

# **The Corporation of the City of Kawartha Lakes**

## **Committee of the Whole Report**

**Report Number LGL2020-007**

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**Meeting Date:** June 9, 2020

**Title:** Proposed Amendments to the Policy and Code of Conduct for Committees, Boards and Task Forces

**Description:** Proposed Amendments to the Policy and Code of Conduct for Committees, Boards and Task Forces – CP2018-017 & CP2018-018

**Ward Number:** All

**Author and Title:** Robyn Carlson – City Solicitor

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### **Recommendations:**

**That** Report RS2020-007 “Proposed Amendments to the Policy and Code of Conduct for Committees, Boards and Task Forces”, be received;

**That** the proposed amendments to CP2018-017 and CP2018-018 as set out in this Report be adopted; and

**That** these recommendations be forwarded to the next Council agenda for adoption.

**Department Head:**\_\_\_\_\_

**Chief Administrative Officer:**\_\_\_\_\_

## **Background:**

On February 19, 2019, Council Report CAO2019-003 was advanced to Council for its consideration. That Report recommended amendments to Council Policies CP2018-017 and CP2018-018. Council Policy CP2018-017 sets out the process for appointments to and terminations from Committees, Boards and Task Forces established by Council, the roles and responsibilities of the members, and how business is conducted. Council Policy CP2018-018 sets out a code of conduct for the members of these Committees, Boards and Task Forces. Report CAO2019-003 is attached as Attachment A for reference.

### *Proposed Amendments to CP2018-017*

Report CAO2019-003 recommends two changes to CP2018-017. The first, at the first page of the policy, indicates that CP2018-018 is a related Council Policy. This change is administrative in nature; not substantive.

The second proposed change is an addition of text at policy 6.4, dealing with the process on member termination from a Committee, Board or Task Force. Currently, the policy indicates that an allegation of member misconduct will be brought forward to the Mayor, and that Council will make a determination as to whether or not the member should be terminated. Report CAO2019-003 recommended adding the following text: “The Mayor will determine the contravention(s) alleged, and investigate in keeping with Council Policy CP2018-018 (Code of Conduct and Ethics – Members of Committees/ Boards & Task Forces).”

### *Proposed Amendments to CP2018-018*

Similar to the proposed reference to CP2018-018 in CP2018-017, Report CAO2019-003 proposed to amend CP2018-018 to include a reference to related policy CP2018-017. The second proposed amendment occurs at page 1, where the principles of conduct are set out. One of the principles is that members show “respect and support of others, including Council members, members of City staff and members of the public.” “Committee members” is proposed to be added to this list. The list itself is set out as an exhaustive list.

The balance of the amendments proposed by Report CAO2019-003 occur under the “Contraventions/ Compliance” heading. Those changes clarify that the Mayor is to receive a complaint about an alleged contravention of Policy CP2018-018 in writing, and how that allegation is to be investigated. In track change format, with additions underlined and proposed removals struck out, the proposed amendments are as follows: “The Mayor ~~shall~~will investigate the allegation and determine the form an investigation will take, and it may be in consultation with the CAO, Committee, Board or Task Force Chair, complainant and/or the liaison Department. The Mayor ~~may~~will disclose and discuss the alleged contravention

with the Member as part of the and outline the form of investigation, and will give the Member an opportunity(s) to respond accordingly.

At the completion of the investigation, the Mayor will provide recommendations to Council to verify any contraventions, provide all supporting written materials informing the investigation, and recommend appropriate actions (including immediate termination of appointment, if warranted). Council has the sole discretion to terminate any City Committee/Board/Task Force member.

The Mayor will report any transgressions of an illegal nature to the appropriate police authority.”

#### *Public Concern with CP2018-017 and CP2018-018*

These amendments were proposed in response to a concern from a member of the public. Those concerns, set out in Appendix C to Staff Report CAO2019-003, are with respect to the process for removal of a member of a Committee, Board or Task Force as set out in CP2018-018. More specifically, the concern with the policy is that the affected member should be entitled to details of the allegation against him / her and have an opportunity to respond to same. This opportunity should be provided during the investigation and before a decision is rendered.

#### *Council Resolution CR2019-164*

In response to that report, and a delegation confirming that the public concerns were not satisfied by the amendments proposed in CAO2018-003, Council passed Resolution CR2019-164, which referred the report back to staff for a legal opinion and a report back to Council:

“CR2019-164

Moved By: Pat Dunn

Seconded by: Ron Ashmore

That Report CAO2019-003, Committees/Boards/Task Forces – Policy and Code of Conduct Amendments, be received; and

That the report be referred back to staff for a legal opinion with a report back to Council.”

This report is in substantive response to that direction.

#### **Rationale:**

The author of this report is of the opinion that there is merit to the concern raised by the public, specifically, that the policies, even if amended as recommended by

Report CAO2019-003, do not ensure that Council is provided enough information to be the trier of fact in the case of a potential termination. Specifically, Council is not necessarily provided with the response by the affected member. Moreover, the ability to provide formal notice to the affected member is more in keeping with the role and administrative abilities of the Clerk than that of the Mayor. Furthermore, an investigation by the Clerk ensures that the Mayor does not decide on the same matter that he/she has investigated. This ensures that the decision-maker (Council) remains unbiased.

Accordingly, it is recommended that the following amendments be made to CP2018-017:

- 1) Policies 6.2 and 6.3 will be amended to replace “Mayor” with “Clerk”. Accordingly, now the provisions will read that allegations of non-compliance with the Code of Conduct and Ethics will be brought to the Clerk.
- 2) The text at policy 6.4, which states “Council has the sole discretion to terminate any City Committee/ Board/ Task Force member”, will be moved to a new policy 6.9. The author does not recommend that Council adopt the proposed addition to former policy 6.4, indicating that the Mayor will investigate in keeping with procedure set out in the Code of Conduct at CP2018-018. Again, the Clerk is the more appropriate body to collect and submit the information and recommendation to Council. Moreover, the procedure for termination is largely set out in CP2018-017, whereas CP2018-108 is the Code of Conduct.
- 3) A new policy 6.4 will state: “A recommendation to Council to terminate a Member for reasons based on an accusation of alleged policy contraventions (other than uncontested vacation of his/her seat) not be considered unless the accused Member has been provided notice of the recommendation, including supporting documentation (the “Notice”).”
- 4) A new policy 6.5 will state: “The Notice must state both the recommendation to Council and the reasons advanced in support of the recommendation.”
- 5) A new policy 6.6 will state: “That the Notice be sent by the Clerk directly to the accused Member by email with “read receipt”, registered mail, or facsimile, and received at least 7 days prior to the Closed meeting of Council at which the complaint is to be presented;
- 6) A new policy 6.7 will state: “That the accused Member be entitled to forward a written response to the Clerk within 7 days of receipt of Notice.”
- 7) A new policy 6.8 will state: “That, after the period for the accused Member to reply has expired, the Clerk to provide Council with details of the Notice to terminate and any written response received and place it on the closed session agenda of the next scheduled regular Council meeting.”

Additionally, and as first recommended in CAO2019-003, it is recommended that the first page of the policy be amended to indicate that CP2018-018 is a related Council Policy. This change is administrative in nature; not substantive.

These proposed amendments to CP2018-018 are set out in tracked change format at Appendix B.

It is recommended that the following amendments be made to CP2018-017:

- 1) Include a reference to related policy CP2018-017 (as first recommended by CAO2019-003).
- 2) At page 1, where the principles of conduct are set out, one of the principles is that members show “respect and support of others, including Council members, members of City staff and members of the public.” “Committee members” is to be added to this list (as first recommended by CAO2019-003).
- 3) “Mayor” be replaced with “Clerk” in the section entitled “Disclosure”. Further, it is recommended that a further sentence be added to the end of that paragraph, which reads: “The Clerk will process the allegation in accordance with CP2018-017.”
- 4) The section entitled “Compliance/ Contravention” be removed from CP2018-018, as the procedure for termination of a member is set out more properly and fully in CP2018-17.

These proposed amendments are set out in tracked change format at Appendix C.

### **Other Alternatives Considered:**

None.

### **Financial/Operation Impacts:**

There are no financial impacts resulting from these recommendations. The only operational impact is that the recommended process be followed prior to termination of a Board, Committee or Task Force member.

### **Relationship of Recommendations to the 2020-2023 Strategic Plan:**

The recommended resolutions in this Report align with the Guiding Principle of being open and transparent. Moreover, the recommendations support the strategic priority of good government.

### **Consultations:**

None.

## **Attachments:**

Appendix A – Staff Report CAO2019-003



Appendix A - Report  
CAO2019-003.pdf

Appendix B – Proposed Amendments to CP2018-017



Appendix B -  
CP2018-017.docx

Appendix C – Proposed Amendments to CP2018-018



Appendix C -  
CP2018-018.docx

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**Department Head: Robyn Carlson**