



## **REPORT TO THE EPC – GOVERNANCE COMMITTEE**

**DATE:** September 27, 2018

**AUTHOR:** Bonnie Riddell, Strategic Policy & Research Analyst

**SUBJECT:** CODE OF CONDUCT REVISIONS – POLITICAL ACTIVITY

---

### **RECOMMENDATION(S):**

That the Governance Committee approve changes to EPC Policy Manual – Appendix C – Code of Conduct.

### **BACKGROUND:**

The EPC Governance Committee received a report (Attachment #1) on this topic back in October 2017 and the Commission passed the following motion in January 2018:

	<p><b>11.1 <u>Conflict of Interest Guidelines</u></b></p> <p>Commissioner Hawn advised that this was discussed at the January, 2018 Governance Committee meeting. Once the guidelines are approved they will be reviewed periodically in order to capture issues that may arise in the future.</p> <p><b>MOVED</b> Commissioner Hawn – Commissioner McDougall That the Commission approve the Edmonton Police Commission Conflict of Interest Guidelines.</p> <p style="text-align: right;"><b>CARRIED</b></p>
--	--

At the time this motion was approved, only the report was in front of the Commission and there were no formal EPC policy revisions proposed or outlined.

## **COMMENTS / DISCUSSION:**

The Supreme Court has ruled that political expression is fundamental to the guarantee of freedom of expression. Any limit on political expression is only justifiable if it furthers an important objective.

The court will accept restricting political activity if it is to aid in maintaining neutrality, professionalism, and loyalty of the public service, which is also a legitimate public expectation. Restrictions can be based on:

- the extent of the public servant's policy advise,
- the scope of discretion exercised by the public servant,
- the visibility of the public servant's position, and
- the nature of the prohibited political activity.

With this in mind and to protect the Commissioner's independent roles, several changes to the Code of Conduct have been made to outline what activities are allowed and not allowed as it relates to political activity and involvement. Both the previous Conflict of Interest Guidelines report (Attachment #1) and the 2017 Election Guidelines for City Boards (Attachment #2) were also used to inform these changes. The specific changes are highlighted on the revised copy of the Code of Conduct document (Attachment #3).

### Attachments:

- 1) Conflict of Interest Guidelines Report – October 27, 2017 report to Governance Committee
- 2) 2017 Election Guidelines for City Boards
- 3) Appendix C – EPC Code of Conduct (Revised)

## CONFLICT OF INTEREST GUIDELINES

### **Background**

The Commission's code of conduct establishes the basic standards of behaviour for all Commissioners. The code of conduct is an internal communication tool as well as a device to protect the Commission in cases where it must request Council remove a Commissioner for cause. Having a Code builds loyalty through respect, promotes care and diligence and helps resolve conflict. The Code sets out the value based system as a statement to Commissioners, staff, the City and the public about the integrity of the Commission. The Commission's Code of Conduct recognizes that the Commission's reputation and work environment are based on the actions and behaviours of the Commissioners and their employees.

Both confidential information and conflict of interest are integral to the Commission Code of Conduct. Conflict of interest can be a confusing area that can easily become a legal issue for the Commission. Some guidance on types of conflict is necessary to help inform and guide all Commissioners and staff.

Commissioners must discharge their duties of skill, diligence and loyalty by: acting honestly and in good faith; not improperly delegating their accountabilities and responsibilities; and avoiding conflict of interest.

The regulation of public sector conduct can result in higher standards than seen in the private sector. Commissioners are volunteers in public service. Commissioners owe a duty of loyalty to the Commission and the Public. The City must have the confidence in the ability of the Commissioners to effectively fulfill their public duties and the public must also have confidence in the actual and apparent impartiality of Commissioners.

Commissioners are in a position of trust and are accountable for fulfilling their duties with integrity. Conflict of interest rules assist Commissioners in acting honourably and avoiding situations where their private interests may interfere with their public service duties and responsibilities. Commissioners are trustees, with a fiduciary relationship to the public they serve. As a result, their conduct is more restricted than that of a private citizen.

### **Definition**

A conflict of interest is any situation where a Commissioner's private interests are, or appear to be, in conflict with their public service responsibilities. For example, having certain outside interests could impair a public servant's ability to undertake their duties fairly and impartially.

## **Political Involvement**

Although political expression is fundamental to the guarantee of freedom of expression, a Commissioner may be in conflict of interest with their role as Commissioner to maintain neutrality, professionalism, and loyalty to the Commission.

To protect their independent roles, Commissioners may not discuss political views while acting in the capacity as a Commissioner on Commission business, while at the Commission offices and when speaking with the EPS or any other Commission stakeholders. Commissioners can participate in political activity, apart from running for municipal office; however, such activity must be conducted during non-Commission time and may not conflict with decisions made by the Commission as a Whole and may not make use of information obtained during the course of work with the Commission.

## **Meeting Procedure**

All agendas and materials are received by Commissioners prior to any meeting. At that time, each Commissioner must review the agenda and related materials to determine if they may have a conflict of interest. If a conflict of interest may exist, that Commissioner must notify the Chair and Legal Counsel so that a determination as to conflict can be made prior to the meeting. Legal Counsel may engage the advice of the ED. Legal Counsel will then provide the Chair with a legal opinion to rely upon as to whether the matter is a conflict of interest; and whether the Commissioner needs to be excluded from any further participation in the matter at issue; or any further receipt of related documentation.

At the start of each meeting, following approval of the agenda and any protocol items, the Chair will ask if any Commissioner has a conflict of interest to declare. Any Commissioner who may have an actual or perceived conflict of interest must speak up and identify the fact that the Commissioner may have a conflict. If a Commissioner raises the issue at a meeting first, rather than prior to the meeting, the Chair will call a recess to meet with the Commissioner, Legal Counsel and the ED to determine whether a conflict exists and the extent of that conflict

The Commissioner declaring a conflict may not participate in any related discussion or try to influence the discussion. The Commissioner may not participate in a vote on the matter. The Commissioner with the conflict may have to leave the room during any related discussion if confidential information is being discussed that could, for example, give the Commissioner (or spouse, sibling or parent) an unfair business/monetary/bargaining advantage.

### **Examples of Potential Conflicts of Interest:**

- Using the position of Commissioner for personal or family benefit (ie. Trying to get special treatment on a speeding ticket or trying to get special treatment on a police investigation for family or friends)
- Accepting gifts that may be perceived as influencing the business of the Commission – it is wise to annually disclose all gifts received, the dollar value, the reason, the donor, etc. and all gifts over \$300 should be refused or donated. Once cumulative gifts from one donor reach an amount of \$300, any further gifts must be donated.
- Disclosing confidential information – which is also a breach of Oath of Office
- Giving preferential treatment to a group, person or company due to a personal relationship
- Hiring a spouse, child, parent or sibling
- Engaging in any outside activities that conflict with Commission duties
- Making personal use of work resources
- Secondary employment or other board or volunteer positions depending on their nature
- Running for political office or participating in high profile political activities that have the potential to use information obtained during the course of working with the Commission
- Public criticisms of the Commission or Commission decisions (Note: dissent votes are recorded in the minutes but votes are final and must be supported by the Commission as a Whole)
- Participating in decision-making where a Commissioner, or family member, could benefit from the result
- Acquiring financial interests related to their duties as a Commissioner (ie. Inside information on acquisitions made by the EPS or CoE may enable a Commissioner to know when to purchase land or offer a service)

Not all Conflict of Interests are covered under this list and if in doubt, Commissioners are encouraged to speak with the Chair, who will then seek the advice of the Legal Counsel of the Edmonton Police Commission.



April 19, 2017	<b>2017 ELECTION GUIDELINES FOR CITY BOARDS</b>
	<b>For: City Boards - Advisory, Decision-Making, &amp; Tribunals</b>

## Can Members of Boards Take Part In Election Activities?

All members of City boards have the right to take part in election activities, but only on their own time and in their own personal capacity.

## Why Is This Important?

It is important because City boards are created by City Council and report to Council. Council creates boards by passing bylaws which have specific mandates and duties. Boards only have the powers given to them by Council. City Boards do not have the authority to participate in election activities.

City board members must perform the duties entrusted to them by Council in an impartial and responsible manner that maintains and enhances public confidence and trust. Ultimately, board members work for Council and will have to answer to all members of City Council. Participating in any election related activity that could be perceived as supporting or not supporting a particular candidate could adversely affect the functioning of the board.

## What is an Election-Related Activity?

Election related activities include canvassing, campaigning and fundraising, that aim to advance an individual's or a group's interests.

## Can Boards Ask Candidates Questions and Post the Answers on the Web?

*No. City Boards may not participate in any election related activities.*

## Can Board Members Run for Elected Office?

Board members can run for elected office. However board members are accountable to the elected Council. Board members should therefore request a leave of absence at a minimum it is recommended that candidates take a leave of absence between Nomination Day and the Election, to ensure that they do not find themselves in a potential conflict of interest by running against a sitting Councillor to whom the board reports. Boards are not required to permit leaves of absence if the leave jeopardizes the work of the board. If the board decides to approve leave, it must do so by a formal motion at a board meeting.

April 19, 2017	<b>2017 ELECTION GUIDELINES FOR CITY BOARDS</b>
	<b>For: City Boards - Advisory, Decision-Making, &amp; Tribunals</b>

**What Happens if a Board Member is Elected to Council?**

If a board member is elected to City Council, the member must resign from the board. The board member cannot provide independent work in a personal capacity to the board while simultaneously receiving the advice given by the board as an open minded Councillor. Appointments to boards may include sitting Councillors, but Council must decide as a whole which Councillor, if any, will serve on its Council committees.

**How Should Boards Relate to Council Members During an Election?**

Information and communication may be provided to current Councillors as long as it is publicly available to all others as well. Current Councillors should not receive preferential treatment or have preferential access to information or community supports which are not generally available. "If available for one, then available for all."

If you have been working on Councillor-related business that started before nomination day, it's probably fine to continue to work on it through the election.

**How Should Boards Relate to Council Members Appointed to a Board?**

Councillors appointed to boards are to be treated as you normally do any board member. Councillors are not required to take a leave of absence from a board appointment as they continue to be members of Council until the new Council is sworn in; and as such, must continue to fulfill their responsibilities.

**Things NOT to Do at Meetings or During Board-Related Activities**

Post, solicit, distribute, wear, or otherwise display political material or messages during board meetings and board-related activities (This includes vehicles and equipment).

Political discussions make many people uncomfortable. In order to respect all beliefs, political activity is not allowed during board meetings and other board-related activities.

**Questions?**

Questions regarding City Boards and election-related activities can be addressed to the Office of the City Clerk - 780-496-8178.

---

**APPENDIX C – EDMONTON POLICE  
COMMISSION CODE OF CONDUCT**

---

Effective: March 2015	Revised: May 17, 2018
Repealed:	

**(REVISED)**

## **EDMONTON POLICE COMMISSION CODE OF CONDUCT**

The proper operation of democratic local government requires that persons appointed by Edmonton City Council to its boards, agencies and committees be independent, impartial and duly responsible to the people of Edmonton.

Accordingly it is the purpose of this Code of Conduct to outline certain basic rules for persons appointed as members of the Edmonton Police Commission (the “Commission”) so that they may carry out their entrusted duties with impartiality and dignity, recognizing that the function of the Edmonton Police Commission is, at all times, service to its community and the public.

To further these objectives, certain ethical principles should govern the conduct of Commissions in order that they maintain the highest standards in public office and faithfully discharge their duties. Accordingly, Commissioners shall:

1. Govern their conduct in accordance with the requirements and obligations set out in the Province of Alberta *Police Act* and Regulations, and the bylaws and policies of the City of Edmonton and the Edmonton Police Commission Policy Manual.
2. At all times conduct themselves in a manner that is respectful and courteous of other Commissioners, Commission staff, members of the Edmonton Police Service, and the public.
3. Preserve the integrity and impartiality of the Commission and of City Council.
4. Not use their position to secure any special privileges, favours, or exemptions for themselves or any other person.
5. Not use their position to advance their interests or the interests of any person or organization with whom or with which they are associated.
6. **Be politically neutral in the performance of their Commission duties.**
  - a) **A Commissioner may participate in political activity; however, such activity must be conducted during non-Commission time and outside of the Commission office.**
  - b) **A Commissioner may not make use of information obtained during their course of work with the Commission for political purposes.**

- c) Commission members must take an approved leave of absence when running for elected office.
  - d) Commissioners must resign from the Commission if successfully elected.
7. Not use their position as Commissioner to obtain employment with the Edmonton Police Commission or Edmonton Police Service for themselves, family members, close associates or their firms.
    - a. If a Commissioner is considered for employment with the Commission, then they must temporarily withdraw from the Commission. If the Commissioner is successful in gaining employment, they shall immediately resign from the Commission.
    - b. A Commissioner shall immediately resign if a family member (parent, spouse, and child) gains employment with the Commission.
  8. Not attempt to exercise individual authority over the Commission or the Edmonton Police Service. Commission members have no individual authority over the Chief of Police and other Edmonton Police Service members.
  9. Not speak to the media on behalf of the Commission unless delegated to do so by the Commission Chairperson. The Chair will be the spokesperson for the Commission. Delegation of this authority may be made from time to time to designated members of the Commission.
    - a) If speaking to the media in their individual capacity, individual Commissioners must notify the media that they are not speaking as a spokesperson for the Commission.
    - b) A Commissioner who expresses disagreement with a decision of the Commission shall make it clear that the member is expressing a personal opinion, and not the opinion of the Commission.
  10. Keep confidential any information discussed at an *in-camera* or *closed* meeting.
  11. Abide by their Oath of Office.
  12. Attend and actively participate in Commission meetings and notify the Chair or Executive Director of any anticipated absences.
  13. Not interfere with the management or day to day operations of the Service.
  14. Avail themselves of training or educational opportunities that may be provided for them to assist in carrying out their duties.
  15. Avoid real or perceived conflicts of interest.

16. Declare any potential, real or perceived conflict of interest. A conflict of interest is any situation in which a Commissioner's personal interests (e.g. financial, occupational or **political**) may affect, or appear to affect, their objectivity, judgment or ability to act in the best interests of the Commission. The interests of immediate relatives of a Commissioner are also considered to be the interests of a Commissioner.
  - a) If a Commissioner is not certain whether there is a potential, real or perceived conflict of interest, they must bring it forward to the Commission.
  - b) It is the responsibility of every Commissioner who is aware of a real, potential or perceived conflict of interest on the part of a fellow Commissioner to raise the issue for clarification, first with the Commissioner in question, and, if still unresolved, with the Chair.
  - c) The Commission will determine by majority vote if a conflict exists. The Commissioner potentially in conflict shall be absent from the discussion and shall not vote on the issue of whether a conflict exists.
  - d) Where a Commissioner has declared a conflict in a matter or a majority of the Commission has voted that a conflict of interest exists for a specific Commissioner in a matter, the affected Commissioner shall leave the meeting room for the duration of any discussion on the matter, abstain from participating in any discussion on the matter, shall not attempt to personally influence the outcome, and shall not vote on the matter.
17. Any Commission member who becomes aware that another Commission member may have breached the Oath of Office and/or Code of Conduct shall bring the matter forward to the Commission.
18. For a period of twelve months after leaving the Commission, abide by the ethical standards of conduct listed above, except those related to confidential information which shall apply in perpetuity.

Commissioners should not assume that any unethical activities not covered by or specifically prohibited by these ethical guidelines of conduct, or by any legislation, are therefore condoned. If in doubt about actions they may be contemplating, Commissioners are encouraged to seek advice from the Chair, Executive Director, or legal counsel of the Edmonton Police Commission.