



CORPORATE REPORT

To: Internal Affairs Committee

From: Suzanne Gresham, Director of Corporate Initiatives

Date: June 26, 2018

Re: **Draft *Fraser Valley Regional District Code of Responsible Conduct of Elected Officials***

File No: 0360-20/Code of Conduct

RECOMMENDATION

THAT the Internal Affairs Committee consider the draft *Fraser Valley Regional District Code of Responsible Conduct of Elected Officials* and provide direction to staff in anticipation of submitting the draft to the Fraser Valley Regional District Board for further consideration at the July 24, 2018 Board meeting; and

FURTHER THAT the Internal Affairs Committee consider making recommendations to the Fraser Valley Regional District Board with respect to the draft *Model Code of Conduct* that was developed by the joint *Working Group on Responsible Conduct* as an outcome of the 2017 UBCM Convention in order that feedback, if any, can be provided to the Working Group during the consultation process.

STRATEGIC AREA OF FOCUS

Provide Responsive and Effective Public Services

BACKGROUND

It appears to be generally agreed that local government elected officials in British Columbia effectively carry out their governance duties and responsibilities in an ethical and responsible manner; that they work well together; and that they work well with local government staff, citizens and other local government stakeholders. That said, over the course of the last few years, situations have occurred and concerns have been raised around whether there has been a diminishment of responsible conduct in British Columbia's local government system. This is an important concern because local government elected officials can be more effective in providing good governance to their communities if they engage in responsible conduct¹.

¹Working Group on Responsible Conduct – Policy Report dated August 2017

Some of the issues that have arisen which have had a negative impact on governance in some communities include:

- Disputes among elected officials
- Inappropriate behavior towards staff
- Questionable behavior at Council/Board meetings or in interactions with the public
- Conflict of interest contraventions
- Alleged procedural breaches during meetings
- Failure to respect confidentiality

As a result of these concerns and through the collaborative efforts of UBCM, the Local Government Management Association and the Ministry of Municipal Affairs and Housing, a staff level *Working Group on Responsible Conduct* was established in the Fall of 2016 for the purpose of exploring how British Columbia's responsible and ethical framework for elected officials could be further strengthened.

At the 2017 UBCM Conference, UBCM members endorsed the Working Group's August 2017 Policy Report which included recommendations [along with many others] that the Working Group: 1] as a first priority articulate the foundational principles of responsible conduct; and 2] develop a Model Code of Conduct for consideration by the membership.

Since the 2017 UBCM Convention, the Working Group has continued to work collaboratively and has articulated four foundational principles of responsible conduct [these are defined in the draft document set to the IAC agenda]:

- Integrity
- Respect
- Accountability
- Leadership and Collaboration

The Working Group has also now developed a draft *Model Code of Conduct* which embeds the four foundational principles of responsible conduct. The draft *Model Code of Conduct* is now out for consultation with local government stakeholders. The Working Group will collate the feedback they receive as an outcome of the consultation process in anticipation of submitting a [perhaps revised] draft *Model Code of Conduct* to the membership at the 2018 UBCM Convention.

It should be noted that initially the proposed *Model Code of Conduct* was intended to be voluntary while also allowing for a high degree of flexibility and customization. Concerns have since arisen, through consultation with local government stakeholders, that there could be too much variability between [respective] Codes of Conduct and that this variability would not provide elected officials with enough certainty around expectations with respect to responsible and ethical conduct.

There is clearly a school of thought that supports the notion that legislative reform is required and that Codes of Conduct should be mandated through legislation, along with requirements that certain provisions be included in a Code of Conduct, i.e. setting out the foundational principles of responsible

conduct along with provisions with respect to enforcement, sanctions and penalties. An overarching concern is that a Code of Conduct has to “have teeth” in order for it to be meaningful and this may require [and ultimately result in] a significant shift in culture in some organizations in order for responsible and ethical conduct to become the norm. A concern that has also been expressed is that if a Code of Conduct is voluntary, and if it does not have meaningful sanctions for inappropriate conduct, it will have marginal, if any, impact on how [some] elected officials may comport themselves. Some local government practitioners are of the view that without legislated consequences for irresponsible and unethical conduct, putting a Code of Conduct in place may be an exercise in futility.

DISCUSSION

The Working Group is encouraging Boards and Councils to consider not just the content of their respective Codes of Conduct, but to also seriously consider how to make a Code of Conduct meaningful and enforceable for both individual elected officials and the collective governing body. It is also suggested that Boards and Councils do not overlook the importance of the development and adoption process in order to ensure “buy-in”. Making a Code of Conduct relevant and meaningful will depend on how a Board or a Council will integrate its Code of Conduct into its governance practices – for example, will it only be referenced once during a Board Orientation or Strategic Planning Session, or will it become a living and evolutionary document that is referred to at every meeting and reviewed on a regular basis? It is also suggested that on-going training and education around responsible and ethical conduct is key to ensuring that a culture of responsible and ethical conduct is established and maintained over the longer term.

The draft *Fraser Valley Regional District Code of Responsible Conduct for Elected Officials* is currently modeled after the Working Group’s draft *Model Code of Conduct*. That said, the FVRD Board is certainly at liberty to customize and tailor its Code of Conduct to suit its political and organizational culture. Note that the draft attached to this agenda provides some further narrative and editorial comment.

Staff would encourage the Board to establish a meaningful Code of Conduct with imposes appropriate enforcement strategies in order to ensure that Board Members take the matter of responsible and ethical conduct seriously and in order to provide the best governance possible for its citizens. As well, Staff support the incorporation of the four foundational principles identified by the Working Group into the Board’s Code of Conduct [and the Board may well wish to identify and articulate other guiding principles or values that it wishes to subscribe to].

It is worth noting that FVRD Board Members are currently bound by the following, albeit the Board lacks a specific Code of Conduct which deals specifically with responsible and ethical conduct :

- Common Law
- Disqualification provisions in the LGA/CC
- Conflict of interest provisions in the LGA/CC
 - Disclosure of Conflict

- Restrictions on participation if in conflict
 - Restrictions on inside/outside influence and use of insider information
 - Restrictions on accepting gifts
 - Disclosure of contracts
- Legislative prescriptions
 - Human Rights Code
 - Worker's Compensation Act
 - Freedom of Information and Protection of Privacy Act
- FVRD Discrimination, Bullying and Harassment Prevention Policy and Procedures [attached]
- FVRD Board Procedures Bylaw
 - Speaks largely to procedural matters as required under the *Local Government Act*, but does address the duty to protect confidentiality; expulsion from meetings for improper conduct; rules of order; and conflict of interest

NEXT STEPS

In keeping with the Board's direction as reflected in the 2018 Internal Affairs Committee work plan, the following timelines and next steps are proposed with respect to bringing a draft Code of Conduct to the Board for consideration in anticipation of having a Code of Conduct in place prior to the 2018 general local election:

Timeframe	Action
June 26, 2018	<p>Consideration of the draft <i>FVRD Code of Responsible Conduct for Elected Officials</i> by the Internal Affairs Committee with direction to staff regarding changes that need to be incorporated prior to consideration by the Board</p> <p>Recommendations from the IAC Committee to the Board with respect to the <i>Model Code of Conduct</i> prepared by the joint Working Group on Responsible Conduct</p>
July 24, 2018	<p>Consideration of the draft <i>FVRD Code of Responsible Conduct for Elected Officials</i> by the FVRD Board with direction to staff regarding changes that need to be incorporated prior to further consideration by the Board</p> <p>Consideration by the Board of the IAC's recommendation with respect to the <i>Model Code of Conduct</i> prepared by the joint Working Group on Responsible Conduct</p> <p>Suggested that staff prepare a presentation which can be delivered either by staff or an IAC member with discussion with the Board facilitated by the IAC</p>
Late July/early August 2018	Submit feedback to the Working Group on Responsible Conduct regarding the <i>Model Code of Conduct</i>
August 2018	Staff make edits to the <i>FVRD Code of Responsible Conduct for Elected Officials</i> further to Board direction
Early September 2018	<p>IAC Meeting in preparation of September 25, 2018 Board Meeting</p> <p>Reference 2018 IAC Work Plan</p>
September 25, 2018	Board to consider adoption of <i>FVRD Code of Responsible Conduct for Elected Officials</i> + other policy work on the 2018 IAC Work Plan

CONCLUSION

Responsible and ethical conduct at all levels of a local government, and particularly elected officials, is perceived to be a keystone of providing good governance to citizens and communities that are served by local government.

A meaningful Code of Conduct will demonstrate the Board's commitment to act in a responsible and ethical manner at all times and in all their dealings as an elected official.

Staff recommends that the FVRD Board clearly define and articulate the foundational principles it subscribes to with respect to expectations around responsible and ethical conduct, and that clear and unambiguous language is set out in its *Code of Responsible Conduct for Elected Officials*. Staff furthermore recommends that provisions with respect to Enforcement, Sanctions and Penalties be included with due consideration by the Board in order to hold Board Members accountable for their conduct and behaviours.

COSTS

Costs to develop a Code of Conduct and for on-going Board education and training are minimal. However, in a worst case scenario, legal costs and damage to the FVRD's reputation could be significant for the failure of a Board Member or the collective governing body to act responsibly or ethically.

COMMENT BY CHIEF ADMINISTRATIVE OFFICER

Reviewed and supported