

**VILLAGE OF PEMBERTON
-COMMITTEE OF THE WHOLE MEETING AGENDA-**

Agenda for the **Committee of the Whole** of Council of the Village of Pemberton to be held **Tuesday, July 21, 2015 at 1:00 PM** in the Council Chambers, 1350 Aster Street. This is meeting No. 136.

"This meeting is being recorded on audio tape for minute-taking purposes as authorized by the Village of Pemberton Audio recording of Meetings Policy dated September 14, 2010."

Time	Item of Business	Page No.
	1. CALL TO ORDER	
	2. APPROVAL OF AGENDA	
	Recommendation: THAT the agenda be approved as presented.	
	3. DELEGATION	
	a) Susan Lee, Woodlands Supervisor, BC Timber Sales – Community Forest Partnership Opportunities	2
	b) David MacKenzie, President, Tourism Pemberton – Request for Permanent Funding Support	3
	4. TRADITIONAL TERRITORY ACKNOWLEDGEMENT – report dated July 7, 2015, Committee of the Whole deferred consideration to July 21, 2015.	5
	Recommendation: THAT Committee of the Whole provide a recommendation to Council to consider its inclusion at Council and Committee meetings;	
	AND THAT should the Committee provide such a recommendation that suggested wording of an acknowledgment of Lil'wat Traditional Territories be proposed.	
	5. LEGAL ADVICE FOR COUNCIL MEMBERS ON CONFLICT OF INTEREST POLICY	12
	Recommendation: THAT Committee of the Whole review the proposed policy and provide direction.	

WEBSITE FORM SUBMISSION

The following was submitted from the pemberton.ca **Request to Appear Before Council Form**.

Full Name: Susan Lee

Email Address: susan.lee@gov.bc.ca

Phone Number: 604-898-2134

Mailing Address: 101-42000 Loggers Lane

Street Address: 101-42000 Loggers Lane

Town/City: Squamish

Province/State: BC

Postal/Zip Code: V8B 0H3

Country: Canada

Requested Date: 7/21/2015 12:00:00 AM

Purpose of Presentation: Partnership opportunities between Pemberton Community Forest and BC Timber Sales

By submitting this form, you agree to the terms and conditions listed below: I Agree

TERMS & CONDITIONS

I/We acknowledge that only the above matter will be discussed during the delegation.

Where the subject matter of a delegation pertains to legal matters, personnel, and/or private property issues, the Village of Pemberton reserves the right not to hear such delegations.

Council meetings are public meetings unless the public interest requires closure to the public pursuant to the *Community Charter*. This request may become part of the public record in the meeting agenda package, which will be distributed to Council, staff, media, and the public online at www.pemberton.ca.



March 12th, 2015

Mayor & Council
Village of Pemberton
Box 100
Pemberton, BC V0N2L1

Re: PERMANENT FUNDING SUPPORT FOR TOURISM

Dear Mayor and Council,

As you are aware, Tourism is an important economic generator for our Province and our region. Tourism Pemberton has been marketing Pemberton and area as a destination of choice since its inception in 2005.

Tourism Pemberton is recognized as the local community Destination Marketing Organization (DMO) by Destination British Columbia.

Most recently we have been working with Tourism Whistler and Tourism Squamish on partnering on a marketing campaign to bring focus to the Sea to Sky corridor, with a total campaign cost of \$135,000.

I respectfully request that Council consider making an investment in tourism by creating a permanent line item in the Village budget. Over the last 10 years, the money that Tourism Pemberton has been investing in destination marketing has brought great returns as we have seen an increase in visitors from various market segments such as cycling tourism, agri-tourism, and destination weddings.

Across the province most communities invest into their local DMO as they realize the importance of Tourism as a vibrant economic generator. Funds from the Economic Development Tax Requisition could be considered for this investment, as Tourism is a proven economic generator with a solid return on investment.

A tiered commitment from the village over the next few years, beginning with \$10,000 and doubling each year over the next three years to \$40,000 bringing your commitment in line with other BC communities of comparable size.

Adventure Begins Here

P.O. Box 370, Pemberton, British Columbia, CANADA, V0N 2L0

www.tourismpembertonbc.com



I would be more than happy to meet with Council to discuss this investment or to answer any questions or concerns of Council.

Sincerely,

A handwritten signature in blue ink, appearing to be "David MacKenzie".

David MacKenzie
President

Adventure Begins Here

P.O. Box 370, Pemberton, British Columbia, CANADA, V0N 2L0

www.tourismpembertonbc.com

Date: July 7, 2015
To: Nikki Gilmore, Chief Administrative Officer
From: Paige MacWilliam, Legislative Assistant
Subject: Acknowledgement of Lil'wat Nation Traditional Territory

PURPOSE

The purpose of this report is to present to the Committee of the Whole information on opening Council and Committee meetings with a welcome to Lil'wat Nation Traditional Territory.

BACKGROUND

In 2010, the Village of Pemberton and Lil'wat Nation entered into a Protocol Agreement (see Appendix A) that “recognize(s) and acknowledge(s) that the Lil'wat Nation asserts aboriginal title to all lands within its traditional territory.” Both the Village of Pemberton and Lil'wat Nation have agreed that “entering into this (Protocol) Agreement will... raise awareness and understanding of Lil'wat Nation aboriginal title and rights.”

At the Regular Council Meeting No. 1400, held on Tuesday, June 16, 2015, as part of the discussion respecting the Council Procedure Bylaw, which was introduced for First, Second and Third Reading, Council also discussed opening each meeting with a welcome to Lil'wat Nation Traditional Territory. At the conclusion of the discussion, Council passed the following resolution:

Moved/Seconded

THAT staff be directed to research and bring back a report on opening Council meetings with a welcome or acknowledgement of Lil'wat Nation Traditional Territory.

CARRIED

Other local governments in the Sea to Sky Corridor have implemented and/or are considering implementing a welcome or acknowledgement of First Nation Traditional Territory upon commencement of their meetings.

DISCUSSION & COMMENTS

Staff have reviewed the practices of the District of Lillooet, District of Squamish, Squamish-Lillooet Regional District, Resort Municipality of Whistler and Sea to Sky School District No. 48; in addition, Lil'wat Nation staff were consulted for their advice on the inclusion of a welcome or an acknowledgement of traditional territory:

Lillooet

The District of Lillooet does not currently include a welcome to or acknowledgement of First Nation Traditional Territory at their Council or Committee meetings.

Squamish

The District of Squamish began acknowledging that their meetings are held on Squamish Nation Territory at the beginning of each meeting at the end of March, 2015. In the agenda and the minutes of each meeting the acknowledgement is recorded as:

Welcome to the Squamish Nation Traditional Territory
Ha7lh en skwalwn Kqis tl'iknumut tl'a Skwxwuu7mesh Uxwumixw

Rather than reading the welcome, the Chair of each Council or Committee meeting begins by stating:

"I would like to acknowledge that we are on traditional Squamish Nation Territory"

Squamish-Lillooet Regional District

The Squamish-Lillooet Regional District is in the process of researching the implementation of a welcome or acknowledgement of First Nation Traditional Territory at Board meetings.

Whistler

The Resort Municipality of Whistler does not currently include a welcome to or acknowledgement of First Nation Territory at their Council or Committee meetings.

Sea to Sky School District

Sea to Sky School District recently began including an acknowledgement of the First Nation Traditional Territory at the beginning of each meeting, which is also included in the meeting agenda and minutes. The acknowledgement is adjusted to reflect the First Nation Territory upon which each meeting is held; when meetings are held in Pemberton, the chair reads out the following sentence:

"We would like to acknowledge that we are on the Traditional Territory of the St'at'yeme Nation"

When School District meetings are held in Squamish, the following acknowledgement is read:

"We would like to acknowledge that we are on the Traditional Territory of the Skwxú7mesh Nation"

Lil'wat Nation

Lil'wat staff have advised that an acknowledgement of Traditional Territory would be more appropriate than including a welcome. In addition, Lil'wat staff have recommended extending appreciation to Lil'wat Nation for allowing the Village of Pemberton on their territory. The Lil'wat Nation Cultural Department can provide assistance with translating an acknowledgement to Ulcwalmc.

LEGAL CONSIDERATIONS

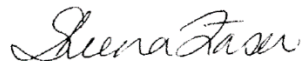
There are no legal considerations.

IMPACT ON BUDGET & STAFFING

There are no costs associated.

INTERDEPARTMENTAL IMPACT & APPROVAL

Adding a welcome or acknowledgement to the Council agendas and minutes will be incorporated into the daily routine of the Corporate & Legislative Services department and can be accommodated.



Sheena Fraser
Manager of Corporate & Legislative Services

IMPACT ON THE REGION OR NEIGHBOURING JURISDICTIONS

Including a welcome or acknowledgement is a respectful way of recognizing the Lil'wat Nation in whose traditional territories we live and work.

ALTERNATIVE OPTIONS

THAT Committee of the Whole provide a recommendation to Council that an acknowledgement of Lil'wat Traditional Territories at Council and Committee meetings not be included.

POTENTIAL GOVERNANCE CONSIDERATIONS

This initiative supports the Village's Strategic Priorities 2015, particularly the Village's Strategic Priority of Social Responsibility.

The Village strives to create a strong and vibrant community recognizing the importance and benefits of both healthy and engaged citizens as well as an accessible and well managed natural environment.

RECOMMENDATIONS

THAT Committee of the Whole provide a recommendation to Council to consider its inclusion at Council and Committee meetings;

AND THAT should the Committee provide such a recommendation that suggested wording of an acknowledgment of Lil'wat Traditional Territories be proposed

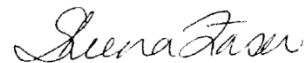
Attachments:

Appendix A: Mount Currie Band, Lil'wat Nation and Village of Pemberton Protocol Agreement dated July 30, 2010.



Paige MacWilliam
Legislative Assistant

MANAGER:



Sheena Fraser
Manager of Corporate & Legislative Services

CHIEF ADMINISTRATIVE OFFICER REVIEW



Nikki Gilmore
Chief Administrative Officer

Committee of the Whole

PROTOCOL AGREEMENT

This AGREEMENT dated for reference the 30 day of July, 2010

BETWEEN: **Mount Currie Band, Lil'wat Nation**
Box 602, Mount Currie, BC, V0N 2K0

AND : **Village of Pemberton**
P.O. Box 100, 7400 Prospect Street
Pemberton, BC, V0N 2L0

(the Parties)

WHEREAS:

- A. Mount Currie Band (Lil'wat Nation) and the Village of Pemberton (Pemberton) each have distinct governance authorities and responsibilities towards their residents and members, and acknowledge that the interests of all persons living in their communities are best served by the Parties working together in the spirit of cooperation.
- B. The Parties acknowledge that the boundaries of Pemberton are within the Lil'wat Nation traditional territory.
- C. The Parties recognize and acknowledge that the Lil'wat Nation asserts aboriginal title to all lands within its traditional territory.
- D. The Parties recognize that building a government-to-government relationship will create a level of certainty for our respective communities and jurisdictions and ensure an important dialogue to improve the quality of life for all our residents.
- E. The Parties agree that entering into this Agreement will serve to continue a cooperative government-to-government relationship, permit sharing information, maintain communications, permit addressing specific concerns, and raise awareness and understanding of Lil'wat Nation aboriginal title and rights as well as the responsibilities of Pemberton under the Local Government Act and the Community Charter.

NOW THEREFORE the Parties agree as follows:

1.0 PURPOSE

- 1.1 The purpose of this Agreement is to:
 - (a) foster and maintain a cooperative government-to-government relationship
 - (b) maintain effective communications
 - (c) develop goals and objectives that are of mutual benefit to our citizens

2.0 PRINCIPLES OF COOPERATION

The Parties agree:

- 2.1 to coordinate quarterly joint council meeting between the Lil'wat Nation Chief and Council and Pemberton's Mayor and Council to discuss annual work plans, areas of common concern and/or interest as well as to issue common and coordinated directives to appropriate staff via joint council resolutions;
- 2.2 to instruct staff to meet regularly to promote open and constructive dialogue and develop trust and respect, and identify areas of common interest and concern;
- 2.3 to work cooperatively and share information to ensure that the Parties have a full understanding of public initiatives, governing structures, traditions, and responsibilities; and
- 2.4 to respect the views and authority of each of the Parties.

3.0 KEY INTERESTS

- 3.1 The Parties agree to work together and explore the following key interests:
 - (a) the protection of culture, tradition and heritage,
 - (b) the protection of environment,
 - (c) intergovernmental coordination,
 - (d) the development of a strong local economy,
 - (e) coordinated land use planning and management (e.g., CCP, OCP, ATR, Boundary Extension, LLUP, LUPA, CLUP, etc.), and
 - (f) shared services, including but not limited to water, sewer, solid waste and transit.

4.0 COMMUNICATIONS AND CONSULTATION

- 4.1 The Parties recognize that the success of a government-to-government relationship will hinge upon open and transparent communications based on trust, respect and mutual understanding. As such the parties recognize that they will discuss access and address key interests openly and transparently.
- 4.2 The Parties acknowledge that some information is sensitive and that confidentiality agreements may be required.
- 4.3 The Parties will seek to ensure appropriate consultation practices are followed to facilitate collaborative decision-making on areas of common interest.
- 4.4 The Parties acknowledge and recognize that nothing in this agreement lessens or eliminates any obligation for consultation, accommodation or consent with respect to Lil'wat Nation aboriginal title or rights.
- 4.5 In the event of a potential infringement of Lil'wat Nation aboriginal title or rights, the Parties agree to enter into meaningful consultations specifically targeted to addressing the potential infringement.

5.0 DISPUTE RESOLUTION

- 5.1 Where a dispute arises between the Parties, the Parties agree that they may, upon reasonable notice, call a special meeting of the Parties to discuss the dispute.
- 5.2 Where the Parties are unable to resolve a dispute by special meeting, the parties may propose dispute resolution procedures including but not limited the involvement of a mediator.
- 5.3 The Parties agree to share dispute resolution costs on a 50/50 basis.

6.0 TERMS OF THE AGREEMENT

- 6.1 The Parties agree this Agreement shall take effect upon the adoption by motion or resolution by the Lil'wat Chief and Council and the Village of Pemberton Mayor and Council.
- 6.2 The Parties agree this Agreement is a living document and may be subject to revision from time to time by mutual consent. The revisions must be agreed to in writing and adoption by motion or resolution of the Lil'wat Council and the Village of Pemberton Mayor and Council.
- 6.3 This Agreement will remain in effect unless terminated by either of the Parties by providing sixty (60) days notice in writing, to be delivered by hand, facsimile or registered mail.

7.0 ADDRESS FOR SERVICE

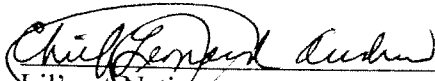
Lil'wat Nation at:

PO Box 602
 Mount Currie, BC V0N 2K0
 Fax: 604-894-6841
 Attention: Chief of the Lil'wat Nation, Mount Currie Band

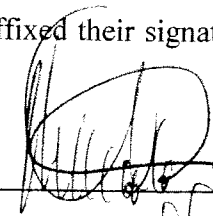
Village of Pemberton at:

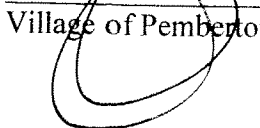
Box 100
 Pemberton, BC V0N 2L0
 Fax: 604-894-6135
 Attention: Mayor of the Village of Pemberton

IN WITNESS WHEREOF the Parties have hereunto affixed their signatures as of the day and year first written above.

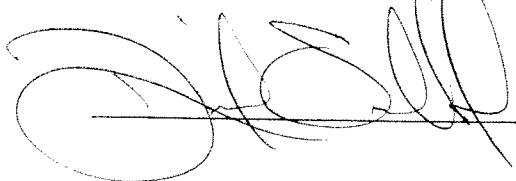


 Lil'wat Nation





 Village of Pemberton



Date: July 21, 2015
To: Nikki Gilmore, Chief Administrative Officer
From: Paige MacWilliam, Legislative Assistant
Subject: Legal Advice for Council Members on Conflict of Interest Policy

PURPOSE

The purpose of this report is to present for the Committee of the Whole's consideration the revised policy to establish criteria to provide for the partial reimbursement of expenses incurred by a Council member in obtaining independent legal advice as to whether the member is in potential conflict of interest (Appendix A).

BACKGROUND

The Committee of the Whole reviewed the draft Legal Advice for Council Members on Conflict of Interest Policy at meeting No. 135 held on July 7, 2015. After an initial discussion, the Committee passed the following resolution:

Moved/Seconded

THAT feedback from Council members on the draft Legal Advice for Council Members on Conflict of Interest Policy be provided to the Chief Administrative Officer.

AND THAT staff research further, review feedback and prepare a revised draft policy for consideration at the July 21, 2015, Committee of the Whole meeting.

CARRIED

Based on the feedback received from the committee at the meeting, staff has prepared an updated draft policy and a decision flow chart for further consideration (Appendix A and B).

DISCUSSION & COMMENTS

The draft policy has been updated to expand the scope of the purpose, remove the requirement to consult with the Chief Administrative Officer prior to seeking independent legal advice and emphasize that advice from the Village's legal Council will be sought jointly by the member of Council in potential conflict and the Chief Administrative Officer.

LEGAL CONSIDERATIONS

Conduct of members of Council is governed by the *Community Charter* (Section 100 – Section 111). The penalties for behaving in contravention to these sections include disqualification from holding public office and repayment of all or part of the member's financial gain. For example, Section 111 of the *Community Charter* sets out the process by which 10 or more electors of the municipality may apply to the Supreme Court to have a member of Council disqualified from

Office as a result of contravening the rules governing conduct as set out in the *Community Charter*.

In regards to legal advice on conflict of interest, *Financial Disclosure Act* would apply to any financial reimbursement and the *Freedom of Information and Protection of Privacy Act* would apply to any legal opinion obtained in accordance with this proposed policy.

IMPACT ON BUDGET & STAFFING

The impact of this policy on the Village's annual operating budget will depend on the number of legal opinions sought at the expense of the Village and on the total spending limit for seeking independent legal advice set by this proposed policy.

INTERDEPARTMENTAL IMPACT & APPROVAL

Providing a recommendation regarding potential conflicts of interest to Council members will be incorporated into the daily routine of the Office of the Chief Administrative Officer and can be accommodated.



Nikki Gilmore
Chief Administrative Officer

Processing payment reimbursements for independent legal advice will be incorporated into the daily routine of the Finance and Administration Department and can be accommodated.



Lena Martin
Manager of Finance and Administration

IMPACT ON THE REGION OR NEIGHBOURING JURISDICTIONS

Implementing this potential policy will not have an impact on neighbouring jurisdictions.

ALTERNATIVE OPTIONS

The following alternative options have been provided:

Option One:

- Postpone this policy initiative indefinitely.

Option Two:

- Postpone this policy initiative to a future Committee of the Whole Meeting.

Option Three:

- Support the draft policy as amended and direct staff to bring it forward for Council's consideration at the September 1st Council Meeting.

POTENTIAL GOVERNANCE CONSIDERATIONS

This initiative supports the Village's Strategic Priorities 2015, particularly the Priority of Good Governance:

The Village is committed to citizen engagement, being an open, honest and accountable government, and fiscal responsibility.

RECOMMENDATIONS

THAT Committee of the Whole review the proposed amended draft policy and provide direction to staff.

Attachments:

Appendix A - Legal Advice on Conflict of Interest for Council Members Policy

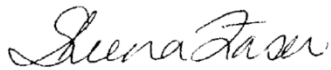
Appendix B - Decision Flow Chart

Appendix C - Report to Committee of the Whole Meeting No. 135 – Legal Advice on Conflict of Interest for Council Members Policy



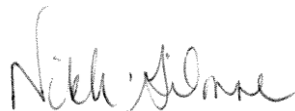
Paige MacWilliam
Legislative Assistant

MANAGER:



Sheena Fraser
Manager of Corporate & Legislative Services

CHIEF ADMINISTRATIVE OFFICER REVIEW



Nikki Gilmore
Chief Administrative Officer



Legal Advice for Council Members on Conflict of Interest Policy

Department:	Corporate & Legislative Services	Policy No.:	COU-008
Sub-department:		Created By:	Paige MacWilliam
Approved By:		Amended By:	
Approved Date:		Amendment:	
Meeting No.:		Meeting No.:	

POLICY PURPOSE

To establish ~~criteria to provide for the partial reimbursement of expenses incurred by guidelines for a members of Council member in when~~ obtaining independent legal advice as to whether the member is in potential conflict of interest with respect to a particular matter currently under consideration by Council, or know to be forthcoming for consideration by Council.

ASSOCIATED POLICIES

FIN-003 Expense Claim Policy

DEFINITIONS

Conflict of interest is when a member of Council considers that he or she is not entitled to participate in the discussion of a matter, or vote on a question in respect of a matter, because the member has a direct or indirect pecuniary interest in the matter or another interest in the matter that constitutes a conflict of interest (*Community Charter, S. 100*).

Independent legal advice is advice provided by a lawyer not associated with the Village of Pemberton.

POLICY

In accordance with the *Community Charter S. 100*, it is the personal responsibility of each member of Council to be aware in good faith of his or her conflicts of interest and to make the decision to declare them and to conduct themselves in accordance with that legislation, including making every effort to avoid participating in discussions (before, during or after meetings) or voting on issues in which a member may be in conflict.

Council members, who wish to obtain legal advice as to whether the member is in a potential conflict of interest with respect to a particular matter currently under consideration by Council, or known to be forthcoming for consideration by Council, ~~must are encouraged to~~ first discuss the matter with the Chief Administrative Officer (CAO).

The CAO shall determine whether it is in the Village's best interest to seek legal advice as to the possible conflict of interest from the Village's legal service provider at the expense of the Village. If legal advice is sought jointly by the CAO and member of Council regarding the possible conflict of interest, the advice will be disclosed to the rest of Council prior to the Council member making a decision whether to declare a conflict of interest.

Council members who wish to seek independent legal advice are not entitled to reimbursement if a legal opinion was first sought jointly with the CAO. Independent legal advice, where no previous



opinion was jointly sought with the CAO, the Council member will be entitled to reimbursement of 75% reimbursement for those expenses incurred by the member in obtaining independent legal advice. The annual aggregate amount available for this purpose for all Councillors is \$2,000, although this amount may be increased at the discretion of Council.

Commented [sf1]: NOTE TO COMMITTEE: This percentage is suggested based on a review of policies from other municipalities. The percentage of reimbursement could be adjusted higher or lower.

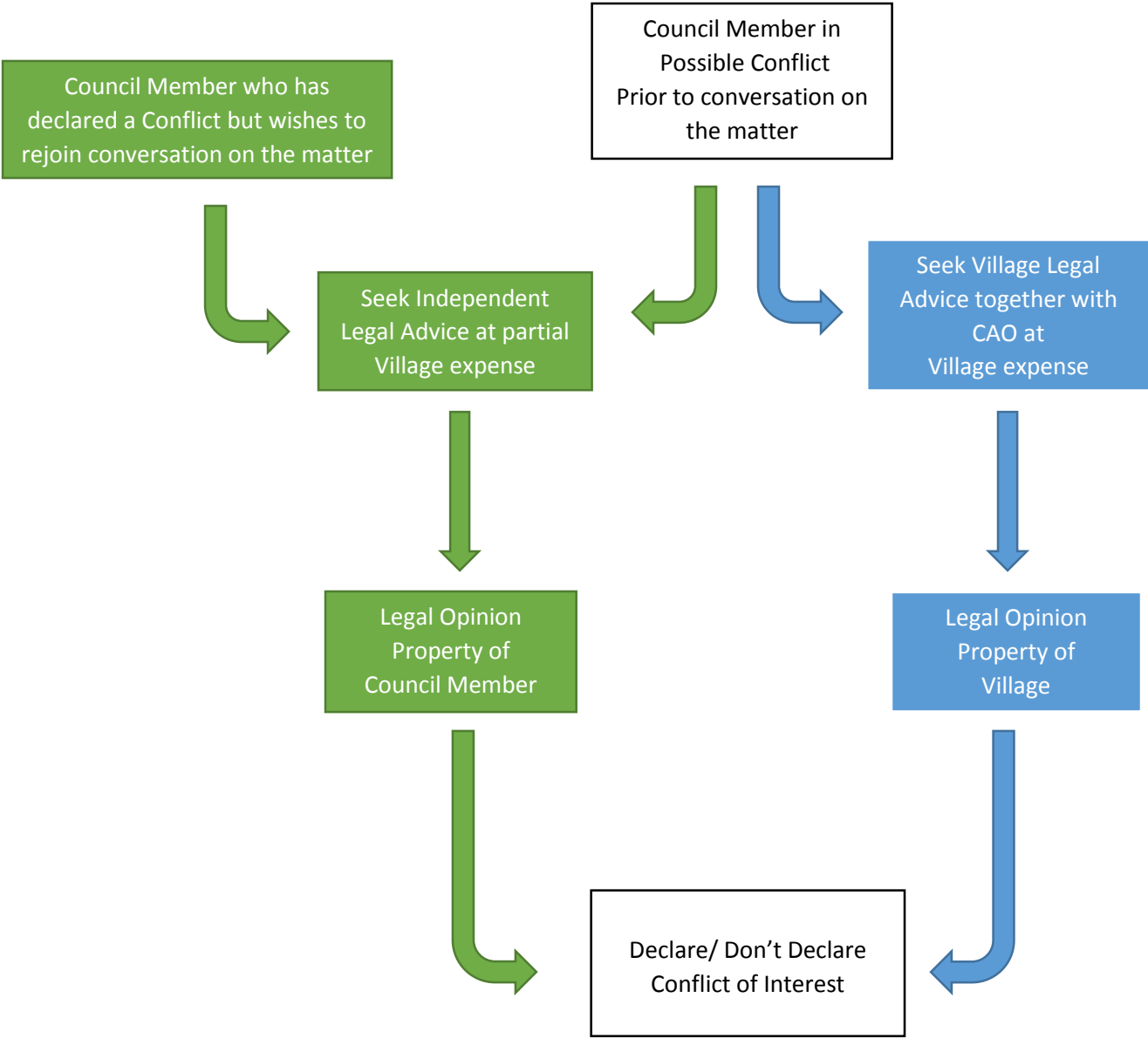
Commented [sf2]: NOTE TO COMMITTEE: This amount was based on a best guess but will need to be able to support whatever the percentage of reimbursement determined is appropriate and would be authorized through the policy. A review of other policies showed that funds set aside were as low as \$1,000 and as high as \$5,000 depending on the size of Council.

PROCEDURES

- 1. As a preliminary step, a member of Council considering a potential conflict of interest may wish to discuss the circumstances with the CAO for an initial opinion on the matter. The CAO will decide whether or not to seek legal advice from the Village’s legal service provider at the expense of the Village.
2. If seeking legal advice is sought by the CAO from the Village’s legal service provider at the expense of the Village as to a possible conflict of interest is approved by the CAO and sought jointly by the CAO and member of Council, the Village will have solicitor-client privilege pertaining to that advice is the Village’s.
3. Any Council member, who has a need at any time to obtain independent legal advice as to whether the member is in a potential conflict of interest with respect to a matter currently under consideration by Council, or known to be forthcoming for consideration by Council, may engage a lawyer to provide such advice.
4. A copy of this policy must be provided to the lawyer engaged to ensure a clear understanding of expenses eligible for payment under this policy. The lawyer providing the opinion to a Council member must confirm, in writing, that he or she has received a copy of this policy.
5. Any advice or opinion arising from such consultation remains the property of the Council member. Council may ask for a copy of the legal opinion but the opinion is the property of the Council member seeking it and the Council member may refuse to provide it and will still be eligible for reimbursement under this policy.
6. However, in the event the Village of Pemberton becomes involved in legal action in which the independent legal advice would assist the Village in its defense, then it is expected the Council member will make every effort to provide the Village’s solicitor with the independent legal advice and any supporting information.
7. Invoices may be paid directly by the Council member who will then provide a copy to the Village for partial reimbursement.
8. Invoices must provide enough information to identify that the legal services provided pertain only to a matter of conflict of interest in respect of a defined matter currently under consideration by Council, or known to be forthcoming for consideration by Council.
9. Reimbursement will not be provided for legal advice provided by another lawyer or law firm in respect of the same matter.
10. Reimbursement in accordance with this policy is available only to Council members during their term of office.
11. Any amounts paid out pursuant to this policy on behalf of a Council member will be included in the Annual Report of Remuneration and Expenses as required by the Financial Disclosure Act.

Appendix B

Legal Advice for Council Members Flow Chart – For Discussion Purposes



Date: July 7, 2015
To: Nikki Gilmore, Chief Administrative Officer
From: Paige MacWilliam, Legislative Assistant
Subject: Legal Advice on Conflict of Interest for Council Members Policy

PURPOSE

To purpose of this report is to present for the Committee of the Whole's consideration a policy to establish criteria to provide for the partial reimbursement of expenses incurred by a Council member in obtaining independent legal advice as to whether the member is in potential conflict of interest (see Appendix A).

BACKGROUND

The *Community Charter* sets out rules, requirements and penalties for conflict of interest on the part of members of Council. In accordance with the *Community Charter*, it is the personal responsibility of each member of Council to be aware of actual or potential direct or indirect pecuniary interests or "another interest in the matter that constitutes a conflict of interest" (Section 100). This could include any benefit obtained by relations, close friends, or associates of a member who is in conflict.

Members of Council should avoid being in conflict and should make that determination before participating in a discussion on the matter or voting on a question in respect to the matter. As the facts of each circumstance are unique, a member of Council may wish to seek a legal opinion on whether or not they are in conflict of interest on a matter known to be forthcoming for consideration. Alternatively, if a member has declared a conflict of interest on a matter, they may later determine that they are not in conflict of interest. Only if they have obtained legal advice on the question of conflict, may the member of Council subsequently withdraw the original declaration of conflict of interest.

When in doubt it is recommended that a Council member seek a legal opinion as the *Community Charter* lays out the penalties for members of Council who contravenes the standards provisions as identified in Section 108 through 110.

DISCUSSION & COMMENTS

The Minister of Community, Sport and Cultural Development suggests that it is in the public interest for municipalities to establish a policy to encourage and enable Council members to seek legal advice where the question of conflict is not clear. The Ministry advises local governments to consider the following aspects when establishing a Conflict of Interest Policy:

- ***At what point should council seek legal advice?***
 - In the proposed policy, Council members must first approach the Chief Administrative Officer who will help to determine at what point a member of Council should seek legal advice and whether it is appropriate to seek advice from the Village's legal services provider at the expense of the Village.
 - The proposed policy also includes an avenue for Council members to seek independent legal advice at their discretion.
- ***Will the opinion obtained by a member be disclosed to the rest of council prior to making a decision whether to declare a conflict of interest?***
 - In the proposed policy, legal advice sought from the Village's legal service provider at the expense of the Village will be disclosed to the rest of Council prior to the Council member making a decision whether to declare a conflict of interest.
 - If a Council member seeks independent legal advice, the proposed policy stipulates that the legal advice will remain the property of the Council member and the Council member may refuse to provide it to Council.
- ***Should council consider paying for the legal advice? If so, what criteria should be used to determine if the municipality should pay for it?***
 - The proposed policy gives the Chief Administrative Officer the authority to seek legal advice on behalf of the Council member regarding a possible conflict at the expense of the Village, which will mitigate any financial disincentive to Council members for seeking legal advice.
 - The proposed policy provides for reimbursement of a portion of the costs of independent legal advice, which will partially mitigate any financial disincentive to Council members for seeking independent legal advice.
- ***If Council pays for legal advice, should there be a maximum budget for legal advice for each member of Council over a set time period? Per request? Per member?***
 - The proposed policy includes a combined annual spending limit of \$2000 for all members of Council, with the option of increasing this amount at Council's discretion.
 - A combined annual limit is proposed in the policy, rather than a spending limit for each member of Council, to provide more flexibility to cover independent legal advice sought on an irregular as-needed basis.

LEGAL CONSIDERATIONS

In addition to the *Community Charter* considerations mentioned in the Background section of this report, the *Financial Disclosure Act* would apply to any amount paid out to reimburse a

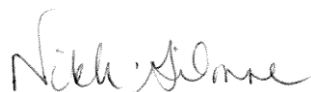
member of Council. Custody provisions of the *Freedom of Information and Protection of Privacy Act* would apply to any legal opinion obtained in accordance with this proposed policy.

IMPACT ON BUDGET & STAFFING

The impact of this policy on the Village's annual operating budget will depend on the number of legal opinions sought at the expense of the Village and on the total spending limit for seeking independent legal advice set by this proposed policy. At this time, there have been no funds allocated to the Governance budget for legal services, however, for 2015, it is anticipated that the Admin legal budget can support any opinions required. A budget amount will need to be allocated in 2016 and beyond.

INTERDEPARTMENTAL IMPACT & APPROVAL

Providing a recommendation regarding potential conflicts of interest to Council members will be incorporated into the daily routine of the Office of the Chief Administrative Officer and can be accommodated.



Nikki Gilmore
Chief Administrative Officer

Processing payment reimbursements for independent legal advice will be incorporated into the daily routine of the Finance and Administration Department and can be accommodated.



Lena Martin
Manager of Finance and Administrative Services

IMPACT ON THE REGION OR NEIGHBOURING JURISDICTIONS

Implementing this potential policy will not have an impact on neighbouring jurisdictions.

ALTERNATIVE OPTIONS

THAT the Committee of the Whole recommend to Council that the proposed Legal Advice on Conflict of Interest for Council Members Policy not be adopted.

POTENTIAL GOVERNANCE CONSIDERATIONS

This initiative supports the Village's Strategic Priorities 2015, particularly the Priority of Good Governance:

The Village is committed to citizen engagement, being an open, honest and accountable government, and fiscal responsibility.

RECOMMENDATIONS

THAT Committee of the Whole review the proposed draft policy and provide direction.

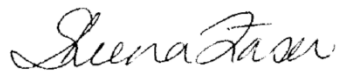
Attachments:

Appendix A – Legal Advice on Conflict of Interest for Council Members Policy



Paige MacWilliam
Legislative Assistant

MANAGER:



Sheena Fraser
Manager of Corporate & Legislative Services

CHIEF ADMINISTRATIVE OFFICER REVIEW



Nikki Gilmore
Chief Administrative Officer