questions of order
- declare the meeting adjourned when business is complete

The Chair is a member of Council, Councillor Christopher Justice, appointed by Council and serves as a voting representative.

### **Role of Individual Committee Members**

Committee members are appointed by Council to serve for a term that coincides with the Council term.

Committee members are expected to:

- regularly attend meetings;
- pick up agendas at the Municipal Office front counter or as arranged;
- prepare for meetings by reading agenda material in advance;
- listen to others – observe the rule of one speaker at a time;
- participate fully;
- observe rules of decorum and debate; and
- represent their authority only as delegated by Council.

Committee members are reminded that attendance is vital. Without quorum (quorum is a majority of voting members), the committee is unable to have an official meeting and cannot pass recommendations to Council. If you are unable to attend meetings on a regular basis or cannot dedicate the necessary time, reach out to the Chair and Staff Liaison as there may be other ways that you could support the committee.

Any member who is absent from three consecutive regular meetings, without notifying the Chair or Staff Liaison in advance, without leave of absence from the committee, or without reason satisfactory to the committee, shall cease to be a member of the committee.

The committee's goal is to come to consensus before sending a recommendation to Council. Although consensus is the goal it cannot always be achieved, and members must be willing to support the group's decision even if they were in opposition to avoid undermining the process.

### Resignation of Member

Any member of the committee wishing to resign from the committee is requested to provide the resignation in writing to the Chair with a copy to the Staff Liaison who will advise the Corporate Officer. Legislative Services will then advise Council and the CAO of the resignation.

### Role of the Staff Liaison

"Staff Liaison", as identified on page 1, is assigned to assist a committee in a non-voting advisory and resource capacity. Their contact information can be found on the Welcome page of this guide (page 1).

The **Staff Liaison**:

- provides information and professional advice
- manages the information shared with the committee through email and is the main point of contact for members outside of the Chair
- supports the Chair in developing agendas and supporting materials
- provides updates to the committee on 'committee work' that is in progress
- is not a member of the committee and is not entitled to vote
- reports to the department head and provides professional advice through the CAO to Council

### Role of the Legislative Services Staff Support

"Legislative Services Staff Support", as identified on page 1, is not a member of the committee and therefore is not entitled to vote. Their contact information can be found on the Welcome page of this guide (page 1).

The responsibilities of the **Legislative Services Staff Support** include:

- preparing and distributing committee agendas at the direction of the Chair and Staff Liaison
- attending committee meetings to record the minutes
- ensuring that appropriate arrangements for committee meetings, including room bookings, are made in accordance with prescribed municipal procedures
- maintaining and distributing the schedule of committee meetings
- providing meeting process and procedural advice

## At the Committee Meeting

### Meetings Open to Public

All meetings of Council committees are open to the public and no person shall be excluded except in cases of improper conduct, or where the committee is considering an item where, in accordance with section 90 of the *Community Charter*, the exclusion of the public is permitted or required.

Committee meetings are held in person in the Large Committee Room, unless an alternate location in the Municipal Hall has been approved by the Corporate Officer or CAO. If a meeting is to be held outside of the Municipal Hall, the committee must adopt a resolution to authorize the meeting to be held elsewhere.

### Rules of Procedure

In addition to the rules of procedure which Council must observe during their meetings, and which apply to committee meetings under the [Council Procedure Bylaw](#), the [Council Advisory Body Policy](#) provides additional guidelines regarding meeting schedules, agendas, minutes, recommendations to Council, media relations, conduct, etc.

### Quorum

Not much can happen at committee meetings without a quorum of the members, other than calling the meeting to order to record the names of those present and then adjourning the meeting until the next scheduled meeting. All items on that agenda would be brought forward to the next meeting agenda.

A quorum is a majority of the committee members. A quorum is necessary to pass motions. Sometimes specific requirements are necessary to achieve quorum. In the event of no quorum after 15 minutes, or if quorum is lost during a meeting, the committee's official business ceases, members may leave, and the staff support will excuse themselves from the meeting.

### Agendas/Minutes

Agendas are prepared by Legislative Services in consultation with the Chair and the Staff Liaison. Agendas are produced by the Legislative Services Staff Support, e-mailed to committee members, and made available on the municipal website. Paper copies of agendas are only printed upon request and can be picked up at the meeting or prior to the meeting from the Front Counter. Extra copies will not be available at the meeting, so be sure to request your paper copy in advance if you need one.

Minutes of the previous meeting are circulated in the next agenda package. Legislative Services has a schedule for agenda production, generally the items to be included in the agenda are



forwarded to Legislative Services one week prior to the meeting date to ensure that the agenda is finalized and distributed at least 72 hours prior to the meeting. The goal is to give members as much time as possible to prepare for meetings. On occasion, there may be large documents that members are expected to review prior to the meeting which the Staff Liaison will circulate prior to distribution of the agenda to provide them with more time to review the document(s).

## Decision-making

Members should strive for consensus in their decision-making. However, final decisions are made by motion adopted by a majority vote.

## Voting and Debating Rights

Each member of the committee, including the Chair, may make or second motions, debate motions, and vote.

All members, including the Chair, will have a vote on any question before it, and in all cases, in the event of a tie vote, the motion will be defeated. Any member who abstains from voting, without having declared a conflict of interest and leaving the meeting, will be deemed to have voted in the affirmative. Proxy votes are not permitted.

## Delegations to Committees

Delegations to committees must be limited to 10 minutes unless a longer period is agreed to by unanimous vote of committee members present. Once the delegation has presented their remarks, committee members may ask questions for clarification if permitted to do so by the Chair. Once the delegation presentation is concluded and questions have been addressed, the delegation must not be permitted to participate further in the committee deliberations.

## Handling the Business of the Meeting

Agendas may have many items, sometimes seemingly too many items. Some items are for action, while others may be updates or items just for information. Focus on those that are for discussion or decision, are important and urgent, and where the background work has been done. Keep the time spent just '*informing people*' to a minimum.

## Recommendations to Council – Wording of Motions

Recommendations to Council should be worded in a concise, action-oriented manner. In effect, if Council agrees with the committee's recommendation, Council should be able to adopt the recommendation as is, as a Council resolution.

### **To Report or Not To Report (to Council)**

Not all deliberations require a report/recommendation to Council. There will be motions made by the committee that do not require an action or endorsement by Council. Council is kept apprised of all committee activities through regular distribution of committee minutes.

The [Council Advisory Body Policy](#) describes when a report is required to accompany a committee recommendation and when the committee's minutes are to be included in a Consent Agenda for Council endorsement or as information.

### **Authority**

Committees do not have the authority to communicate with other levels of government, pledge the credit of the Municipality, or authorize expenditures to be charged against the Municipality.

## Common Terms and Procedures

**"Unanimous Consent"** is an informal method of resolving a routine and non-controversial procedural issue. For example, the presiding member may seek unanimous general consent as follows:

*"Is there any objection to moving item 7 forward on the agenda and considering it now? Hearing none, we will proceed now with item 7."*

**"Friendly Amendment"** is an informal method of making a minor change to a motion or amendment. For example, during debate, it may be indicated that a minor change to a motion or amendment would better achieve the intent of the mover. The Chair may then ask:

*"Is there any objection to adding the words '.....'? Hearing no objection, the words are added and the motion now reads: '....' OR "Hearing no objection, the words are added. Would the Legislative Coordinator please read the motion? ... Is there any further discussion on the motion?"*

**\*\*Caution: Overuse of the friendly amendment could result in confusion.**

## Rules of Decorum and Debate

Committee meetings tend to be more informal than a Council meeting. The Chair has the duty and authority to allow the level of informality they feel would best facilitate the work of the committee.

Here are some meeting rules which may be helpful and may be used by the committee:

- the maker of a motion has a right to speak first to their motion
- to speak a second time, a member should wait until all those who wish to speak have done so for the first time
- members must remain courteous and avoid personal attacks on each other and staff
- remarks must be confined to the motion before the committee
- remarks are always directed "through the Chair"<sup>1</sup>
- members should not interrupt another speaker and speak only when acknowledged by the Chair
- there are no limitations on the number of times a member may speak, however, they are limited to a maximum of 10 minutes total time in relation to a motion on the floor or in reply to the committee's discussion
- motions should be phrased concisely and to the point
- a decision to close debate can be called by the Chair if it appears that debate has been exhausted, or a member can introduce a motion to end debate ("I move previous question") but must pass by a 2/3 vote for debate to be closed prior to debate limits lapsing.

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<sup>1</sup> The term "through the Chair" is an action not a statement. What that means is that when responding to a question by another member, the responding member should be speaking to the Chair as if it were the Chair who posed the question.

## Basic Principles – Robert’s Rules of Order

- All members have equal rights, privileges and obligations
- No person can speak until recognized by the Chair
- Personal remarks during debate are out of order
- Only one question at a time may be considered, and only one person may have the floor at any one time
- Members have a right to know what the immediately pending question is and to have it restated (read out) before a vote is taken
- Full and free discussion of every main motion is a basic right
- A quorum must be present for business to be conducted
- A majority decides a question except when basic rights of members are involved, or a rule provides otherwise
- A 2/3 vote is required for any motion that deprives a member of right in any way (e.g., cutting off debate)
- Silence gives consent. Those who do not vote allow the decision to be made by those who do vote
- The Chair should always remain impartial

## Motions and Amendments

A main motion is a proposal to take action or give direction. The steps of handling a main motion are:

1. A member makes a motion (*"I move that ....."*)
2. Another member seconds the motion (*"Second" or "I second the motion"*)
3. The Chair states the motion or moves directly to debate (*"It is moved and seconded that ....." AND/OR "Is there any discussion?"*)
4. Debate, and amendment if any, takes place.
5. The Chair puts the motion to a vote: (*"We are now voting on the motion to ..... All those in favour? [If electronic meeting, say: Those voting in the affirmative indicate by raising your hand.] Opposed? [If electronic meeting, say: Those voting against indicate by raising your hand]"*)

Members should always clearly indicate their vote by raising their hand at the appropriate time. Those who do not vote by raising a hand are counted as voting in the affirmative.

6. The Chair announces the result (*"Motion passes." "Motion defeated." "Tie Vote - motion defeated."*). The Chair will also include the names of those members who were opposed.

## Amending Motions

An amendment is a motion to change the wording of another motion before voting on it. An amendment is always dealt with before the original motion. In effect, the amendment temporarily sets aside the motion which it proposes to modify. A motion to amend a debatable motion is debatable and requires the same steps as a main motion.

### Three Methods of Amending a Motion

#### 1. By inserting or adding words

*"I move that the motion be amended by inserting the word[s] ... between the word ... and the word ...." OR... "I move that the motion be amended by adding the word[s] ..."*

#### 2. By striking out words

*"I move that the motion be amended by deleting the words ...."*

#### 3. By striking out words and inserting replacement words

*"I move that the foregoing motion be amended by deleting the words ... and inserting the words ... in their place."*

Only two levels of amendment are allowed. A main motion can be amended (primary amendment) and an amendment can be amended (secondary amendment). No amendment is permitted to a secondary amendment.

## Debate on Motions and Amendments

When an amendment is made, discussion is allowed on the amendment only, not on the main motion. Once the vote on the amendment is taken, discussion proceeds on the motion (as amended if the amendment passed).

## Motions Permitted While Matter is Under Debate

During debate on a motion, there are a limited number of other motions which would be considered to be in order. These are a motion to:

- amend
- lay on the table
- postpone indefinitely
- postpone definitely (to a certain time)
- move the previous question
- refer
- division of the question
- adjourn or recess the meeting

### Motion to Lay on the Table

This motion in essence puts aside a Main Motion until a later, unspecified time. It places in the care of the Legislative Coordinator the pending question and everything adhering to it. The question laid on the table remains there until taken off or until the end of the next regular meeting. The motion to "Take from the Table" is used when the committee wants to continue considering the motion. This motion is used when the committee wants to address another matter immediately.

### Motion to Postpone Indefinitely

A motion to postpone indefinitely is a motion to decline to take a position on an issue or motion, in effect, kills the Main Motion. The Legislative Coordinator can assist in this event. (*"I move that this item be postponed indefinitely"* OR *"I move that no action be taken on this issue at this time."* If the motion passes, there is no vote on the Main Motion which means there is no stand taken for or against the motion.

### Motion to Postpone to a Certain Time

A motion to postpone to a certain time means that debate is stopped, and consideration of the issue or motion is postponed to a specific future date. It may be used if the committee needs more time to make a decision or if there is a time for consideration of this question that would be more convenient, this motion may be the answer. Often bodies use the motion to Lay on the Table when the intent is to postpone consideration until a later date or when additional information is provided.

### Move Previous Question

The effect of this motion is to immediately stop debate on the primary motion and any amendments and to move immediately to a vote on the motion. It must be seconded, no debate is allowed, and a two-thirds vote is needed to close debate.

### Motion to Withdraw a Motion

A motion which has been duly moved and seconded may only be withdrawn with the consent of the committee. This can be done informally by the Chair, by saying *"if there is no objection, we will withdraw the motion"* or formally (if a member objects) by the committee, by a member saying, *"I move to withdraw the motion"*. Once a motion to withdraw a motion has been carried, there is no record made in the minutes of the original motion having existed.

### Motion to Refer

A motion to refer is a motion to send a main motion to a subcommittee or to staff for further study and report back. (*"I move that the foregoing motion be referred to the committee's subcommittee for review and report back to the committee by ...."*) If the motion passes, consideration of the matter is postponed until it is brought back on a future agenda.

## Division of a Question

A motion to divide a main motion into separate motions if each part can stand on its own. This is used when a motion has been moved and seconded which includes two or more parts to it and members may be supportive of one part but not the other.

## Questions of Privilege and Points of Order

Questions of Privilege and Points of Order can also interrupt proceedings.

A matter of privilege refers to:

- fix the time to adjourn
- extend or limit debate
- adjourn
- recess
- raise a question of privilege

## Motion to Fix the Time to Adjourn

This motion is used when the committee has not completed all of their business and wishes to meet on another day to complete their discussions. The committee would give the date, time and location of when they would be meeting. It is not debatable and only needs a majority vote to pass.

## Motion to Extend or Limit Debate

This motion can reduce or increase the number and length of speeches permitted or limit the length of debate on a specific question.

## Adjourn

When a motion to adjourn is made, it means the meeting stops and will reconvene at another date and time. A motion to adjourn is not required if the agenda is completed - the Chair simply declares the meeting "closed" or "concluded".

## Recess

A motion to take a break in the meeting. A motion or call for a recess should specify the amount of time to be taken for the recess.

## Question of Privilege

Raising a request or motion relating to the rights or comfort of the committee or an individual. It is decided by the Chair. Typically used for an urgent request or motion relating to the privileges of the committee or a member.

### **Point of Order**

A statement that a rule of the committee is being violated. It is ruled on by the Chair whose decision may be appealed to the committee and decided by committee resolution.

### **Point of Information**

A request for information (e.g., from staff during debate).

### **Reading of Motions**

A member may require the motion under consideration to be read out loud. The Legislative Coordinator would then read the motion. Sometimes the Legislative Coordinator will ask to read a motion if they are unsure what it is or if they feel others may not understand the exact motion being considered.



## Standard of Conduct

The [Standards of Conduct policy](#) is a guide to assist committee members in decisions faced in the course of carrying out duties assigned by Council and to support them in being proactive toward ethical dilemmas that may arise in the course of committee activities.

Committee members must adhere to the Foundational Principles and the provisions of this policy and have an obligation to consider issues and exercise powers, duties and functions in an impartial manner that avoids arbitrary and unreasonable decisions.

Committee members must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, committee members must avoid conduct that:

- Contravenes the policy;
- Contravenes the law including municipal bylaws; or
- Is an abuse of power or otherwise amounts to improper discrimination, intimidation, harassment or verbal abuse of others.

In addition to the [Standards of Conduct policy](#), the [Respectful Spaces Bylaw No. 3796](#) is intended to provide an inclusive environment whether it be in municipal facilities or the delivery of municipal services in which all individuals have the right to be free of harassment, bullying, intimidation, violence, and discrimination, and where they are treated with mutual respect and dignity. The penalty for committing an offence under the bylaw is \$1,000.

## Confidentiality

Section 117 of the *Community Charter*, duty to respect confidentiality, also applies to members of the EAC. The duty of each member is to keep in confidence:

- any record held in confidence by the Municipality, until the record is released to the public as lawfully authorized or required; and
- information considered in any part of a committee meeting that was lawfully closed to the public, until the committee discusses the information at a meeting that is open to the public or releases the information to the public.

This duty applies to both current and former members. In other words, the consequences of a member's unlawful disclosure will follow them after they leave the committee. The Municipality has the statutory authority to sue to recover damages from a member whose breach of confidentiality results in loss or damage to the Municipality.

## Conflict of Interest

Committee members are subject to sections 100 to 104 of the *Community Charter*.

### **100 Disclosure of conflict**

- (1) This section applies to council members in relation to
  - (a) council meetings,
  - (b) council committee meetings, and
  - (c) meetings of any other body referred to in section 93 [application of open meeting rules to other bodies].
- (2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has
  - (a) a direct or indirect pecuniary interest in the matter, or
  - (b) another interest in the matter that constitutes a conflict of interest,the member must declare this and state in general terms the reason why the member considers this to be the case.
- (3) After making a declaration under subsection (2), the council member must not do anything referred to in section 101 (2) [restrictions on participation].
- (4) As an exception to subsection (3), if a council member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting his or her entitlement to participate in respect of the matter, the member may
  - (a) return to the meeting or attend another meeting of the same body,
  - (b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and
  - (c) after this, participate and vote in relation to the matter.
- (5) For certainty, a council member who makes a statement under subsection (4) remains subject to section 101 [restrictions on participation if in conflict].
- (6) When a declaration under subsection (2) or a statement under subsection (4) is made,
  - (a) the person recording the minutes of the meeting must record
    - (i) the member's declaration or statement ,
    - (ii) the reasons given for it, and
    - (iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and
  - (b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

### **101 Restrictions on participation if in conflict**

- (1) This section applies if a council member has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 100.
- (2) The council member must not
  - (a) remain or attend at any part of a meeting referred to in section 100 (1) during which the matter is under consideration,
  - (b) participate in any discussion of the matter at such a meeting,
  - (c) vote on a question in respect of the matter at such a meeting, or
  - (d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.
- (3) A person who contravenes this section is disqualified from holding office as described in section 108.1 [disqualification for contravening conflict rules] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **102 Restrictions on inside influence**

- (1) A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken
  - (a) at a meeting referred to in section 100 (1) [disclosure of conflict],
  - (b) by an officer or an employee of the municipality, or
  - (c) by a delegate under section 154 [delegation of council authority],if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

- (2) A person who contravenes this section is disqualified from holding office as described in section 108.1 [disqualification for contravening conflict rules] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **103 Restrictions on outside influence**

- (1) In addition to the restriction under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.
- (2) A person who contravenes this section is disqualified from holding office as described in section 108.1 [disqualification for contravening conflict rules] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **104 Exceptions from conflict restrictions**

- (1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:
- (a) the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;
  - (b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;
  - (c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;
  - (d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
  - (e) the pecuniary interest is of a nature prescribed by regulation.
- (2) Despite sections 100 to 103, if a council member
- (a) has a legal right to be heard in respect of a matter or to make representations to council, and
  - (b) is restricted by one or more of those sections from exercising that right in relation to the matter,
- the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

A conflict of interest is a situation in which the personal and professional interests of individuals may have actual, potential, or apparent influence over their judgement and actions.

Conflict of interest is about appearances and is aimed at avoiding the potential for a member to be influenced by personal interest. The question one should ask themselves if they feel they may be in conflict is whether a reasonably well-informed person would conclude that the member's personal interest in a matter might influence the member in the exercise of their duty as a member of the committee. It is critical that the member approach potential conflicts from this perspective. It does not matter whether the member believes that they can remain impartial. Nor does it matter whether the member is not in fact influenced by their personal interest. Conflict of interest is about preserving the integrity of the committee and its ability to make recommendations to Council as part of the decision-making process.

### **What is pecuniary conflict of interest?**

A pecuniary interest is something that causes either a negative or positive financial impact for the committee member. The term interest could relate to a property interest or an interest financially that impacts the member through a personal or business relationship, or through a contract.

## What is non-pecuniary conflict of interest?

A non-pecuniary conflict does not involve the potential for financial benefit but can be just as damaging to the sense of public trust as conflicts that involve financial gain.

A committee member has a non-pecuniary conflict of interest if:

- The member's interest in the matter is immediate and distinct from the public interest
- It can be reasonably determined that the member's private interest in the matter will influence his or her vote on the matter
- The member, or one of his or her relations or associates, stands to realize a personal benefit from a favorable decision on the matter
- The potential benefit to the member is not financial in nature

## Exceptions from Conflict Restrictions

Section 104 of the *Community Charter* provides for some exceptions to the conflict and inside/outside restrictions. They include:

- The member's pecuniary interest is an interest in common with the electors of the municipality
- The member's pecuniary interest, related to a local service, is in common with other persons who are or would be liable for the local service
- The pecuniary interest is so remote or insignificant that it cannot reasonably be viewed as likely to influence the member

## Declaring a Conflict of Interest

The rules for declaring a conflict of interest apply not only to Council meetings but meetings of committees pursuant to legislation.

When a conflict of interest matter arises during the meeting, the member must:

- Declare to committee that they have a conflict of interest and cite the specific conflict (prior to discussions and vote of the subject). The conflict will be noted in the minutes by the Legislative Services Staff Support person.
- Leave the place of the meeting;
- Make no effort whatsoever to influence committee members, Council or Staff in any decisions on the matter (prior to or after consideration of the matter);

As per the *Community Charter*, the onus of declaring a conflict of interest is on the specific member. However, should a matter arise in a public meeting where a member perceives there to be an undeclared conflict of interest by another member, the committee could do one of the following:

- a. Make a motion to move in-camera under section 90(1)(n) to see if the matter should be closed. This would be done to respect the potential personal nature of the members' affairs. The motion would need to pass by a majority of those present.

*E.g., "Chair, I have a question that may relate to this matter, but I am not sure if it should be discussed in closed or not. May we please move in-camera under Section 90(1)(n) to do so?"*

- b. Make a motion to postpone the matter to a future meeting until further information could be obtained or a legal opinion sought. The motion would need to pass by a majority of those present. The committee will have to consider the circumstances of each situation individually should the matter be time sensitive.

### **Withdrawing a Declaration**

Once a declaration has been made, the member must obtain independent legal advice prior to withdrawing a declaration of conflict of interest. After receiving such advice and the member determines that they are, in fact, not in a conflict position, may withdraw the original declaration in an open meeting after stating publicly why the conflict no longer exists. From there, the member may participate in subsequent discussions and vote on the matter being considered.

## Freedom of Information Requests

The Municipality is obligated to respond to a request for records made by a citizen – known as an FOI request under the *Freedom of Information and Protection of Privacy Act* (FIPPA).

FIPPA is a provincial Act requiring public bodies, to give the public a right of access to records in their custody or under their control. The Office of the Information and Privacy Commissioner (OIPC) is responsible for adjudicating disputes between the applicant (person who has made the FOI request) and the public body if the record is not release or redacted. The Municipality has a duty to make every reasonable effort to assist applicants and to respond without delay.

[Freedom of Information Bylaw No. 2617](#) guides the Municipality on how to respond to FOI requests.

### What is a Record?

Any documents created or received by an organization in the course of a practical activity and maintained as evidence of that activity. A record includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means but does not include a computer program or any other mechanisms that produces records.

In electronic systems, a record is a collection of data items arranged for processing by a program. Please remember that any emails that you send out to committee members and staff are subject to FIPPA and an FOI request could be made. It is important that you do not include any unnecessary personal information in your email correspondence if you do not want it released if an FOI request is made.

### Main Principles of FIPPA

1. All recorded information is available to the public unless there is a specific exception to prohibit its release.
2. A public body should only acquire the minimum amount of personal information necessary to carry out its tasks and in accordance with FIPPA.