



Legislation Details (With Text)

File #: AR-20-333 **Version:** 1 **Name:**
Type: Agenda Reports **Status:** Agenda Ready
File created: 9/16/2020 **In control:** City Council
On agenda: 10/19/2020 **Final action:**
Title: Council Code of Conduct Bylaw Amendments
Presented by: David Leflar, Director, Legal & Legislative Service

Sponsors:

Indexes:

Code sections:

Attachments: 1. Bylaw 39-2020 amending Council Code of Conduct and Integrity Commissioner Bylaws

Date	Ver.	Action By	Action	Result
10/19/2020	1	City Council	adopted	Pass
10/19/2020	1	City Council	adopted	Pass
10/19/2020	1	City Council	adopted	
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10/19/2020	1	City Council	adopted	

TAMRMS#: B06

Council Code of Conduct Bylaw Amendments

Presented by: David Leflar, Director, Legal & Legislative Service

RECOMMENDATION(S)

1. That Bylaw 39/2020, a bylaw to amend the Integrity Commissioner Bylaw and the Council Code of Conduct Bylaw, be read a first time
2. That Bylaw 39/2020 be read a second time
3. That unanimous consent be given for consideration of third reading of Bylaw 39/2020
4. That Bylaw 39/2020 be read a third time
5. That the process for dealing with Formal Complaints against a Council member under the Council Code of Conduct, be discussed at the first annual strategic planning meeting of the Council to be elected in October 2021

PURPOSE OF REPORT

The purpose of this report is to recommend changes to the process for dealing with Formal Complaints against a Council Member under the Council Code of Conduct. If Bylaw 39/2020 is

passed, these changes will take effect upon the expiry of the term of appointment of the current Integrity Commissioner (November 6) and will remain in effect through the first quarter of 2022 in order to give the next Council an opportunity to evaluate the changes and make its own determination on this matter for the balance of its term of office.

ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN

N/A

ALIGNMENT TO LEVELS OF SERVICE DELIVERY

N/A.

ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION

Section 146.1 of the Municipal Government Act states that a Council must establish a code of conduct governing the conduct of councilors.

The *Code of Conduct for Elected Officials Regulation* provides that a code of conduct must establish a complaint system including:

- (a) who may make a complaint alleging a breach of the code of conduct,
- (b) the method by which a complaint may be made,
- (c) the process to be used to determine the validity of a complaint, and
- (d) the process to be used to determine how sanctions are imposed if a complaint is determined to be valid.

BACKGROUND AND DISCUSSION

When s. 146.1 of the Municipal Government Act first came into force, several Alberta municipalities decided that in conjunction with their mandatory Code of Conduct they would also establish an office of "Integrity Commissioner" with power to receive complaints of breaches of the Code, investigate the complaints, determine whether a breach had occurred, and recommend sanctions against a Council member found to have been in breach. St. Albert was one of those municipalities, and accordingly the Integrity Commissioner Bylaw was passed.

With the passage of time, and with experience not only in St. Albert but in other municipalities, it has become apparent that for many complaints received there is no significant dispute (or no dispute at all) over the underlying facts, and in such cases it simply becomes a question of whether the facts support a finding that a Code breach has occurred. It is therefore recommended that Council adopt a complaint procedure that engages the services of a third party to conduct an investigation only if there is a dispute over relevant facts. Under this alternative, if there is no factual dispute then Council deals directly with their colleague, which is a legally permissible method under the MGA and the Regulation.

The premise underlying this recommended new complaint process is that when the facts are clear, Council is well able to judge the severity of the situation and what (if any) sanction to impose, and therefore does not need to spend taxpayer's money on a third party's recommendations. If there is a

factual dispute then a third party investigator would still be engaged to investigate and make findings of fact; the difference is that the City would cease to keep someone on a monthly retainer waiting for a complaint that may or may not come, and instead only bring in a qualified investigator as and when the need might arise.

It is also recommended that this new Formal Complaint procedure be implemented only temporarily, starting the day that the current Integrity Commissioner's appointment comes to an end (November 6, 2020) and ending on March 31, 2022. This would allow the new Council to be elected in October 2021 an opportunity to evaluate the process and determine whether it is what they want, for the balance of their term. The recommended bylaw amendments accordingly do not repeal but only suspend the current process, for that period of time.

STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT

N/A

IMPLICATIONS OF RECOMMENDED MOTIONS

Financial:

The alternative process being recommended would allow the City to eliminate the current \$24,000 yearly cost of keeping an Integrity Commissioner on retainer.

Legal / Risk:

N/A

Organizational:

The office of Integrity Commissioner would go into abeyance until March 31, 2022 but would be replaced by another method for dealing with Code of Conduct complaints.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Council could choose to stay with the *status quo* in which case Administration would immediately begin the process to advertise for a new Integrity Commissioner, for Council to appoint.

Report Date: October 19, 2020

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