



CITY OF NANAIMO
THE HARBOUR CITY

COUNCIL POLICY MANUAL

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Title:	Conflict of Interest Guidelines	Repeal Date:	
Department:	Administration	Approval Date:	1988-JUN-27 COUNCIL

PURPOSE:

To ensure that elected officials, Council appointees and Staff are aware of their responsibilities regarding Conflict of Interest.

DEFINITIONS:

Where the masculine is used in these Guidelines, it includes the feminine where the context requires.

SCOPE:

This policy is applicable to Council; Appointees to Boards, Committees, and Commissions; and Staff.

POLICY:

The proper operation of democratic local government requires that elected officials be independent, impartial and duly responsible to the people. To this end it is imperative that the following three principles be followed:

1. Government decisions and policy be made through the proper and lawful channels of government structure.
2. Public office not be used for personal gain.
3. The public have confidence in the integrity of its government.

(1) THE LAW

It is your personal responsibility to comply with the law and to avoid conflicts of interest.

Therefore, make sure that you have read and understood the provisions of the *Local Government Act*, the *Financial Disclosure Act*, the *Criminal Code of Canada* and the summary of the common law provided to you with this Guide.

You should remember that if some or all of your financial or property interests are held otherwise than in your own name and the nature of them does not appear in your disclosure statement under the *Financial Disclosure Act* that in certain circumstances you may have to declare those interests in order to comply with these guidelines. Similarly you may have to declare the interest of your family.

If you are in any doubt as to the meaning, requirements or application of any of these laws you should seek advice; possibly from your own solicitor, from experienced Councillors, or from senior Staff.

You shall not assume that any unethical activities not covered by or specifically prohibited by these guidelines, or by legislation, are therefore condoned.

Remember that the responsibility is always yours.

(2) PUBLIC DUTY AND PRIVATE INTERESTS

- (i) Your overriding duty as a Councillor is to all of the residents of Nanaimo.
- (ii) Whenever you have, or any member of your family has, a private or personal interest in any question which Councillors must decide, you must not do anything to let that interest influence the decisions.

You shall:

- declare to Council at the first opportunity your interests, or known interests of any close relatives, in any enterprise which proposes to transact business with the municipality;
 - make no effort whatsoever to influence Council or Staff in any decisions on the matter;
 - leave the place of the meeting prior to discussions and vote on the subject, and ;
 - of course - not vote on the matter.
- (iii) Do nothing as a Councillor which you could not justify to the public.
 - (iv) It is not enough to avoid actual impropriety; you should at all times avoid any occasion for suspicion or the appearance of improper conduct.
 - (v) As each matter comes before Council, each member should decide for himself whether he has a specific property, business or financial interest, direct or indirect, which could be affected to the benefit or detriment of the member, his family or associates. If he has, he should then decide whether the effect would be a personal benefit to himself, family or associate as opposed to an effect on the community as a whole. If it would not affect the whole community, but would have a similar effect on a majority of, or substantial number of persons in the community with similar interest, then his acting on the matter would probably not result in a conflict of interest.

(3) DISCLOSURE OF PECUNIARY AND OTHER INTERESTS

- (i) The law makes specific provision requiring you to disclose pecuniary interest, direct and indirect. But interests which are not pecuniary can be just as important. Kinship, friendship, membership of an association, religion, partisanship, institutional or ethnic interests and so forth can sometimes influence your judgment and give the impression that you might be acting for personal motives. A good test is to ask yourself whether others would think that the interest, in the circumstances of the matter at issue, is of a kind to make this possible. If you think they would, or if you are in doubt, disclose the interest and withdraw from the meeting unless you are specifically invited to stay.

- (ii) The principles about disclosure of interest should be borne in mind in your unofficial relations with other Councillors on informal or social occasions no less scrupulously than at formal meetings of Council, its Committees or Sub-Committees.

(4) MEMBERSHIP AND CHAIRMANSHIP OF COUNCIL COMMITTEES AND SUB-COMMITTEES

- (i) You, or a firm or body with which you are personally connected, may have professional business or personal interests within an area for which the Council is responsible; such interests may be substantial and closely related to the work of one or more of the Council's Committees or Sub-Committees, concerned with (say) planning or developing land, personnel matters or the letting of contracts for supplies, services or works. Before seeking or accepting membership of any such Committee or Sub-Committee, you should seriously consider whether your membership would involve you:
 - (a) in disclosing an interest so often that you could be of little value to the Committee or Sub-Committee, or;
 - (b) in weakening public confidence in the impartiality of the Committee or Sub-Committee.
- (ii) You should not seek or accept the Chairmanship of a Committee or Sub-Committee whose business is closely related to a substantial interest or range of interests of yourself or of any body with which you are associated.

(5) COUNCILLORS AND OFFICERS

- (i) Both Councillors and Officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council and are permanently appointed. An Officer's job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council and its Committees.
- (ii) Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

(6) USE OF CONFIDENTIAL AND PRIVATE INFORMATION

- (i) As a Councillor you necessarily acquire much information that has not yet been made public and is still confidential. It is a grave betrayal of trust to use confidential information for personal advantage of yourself or of anyone known to you.
- (ii) You must not communicate information designated confidential to anyone not entitled to receive it.

If you disagree with the designation of such information as confidential, or the designation of those entitled to receive it, under no circumstances should you arbitrarily disclose it. First you should advise Council in writing at an "In Camera" meeting of your

disagreement and the reasons for it. If the disagreement is not resolved before you decide to disclose the information, you should carefully reflect your decision against the first and third principles which preface these guidelines.

(7) GIFTS AND HOSPITALITY

Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. The person or organization making the offer may be doing or seeking to do business with the Council, or may be applying to the Council for planning permission or some other kind of decision. Working lunches and other social occasions arranged or authorized by Council or by one of its Committees or Sub-Committees may be a proper way of doing business, provided that no extravagance is involved. Nor can there be any hard and fast rule about acceptance or refusal of tokens of goodwill on special occasions. But you are personally responsible for all such decisions and for avoiding the risk of damage to public confidence in local government. The receipt or offer of gifts should be reported to the City Manager.

(8) EXPENSES AND ALLOWANCES

There are rules entitling you to claim expenses and allowances in connection with your duties as a Councillor. These rules should be scrupulously observed.

(9) USE OF COUNCIL FACILITIES

Make sure that any facilities -- such as transport, stationery, or secretarial services -- provided by the Council for your use in your duties as a Councillor are used strictly for those duties and for no other purpose.

(10) UNDUE INFLUENCE

Do not use your position to secure special privileges, favours or exemptions for yourself or any other person.

(11) CONDUCT AFTER LEAVING OFFICE

For a period of twelve months after leaving office, abide by these guidelines except those related to confidential information which shall apply in perpetuity, or until public release of such information as authorized by Council.

GUIDELINES FOR CITY COUNCIL APPOINTEES
TO CIVIC BOARDS, COMMITTEES AND COMMISSIONS

All such bodies are called "Committees" in the Guidelines.

It is essential that Council, in its deliberations and in its conduct of municipal affairs, should have available to it the wisdom, expertise, experience and advice of competent members of the community. It is also essential that members of such Committees be seen to act with integrity to ensure a continued confidence in the process by the citizenry.

In most cases, the advice and guidance of such persons is sought because they have practical experience and special knowledge in the areas of endeavour covered by the mandate of the particular Committee on which they are invited to serve and generally will have business and property interests in those fields of endeavour.

But it is essential and is a matter of law that such members not allow themselves to become involved in conflict of interest situations.

A summary of the law on conflicts of interest is available to you through the Corporate Administration Office.

A member of a Committee stands as a trustee for the local community and he is not to vote or to deal so as to gain or appear to gain private advantage out of matters over which he is asked to comment and advise.

1. Your overriding duty as a member of a Committee is to all residents of Nanaimo.
2. Whenever you have, or any member of your family has, a private or personal interest in any question on which you must advise, you must not do anything to let that interest influence the advice.
3. It is not enough to avoid actual impropriety; you should at all times avoid any occasion for suspicion or the appearance of improper conduct.
4. As a Committee member you often acquire information that has not yet been made public. It is a grave betrayal of trust to use confidential information for personal advantage of yourself or anyone known to you.
5. You must not communicate information designated confidential to anyone not entitled to receive it.
6. Do not use your position to secure special privileges, favours or exemptions for yourself or any other person.
7. Avoid any situations that may cause any person to believe that you may have brought bias or partiality to a question before Council.
8. As each matter comes before a Committee, each member should decide for himself whether he has a specific property, business or financial interest, direct or indirect, which could be affected to the benefit or detriment of the member, his family or associates. If he has, he should then decide whether the effect would be a personal benefit to himself, family or associate as opposed to an effect on the community as a whole. If it would not affect the whole community, but would have a similar effect on a majority of, or substantial number of persons in the community with similar interests, then his acting on the matter would probably not result in a conflict of interest.

Such a financial business or property interest would include an interest as an advocate or lobbyist whether the member was being paid for his services or not. It would be difficult to conceive of a situation where such advocacy would not result in a conflict of interest. Therefore, a member should always withdraw and take no part whatsoever to influence the Committee on any question if he has been engaged to influence in any way the decision on that question. He should always declare such an interest - preferably for his own protection – in writing.

If a member does have such an interest whether personal or community as above discussed, he should declare it to the Committee as soon as possible. The Committee Chair shall then report the conflict in writing to Council as soon as possible.

If it is personal, the member should:

1. leave the place of a meeting;
2. take no part in the discussion;
3. do nothing to influence the other members of the Committee;
4. not vote; and,
5. take no part in drafting the report of the Committee insofar as it touches on that particular matter.

If he deems his to be a community interest he should continue to act as a member of the Committee.

It may be that a member has business or property interests which, for sound business or other reasons, it would be imprudent to declare at that time. Therefore, because secrecy, no matter how prudent, can give rise to suspicion in others, the member should proceed as though for the time being at least his interest is personal -- even if when it becomes public knowledge it would be clearly a community interest.

In summary, before seeking or accepting membership on any Council-appointed Board, Committee or Commission, an individual should seriously consider whether such membership would involve the individual;

1. in disclosing an interest so often that he would be of little value to the Board, Committee or Commission, or
2. in weakening public confidence in the impartiality of the Board, Committee or Commission.

CONFLICT OF INTEREST CODE (MUNICIPAL EMPLOYEES)

"City" means City of Nanaimo

"Employee" means an Officer of the City or a Management/Excluded Employee of the City as designated by "MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT AND MUNICIPAL PUBLIC OFFICERS INDEMNIFICATION BYLAW 1992 NO. 4524".

Impartiality and Equality of Service:

1. An Employee shall carry out his/her duties with integrity, impartiality and equality of service to the general public.

Preferential Treatment:

2. An Employee shall not go beyond his/her official duty to assist those dealing with the City where this would result in preferential treatment.

Public Interest:

3. An Employee shall exercise care in the management of his/her private affairs so as not to benefit, or be perceived by the public to benefit from, any City transactions over which he/she can influence decisions (for example: investments, borrowing, purchases, sales, contracts, grants, regulatory or discretionary approvals and appointments).

Confidential Information:

4. An Employee shall not use information which is not available to the general public for his/her own personal profit or advantage, and shall not provide such information to others unless it is in the course of the Employee's duties to do so.

Outside Remuneration:

5. An Employee may engage in outside employment, carry on business or receive public funds for personal activities provided that it does not place demands inconsistent with his/her job, or jeopardize his/her objectivity, and in particular that:
 - (i) it does not interfere with the performance of his/her duties;
 - (ii) it does not represent a conflict of interest as herein set out;
 - (iii) he/she does not have an advantage derived from his/her employment;
 - (iv) it is not performed in such a way as to appear to be an official act; and
 - (v) it does not involve the use of City premises, services, equipment, information or supplies which he/she has access to by virtue of his/her employment with the City.
6. An Employee shall forthwith file a written disclosure of any activity as set out in Section 5 with the City Manager.
7. On receipt of a written disclosure by an Employee, the City Manager shall forward a copy of same to members of Council.

Hospitality, Gifts and Other Benefits:

8. An Employee shall not solicit or accept hospitality, gifts or other benefits which might influence his/her conduct at work, or which could compromise the objectivity of the Employee or result in a public perception that his/her objectivity is compromised.

City Materials, Equipment and Facilities:

9. An Employee shall not use, or allow the use of, City materials, equipment and facilities for unapproved activities.

Property (Land):

10. An Employee shall not deal in property directly or indirectly within the City other than his/her personal residence without first informing the City Manager in writing.

11. An Employee shall declare to the City Manager his/her interest, direct or indirect, in any property which is subject to a rezoning proposal or subdivision within the City.

Private Interests:

12. An Employee shall declare to the City Manager, in writing, any personal or corporate interest held directly or indirectly by the Employee or by an immediate relative of the Employee in a contract or a proposed contract with the City, or in any enterprise which proposes to transact business with the City.

For the purpose of this Section:

"immediate relative" means a spouse (including common-law spouse), parent, child, brother, sister, brother-in-law or sister-in-law.

"indirectly" means through any other person, including a company, trustee or immediate relative.

Plans for, or Offers of, Outside Employment:

13. An Employee shall not allow himself/herself to be influenced in the pursuit of his/her official duties and responsibilities by plans for, or offers of, outside employment.

Post-Employment Behavior:

14. Former Officers of the City who have provided advice to the City on ongoing, specific matters may not switch sides by acting for another employer on the same matter.

Reporting of Conflict of Interest:

15. An Employee shall report to the City Manager any conflict of interest or potential conflict of interest of which he/she is aware involving himself/herself or his/her family, or any other Employee of the City. The City Manager shall then report the conflict to City Council.
16. The City Manager shall report to the City Council any conflict of interest or potential conflict of interest of which he/she is aware involving himself/herself or his/her family, or any other Employee of the City.

RELATED DOCUMENTS:

Community Charter – Division 6 – Conflict of Interest – for Elected Officials
Code of Conduct Administrative Policy– for Employees

REPEAL/AMENDS:

N/A