

COMMITTEE OF THE WHOLE MARCH 22, 2011

REPORT ON REIMBURSEMENT OF LEGAL EXPENSES FOR MEMBERS OF COUNCIL ON COMPLAINTS TO THE INTEGRITY COMMISSIONER

Recommendation

The Integrity Commissioner recommends that Council amend the Complaint Protocol for the Code of Ethical Conduct ("Complaint Protocol"), by including a provision to reimburse actual legal expenses incurred by Members of Council as outlined in Appendix 1.

Contribution to Sustainability

N/A

Economic Impact

The economic impact will depend on the number of complaints to the Integrity Commissioner.

Communications Plan

This staff report has been posted on the City of Vaughan's public website

Purpose

The purpose of this report is to amend the Complaint Protocol to provide reimbursement of actual legal expenses incurred by Members of Council for complaints to the Integrity Commissioner, subject to the limits set out.

Background - Analysis and Options

On March 23, 2010, Committee of the Whole considered the report of the Commissioner of Legal & Administrative Services and City Solicitor to adopt an Indemnification By-law and directed that the recommendation be referred to the Integrity Commissioner for review and comment as it pertains to Members of Council prior to reporting back to Council.

Providing legal assistance and indemnification to Members of Council is essential to the fair treatment of public officials and the effective oversight of an organization. Members of Council may be subject to Code of Ethical Conduct complaints and investigations despite the fact that they may be acting in good faith, within the scope of their duties or in the course of their mandate. It is therefore necessary that they receive appropriate legal advice from their own counsel. This is necessary to provide Members of Council with protection from personal liability as long as they are acting in their official capacity and not acting against the interests of the City.

The objective of the inclusion of a section for payment of legal reimbursement into the Complaint Protocol is to provide Members of Council with reasonable protection from personal financial losses or expenses incurred while they were acting within the scope of their duties or in the course of their mandate, and were not acting against the interests of the City in matters governed by the Code of Ethical Conduct.

In considering payment of legal reimbursement to Members of Council, the Integrity Commissioner shall consider all facts available and make a determination on whether the Member of Council:

- i. Acted in good faith;
- ii. Did not act against the interests of the City; and
- iii. Acted within the scope of his or her duties.

The attached recommendation was formulated in consultation with the Commissioner of Legal & Administrative Services and City Solicitor and is not inconsistent with the proposed Indemnification By-law which is concurrently provided to Committee of the Whole for consideration.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Regional Implications

There are no Regional implications to the recommendations contained in this report.

Attachments

Appendix 1- New Draft Section 19 of the Complaint Protocol for the Code of Ethical Conduct.

Report prepared by:

Suzanne Craig
Integrity Commissioner

Respectfully submitted,

Suzanne Craig
Integrity Commissioner

Appendix 1

Complaint Protocol for the Code of Ethical Conduct for Members of Council

New Section 19

Reimbursement of Legal Expenses

19. (1) A Member of Council who is subject of an Integrity Commissioner complaint under Part A (Informal Complaint Procedure) or Part B (Formal Complaint Procedure) under this Protocol may charge against the Member's office budget the actual legal expense incurred for consultation with a lawyer of up to \$500.00.

(2) A Member of Council who is the subject of an Integrity Commissioner complaint investigation * under this Protocol may be reimbursed for actual and reasonable expenses incurred for consultation with a lawyer of up to \$5000.00, where it is determined that there has been no contravention of the Code of Ethical Conduct by the Member, such amounts to be charged against the Council Corporate Budget following approval by the Integrity Commissioner.

* An Integrity Commissioner complaint investigation begins when the Integrity Commissioner opens a case file and gives notice of the same to the Member of Council subject of the formal complaint.