



OFFICE OF THE
INTEGRITY COMMISSIONER
FOR THE CITY OF VANCOUVER

CITY OF VANCOUVER
REPORT TO
CITY OF VANCOUVER COUNCIL, COMPLAINANT AND RESPONDENT

In this matter of

AN INTEGRITY COMMISSIONER INVESTIGATION
ALLEGATIONS, FINDINGS & DECISIONS

Submitted by Lisa Southern,
Integrity Commissioner
City of Vancouver (the “Commissioner”)

July 5, 2022

Background

On March 25, 2022, Councillor Colleen Hardwick (the “Complainant”) brought forward to the Integrity Commissioner a *Code of Conduct By-Law No. 12886* (the “Code of Conduct,” attached at **Tab 1**) complaint against Mayor Kennedy Stewart (the “Respondent”) regarding a four-part series of Tweets (the “Tweets”) he made from his personal Twitter account on March 24, 2022 (the “Complaint”).

The Complaint alleged that the substance of the Tweets sent by Mayor Stewart was untrue and was an improper use of the Office of the Mayor (the “Allegations”).

We examined the Allegations in the context of the Code of Conduct and the law.

This report is issued in accordance with section 6.32 of the Code of Conduct. In this report, we provide a summary of process and a summary of the evidence, make findings of fact with respect to the Allegations, and conclude that there has been a breach of the Code of Conduct.

Process

A preliminary assessment of the Complaint was conducted, and it was determined that the Allegations, if true, may constitute a violation of the Code of Conduct. Accordingly, on March 28, 2022, Mayor Stewart was provided with notice of the Complaint (as required per section 6.25 of the Code of Conduct).

Mayor Stewart provided a written response to the Complaint on April 5, 2022 (the “Mayor’s Response”), in which he denied the Allegations.

On April 8, 2022, Councillor Hardwick was provided with a copy of the Mayor’s Response and was given an opportunity to reply, which she did in writing on April 18, 2022 (the “Councillor’s Response”).

In conducting an investigation, Section 6.27 of the Code of Conduct states that the Integrity Commissioner may:

- a) speak to anyone relevant to the complaint;*
- b) request disclosure of documents relevant to the complaint; or*
- c) access any record in the possession or control of the city, [except] a record that is subject to privilege*

We held interviews via videoconference and telephone with Mayor Stewart, five witnesses employed by the City of Vancouver (the “City”), and one witness not employed by the City (together, the “Participants”).

At the beginning of each interview, the Participants were advised of the need for honesty and their obligation to maintain confidentiality of the fact that the investigation was occurring and the information that was discussed. Each Participant acknowledged understanding of both obligations.

Consistent with section 6.33 of the Code of Conduct, we have preserved the anonymity of the witnesses.

Consistent with section 6.29 of the Code of Conduct, we are making this decision “*within 90 days of making a decision to proceed with a formal investigation.*”

Summary of the Complaint

The Complaint alleged that Mayor Stewart breached the Code of Conduct when he sent the Tweets on March 24, 2022 regarding Councillor Hardwick’s motion for a plebiscite on the 2030 Olympics (the “Motion”):

1. *@CllrHardwick's action violates the signed agreement between the governments of Vancouver and Whistler with the Musqueam, Squamish, Tsleil-Waututh and Líl'wat upon whose unceded lands our cities are built. 1/4*
#vanpoli
<https://t.co/f3kSEU2cZ5> [t.co]
2. *City Council approved a formal Memorandum of Understanding to work in partnership with host First Nations to explore how the 2030 Winter Olympics might become the world's first reconciliation games. 2/4*
3. *The MOU is a critical component of our UNDRIP obligations - now formalized in provincial law - as it outlined a clear process for all to follow in good faith which, at it's conclusion, includes council voting on a recommendation and may still involve community votes. ¾*
4. *I will not second this motion. I urge other councillors to consider what supporting @CllrHardwick's decision to essentially tear up our MOU says about their own commitments to reconciliation. 4/4*
#vanpoli

[Author’s original text; additional numbering was added for clarity. Copies of the Tweets are attached at **Tab 2**]

The “*signed agreement,*” “*Memorandum of Understanding*” and “*MOU*” referenced in the Tweets refer to a Memorandum of Understanding (“MOU”) between Chief Sparrow (Musqueam Nation), Chairperson Khelsilem (Squamish Nation), Chief Thomas (Tsleil-Waututh Nation), Chief Nelson (Lil’wat Nation), Mayor Crompton (Resort Municipality of Whistler) and Mayor Stewart forming a “*Host Nations Exploratory Assembly for the 2030 Olympic and Paralympic Winter Games Big Consideration*” (the MOU is attached at **Tab 3**).

The Complaint alleged that information in the Tweets *“is not true”* and that a *“review of the MOU will demonstrate that [the Tweets are] an erroneous statement.”* The Complaint further alleged that the Tweets misrepresented the Motion and that as a result, it detracted from *“any opportunity for a fair discussion and debate in Council.”* Further, Councillor Hardwick wrote, *“His tweets have effectively cast me as anti-reconciliation, which is categorically incorrect.”*

Summary of Evidence

Evidence of the Complainant

In the Councillor’s Response, she provided considerable evidence with respect to the Complaint.

Councillor Hardwick confirmed that the MOU was approved by City Council in October 2021 and was announced publicly in December 2021.

She maintained that the Motion did not violate the MOU. She confirmed that the original draft Motion was submitted to the City Clerk on February 28, 2022, and that she sought input from City staff and Council through the appropriate processes. She confirmed that *“at no time was the MOU mentioned as a concern by Staff, the Mayor’s Office, or City Council in the period leading up to the City Council meeting three weeks later.”* She said she received an email on March 18, 2022 that included an attachment of *“Staff Input on Council Motions,”* which provided input on the Motion but did not include any mention of the MOU.

Councillor Hardwick said she amended the Motion to reflect staff input, and then submitted it to the City Clerk’s office on March 21, 2022, at which point it was included in the City Council agenda (which was posted on the City’s website on March 23, 2022). The Motion was the subject of a *Vancouver is Awesome* news article (attached at **Tab 4**) on March 23, 2022, and the Tweets were published the next day on March 24, 2022.

Councillor Hardwick wrote that *“if my motion violated or otherwise undermined the MOU, the ‘Staff Input on Council Motions’ process would have certainly flagged this as a concern. It did not.”* Further, Councillor Hardwick provided evidence that the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was not applicable to the Motion.

To summarize Councillor Hardwick’s evidence, she said there was no specific language in the MOU that was violated by the Motion and if the Motion otherwise violated the MOU, then she would have been made aware of the violation through the ‘Staff Input on Council Motions’ process. Further, her evidence was that the Motion was not anti-reconciliation and did not violate UNDRIP obligations.

Evidence of the Respondent

In the Mayor's Response, he stood by his Tweets and maintained his position by stating that *"my tweets affirm my understanding of the applicability and validity of this MOU."*

Mayor Stewart also said his belief was that in publishing the Tweets, he used the influence of his Office appropriately. Mayor Stewart's responses to the Complaint focused on reconciliation and he elaborated on the importance of having oral traditions, building trust, and exercising good faith when working with First Nation partners. He said that when the Motion first surfaced, it was viewed as a *"betrayal"* of the MOU by the First Nations signatories to the MOU and he provided names of witnesses to support that this was their interpretation, and not his alone.

However, during this investigation, Mayor Stewart conceded that *"by definition there is nothing in the MOU"* that was violated by the Motion, but he maintained that the broader understanding between the signatories to the MOU was that the intended function of the MOU was to encourage the respective parties to engage in exploratory discussions among themselves and to bring those discussions back to the Host Nations Exploratory Assembly prior to determining how to move forward. In Mayor Stewart's view, the Motion was a unilateral action that undermined the efforts undertaken by the Host Nations Exploratory Assembly.

Witness Evidence

Each City witness confirmed that Councillor Hardwick submitted the Motion for review, and that the review did not flag or otherwise identify the Motion as potentially in violation of the MOU.

The witness not employed by the City of Vancouver, but present during relevant meetings between Mayor Stewart and the Host Nations Exploratory Assembly members (among other interested parties), corroborated the evidence of Mayor Stewart by confirming that the Motion caused considerable concerns in discussions with the Host Nations Exploratory Assembly members and was, in effect, viewed by them as inconsistent with the intentions of the MOU.

Assessment of Credibility

All Participants were genuine, forthright, and candid in the evidence they provided. There were no issues of credibility in this investigation.

The Code of Conduct

Code of Conduct By-Law 12886

The applicable sections of the Code of Conduct are found in Part 3 – Communications and Confidentiality, including Section 3.4, which states:

3.4 Without limiting the ability of a Council member to hold a position on an issue and respectfully express their opinions, a Council Member must:

- a) ensure that their communications accurately reflect the facts of Council decisions;*
- b) ensure that all communications relating to Council business are accurate and not issue any communication that the member knows, or ought to have known, to be false;*
- c) ensure that all communications by, and on behalf of a member, including communications made via social media, are respectful and do not discriminate, harass, or defame any person, recognizing that free and open debate is guaranteed under the Charter of Rights and Freedoms.*

Part 4 – Conflicts of Interest, including Section 4.7, is also applicable:

4.7 A member must only use the influence of their office for the exercise of their duties.

Findings

The primary concern outlined in the Complaint was that the Tweets were “*not true.*”

Section 3.4(b) of the Code of Conduct requires members of Council to “*ensure that all communications relating to Council business are accurate and not issue any communication that the member knows, or ought to have known, to be false.*”

Mayor Stewart did not say that, in his opinion, the Motion was contrary to the MOU; nor did he say that it was counter to the spirit of the MOU. If he had, we would have concluded that no violation of the Code of Conduct had occurred. He was more definitive than this and said that the Motion was “*in violation*” of the MOU. We reviewed the MOU with due consideration of the principles of contractual interpretation and have considered the input of City staff with respect to the MOU. We find that Councillor Hardwick’s Motion was not a violation of the MOU on the language of the MOU. For that reason, we conclude that the Tweets were not accurate, and therefore violated section 3.4(b) of the Code of Conduct.

Councillor Hardwick also raised concerns that Mayor Stewart misused the influence of his Office by publishing the Tweets. The preamble to section 3.4 of the Code of Conduct states that the entire section, including section 3.4(b), applies “*Without limiting the ability of a Council member to hold a position on an issue and respectfully express their opinions.*” The decision in *Monforts v Brown*, 2021 ONMIC 10 is also applicable to our findings in this respect, when Integrity Commissioner Giorono stated:

121. Before turning to the applicable sections of the Code, I wish to make general observations about communications by elected municipal officials. The role of a Council Member includes communicating with members of the public about local issues. This includes not just responding to residents but initiating communication with the public. In fact, the Courts have clearly stated that, as an elected representative of the public, a municipal councillor is entitled to take “an open leadership role” on an issue. As part of the political process, a Council Member has every right to form views, to hold views, to express views and, while in office, to give effect to those views.

*122. In a case involving the previous Mayor of Orangeville, I observed that a municipal elected official is not required to avoid communicating on controversial, high-profile issues. Quite the contrary. “Given the political and representational roles of a municipal councillor, controversial and/or highly visible topics are ones on which a Council Member would be expected to communicate and on which a Council Member is entitled to communicate.” See *Greatrix v. Williams*, 2018 ONMIC 6 (CanLII), at para. 204.*

As we have noted, the Tweets were not accurate in stating that there was a violation of the MOU. However, as supported by a third-party witness, we find that there were concerns by the Host Nations Exploratory Assembly about the Motion, and that Mayor Stewart “*has every right to form views, to hold views, to express views and, while in office, to give effect to those views.*” His error was in the characterization of the Motion as a violation of the MOU, which it was not. However, on the evidence, particularly as supported by evidence of a third party witness, we cannot conclude that he misused the influence of his Office when he published the Tweets.


Recommendations

We recommend the public record should be corrected to reflect that the Motion was not a violation of the MOU. Consistent with the Code of the Code of Conduct, this Report will be published as one effort to correct that record. We also recommend further training for Mayor Stewart and Council on their obligations under section 3.4(b) of the Code of Conduct.

Conclusion

Mayor Stewart breached section 3.4(a) of the Code of Conduct when he published Tweets that were not accurate about Councillor Hardwick.

All of which is respectfully submitted.

A handwritten signature in black ink, appearing to read "Lisa Southern".

Lisa Southern

Integrity Commissioner for the City of Vancouver

Dated: July 5, 2022



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FOR THE CITY OF VANCOUVER

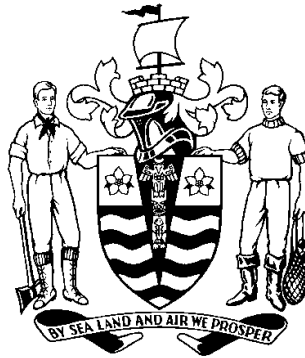
REPORT APPENDIX

Submitted by Lisa Southern,
Integrity Commissioner
City of Vancouver (the “Commissioner”)

July 5, 2022

Tab 1

CITY OF VANCOUVER BRITISH COLUMBIA



CODE OF CONDUCT BY-LAW NO. 12886

**This By-law is printed under and
by authority of the Council of
the City of Vancouver**

**(Consolidated for convenience only
to February 9, 2021)**

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BY-LAW NO. 12886

The Code of Conduct for Council Members and Advisory Board Members

[Consolidated for convenience only,
amended to include By-law No. 12886
effective February 9, 2021]

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts the following:

PART 1 GENERAL

Name

- 1.1 The name of this By-law, for citation is the “Code of Conduct By-Law”.

Definitions

- 1.2 In this By-law:

“Advisory Board Member” means a person sitting on an advisory committee, task force, commission, board, or other Council-established body;

“city” means the City of Vancouver;

“complaint” means a formal allegation that a member has breached this By-law submitted to the Integrity Commissioner in accordance with the complaints procedure set out in Part 6 of this By-Law;

“complainant” means a person who has submitted a complaint to the Integrity Commissioner;

“confidential information” means information that is not publicly available and is treated as confidential by the city and includes information that may or must be considered by Council in a closed meeting pursuant to section 165.2 of the *Vancouver Charter* including:

- a) decisions, resolutions or report contents forming part of the agenda for or from a closed meeting of Council until a Council decision has been made for the information to become public or otherwise released;
- b) information about the acquisition, disposition or expropriation of land or improvements if disclosure could reasonably be expected to harm the interests of the city;

- c) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages if disclosure could reasonably be expected to harm the interests of the city;
- d) advice that is subject to any privilege at law; and
- e) personal information that is prohibited from disclosure under the provisions of the *Freedom of Information and Protection of Privacy Act*;

“Council” means the Council of the city;

“Council Member” means a member of Council, including the Mayor;

“Integrity Commissioner” means the person appointed by Council to fulfill the duties and responsibilities assigned to that position as set out in this By-law;

“gift or personal benefit” means an item or service of value that is received by a member for their personal use including money, gift cards, tickets to events, clothing, jewelry, pens, food or beverages, discount/rebates on personal purchases, entertainment, participation in sport and recreation activities, and invitations to social functions;

“member” means a Council Member or an Advisory Board Member;

“personal information” means recorded information about an identifiable individual other than contact information as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*; and

“respondent” means a member whose conduct is the subject of a complaint.

Table of Contents

1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

Purpose

1.4 This By-law sets out the rules members must follow in fulfilling their duties and responsibilities as elected or appointed officials, and the powers and procedures of the Integrity Commissioner in exercising oversight over members.

Application

1.5 This By-law applies to Council Members and Advisory Board Members.

1.6 This By-law does not apply to city employees.

1.7 In the event of a conflict between this By-law and another city by-law or policy governing member conduct, this By-law prevails.

1.8 This By-law does not apply to conduct that may subject a member to disqualification under the *Vancouver Charter*, including sections 140(4), 143(4), and 145.3 to 145.911.

1.9 This By-law does not apply to a member's conduct in their personal life, except to the extent that such conduct reasonably undermines, or has the potential to reasonably undermine, public confidence in city governance.

Severability

1.10 A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

PART 2 STANDARDS AND VALUES

2. A member must uphold the following standards and values:
 - a) competence: a member must act competently and diligently;
 - b) fairness: a member must consider all issues consistently and fairly, and in light of all relevant facts, opinions and analysis of which a member should be reasonably aware;
 - c) integrity: a member must avoid improper use of influence and avoid all conflicts of interest, both apparent and real;
 - d) leadership in the public interest: a member must act in the best interests of the city as a whole, and without regard to the member's personal interests;
 - e) respect: a member must treat members of the public, one another, and staff respectfully, without abuse, bullying or intimidation and ensure that the work environment is free from discrimination and harassment;
 - f) responsibility: a member must respect and comply with the Acts of the Parliament of Canada, the Legislature of British Columbia, including the *Vancouver Charter*, city by-laws, and applicable city policies, and avoid conduct that, reasonably, undermines, or has the potential to undermine, public confidence in city governance, except members may participate in peaceful civil disobedience; and
 - g) transparency: a member must to conduct their duties in an open and transparent manner, except where this conflicts with their duties to protect confidential information.

**PART 3
COMMUNICATIONS AND CONFIDENTIALITY**

Public Communications by a Council Member

3.1 A Council Member must not communicate on behalf of the city unless authorized to do so by Council resolution or by virtue of a position or role the member has been authorized to undertake by Council.

3.2 A statement or communication made by a Council Member is presumed to be made on the Council Member's own behalf, not the city's behalf.

3.3 Where a Council Member is authorized to communicate on behalf of the city, the Council Member must take reasonable efforts to ensure that the communication is fair and accurate.

3.4 Without limiting the ability of a Council Member to hold a position on an issue and respectfully express their opinions, a Council Member must:

- a) ensure that their communications accurately reflect the facts of Council decisions;
- b) ensure that all communications relating to Council business are accurate and not issue any communication that the member knows, or ought to have known, to be false; and
- c) ensure that all communications by, and on behalf of a member, including communications made via social media, are respectful and do not discriminate, harass, or defame any person, recognizing that free and open debate is guaranteed under the *Charter of Rights and Freedoms*.

Confidential Information

3.5 A member must:

- a) not disclose or release any confidential information acquired by virtue of their office, except as authorized by Council, or required by law;
- b) not use confidential information with the intention to cause harm or detriment to Council, the city or any other person or body;
- c) protect confidential information from inadvertent disclosure;
- d) use confidential information only for the purpose for which it is intended to be used;
- e) take reasonable care to prevent the examination of confidential information by unauthorized individuals; and
- f) not take advantage of, or obtain private benefit from, confidential information acquired by virtue of their office.

3.6 A member must access and use city information only in the normal course of their duties.

3.7 A member must retain records and other information in accordance with the procedures, standards, and guidelines established by the city, including the Records Management By-law No. 9067, as amended, and must assist the city in good faith in responding to all requests for information made pursuant to the *Freedom of Information and Protection of Privacy Act*.

3.8 A member must comply with the *Freedom of Information and Protection of Privacy Act* when dealing with personal information and take all reasonable and necessary measures to ensure that personal information is protected.

PART 4 CONFLICTS OF INTEREST

Conflicts of Interest

4.1 A Council Member must comply with the conflict of interest requirements set out in sections 145.2 to 145.911 of the *Vancouver Charter*.

Use of Municipal Assets and Services

4.2 A member may not direct the work of city employees, other than city employees assigned to assist a member, and should follow the processes established by the City Manager when communicating with city employees.

4.3 A member must respect that it is the role of city employees to provide neutral and objective information without undue influence and interference.

4.4 A member must not request or require city employees to undertake personal or private work on behalf of a member, or accept an offer to perform such work from a city employee.

4.5 A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for activities other than the business of the city, except in accordance with city policies permitting reasonable personal use.

4.6 A member must not instruct, or direct any of the city's contractors, tenders, consultants or other service providers regarding city business.

Use of Influence

4.7 A member must only use the influence of their office for the exercise of their duties.

4.8 A member must be independent and impartial, and must not provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of their duties.

4.9 A member must not use the prospect of future employment by a person or entity, or other future economic opportunities, to detrimentally affect the performance of their duties.

4.10 A member must not use, or attempt to use, their office for the purpose of intimidating, improperly influencing, threatening, or coercing city employees.

Election Activities

4.11 A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for any election campaign or campaign-related activities, unless those resources are similarly available to all candidates and any associated fees have been paid for with election campaign funds.

4.12 A member must not compel city employees to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.

Gift or Personal Benefit

4.13 A member must not accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless permitted by the exceptions listed in sections 4.14 and 4.15.

4.14 A Council Member may accept a gift or personal benefit if it is:

- a) received as an incident of the protocol of social obligations that normally accompany the responsibilities of office;
- b) compensation authorized by law; or
- c) a lawful contribution made to a member who is a candidate for election conducted under the Vancouver Charter or Part 3 of the *Local Government Act*.

4.15 An Advisory Board Member may accept a gift or personal benefit if it:

- a) has a value under \$50; and
- b) is received as an incident of protocol or as a city representative for an activity reasonably related to their role with the city.

4.16 If a Council Member accepts a gift or personal benefit pursuant to section 4.14(a), and if the total value of the gift or personal benefit exceeds \$50, or the total value of the gift or personal benefit received from one source during the calendar year exceeds \$100, the Council Member must within 30 days of receipt of the gift or personal benefit, or reaching the annual limit, file a disclosure statement with the City Clerk. The disclosure statement must set out:

- a) the name of the Council Member;

- b) the nature of the gift or personal benefit, by description, photograph, or both;
- c) the date the gift or personal benefit was received;
- d) the estimated value of the gift or personal benefit;
- e) the source of the gift or personal benefit, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation;
- f) the circumstances under which the gift or personal benefit was given; and
- g) the final disposition of the gift or personal benefit.

4.17 If a member is unable, or elects not, to accept a gift or personal benefit, a member must as soon as practicable, either:

- a) return the gift or personal benefit to the donor along with an explanation as to why the gift or personal benefit cannot, or will not, be accepted; or
- b) turn the gift or personal benefit over to the City Clerk for disposition.

4.18 A gift or personal benefit turned over to the City Clerk is deemed property of the City. At the City Clerk's discretion, a gift or personal benefit may be disposed of as follows:

- a) returned to the donor;
- b) displayed in individual offices, general offices, or in the public areas of City Hall; or
- c) disposed of by donation, sale or auction, with any proceeds credited to the city's general revenues or to the direct or indirect support of a charitable organization.

4.19 A gift or personal benefit provided to a member's spouse, child or parent, or the member's staff, that to the member's knowledge, is connected directly or indirectly to the performance of the member's duties is deemed to be a gift or personal benefit to that member.

PART 5 APPOINTMENT OF INTEGRITY COMMISSIONER

Appointment of an Integrity Commissioner

5.1 Council must appoint an Integrity Commissioner to undertake the duties and responsibilities set out in this By-law.

5.2 The appointment of an Integrity Commissioner must be for a set period of two (2) years. An Integrity Commissioner may be appointed for more than one term.

5.3 At the request of the Integrity Commissioner, Council may suspend the appointment for a mutually agreed period of time.

5.4 Council will not terminate an Integrity Commissioner except for cause.

5.5 The appointment of an Integrity Commissioner may only be made, suspended, or terminated by a 2/3 vote of all Council Members.

Interim of Ad Hoc Appointment

5.6 The City Manager may appoint an ad hoc Integrity Commissioner in the following circumstances:

- a) if the City has not yet entered into a contract for the appointment of an Integrity Commissioner;
- b) in the interim period between the expiry of the appointment of one Integrity Commissioner and the appointment of a new Integrity Commissioner; or
- c) if the appointed Integrity Commissioner is unable or unwilling to act.

Duties and Responsibilities

5.7 The duties and responsibilities of the Integrity Commissioner are as follows:

- a) provide advice and recommendations to a member on questions of compliance with this By-law where requested to do so by that member;
- b) provide advice and recommendations to a Council Member, regarding their compliance or disclosure obligations under a provincial statute, such as the *Financial Disclosure Act*, or other such statute that imposes an express compliance or disclosure obligation on the Council Member due to their position as an elected official, where requested to do so by a Council Member;
- c) prepare written materials and content for the city's website for distribution to, and use by, the public, to aid in their understanding of the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under this By-law;
- d) deliver educational programs regarding the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under this By-law;
- e) assist with informal resolution of confidential requests and complaints;
- f) receive and assess all complaints to determine if the complaint must be rejected, closed, resolved or investigated;
- g) investigate and conduct inquiries as to violation of this By-law;

- h) report to Council as to whether a member has breached this By-law;
- i) make recommendations on an appropriate remedy if a member has breached this By-law;
- j) submit an annual budget for approval by Council; and
- k) publish an annual report that includes a summary of the work of the Integrity Commissioner and any advice or recommendations that the Integrity Commissioner has to improve the text or operation of this By-law.

5.8 The Integrity Commissioner must perform the duties and responsibilities of their office in an independent manner.

PART 6 COMPLAINT AND RESOLUTION PROCEDURES

Confidential Requests

6.1 If a person believes that they have been subject to conduct by a member in breach of this By-law, that person may approach the Integrity Commissioner on a confidential basis, without the need to file a complaint, to request that the Integrity Commissioner inform the member of the alleged breach. Upon receipt of the confidential request, the Integrity Commissioner may attempt to address the conduct with the member.

6.2 The Integrity Commissioner must protect the confidentiality of a person making a request under section 6.1, unless the person making the request consents to disclosure.

Complaint Procedure

6.3 Any person may submit a complaint to the Integrity Commissioner.

6.4 A complaint must be in writing and describe with sufficient detail:

- a) the name of the complainant;
- b) the name of the respondent;
- c) the conduct that the complainant alleges to have breached this By-law;
- d) the date of the alleged conduct;
- e) the part or parts of this By-law that the complainant alleges has or have been breached; and
- f) the basis for the complainant's knowledge about the conduct.

6.5 A complainant may specify in the complaint if they are willing to participate in an informal resolution of the complaint.

6.6 The Integrity Commissioner may prescribe a form for submitting a complaint.

6.7 Provided that a complaint has been submitted, the Integrity Commissioner may accept a complaint, notwithstanding that the form of the complaint does not comply with all of the requirements set out in section 6.4 if, in the Integrity Commissioner's opinion, the circumstances warrant.

6.8 The Integrity Commissioner must not accept multiple complaints concerning the same matter. In the event that the Integrity Commissioner receives multiple complaints concerning the same matter, the Commissioner must proceed with the first complaint accepted, but may expand the complaint and/or add complainants for the purpose of conducting the investigation and preparing the investigation report.

6.9 The Integrity Commissioner must reject a complaint received more than 180 days after the complainant knew or reasonably ought to have known of the alleged breach of this By-law.

6.10 The Integrity Commissioner must reject a complaint received regarding a Council member seeking re-election in the period from the last day of the nomination period to the general voting day.

6.11 In the period 90 days prior to general voting day, the Integrity Commissioner may suspend any investigation underway until the day after the general voting day.

Complaint Outside of Jurisdiction

6.12 The Integrity Commissioner has the authority to investigate a complaint alleging that a member is in breach of this By-law.

6.13 If a complaint is submitted that, on its face, is not made with respect to a breach of this By-law, or if a complaint would be more appropriately addressed through another process, including if the complaint is:

- a) an allegation of a criminal nature consistent with the Criminal Code;
- b) with respect to non-compliance with the *Freedom of Information and Protection of Privacy Act*;
- c) with respect to conduct that may subject a member to disqualification pursuant to sections 140(4), 143(4) and 145.3 to 145.911 of the *Vancouver Charter*;
- d) with respect to non-compliance with a more specific Council policy or by-law with a separate complaint procedure; or
- e) with respect to a matter that is subject to another outstanding process, such as a court proceeding or a Human Rights complaint,

the Integrity Commissioner must reject the complaint, or part of the complaint, and must notify the complainant in writing that the complaint is not within the jurisdiction of this By-law, or that the complaint would be more appropriately addressed

through another process, as the case may be, and set out any additional reasons and referrals the Integrity Commissioner considers appropriate.

6.14 Where a complaint is made against a Council Member and the complaint procedure overlaps with a municipal election and the Council Member is not re-elected in that election, the Integrity Commissioner must notify the complainant and the Council Member in writing that the Integrity Commissioner is closing the complaint on this basis and close the complaint.

Preliminary Assessment

6.15 On receipt of a complaint, the Integrity Commissioner must conduct a preliminary assessment and if at that time, or any time thereafter, the Integrity Commissioner of the opinion that:

- a) the statement is not with respect to a breach of this By-law;
- b) the complaint is frivolous, vexatious, or not made in good faith;
- c) an investigation of the complaint would not be in the public interest;
- d) the investigation is, or might be, hampered, or the member might be prejudiced by the complainant's failure to provide a complaint in compliance with section 6.4, or otherwise cooperate with the investigation;
- e) the complainant wishes to withdraw the complaint, and it would be appropriate in the circumstances to allow the withdrawal; or
- f) there are no grounds or insufficient grounds for concluding that a violation of this By-law has occurred,

the Integrity Commissioner must notify the complainant and the respondent in writing that the Integrity Commissioner is closing the complaint, set out the reasons therefore, and close the complaint.

6.16 Notwithstanding section 6.15, the Integrity Commissioner may request further information from the complainant before determining whether or not there are sufficient grounds for believing that a breach of this By-law may have occurred.

Informal Resolution

6.17 When the Integrity Commissioner has decided to proceed with a complaint, the Integrity Commissioner must determine whether the complaint requires a formal investigation, or whether the complaint may be resolved informally. In the latter case, the Integrity Commissioner may, at their discretion, either attempt to resolve the complaint directly, or refer the complaint to:

- a) the Mayor, if the complaint is made by a member, unless the complaint is against the Mayor, in which case the complaint will be referred to the Deputy Mayor; or

b) the City Manager, if the complaint is made by a City employee or the public.

6.18 When determining whether the complaint may be resolved informally, the Integrity Commissioner may consider culturally appropriate, or transformative or restorative justice approaches, and may engage a third party to assist the Integrity Commissioner for this purpose.

6.19 Where the Integrity Commissioner refers the complaint in accordance with section 6.17, the Mayor, the Deputy Mayor, or the City Manager, as the case may be, may agree to assist in resolving the complaint directly, or may appoint a third party to assist in resolving the complaint at their discretion.

6.20 The person assisting in the informal resolution of a complaint will assess the suitability of the complaint for settlement or resolution on an ongoing basis and may decline to assist at any point.

6.21 The complainant, or the respondent, can decline to participate in an informal resolution at any time.

6.22 If a complaint is resolved informally, the person assisting in resolving the complaint must notify the Integrity Commissioner in writing of the terms of the resolution, upon receipt of which, the Integrity Commissioner must close the complaint.

6.23 If a complaint cannot be resolved informally, the person assisting in resolving the complaint must refer the complaint back to the Integrity Commissioner for a formal investigation.

Formal Resolution

6.24 If a complaint is not rejected, closed, or resolved informally, the Integrity Commissioner must proceed with a formal investigation.

6.25 The Integrity Commissioner must serve the complaint on the respondent with a request that the respondent provide a written response to the complaint together with any submissions the respondent chooses to make within 10 days, subject to the Integrity Commissioner's discretion to extend the timeline.

6.26 The Integrity Commissioner may serve the complainant with the respondent's written response together with any submissions, on a strictly confidential basis, and request a reply in writing within 10 days, subject to the Integrity Commissioner's discretion to extend the timeline.

6.27 The Integrity Commissioner may:

- a) speak to anyone relevant to the complaint;
- b) request disclosure of documents relevant to the complaint; or
- c) access any record in the possession or control of the city, except a record that is subject to privilege.

6.28 The Integrity Commissioner must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.

Adjudication and Reporting

6.29 The Integrity Commissioner must make a decision within 90 days of making a decision to proceed with a formal investigation, unless section 6.11 applies, or the Integrity Commissioner determines that doing so is not practicable, in which case the Integrity Commissioner must notify the complainant and respondent of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days on provision of written notice to the complainant and the respondent.

6.30 A notification issued pursuant to sections 6.13, 6.14, 6.15 or 6.29 is confidential and must not be disclosed except in the following circumstances:

- a) the Integrity Commissioner may use information in the notice in an annual report in the form of context and statistics;
- b) the Integrity Commissioner may prepare an anonymized bulletin based on the notice if the Integrity Commissioner believes that doing so would be of public benefit;
- c) to Council for the purpose of considering a resolution for reimbursement of legal fees pursuant to section 6.44; and
- d) the respondent may disclose the fact that the complaint has been closed, or that a finding has been made that the respondent did not breach this By-law.

6.31 If after reviewing all material information, the Integrity Commissioner determines that the respondent did not violate this By-law, then:

- a) Integrity Commissioner must prepare a written investigation report providing reasons for their determination that the member did not breach the By-Law;
- b) the Integrity Commissioner must deliver a copy of the investigation report to the complainant, respondent and Council; and
- c) the Integrity Commissioner must make the investigation report available to public forty eight (48) hours after delivery of the investigation report to the complaint, respondent and Council.

6.32 If after reviewing all material information the Integrity Commissioner determines that a member did violate this By-law then:

- a) the Integrity Commissioner must prepare a written investigation report providing reasons for their determination that the member breached this By-law;

- b) the investigation report will make recommendations as to the appropriate sanction for the breach;
- c) if the Integrity Commissioner determines that a member did breach this By-law, but that the member took all reasonable steps to prevent it, or that it was trivial or done inadvertently or because of an error in judgment made in good faith, the Integrity Commissioner will so state in the investigation report and may recommend that no sanction be imposed;
- d) the Integrity Commissioner must deliver, on a strictly confidential basis, a copy of the investigation report to the respondent; and
- e) the Integrity Commissioner must deliver a copy of the investigation report to the complainant and Council forty eight (48) hours after delivery of the investigation report to the respondent; and
- f) the Integrity Commissioner must make the investigation report available to public after delivery of the investigation report to the complainant and Council.

6.33 The Integrity Commissioner must ensure that the investigation report as drafted complies with the city's obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act*, or ensure that appropriate redactions are applied prior to release to the public.

Final Determination by Council

6.34 Council must, within 30 days of delivery of the investigation report pursuant to section 6.32 (e), or a longer period if approved by a vote of Council, decide on the appropriate measures, if any, that are warranted by the breach of this By-law, and will take such actions as Council considers appropriate in the circumstances.

6.35 Prior to Council making any decision regarding the findings and recommendations set out in the investigative report, the respondent must be provided with an opportunity, either in person or in writing, to comment on the decision and any recommended censure, sanctions or corrective actions.

6.36 While an investigation report provided to Council may be considered in a closed meeting for the purpose of receiving legal advice, or other valid reason, when Council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public in a form that complies with section 6.33.

Remedies

6.37 Sanctions that may be imposed for violating this By-law include the following:

- a) a letter of reprimand from Council addressed to the member;
- b) a request from Council that the member issue a letter of apology;

- c) the publication of a letter of reprimand and a request for apology by the Integrity Commissioner, and the member's written response;
- d) a recommendation that the member attend specific training or counselling;
- e) suspension or removal of the appointment of a Council Member as the Deputy Mayor;
- f) suspension or removal of the Council Member from some or all Council committees and bodies to which the Council Member was appointed by Council;
- g) termination of the Advisory Board Member's appointment from the advisory committee, task force, commission, board, or other Council-established body to which the Advisory Board Member was appointed by Council; and
- h) public censure of a member.

Confidentiality of the Investigation

6.38 The Integrity Commissioner must make all reasonable efforts to investigate complaints in confidence.

6.39 The Integrity Commissioner and every person acting under the Integrity Commissioner's instructions must preserve confidentiality with respect to all matters that come into the Integrity Commissioner's knowledge in the course of any investigation or complaint except as required by law.

6.40 An investigation report must only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purpose of the investigation report.

Reprisals and Obstruction

6.41 No member or City employee will obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner's duties or responsibilities.

6.42 No member or City employee will threaten or undertake any active reprisal against a complainant or against a person who provides information to the Integrity Commissioner in the context of an investigation.

6.43 No member or City employee will tamper with or destroy documents or electronic records related to any matter under investigation under this By-law or refuse to respond to the Integrity Commissioner when questioned regarding an investigation.

Reimbursement of Costs

6.44 If appropriate after considering all circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member in relation to a complaint in accordance with the provisions of the *Vancouver Charter*.

PART 7 ENACTMENT

Force and effect

7. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 9th day of February, 2021

Signed _____ "Kennedy Stewart"
Mayor

Signed _____ "Rosemary Hagiwara"
Acting City Clerk

Tab 2



Kennedy Stewart

@kennedystewart



.@CllrHardwick's action violates the signed agreement between the governments of Vancouver and Whistler with the Musqueam, Squamish, Tsleil-Waututh and Lílwat upon whose unceded lands our cities are built.
1/4

#vanpoli



vancouverisawesome.com

Vancouver councillor Colleen Hardwick wants plebiscite on 2030 Olympic bid
Councillors Adriane Carr and Sarah Kirby-Yung want to hear from First Nations before stating positions

10:28 AM · Mar 24, 2022 · Twitter Web App

10 Retweets 3 Quote Tweets 42 Likes





Kennedy Stewart @kennedystewart · Mar 24 ...

Replying to @kennedystewart

City Council approved a formal Memorandum of Understanding to work in partnership with host First Nations to explore how the 2030 Winter Olympics might become the world's first reconciliation games. 2/4

4 4 12



Kennedy Stewart @kennedystewart · Mar 24 ...

The MOU is a critical component of our UNDRIP obligations - now formalized in provincial law - as it outlined a clear process for all to follow in good faith which, at it's conclusion, includes council voting on a recommendation and may still involve community votes. 3/4

3 1 8



Kennedy Stewart @kennedystewart · Mar 24 ...

I will not second this motion. I urge other councillors to consider what supporting @CllrHardwick's decision to essentially tear up our MOU says about their own commitments to reconciliation. 4/4

[#vanpoll](#)

9 4 25

Tab 3

Memorandum of Understanding

(MOU)

BETWEEN

Chief Sparrow/Musqueam Nation

AND

Chairperson Khelsilem/Squamish Nation

AND

Chief Jennifer Thomas/Tsleil-Waututh Nation

AND

Chief Dean Nelson/Lil'wat Nation

AND INVITEE

Mayor Stewart/City of Vancouver

AND INVITEE

Mayor Crompton/ Resort Municipality of Whistler

CONCERNING

HOST NATIONS EXPLORATORY ASSEMBLY

FOR THE

2030 OLYMPIC AND PARALYMPIC WINTER GAMES BID CONSIDERATION

October 29th 2021

WHEREAS:

1. As the Title holders of the region, Musqueam Indian Band (“Musqueam”), Squamish Nation (“Squamish”), Tsleil-Waututh Nation (“Tsleil-Waututh”), and Lil’wat Nation (“Lil’wat”) have expressed interest in exploring the impacts and benefits of hosting the 2030 Winter Olympic and Paralympic Games exploring a potential formal bid with the Canadian Olympic Committee (“COC”) and Canadian Paralympic Committee (“CPC”).
2. The Municipality of Vancouver (“Vancouver”) and the Resort Municipality of Whistler (“Whistler”) as 2010 Winter Olympic and Paralympic Games co-host cities have been invited by the host nations, Musqueam, Squamish, Tsleil-Waututh, and Lil’wat to participate in these exploratory discussions and have a mutual interest in and exploring a potential formal bid with the COC and CPC.
3. Vancouver and Whistler have a deep commitment to fostering a sustained relationship of mutual respect and understanding with the host nations, Musqueam, Squamish, Tsleil-Waututh, and Lil’wat on all matters, including cooperating to facilitate a potential future 2030 Winter Olympic and Paralympic Games.
4. In order to redress the legacy of residential schools and advance the process of Reconciliation, the Truth and Reconciliation Commission calls upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples’ territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.

THEREFORE the host nations elected Chiefs/Chair from Musqueam, Tsleil-Waututh, Lil’wat, Squamish, and the invitees, the elected Mayors from Vancouver and Whistler enter into an agreement outlined in this Memorandum of Understanding (MOU) to form the **HOST NATIONS EXPLORATORY ASSEMBLY** (“Assembly”) **FOR THE 2030 OLYMPIC AND PARALYMPIC WINTER GAMES BID CONSIDERATION** by which the parties pledge to work together to explore the feasibility of hosting the 2030 Winter Olympic and Paralympic Games and potentially making a bid.

The parties agree to the following principles:

1. The members of the Assembly will share and seek formal endorsement of this MOU from their respective elected councils by November 30, 2021.

2. Endorsement will allow the Assembly to work directly with the COC/CPC to assess the feasibility such as costing, procurement and concept for pursuing a 2030 Winter Olympic and Paralympic Games bid in the region and authorizes the Assembly to enter into a working agreement with the COC/CPC.
3. The Assembly will pursue discussions with the Government of Canada and the Government of British Columbia, to explore funding opportunities and timelines to be incorporated into the bid feasibility analysis.
4. The final action of the Assembly will be to make a recommendation about whether or not the feasibility of the 2030 Winter Olympic and Paralympic Games should move forward to a formal bid. This recommendation needs to be reached no later than March 2022 in accordance with 2030 Winter Olympic and Paralympic Games timelines.
5. This MOU imposes no legally binding obligations on any of the parties nor does it in any way affect the rights and title claims of any of the signatories.

SIGNED:

X

Chief Sparrow/Musqueam Nation

X

Chairperson Khelsilem/Squamish Nation

X

Chief Jennifer Thomas/Tsleil-Waututh Nation

X

Chief Dean Nelson/Lil'wat Nation

X

Mayor Stewart/City of Vancouver

X

Mayor Crompton/Resort Municipality of Whistler

Tab 4

JOIN OUR NEWSLETTER

Vancouver councillor Colleen Hardwick wants plebiscite on 2030 Olympic bid



Mike Howell
Mar 23, 2022 1:03 PM



A city councillor who is running for mayor this year wants a plebiscite on whether citizens want Vancouver to host the 2030 Winter Olympics and Paralympics.

But rather than have a stand-alone vote, Colleen Hardwick wants a plebiscite question on the same ballot voters will cast in the October municipal election.

Hardwick, who was not immediately available for comment Wednesday, has stated her case for a plebiscite in a motion that she is expected to introduce when council meets next week.

“Vancouver electors/residents have not yet had the opportunity to express their views on this important matter that affects them,” she said in her motion.

Hardwick’s motion comes four months after the Musqueam, Squamish, Tsleil-Waututh and the Lilwat First Nations announced they jointly entered into a Memorandum of Understanding with the City of Vancouver and the Resort Municipality of Whistler to begin the process of assessing the feasibility of hosting an Olympic and Paralympic Games.

Hardwick’s suggested ballot question is straightforward: “Do you support or do you oppose the City of Vancouver’s participation in hosting the 2030 Olympic Winter Games and Paralympic Winter Games?”

\$575,000

Hardwick doesn’t provide an estimated cost to tie the question to the ballot.

But she noted the plebiscite held in 2003 to gauge whether citizens wanted to host the 2010 Winter Olympics and Paralympics cost \$575,000. More than 63 per cent of voters supported the city’s bid for the Olympics.

A byelection in 2017 cost \$1.2 million.

Given the significant financial commitment involved in hosting the Games, Vancouver electors should have a say on whether they favour proceeding with a 2030 Olympic bid, she said in her motion

✘

"In the event that any and all exploratory or concrete bids involving Vancouver for hosting the 2030 Olympics are dropped by the time ballots need to be finalized, this ballot question can be omitted," Hardwick said.

Mayor won't support motion

Mayor Kennedy Stewart said in a written statement Wednesday that Hardwick's call for a plebiscite does not honour the Memorandum of Understanding with First Nations "and risks severely undermining our relationship with the Musqueam, Squamish and Tsleil-Waututh people upon whose unceded lands our city is built."

"I will not second this motion and suggest other councillors consider what supporting councillor Hardwick's decision to essentially tear up our MOU says about their own commitments to reconciliation," Stewart said.

Councillors Adriane Carr and Sarah Kirby-Yung would not say Wednesday whether they supported Hardwick's motion, noting they want to hear from the four nations on what they think about a plebiscite.

"Without me knowing where they stand, I wouldn't vote for it," Carr said.

Kirby-Yung: "I've been a big fan of the importance of public input, but I also think that it's phenomenal that we have an Indigenous-led bid, and I don't want to discount that. I also know the significant boon that this could have to our tourism sector, which has just been decimated and is struggling."

Vancouver Is Awesome contacted Musqueam Chief Wayne Sparrow Wednesday but he wasn't available for comment at the time of this story being posted. Messages were also left for Khelsilem of the Squamish Nation.

'Stop this idea right now'

In November 2020, council voted 7-4 to direct staff to conduct preliminary work on the feasibility of hosting another Winter Olympics and Paralympics

✕

“In the Downtown Eastside, everybody pretty much understands that had we spent money on ending poverty and homelessness that we spent on the Olympics, that we could have done that,” she said at the time.

“I’m actually very uncomfortable with the idea of promoting something during a climate emergency that involves a bunch of flying around in airplanes all over the world. So I think there’s lots of reasons that we should just stop this idea right now.”

Hardwick, a first-term councillor, was acclaimed March 13 as the mayoral candidate for TEAM for a Livable Vancouver.

mhowell@glaciermedia.ca

@Howellings

Comments (2)
