SPECIAL CORPORATE AND ADMINISTRATIVE SERVICES COMMITTEE

Thursday, May 23, 2013
SCRD Boardroom, 1975 Field Road

AGENDA

CALL TO ORDER: 10:00 a.m.

AGENDA

1. Adoption of Agenda

REPORTS

2.	Chief Administrative Officer and Manager, Legislative Services – Code of Conduct Policy	Annex A Pages 1-9

COMMUNICATIONS

3.	Brian K. Sadler, Resident Re: Code of Conduct Policy	Annex B pp. 10-12

NEW BUSINESS

ADJOURNMENT

SCRD STAFF REPORT

DATE: May 11, 2013

TO: Special Corporate & Administrative Services Committee – May 23, 2013

FROM: Angie Legault, Manager of Legislative Services
John France, Chief Administrative Officer

RE: **CODE OF CONDUCT POLICY**

RECOMMENDATION(S)

THAT the report concerning the Code of Conduct Policy be received;

AND THAT the Code of Conduct Policy be approved as circulated or amended.

BACKGROUND

The Board adopted the following recommendation at their meeting held May 9, 2013:

208/13 cont. **Recommendation No. 10** *Code of Conduct Policy*

THAT the Manager, Legislative Services' report titled "Code of Conduct Policy" be received;

AND THAT the Directors direct suggested changes or comments to the Code of Conduct Policy to the Manager, Legislative Services as soon as possible;

AND FURTHER THAT the Code of Conduct Policy be referred to a workshop to be held at 10:00 a.m. on May 23, 2013.

DISCUSSION

The draft Code of Conduct Policy was reviewed at the April 25th Corporate and Administrative Services Committee. The April staff report and policy are attached. Preliminary comments on the policy have been incorporated using "track changes".

SCRD STAFF REPORT

DATE: April 16, 2013

TO: Corporate & Administrative Services Committee – April 25, 2013

FROM: Angie Legault, Manager of Legislative Services
John France, Chief Administrative Officer

RE: **CODE OF CONDUCT POLICY**

RECOMMENDATION(S)

THAT the report concerning the Code of Conduct Policy be received;

AND THAT the Code of Conduct Policy be approved as circulated or amended.

BACKGROUND

Staff were asked to research and develop a Code of Conduct Policy for the Committee's consideration. The purpose of the policy is to set expectations for the behavior of advisory committee members and elected officials.

DISCUSSION

Staff reviewed policies from other jurisdictions including:

- City of Vancouver
- Islands Trust
- Cariboo Regional District
- Columbia Shuswap Regional District
- Central Okanagan Regional District
- Skeena - Queen Charlotte Regional District.

Staff felt that the City of Vancouver Code of Conduct Policy was the most comprehensive; therefore it was used as a template. The Policy was edited to make it applicable to the SCRD and in the interests of brevity; sections related to matters contained in local government legislation (e.g. confidentiality and gift disclosure) were removed.

The draft Code of Conduct Policy is meant to be applicable to SCRD elected officials and advisory committee members, while Human Resources policies apply to staff members. Despite the intended separation between policies for elected officials/advisory committee members and staff, the draft Code of Conduct does contain specific references to staff in order to provide context to the interactions between elected officials, advisory committee members and staff.

Sunshine Coast Regional District

BOARD POLICY MANUAL

Section:	Administration	1
Subsection:	Board and Committees	0540
Title:	Code of Conduct - DRAFT	

1.0 SCOPE

1.1 This policy applies to elected officials and advisory committee members. Regional District staff will abide by this policy and the Human Resources Code of Conduct Policy.

2.0 REASON FOR POLICY

2.1 To set expectations for the behaviour of elected officials and advisory committee members.

3.0 POLICY

3.1 Elected officials and advisory committee members will conduct themselves with a high degree of decorum in accordance with the terms of this policy.

4.0 KEY PRINCIPLES

The Code of Conduct is based on the following Key Principles:

4.1 ***Integrity:*** Elected officials and advisory committee members are keepers of the public trust and must uphold the highest standards of ethical behaviour. They are expected to:

- make decisions that benefit the community;
- act lawfully and within the authorities of the *Local Government Act, Community Charter* and other legislation as applicable;
- be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests

4.2 ***Accountability:*** Elected officials and advisory committee members are responsible for the decisions that they make. This responsibility includes acts of commission and acts of omission. Decision-making processes must be transparent and subject to public scrutiny; and proper records must be kept and audit trails put in place.

4.3 ***Responsibility:*** Elected officials and advisory committee members must act responsibly. They are to observe the Code of Conduct. This means disclosing actual or potential conflict of interest relating to their public duties and taking steps to resolve the conflict for the protection of the public interest; following the letter and spirit of policies and procedures; and exercising all conferred power strictly for the purpose for which the powers have been conferred.

Comment [a1]: Oxford Dictionary definition: 1. Ability to do or act. 3a. Influence, authority 3b. Ascendency, control (eg party in power) 4 authorization; delegated authority 5. Influential person, body or thing

4.4 ***Leadership:*** Elected officials and advisory committee members must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. Their behaviour must build and inspire the public's trust and confidence in local government.

4.5 ***Respect:*** Elected officials and advisory committee members must conduct public business efficiently and with decorum. They must treat each other and others with respect at all times. This means being aware of body language, not using derogatory language towards others, respecting the rights of other people, treating people with courtesy and recognizing the different roles others play in local government decision making.

4.6 ***Openness:*** Elected officials and advisory committee members have a duty to be as open as possible about their decisions and actions. This means communicating appropriate information openly to the public about decision-making processes and issues being considered; encouraging appropriate public participation; communicating clearly; and providing appropriate means for recourse and feedback.

5.0 GENERAL CONDUCT

5.1 Elected officials and advisory committee members must adhere to the key principles and provisions of the Code of Conduct.

5.2 Elected officials and advisory committee members must act lawfully and exercise a reasonable degree of care and diligence in carrying out their functions.

5.3 Elected officials and advisory committee members have an obligation to consider issues consistently and fairly.

5.4 Elected officials and advisory committee members must avoid behaviour that could constitute an act of disorder or misbehavior, specifically conduct that:

- Contravenes the law, including the BC Human Rights Code, Regional District Bylaws, associated regulations, and policy;
- Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others;
- Prejudices the provision of a service or services to the community.

Comment [a2]: Authority? See definition at 4.3

5.5 When making decisions, elected officials and advisory committee members must consider all relevant facts, opinions and analyses of which they should be reasonably aware.

5.6 Elected officials and advisory committee members are obliged to question any request to act or make a decision that they think may be unethical or unlawful.

5.7 Advisory committee members must carry out duties in a manner that allows Board Directors and the public to remain informed about local government activity and practices.

5.8 Should there be uncertainty about the ethical issues around a conduct or decision, elected officials and advisory committee members should consider the following:
- Is the conduct or decision lawful? Does it contravene any Act or Regulation?
- Is the conduct or decision consistent with Regional District policy, Board objectives and the Code of Conduct?

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- Will the outcome of the decision or conduct provide a private benefit for the individual, family, friends or business interests?
- Can the decision or conduct be justified?

Comment [a3]: Flag for further discussion

5.9 After considering the points noted in Section 5.8, if uncertainty about the ethical issues around a conduct or decision remain, elected officials and advisory committee members should seek clarification from staff and in serious situations from legal counsel.

5.10 Elected officials and advisory committee members must review and annually acknowledge that they have read and understand the terms of this policy.

6.0 INTERACTIONS OF ELECTED OFFICIALS, STAFF & ADVISORY COMMITTEE MEMBERS

Comment [a4]: Should this section be separated - EO, staff and Adv Committee?

6.1 The Board is the governing body of the Sunshine Coast Regional District.

6.2 Elected officials must act in accordance with the Board's Procedure Bylaw and the conduct guidelines outlined in this Code.

6.3 Elected officials are to contact staff according to the procedures authorized by the Chief Administrative Officer regarding the interaction of Board members and staff. As a general guide, inquiries are to be directed to the Chief Administrative Officer or General Managers. Direct access to staff within a department is at the Chief Administrative Officer's or General Manager's discretion. The General Manager shall keep the Chief Administrative Officer apprised of issues addressed.

6.4 Where an elected official's inquiry may, in the opinion of the Chief Administrative Officer, result in more than a few hours work or may involve sensitive matters, the elected official must obtain approval by resolution of the Board.

6.5 Elected officials and advisory committee members must not direct or influence, or attempt to direct or influence, any staff or advisory committee member in the exercise of their duties or functions.

6.6 Elected officials and advisory committee members are not to contact or issue instructions to any of the Regional District's contractors, tenderers, consultants or other service providers.

6.7 Elected officials must not make public statements attacking or reflecting negatively on Regional District staff.

6.8 Elected officials must direct inquiries about ~~personal~~ personnel matters of individual staff members to the Chief Administrative Officer.

6.9 Elected officials are to direct requests for working papers or preliminary drafts of reports to the Chief Administrative Officer or General Manager. The Chief Administrative Officer or General Manager may point out controversial or confidential aspects of the document, and may stress that the document may not represent the final position or recommendation of staff.

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6.10 The Chief Administrative Officer is responsible for the efficient and effective operation of the Regional District organization and for ensuring the implementation of the decisions of the Board.

6.11 Staff are expected to:

- Give their attention to the business of the Regional District while on duty;
- Ensure that their work is carried out efficiently, economically and effectively;
- Provide elected officials with information sufficient to enable them to carry out their civic functions;
- Carry out lawful directions given by any person having authority to give such directions; and
- Give effect to the lawful policies, decisions and practices of the Board, whether or not the staff member agrees with or approves of them.

6.12 Staff are to seek the advice and approval of their General Manager prior to responding to a direct request from elected officials, except where the request is minor or of a day-to-day operational nature.

6.13 Staff are to provide information and professional advice through regular Regional District processes and are not to lobby elected officials on any matter.

6.14 Staff must not make public statements attacking or reflecting negatively on the SCRD, the Board, individual elected officials or staff.

6.15 The Chief Administrative Officer and General Managers are to be equally helpful to all SCRD elected officials, and should avoid close alliance, or the appearance of close alliance, with any particular member. Information and advice is to be provided as requested, within the limitations of this document.

6.16 Significant information provided to any elected official, which is likely to be used in Board or in political debate, should also be provided to all other SCRD elected officials, and to the Chief Administrative Officer.

6.17 Advisory committee members must act in accordance with the relevant sections of the Procedure Bylaw and the conduct guidelines outlined in this document.

6.18 Advisory committee members must not inappropriately direct or influence, or attempt to direct or influence, any staff in the exercise of their duties or functions except where such direction or influence is necessary to fulfill the specific mandate of the advisory committee.

6.19 Advisory committee members must not make public statements unfairly attacking or reflecting negatively on the SCRD Board, individual elected officials or staff.

7.0 PROCEDURE - Breaches, Complaint Handling and Disciplinary Action

7.1 Elected officials, Advisory Committee Members and staff are to abide by the terms of this Code of Conduct and will endeavour to resolve interpersonal disputes in good faith.

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Elected Officials

7.2 Alleged breaches of this Code of Conduct by Elected Officials shall be submitted in a written complaint addressed to the Chair and the Chief Administrative Officer within six (6) months of the last alleged breach. In the event that the Chair is the subject of, or is implicated in a complaint, the complaint shall be addressed to the Vice Chair.

7.3 Upon receipt of a complaint under Section 7.2, the Chair or Vice Chair and Chief Administrative Officer shall, within thirty (30) days, appoint an independent third party identified and agreed between the Complainant(s) and Respondent(s) as having the necessary professional skills, knowledge and experience to investigate the complaint (the "Third Party Investigator").

The Third Party Investigator:

7.3.1 May conduct a preliminary assessment of the complaint, at the conclusion of which the Investigator may determine to continue the investigation or make a written recommendation that the complaint be dismissed as unfounded, beyond jurisdiction or unlikely to succeed;

If the third party investigator determines to continue the complaint, the Third Party Investigator shall:

7.3.2 Conduct an independent and impartial investigation of the complaint in a manner that is fair, timely, confidential and otherwise accords with the principles of due process and natural justice;

7.3.3 Provide an investigation update within ninety (90) days of his or her appointment to the Chair or Vice Chair and Chief Administrative Officer, as applicable, and to the Complainant and the Respondent;

7.3.4 Provide a written, confidential report (the "Report") of the findings of the investigation, including findings as to whether there has been a breach of this Code of Conduct, to the Chair or Vice Chair and Chief Administrative Officer, as applicable, and to the Complainant and the Respondent; and

7.3.5 Provide recommendations in the Report as to the appropriate resolution of the complaint, which recommendations may include:

a) dismissal of the complaint; or
b) public censure of an Elected Official for misbehaviour or a breach of this Code of Conduct;
c) a requirement that an Elected Official apologize to any person adversely affected by a breach of this Code of Conduct in a similar forum as the breach occurred;
d) counseling of an Elected Official or Officials, and/or
e) such other recommendations as are deemed appropriate in the professional judgment of the Third Party Investigator.

7.4 The Chief Administrative Officer will provide the report at an In Camera Board or Committee meeting as appropriate for receipt and approval of recommendations.

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7.5 The Corporate Officer will receive and retain all Reports prepared under Section 7.3.3 and 7.3.4.

7.6 Where an Elected Official alleges a breach of this Code of Conduct by a fellow Elected Official, all Elected Officials shall refrain from commenting on such allegations at meetings of the Board or Committee.

Advisory Committee Members

7.6 Alleged breaches of this Code of Conduct by Advisory Committee members shall be submitted in a written complaint addressed to the Board Chair and Chief Administrative Officer within six (6) months of the last alleged breach.

7.7 The Chair and Chief Administrative Officer shall consider alleged breaches of this Code of Conduct by Advisory Committee Members, direct that any enquiries he or she considers appropriate or desirable be undertaken, and recommend appropriate disciplinary action to the Board.

7.8 The Chair and Chief Administrative Officer may recommend that the Board take any actions provided for in the Code of Conduct that the Chair and Chief Administrative Officer consider reasonable in the circumstances.

7.9 Where the Board finds that an Advisory Committee Member has breached this Code of Conduct, the Board may decide by resolution to:

7.9.1 censure the Advisory Committee Member for misbehaviour;

7.9.2 require the Advisory Committee Member to apologize to any person adversely affected by the breach;

7.9.3 counsel the Advisory Committee Member;

7.9.4 terminate the Advisory Committee Member's appointment; or

7.9.5 implement such other measures as the Board deems appropriate.

Regional District Staff and Contract Employees

7.10 Alleged breaches of this Code of Conduct by Staff shall be reported in writing to the Chief Administrative Officer. If the Chief Administrative Officer is the subject of the breach, the complaint will be made to the ~~Manager of Human Resources~~ Chair.

7.11 Breaches of this Code of Conduct by staff party to collective agreements will be handled through existing collective agreements including identified grievance and arbitration processes. These mechanisms include the ability for the Regional District to take appropriate disciplinary action up to and including dismissal.

7.12 Breaches of this Code of Conduct by exempt staff will be handled through existing processes and in accordance with current employment law. The Manager of Human Resources, General Manager (or equivalent) and the Chief Administrative Officer will review alleged breaches, make any necessary inquiries and determine appropriate disciplinary action.

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7.13 Consequences associated with breaches of this Code of Conduct by contract employees are incorporated in the contracts under which they are retained, and will be dealt with in accordance with the conditions outlined therein.

Reprisal and Obstruction

7.14 The Regional District will not retaliate against elected officials, advisory committee members or staff who, in good faith, reports a known or suspected violation of this Code as described herein.

7.15 Elected officials will respect the integrity of the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information in an investigation is, therefore, prohibited.

7.16 It is a violation of the Code of Conduct to obstruct an investigation.

7.17 Failure to sign the Code of Conduct is a violation of the Code.

I acknowledge that I have read and understand the terms of this Policy.

Name (printed)_____ Signature_____

Date:_____

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05 May 2013

Chair Gerry Tretick, and
Ladies and Gentlemen of the
SCRD Corporate and Administrative Services Committee

Reference: Item #7 of your Committee's meeting of 25 April, specifically the "Code of Conduct Policy", dated 16 April and contained within pages 9-16 of that Agenda.

I am pleased to hear that your Committee's decision on 25 April was to defer discussion of Item #7 until a subsequent meeting, such that Committee members could properly absorb the various implications of this submitted report. In support of your decision, I offer my own comments for your consideration.

I should perhaps clarify that I am not writing as a member of an "Advisory Committee", but as a citizen within the SCRD, even though one may discern some possible, unavoidable 'cross-bleeding' of influences within my comments.

I would also wish to clarify that my subsequent comments are neither random nor spurious, but emanate from a post-secondary education in Political Science and my having spent 35 years within a very 'regimented', non-civilian hierarchy within which personal integrity, loyalty and accountability were key behaviour criteria.

Regarding the referenced [Draft] Policy, 'alarm bells are ringing' and 'red flags are flying' because of the contents within those seven pages. One can choose either metaphor, or create their own. It doesn't matter from whence this Policy claims its roots; the City of Vancouver, or wherever. The fact is, in my opinion, that this Draft Policy threatens to turn upside down the historically accepted principles of 'responsible government'.

The elected officials of the SCRD are responsible and accountable to the electorate who voted them into office. Furthermore, they are accountable to each other, within their various meetings. But, they are NOT accountable to the CAO, as elements of this Policy would establish. In fact, accountability is quite the reverse: the staff are accountable, through the CAO, to the Board and such Committees as the Board may mandate.

Similarly, the "Advisory Committee[s]" members are accountable to whichever SCRD Committee recommended their appointments to the Board and, ultimately, to the Board which formally approved their appointments. Yes, these volunteers must work in concert with the various staff assigned as liaison to their respective Advisory Committee; that is, to repeat, in liaison. A classic example of this principle is the MoE document stating that the PMAC is an independent committee, responsible to the elected officials.

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For this Draft Code to contain two primary elements that delineate all participants within the SCRD activities into 'staff' and 'non-staff' divisions, and to forbid direct conversations between any member(s) of these two divisions is bordering on a ludicrous and dysfunctional proscription. In developing any Code of Conduct, one must be careful in detailing just what is prescribed and proscribed. To do otherwise, as this Draft does at some considerable length, will only lead to some level of robotic behaviour dominated by excessive prerequisites, rather than allowing 'human' behaviour based on rational thought(s) concerning whatever issue is being debated. A good example of the possible effects of excessive prescription/proscription can be found within our Justice system, whereby the Judge must adhere to a plethora of regulations argued by either side such that his/her judgement seems severely restricted, and often limited, regardless of his considered assessment of the 'case' before the bench.

Should the Board have actually "asked" for a Code of Conduct (Page 1, "Background", of the referenced Draft), I would suggest that the Board strike a small Committee of the Board to develop one, rather than have the staff do it. The elected officials' accountability has already been previously established and, as well, there already exist various sections within the Community Charter to guide elected officials in avoidance of potentially awkward situations (eg. "Conflict of Interest").

It would be a simple matter to compile a Code of Conduct containing most, if not all, the 'motherhood' principles of expected behaviour, without amassing such a complicated and restrictive list of stipulations as contained within the referenced Draft. The aim of this Code, certainly, must recognize and support that the elected officials are responsible/accountable to both the electorate and to each other; not to the CAO.

A specific point I would wish to raise is the inclusion within the referenced Draft Code of the word "power". For your direct reference, this word is used in section 4.3, twice, and in section 5.4. Personally, I do not like the misuse of this word; it is one created and overly used by the media at large. It is actually a state of mind, mostly within those with a hunger for "power"; it is not a true concept. An official, elected or otherwise, does not exercise "power"; s/he exercises "responsibility" through the commensurate "authority" granted with their appointment. Furthermore, one's granted authority can be delegated; but, one's appointed responsibility cannot be delegated. Given this demarcation, the word "power" has no place in a document alleging to guide elected or appointed 'officials'.

A final point is to question the seemingly standard procedure to administer too many decisions within "In Camera" meetings. Yes, there are reasons for doing so, as contained within the LGA and the Community Charter. But, both personal and personnel matters seem spring-loaded for 'closed door' sessions. This reminds me of the 1898 letter written to the President of France about Alfred Dreyfus, published in the newspapers as "J'Accuse". Finally, the evidence against Dreyfus was proven to be faulty, after having been kept secret from public examination. The end result was that Dreyfus' court-martial and imprisonment was ultimately overturned. A sad example, forever, of the misuse of "In Camera" meetings.

In closing, I wish to restate the obvious: I have serious concerns and misgivings with the referenced Draft Code of Conduct. I do not appreciate its length and overly comprehensive

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stipulations; I do not respect its delineation of staff and non-staff into two groups governed by two separate documents; I cannot accept its apparent control measures to seemingly render the elected officials subordinate to the CAO; and, I have serious concern for the SCRD recruiting for, never mind maintaining, the current level of volunteers who comprise the SCRD "Advisory Committees".

If I may be of any assistance in refining this Draft Code of Conduct into something the Board may find acceptable, and much less complicated, do not hesitate to contact me. I would volunteer my time.

Sincerely,

[signed through email]
Brian K. Sadler

Copy: Director Gary Nohr
Director Frank Mauro
Director Darnelda Seigers
Director Ben Pierre
Director Donna Shugar
Director Lorne Lewis
Director Lee Turnbull

Mayor Wayne Rowe, Town of Gibsons
Mayor John Henderson, District of Sechelt
Chief Garry Feschuk, Sechelt Indian Government District