TITLE: Insurance Coverage for Pecuniary Interest

On November 21, 2016, Councillor MacKay provided notice in accordance with Section 23 of Procedure Bylaw 35/2009 that he intended to bring forward the following motion:

"I move that Council directs the insurance company providing coverage to cease coverage for any pecuniary interest matter and have these items funded by the individuals involved. Furthermore section 179 and the repayment provisions outlined in the MGA be approved and form part of any future code of conduct policy."

BACKGROUND:

Further to the City Manager's authority under the City Manager Delegations policy (C-CAO-01) to procure insurance coverage, the City has obtained a general liability policy of insurance that includes "errors and omissions" coverage. This wide-reaching policy acts as a common risk mitigation strategy that protects, among others:

- Council members from the direct costs of responding to 3rd party allegations of pecuniary interest, some of which may lack substance, and
- residents from the potential disruption in the governance of the local government authority.

Notwithstanding potential reimbursement of Council members in accordance with a policy statement enshrining MGA section 179, the proposed motion may have the effect of subverting the fundamental governance role of elected representatives, who, faced with the prospect of incurring significant (upfront) legal expenses, may be far more inclined to recuse themselves. Though the MGA defines the nature of pecuniary interest, approval of this motion may cause Council members to be overly cautionary about the interpretation of the term. Insurance coverage allows Council members to consider and evaluate, without this distraction, whether they may have a pecuniary interest in a particular matter.

Report Date: January 23, 2017
Author(s): Gene Klenke, City Solicitor
Committee/Department: City Manager's Office
General Manager: n/a
Interim City Manager: Chris Jardine