



Legal Advice for Council Members on Conflict of Interest Policy

Department:	<u>Corporate & Legislative Services</u>	Policy No.:	<u>COU-008</u>
Sub-department:	<u></u>	Created By:	<u>Paige MacWilliam</u>
Approved By:	<u>Council</u>	Amended By:	<u></u>
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POLICY PURPOSE

To establish guidelines for members of Council when obtaining independent legal advice as to whether the member is in potential conflict of interest with respect to a particular matter currently under consideration by Council, or know to be forthcoming for consideration by Council.

ASSOCIATED POLICIES

No Associated Policies.

DEFINITIONS

Conflict of interest is when a member of Council considers that he or she is not entitled to participate in the discussion of a matter, or vote on a question in respect of a matter, because the member has a direct or indirect pecuniary interest in the matter or another interest in the matter that constitutes a conflict of interest (*Community Charter, S. 100*).

Independent legal advice is advice provided by a lawyer not associated with the Village of Pemberton.

POLICY

In accordance with the *Community Charter S. 100*, it is the personal responsibility of each member of Council to be aware in good faith of his or her conflicts of interest and to make the decision to declare them and to conduct themselves in accordance with that legislation, including making every effort to avoid participating in discussions (before, during or after meetings) or voting on issues in which a member may be in conflict.

Council members, who wish to obtain legal advice as to whether the member is in a potential conflict of interest with respect to a particular matter currently under consideration by Council, or known to be forthcoming for consideration by Council, are encouraged to first discuss the matter with the Chief Administrative Officer (CAO).

The CAO shall determine whether it is in the Village's best interest to seek legal advice as to the possible conflict of interest from the Village's legal service provider at the expense of the Village. If legal advice is sought jointly by the CAO and member of Council regarding the possible conflict of interest, the advice will be disclosed to the rest of Council prior to the Council member making a decision whether to declare a conflict of interest.

Council members who wish to seek independent legal advice are not entitled to reimbursement.

PROCEDURES

1. As a preliminary step, a member of Council considering a potential conflict of interest may wish to discuss the circumstances with the CAO for an initial opinion on the matter. The CAO will decide whether or not to seek legal advice from the Village's legal service provider at the expense of the Village.
2. If seeking legal advice from the Village's legal service provider at the expense of the Village is approved by the CAO and sought jointly by the CAO and member of Council, the Village will have solicitor-client privilege pertaining to that advice.
3. Any Council member, who has a need at any time to obtain independent legal advice as to whether the member is in a potential conflict of interest with respect to a matter currently under consideration by Council, or known to be forthcoming for consideration by Council, may engage a lawyer to provide such advice at their own expense.
4. If a member of Council who has declared a Conflict wishes to rejoin the conversation on the matter, they must first seek independent legal advice at their own expense. If it is determined the member was wrong respecting their declaration of entitlement to participate in respect to the matter, the member may withdraw the declaration by stating in general terms the basis on which they have determined they are entitled to participate.
5. Any advice or opinion arising from such consultation remains the property of the Council member. Council may ask for a copy of the legal opinion but the opinion is the property of the Council member seeking it and the Council member may refuse to provide it.

DECISION FLOW CHART

