

**From:** "Johnston, Sadhu" <Sadhu.Johnston@vancouver.ca>

**To:** "Direct to Mayor and Council - DL" <CCDTMACDL@vancouver.ca>

**Date:** 6/10/2016 9:58:33 AM

**Subject:** Memo RE: Councillor Discretionary Fund - Q&A

**Attachments:** [RTS11391 Memo to Mayor and Council re Discretionary Fund Q&A - June 2016....pdf](#)

Dear Mayor and Council,

On June 1, 2016 Council approved the draft Mayor and Councillors' Expenses By-law as generally set out in the Council report entitled Councillors' Discretionary Fund - Report Back. On June 14<sup>th</sup>, the By-law will be before Council for enactment. The By-law establishes the Councillor Discretionary Fund for use by Councillors. Prior to enactment, Council asked that staff provide further guidance on the Councillor Discretionary Fund. In response, staff have prepared a series of questions and answers regarding the Councillor Discretionary Fund. That memo is attached.

Should you have any additional questions, please forward them to the City Clerk, Janice MacKenzie. Staff will be available to meet with you if desired.

Best,

Sadhu Johnston  
City Manager  
City of Vancouver

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CITY CLERK'S DEPARTMENT  
Office of the City Clerk

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## MEMORANDUM

June 10, 2016

TO: Mayor and Councillors

CC: Sadhu Johnston, City Manager  
Paul Mochrie, Deputy City Manager  
Janice MacKenzie, City Clerk  
Lynda Graves, Manager, Administration Services, City Manager's Office  
Rena Kendall-Craden, Director, Communications  
Kevin Quinlan, Chief of Staff, Mayor's Office  
Katie Robb, Director, Communications, Mayor's Office  
Emma Lee, Director, Community Relations, Mayor's Office  
Rosemary Hagiwara, Deputy City Clerk  
Patrice Impey, GM Finance, Risk, and Business Planning  
Esther Lee, Director of Financial Services  
Francie Connell, Director of Legal Services

FROM: Janice MacKenzie  
City Clerk

SUBJECT: Councillor Discretionary Fund - Q & A

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On June 1, 2016 Council approved the draft Mayor and Councillors' Expenses By-law as generally set out in the Council report entitled Councillors' Discretionary Fund - Report Back. On June 14<sup>th</sup>, the By-law will be before Council for enactment. The By-law establishes the Councillor Discretionary Fund for use by Councillors. Prior to enactment, Council asked that staff provide further guidance on the Councillor Discretionary Fund.

In response, staff have prepared a series of questions and answers regarding the Councillor Discretionary Fund. Staff have referred to the following for guidance:

- Federal Government's Members of Parliament constituency spending guidelines;
- Government of B.C. MLA Constituency Office Allowance guidelines; and
- City of Toronto Constituency Services and Office Budget Policy

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**Q** When will the Mayor and Councillors Expenses By-law come in to effect and can the Councillor Discretionary Fund be used to pay for work undertaken prior to the By-law enactment date?

**A** The new By-law is expected to come in to effect on June 14, 2016. All expenses reimbursable under the existing by-law will continue to be reimbursable under the new by-law once adopted. However, the new category of Councillor Discretionary Fund only provides for reimbursement of that category where they were incurred following enactment of the new by-law.

**Q** What expenses can be reimbursed?

**A** In order to receive reimbursement of expenses under the By-law, the expense has to (i) be an “eligible expense” and (ii) meet the category-specific requirements.

Eligible expenses, must be incurred “in the course of or as a result of participation in or carrying out “eligible activities” which in turn are defined as “civic activities”. Civic activities are defined as “representing the city, engaging in city business, or attending a course, meeting or convention”.

The categories of expenses and their related tests are listed below.

CATEGORY	TEST
Local	<ul style="list-style-type: none"> <li>• Incurred within Greater Vancouver Regional District.</li> <li>• Expenses may include:               <ul style="list-style-type: none"> <li>○ registration and attendance fees for courses, meetings, conventions other than FCM and UBCM annual conventions, and other events;</li> <li>○ admission fees and other costs related to cultural and community events;</li> <li>○ parking fees;</li> <li>○ entertainment expenses incurred in a hosting capacity</li> <li>○ transportation costs, except for a Councillor who already receives a transportation allowance in accordance with this By-law;</li> <li>○ membership fees in any organization that contributes to the ability of the Mayor or a Councillor to fulfill their civic duties;</li> <li>○ educational fees for courses that contribute to the ability of the Mayor or a Councillor to fulfill their civic duties</li> <li>○ expenses related to communications and business equipment costs; and</li> <li>○ other similar or related expenses.</li> </ul> </li> </ul>

Councillor's travel	<ul style="list-style-type: none"> <li>• Specifically pre-approved by Council.</li> <li>• Outside of the Greater Vancouver Regional District.</li> <li>• Expenses may include: <ul style="list-style-type: none"> <li>○ registration and attendance fees for courses, meetings, conventions including FCM and UBCM annual conventions, and other events; and</li> <li>○ those eligible expenses set out in the Corporate Travel Policy.</li> </ul> </li> </ul>
Mayor's discretionary	<ul style="list-style-type: none"> <li>• Incurred by the Mayor or Mayor's staff.</li> <li>• Expenses may include: <ul style="list-style-type: none"> <li>○ registration and attendance fees for courses, meetings, conventions including FCM and UBCM annual conventions, and other events;</li> <li>○ those eligible expenses set out in the Corporate Travel Policy;</li> <li>○ communications expenses;</li> <li>○ fees for consulting or other contracted services;</li> <li>○ costs of research and information gathering; and</li> <li>○ costs of community outreach and events.</li> </ul> </li> </ul>
Councillor's discretionary	<ul style="list-style-type: none"> <li>• Incurred by one or more Councillors and not provided for elsewhere in the By-law.</li> <li>• Expenses may include: <ul style="list-style-type: none"> <li>○ communications expenses;</li> <li>○ fees for consulting or other contracted services;</li> <li>○ costs of research and information gathering; and</li> <li>○ costs of community outreach and events.</li> </ul> </li> </ul>

**Q What expenses are covered by the Councillor discretionary fund?**

**A** Generally speaking, Councillors may use the funds to cover expenses related to constituency management functions that are outside the scope of the duties performed by administrative assistants. As indicated previously, the expenses must meet two requirements (i.e. be incurred for civic activities and meet the category-specific requirements).

The By-law specifies that the discretionary fund may be used to cover expenses incurred by one or more Councillors while carrying out constituency activities such as:

- Communications expenses
- Fees for consulting and contracted services
- Costs for research and information gathering
- Costs of community outreach and events

Beyond the above, the expenses that may be reimbursed under the Councillor Discretionary Fund are not defined in the By-law.

For further guidance, it is recommended that Councillors refer to the City's Code of Conduct. The Code of Conduct can be found at [http://former.vancouver.ca/policy\\_pdf/AE02801.pdf](http://former.vancouver.ca/policy_pdf/AE02801.pdf).

**Q Beyond the Code of Conduct, where can a Council Member obtain guidance?**

A Following enactment of the By-law, staff will provide Council with guidance, including a standard form contract, for use in contracting for activities captured within the scope of eligible discretionary expenses for Councillors.

Since such contracts will create liabilities for the council member and the City, staff will be available to support Councillors in ensuring that any individual retained to provide services is appropriately retained.

With respect to guidance on fund usage, the By-law gives the Director of Finance the authority to approve or reject expense claims. On a day-to-day basis, the Deputy City Clerk is available to respond to questions concerning usage. On occasion, advice may be obtained from the Director of Finance.

**Q Can a Council Member retain the services of an individual on an ongoing basis?**

A Where a Councillor seeks to retain an individual on an ongoing basis to conduct activities delineated within the scope of Councillor discretionary expenses, it is possible that such engagement would constitute an employment relationship with the City.

It is advisable that Councillors seek the advice of the General Manager of Human Resources prior to engaging such services. Staff can assist Councillors in determining whether in fact an engagement is appropriately characterized as an employment relationship, establishing the terms of the employment relationship and ensuring it is an “eligible expense”.

**Q Are political or partisan activities eligible for reimbursement?**

A As indicated previously, to receive reimbursement of expenses under the By-law, the expense must (1) be an “eligible expense” and (2) meet the category-specific requirements. Eligible expenses, regardless of the category, must be incurred in the course of “civic activities”, namely representing the city, engaging in city business, or attending a course, meeting or convention.

Therefore, to ensure that the expense is an “eligible expense”, the council member should not display the name/logo of their political party, make statements of a partisan political nature, or use political party colours in any recognizable partisan form.

For example, the following activities would not be considered “civic activities”:

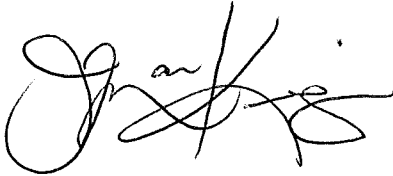
- activities related to the private interests of a council member or their family members;
- activities related to the administration, organization and internal communications of a political party, including participation in a party leadership campaign or convention, solicitations of contributions and solicitations of membership to a political party;
- activities related to a council member’s re-election; and
- activities designed, in the context of a federal, provincial, or municipal election, or any other local election, to support or oppose a political party or an individual candidate

**Q Who owns the work product or service produced using the discretionary expenses fund?**

**A** The City owns the work product produced by a contractor through the use of City funds, including the Councillor Discretionary Fund, but the Councillor initiating the work has sole use of the product and/or service provided. Sharing of the products/services is at the discretion of that Councillor. As noted above, it will be critical to ensure that any contract entered into using Councillor discretionary funds is worded to comply with this requirement and therefore qualify as an “eligible expense”.

However, the Freedom of Information and Protection of Privacy Act (FIPPA) does apply to records in the care and custody of the City with the exception of personal records of a Council Member. Given that the Councillor Discretionary Fund is to be used for civic activities, those records generated as a result of spending through this fund are subject to FIPPA.

Should you have any additional questions, please let me know. Staff are available to meet with you.

A handwritten signature in black ink, appearing to read 'Janice MacKenzie', with a stylized flourish at the end.

Janice MacKenzie  
City Clerk  
tel: 604.871.6146

