

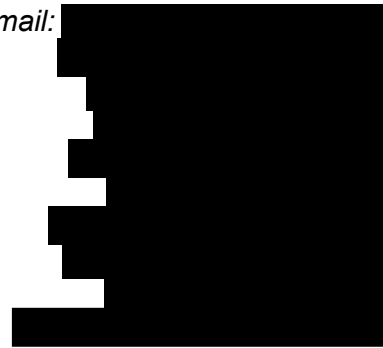
GLENN BLACKETT LAW

Barrister

August 26, 2024

Mayor and Council
City of Powell River
6910 Duncan Street
Powell River, BC
V8A 1V4

Via Email:



Dear Mayor and Council:

Re: City of Powell River Bylaw Amendments

I have been retained by Patricia Martin, a resident of Powell River, in connection with the City of Powell River's citizen engagement processes with respect to the demand of Tla'amin Nation to change the City's name – attached as **Schedule "A"**.¹

The purpose of this letter is to:

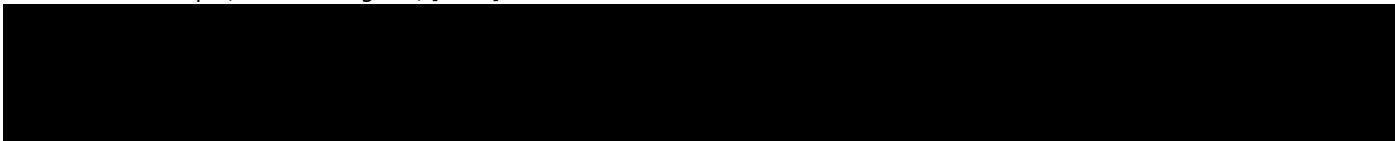
- address the City's proposed *Council Procedure Bylaw 2756, 2024* (the "**Proposed Bylaw**", a draft of which is attached hereto as **Schedule "B"**), proposed Code of Conduct (the "**Proposed Code**", a draft of which is attached hereto as **Schedule "C"**) and Respectful Workplace and Prevention of Harassment, Bullying and Discrimination Council Policy No. 248 (the "**Harassment Policy**", a copy of which is attached hereto as **Schedule "D"**); and
- warn that Council appears to have largely lost its legal jurisdiction in connection with the name change.

My client has made me aware of significant division in the community since this issue was raised in 2021. Ms. Martin would very much like to improve productive democratic dialogue with the City and amongst its citizens in connection with the name change. However, my client is of the view that the Proposed Bylaw, Proposed Code, and Harassment Policy (collectively, the "**Policies**") contain terms which are likely to compound division and stifle productive, if difficult, dialogue.

Although the ostensible purpose of the Proposed Bylaw and Proposed Code is to regulate the manner of expression, they each contain terms which limit (and have already been used by Council to limit) the content of expression. Content limits are, with rare exception², inherently unconstitutional and undemocratic and exceed Council's legal jurisdiction.

¹ Letter of June 21, 2021, Appendix B to the Joint Working Group Report, July 2022 ("**JWG Report**")

² For example, see *R v Keegstra*, [1990] 3 S.C.R. 697



In my client's view, content limits are a cause of community division. If the City wants to restore productive dialogue and community cohesion, it must reverse course, not double-down.

Council's Legal Obligations

The City is incorporated as a democratically elected, responsible and accountable order of government, established and continued by the will of its residents. The City's role is to provide laws and other matters for the community's benefit. Council is, therefore, authorized to determine the public interest in a balanced manner. Every councillor must consider the well being and interests of the City and its citizens.³

Pursuant to these democratic responsibilities, Council has adopted Council Procedure Bylaw 2415, 2015 (the "**Bylaw**") which, *inter alia*, facilitates citizen input and questions. I understand that, prior to the City's April 5, 2022, Committee of the Whole ("**COTW**") meeting, delegations were never (or virtually never) refused.

Council's democratic responsibility is further confirmed in Council Policy 253 – Administration – Governance, which requires councillors to engage the community, "to seek out and hear the input of residents and groups of residents on issues and concerns in the community." Similarly, Council Policy 231 – Administration – Communication encourages "[c]ommunity associations and groups ... to appear as a delegation at either a Committee of the Whole or Council meeting to bring forward matters for Council's attention." Policy 231 confirms the "... City recognizes the value of receiving public input ..."

In connection with the demanded name change, British Columbia's Minister of Municipal Affairs requires that any name change be driven by citizens and makes Council responsible to "listen, consult, educate & convene as necessary in order to reach a satisfactory outcome for all those involved" (the "**Minister's Directive**").⁴

Council, including each of its councillors, is a statutory delegate which must exercise its discretion in accordance with the rule of law. This includes maintaining legal jurisdiction or "*vires*." A statutory delegate loses legal jurisdiction – rendering its decisions a nullity subject to judicial review⁵ – if it commits an abuse of discretion or breaches its duty to be fair.

Abuses of discretion which nullify decisions include: exercising a discretion for an unauthorized or ulterior purpose;⁶ ignoring relevant evidence;⁷ exercising discretion in a discriminatory manner;⁸ passing a policy or bylaw which is uncertain, including the use of words with such

³ *Community Charter*, SBC 2003, Chapter 26 sections 1(1), 1(2), 7, 83, 89, 115, 116 and 120 and *Local Government Act*, RSBC 2015, Chapter 1.

⁴ July 13, 2021, Memorandum of Russell Brewer, Chief Administrative Officer, to Mayor and Council Re: Proposed Name Change

⁵ *Syndicat des employés de production du Québec & de l'Acadie v. Canada (Labour Relations Board)* (1984), [1984] 2 S.C.R. 412 (S.C.C.)

⁶ *Roncarelli c. Duplessis* (1959), [1959] S.C.R. 121 (S.C.C.)

⁷ *S. (R.) v. Canada (Minister of Citizenship & Immigration)* (2012), 2012 CarswellNat 2287 (F.C.)

⁸ *Little Sisters Book & Art Emporium v. Canada (Minister of Justice)* (2000), [2000] 2 S.C.R. 1120 (S.C.C.)

wide and differing meanings they create no objectively intelligible standard by which a person might govern their actions;⁹ misconstruing the law;¹⁰ and fettering discretion.¹¹

Breaches of the duty to be fair which nullify decisions include having a closed mind (i.e. pre-determination).¹² In the context of a municipal council, the test is generally, “prejudgment of the matter to the extent that any representations at variance with the view adopted would be futile.”¹³ In the specific context of the name change, Council’s duty of fairness is likely higher, but for the purpose of this letter I apply the general test.

The City is an order of government subject to the *Canadian Charter of Rights and Freedoms* (the “**Charter**”) in all of its operations.

Scheme of Consultation Process

To understand my client’s concerns with the Proposed Bylaw and Proposed Code it is useful to provide a brief review of the history of the name change process thus far.

I have partially reviewed videos and have been advised by my client of the content of several Council meetings touching on the demanded name change including: April 5, 2022, COTW; April 19, 2022, COTW, April 21, 2022, Council Meeting; May 31, 2022, COTW; June 14, 2022, Council Meeting; July 5, 2022, COTW; July 19, 2022, COTW; August 16, 2022, COTW; August 18, 2022, COTW; April 18, 2024, Council Meeting; May 2, 2024 Council Meeting; May 14, 2024 COTW, and May 16, 2024, Council Meeting (the “**Meetings**”).

From my review of the Meetings, evidence of abuse of discretion and a breach of the duty to be fair is apparent, as well as a misapprehension and misapplication of Council’s legal and *Charter* obligations.

For the purpose of this letter I focus only on the fact that some members of Council appear to have irreversibly made-up their minds about the name change issue and demonstrate an unwillingness to hear or meaningfully consider the content of dissenting submissions. To those Council members dissenting submissions are futile.

Further, and evidencing a closed mind, Council members have often used procedural techniques such as points of order to block dissenting viewpoints. While “time, place and manner” restrictions may be consistent with the rule of law, meaningful public consultation and the *Charter*, the suppression and refusal to hear and consider dissenting content is not.

For example, in the [April 5, 2022, COTW meeting](#), Councillor George Doubt suggested Arthur Richards’ delegation might be a “reversionist history” and “hate speech”, questioned whether Council had the “ability to make decisions on that” and admitted, frankly, “I don’t want to hear this one.” Councillor Doubt later directed Mr. Richards to the City’s “Joint Working Group” committee (the “**JWG**”) to obtain the “true version of the history of Powell River.”

⁹ *Red Hot Video Ltd. v. Vancouver (City)* (1985), 18 C.C.C. (3d) 153 (B.C. C.A.)

¹⁰ *Barrie Public Utilities v. Canadian Cable Television Assn.* (2003), [2003] 1 S.C.R. 476 (S.C.C.)

¹¹ *H.E.U., Local 180 v. Peace Arch District Hospital* (1989), 35 Admin. L.R. 59 (B.C. C.A.)

¹² *Pelletier c. Canada (Procureur général)* (2008), 69 Admin. L.R. (4th) 192 (F.C.A.); *St. John’s (City) v. Seanic Canada Inc.* (2016), 2016 CarswellNfld 323 (N.L. C.A.)

¹³ *Old St. Boniface Residents Assn. Inc. v. Winnipeg (City)*, [1990] 3 S.C.R. 1170

I have reviewed Mr. Richards' written submission and agree with the opinion, apparently obtained by Council prior to Councillor Doubt's April 5, 2022, comments, that the submission was not criminal hate speech. Whether or not Mr. Richards' submission was correct, reasonable, or even moral, the submission appears to contain extracts from the historical record and reasonable arguments. It is therefore quite surprising that Councillor Doubt would elect to publicly vilify Mr. Richards by suggesting he might be engaging in a hate crime – while at the same time muzzling him.

Councillor Doubt's comments and vote, therefore, demonstrate use of concepts like "misinformation" and "hate"¹⁴ to censor and refuse to consider dissenting evidence and viewpoints – and, thereby, the insulation of a closed mind.

In the same meeting, former Councillor Leishman, prior to denying Mr. Richards' right to expression¹⁵ expressed interest in a community discussion that "doesn't involve ... fairly hurtful and ... ideas that are very hurtful to the Tla'amin Nation and to all indigenous peoples across Canada."

During the delegation of Dean Gerhart to Council on April 18, 2024, in response to the comment that "the schools were voluntary attendance" Councillor Isakson raised a "point of order" that "there has been a full truth and reconciliation commission on the impact of residential schools" [emphasis mine]. This is a refusal to hear or consider information which (to Councillor Isakson's mind) contradicts the factual findings of the Canadian Truth and Reconciliation Commission's ("TRC") [summary report](#).

Assuming, for a moment, that the TRC is a binding authority for "the truth" I was unable to confirm from the summary or [full report](#) that attendance was, as suggested by Isakson, unambiguously compulsory. See, for example, page 67 of the summary report or page 121: "Parents ... developed a variety of strategies to resist residential schooling. ... they also called on the government to ... establish day schools in their home communities ... Prior to 1920, when the Indian Act was amended to allow Indian Affairs to compel children to attend residential school, the most effective form of resistance that parents could make was to simply refuse to enrol their children..." [emphasis mine].

Likewise, in a [May 2, 2024, meeting](#) Councillor Doubt, with Councillor Isakson's concurrence, suggested the City of Quesnel had appropriately sanctioned its mayor for "promoting his partner's book" which I understand to be a reference to [Grave Error: How The Media Misled Us](#), edited by C.P. Champion and Tom Flanagan. That book has 18 essays by various researchers and journalists with historical citations. So far as I am aware, Council has no evidence the book contains, for example, substantial factual errors. Councillors Doubt and Isakson indicate here a broad and firm unwillingness to consider evidence and arguments contrary to their extant views on residential schools, characterizing such evidence as "misinformation and disinformation." Councillor Doubt also referenced the qathet Regional District and qathet General Hospital's name changes: "I am proud of those decisions ... and I stand by them ... I support it."

Following Diane Sparks' delegation of [May 14, 2024](#), Councillor Doubt objected to Ms. Sparks' providing copies of the book and, when one was provided to him he said, "take it back."

¹⁴ "Hate" being, surely, the antithesis of "respect."

¹⁵ While herself wearing a T-shirt in support of the name change, which is evidence of a closed mind, especially in light of the meeting's agenda.

In the same meeting, Councillor Southcott chastised Ms. Sparks:

“... it’s really clear to me that there is a whole different view and that the view of the people who hold that different view see people who basically do not even want to talk about this and vote no and not change the name to be prejudiced against the people of the opposite viewpoint ...

...
I’m not very proud about what’s going on here right now.” [emphasis mine]

Councillor Southcott has also recently [publicly stated](#) his support for the name change.

While Council may appropriately govern the “time, place and manner” of expression including directing input to another venue – provided such direction is done legally and the other venue facilitates meaningful input – the comments and conduct of Councillors Doubt, Isakson and former Councillor Leishman demonstrate (unequivocally, I would submit) closed minds and a firm refusal to hear and consider the content of dissenting viewpoints.

In connection with the Policies, note that Council’s censorship was accomplished by means of prohibitions on (alleged) “discrimination”, “misinformation”, “hate” and like concepts.

While I recognize the City has, [to some extent](#), acknowledged problems with the JWG’s “community engagement strategy” (co-led by Isakson, now a City councillor), the JWG’s strategy appears, in fact, to be consistent with the City’s broader approach towards the name change.

The JWG does not appear to have been structured to obtain meaningful public input. Apart from the fact that the working group appears to have been a “stacked deck”¹⁶, the JWG Report is actually quite forthright that consultations were not intended for fact gathering but rather, as essentially admitted by Councillor Doubt, were intended as public “education” (i.e. education to generate support for the name change.)

Tla’amin Nation’s June 21, 2021 letter to the City states:

“If the City believes in reconciliation, it must disassociate our homelands with the name of Israel Powell ... A referendum has no place in this process. Having the dominant culture decide whether the harms done to Tla’amin people and our rights outweigh their attachment to colonialism is a classic strategy to maintain the status quo. This is not reconciliation – it is doubling down on the colonial playbook. The correct approach for this process is to work collaboratively government to government, with meaningful community engagement.” [emphasis mine]

The only reasonable way to interpret this is a demand, as a condition of “reconciliation,” that the name be changed regardless of the democratic will of the citizens of Powell River. This interpretation is consistent with statements of L. Maynard Harry, former Tla’amin Nation Chief and four-time elected councillor:

¹⁶ The members were as follows, all of whom I understand to be pro-name-change except, perhaps, three members: Hegus John Hackett, Doreen Point, Brandon Peters, Erik Blaney, Harmony Johnson, Davis McKenzie, David Formosa, Cindy Elliot, Maggie Hathaway, Stewart Alsgard, Lyn Adamson and consultants Trina Isakson and Lisa Moffatt.

“Democracy has nothing to do with First Nations or indigenous culture ... It's an alien system.”

On February 16, 2024, Tla'amin Nation even issued a [statement](#) opposing even an opinion poll as contradictory to “reconciliation.”

Given this, Tla'amin Nation's proposal of “meaningful community engagement” would appear to mean a process to promote citizen acceptance. In the words of Edward S. Herman and Noam Chomsky, the objective seems to be to “manufacture consent.”

Councillor Southcott's comments at the [May 14, 2024](#), COTW are apposite. He seemed to acknowledge that, if a referendum were held, it would result in a “no” vote and claimed that people who oppose the name change “do not even want to talk about this.”

Consistent with this interpretation, the JWG Report confirms the City's “commitment to reconciliation” and indicates that the process was:

“... designed to ... [d]evelop greater community consensus and understanding about the role of place naming in building a more welcoming and inclusive community [and] [c]ommunicate to residents why consideration of a name change is important for our shared commitment to reconciliation.”

The JWG's “vision” was “[t]hat place names in Tla'amin Territory are inclusive, respectful and affirming of the history and culture of the area.”

The JWG report “recognizes that further community conversation is needed to build excitement and consensus.” The word “education” appears in the JWG report 31 times. Former Councillor Leishman seems to have appropriately summarized the JWG's mandate where she references the “opportunity to participate in the engagement and to listen and to have some education on the history and where this is coming from.”¹⁷

In the May 2, 2024, meeting Councillors Doubt and Isakson indicated the City's name should be changed if there was “sufficient proof of community acceptance.” [emphasis mine]

From my review of the Meetings and the JWG Report, Council's engagement process is materially inconsistent with its democratic responsibilities and legal jurisdiction. Council does not appear to be engaging in consultation as required by statute, by the Council's own policies, or by the Minister's Directive.

From the above history and from the information below, the decision appears to have been made already and Council is now trying to “educate” citizens about why the decision is correct to obtain “sufficient proof of community acceptance.” Some members of Council appear unwilling to open their mind and consider the facts and arguments of dissenting citizens – “representations at variance with the view adopted would be futile.”

¹⁷ April 21, 2022, Council Meeting

The Proposed Bylaw and Proposed Code

My client views the Proposed Bylaw and Proposed Code as an institutionalization and expansion of the techniques already employed by Council to avoid hearing dissenting content.

Given what's set-out above this view is strongly supported. The comments of Councillors Isakson and Doubt at Council's [May 16, 2024, meeting](#) during the delegation of Ted Vizzutti bear this out further. There were several actions to censor Mr. Vizzutti's content:

- Councillor Isakson raised the City's Harassment Policy to censor Mr. Vizzutti's suggestion that Tla'amin Nation's intentions were to "harm, degrade, humiliate, put in our place and finally erase." Councillor Isakson claimed it resulted in a "negative or hostile environment" based on ethnicity and was opinion, speculative and accusatory;
- Councillor Isakson again raised the Harassment Policy to censor Mr. Vizzutti's suggestion Tla'amin Nation "will not be satisfied until the City of Powell River has been erased;"
- Mr. Vizzutti suggested the "Tla'amin continually does harming and disrespectful things towards the City of Powell River and its citizens, let's start with calling us subhuman."¹⁸ Councillor Doubt sought to censor this on the basis it was "disrespectful" and false because Tla'amin Nation had not called residents subhuman. Councillor Doubt then demanded proof or an apology.

Whatever the veracity, fairness or productivity of Mr. Vizzutti's submissions, it is important to contrast the treatment of Mr. Vizzutti with Council's treatment of the later submissions of Miel Creasey. Ms. Creasey, referencing a meeting on May 14, 2024, accused Mr. Vizzutti, resident Diane Sparks, and others of "anti-indigenous and residential school denialism" and "hate speech," which she called "disgusting." She wondered how long such submissions would be "entertained and allowed to continually take up space at these meetings." [emphasis mine]

Not only was Ms. Creasey not censored (with reference to the Harassment Policy) she was actually given an implied assurance that the Proposed Bylaw might censor the very content she found so unsettling. In response to Ms. Creasey's demands, and while Mayor Woznow was explaining that "in a democracy which we are, we have protocols and delegations," Councillor Doubt raised his hand and then assured Ms. Creasey that Council:

"... has a meeting tomorrow ... discussing our procedure bylaw ... [which] talks about delegations, what's required to be a delegation, how one can participate as a delegation, the expectations of an individual, and what limitations if any there are. We don't have any limitations right now I'm hearing what you said, I've seen a couple of letters in the last two days, there are people who are concerned about delegations coming over and over to speak about the same thing over and over again and whether or not we want

¹⁸ This appears to have been a reference to L. Maynard Harry (former Chief and councillor) who, according to a [New Westminister Times article](#), "used the word 'subhuman' fifteen times in the course of [an] interview [and] described 'white people' generally as inferior to indigenous people."

to, as a Council, to make rules for delegation that make them more amenable to what people would like to see the time used for.” [emphasis mine]

This comes very close to an unambiguous admission that, to Councillor Doubt’s mind anyways, the Proposed Bylaw might be useful to censor expressive content on the basis of Council preference.

It’s not clear that Councillor Doubt himself comports to the standards he imposes on Mr. Vizzutti (see third bullet above). For example, Councillor Doubt had earlier suggested that Mr. Richards may have been engaging in a “hate crime” which suggestion appears to have been false, at least according to a legal opinion apparently prepared for Council. Alleging a “hate crime” hardly qualifies as “respectful.”¹⁹

Likewise, in the May 2, 2024, meeting Councillors Doubt and Isakson appear to have characterized prior community delegations and, perhaps, other members of Council, as “uncivil,” “uninformed,” “fear-based communities,” and as having engaged in bullying, harassment and intimidation intended to disrupt and deny safety to other speakers.

Whether or not those allegations are true, I’m aware of no censure of Councillor Doubt and Isakson for making “allegations.”

Finally, contrast this with the City’s JWG Report which attaches Tla’amin Nation’s letter. The letter contains the following allegations:

- Regarding the proposal for a referendum: “[h]aving the dominant culture decide whether the harms done to Tla’amin people and our rights outweigh their attachment to colonialism [*sic*] is a classic strategy to maintain the *status quo*. This is not reconciliation – it is doubling down on the colonial playbook;” and
- That doubts as to the name change are a celebration of “the legacy of residential schools and cultural genocide.”

The foregoing evidences the discriminatory application of the City’s statutory powers and further demonstrates bias, which constitute nullifying abuses of discretion.

To the extent the Proposed Bylaw and Proposed Code are promulgated as a means of censoring content rather than as a means of reasonably managing the “time, place and manner” of expression, they also represent a nullifying abuse of discretion (unauthorized and ulterior purpose) and unreasonable infringement of citizens’ *Charter* freedom of conscience and expression.

That this may be the *purpose* (in part) of the Proposed Bylaw and Proposed Code was, I would submit, plainly admitted by Councillor Doubt.²⁰ That the Policies will have this *effect* is obvious from the history detailed above and from the Proposed Bylaw and Proposed Code provisions themselves:

¹⁹ See above regarding Councillor Isakson’s reference to this clause of the Harassment Policy on May 16, 2024. So far as I am aware, Council has not required of Councillor Doubt an apology as would be required under the Proposed Bylaw. I note the Harassment Policy is intended to protect City staff from harassment, including by members of the public, but affords members of the public no such protection including from City staff.

²⁰ As discussed above.

[Proposed Bylaw] “Members of the public who, when providing input use disrespectful language, make defamatory statements, allegations, inferences etc., will be asked to stop speaking immediately, be given the opportunity to apologize and adjust their comments accordingly. If the member of the public continues to speak disrespectfully, the presiding member will immediately advise the member to, once again stop speaking and advise them to return to their seat in the gallery or leave the meeting room.

...

The Corporate Officer may refuse to place a delegation on the agenda if he or she does not believe the issue is within the jurisdiction of Council or does not comply with the City’s Respectful Workplace and Prevention of Harassment, Bullying and Discrimination Council Policy No. 248. If the delegation wishes to appeal the Corporate Officer’s decision, the information must be distributed under separate cover to Council for its consideration.”

[Proposed Code] “Respect means ... displaying deference to the offices of local government, staff, and the role of local government in community decision making.

Members agree to refrain from any conduct that could be perceived as discriminatory on the basis of race, religion or belief, age, gender, marital status, national origin, physical or mental disability or sexual orientation or identity.

Members will demonstrate awareness of their own conduct, and consider how their words or actions may be, or may be perceived as, offensive or demeaning”²¹ [emphasis added]

These amendments seem bound, therefore, to formalize the very grounds upon which dissenting viewpoints have been censored or censured by City councillors.

Quite apart from Council’s use of the Policies, as currently drafted they are inherently abusive insofar as they use words with such wide and differing meanings that they create no objectively intelligible standard by which a person might govern their actions.

For example, the term “respect” is vague and inherently subjective. The proposed ban on “allegations” and “inferences” is so impractical as to necessitate discriminatory application. Prohibiting “allegations” and “inferences” would, for example, ban a delegation saying “residential schools caused harm” – because that’s an inference. It would ban a delegation from quoting the JWG Report where it says Israel Powell’s actions were and continue to be harmful – because that’s both an inference and an allegation. Unless council bans these concepts from its chamber (and considerations) then these prohibitions seem sure to apply only to dissenting viewpoints.

While “defamatory statements” has a reasonably well-defined, albeit complicated, legal test, it requires the inference of subjective elements and causation. Council has little practical ability to discern, in the moment, what constitutes defamation. Recall that, even with a contradictory legal opinion apparently “in hand”, Councillor Doubt sought to remove a citizen from the agenda, in part, on the basis that a “hate crime” was about to be committed. How is council expected, then,

²¹ See also the Harassment Policy, quoted below.

to identify defamation including its concomitant absolute and qualified privileges? The Proposed Bylaw's reference to defamation also raises the British Columbia Supreme Court's ruling in *Dixon v. Powell River (City)*, 2009 BCSC 406 ("**Dixon**") in which the City's attempts to sue in defamation were entirely prohibited as an undemocratic violation of the *Charter*. The Proposed Bylaw would provide council power to prohibit alleged defamation directly – without resort to the courts.

The Harassment Policy prohibits "bullying and harassment" which includes "... any conduct or comment ... that the person knows or reasonably ought to know would be unwelcome, humiliating or intimidating" including "verbal aggression," "intimidation," "name-calling," "insults," "condescending or patronizing behaviour," "written or verbal communications, gestures, actions ... the natural consequence of which is to humiliate or intimidate," and "discrimination."

The Harassment Policy defines discrimination to include any "offensive behaviour which creates a hostile or negative environment or has adverse consequences due to or on the basis of: race, colour, ancestry, place of origin, political believe [sic], [or] religion," including "unwanted remarks", and "offensive displays."

Not only are these requirements so vague as to create no "objectively intelligible standard," they would ban delegations from saying things that would be "unwelcome" to any of the councillors. Recall: Doubt didn't "want to hear this one"; Leishman didn't welcome "hurtful ideas"; Isakson didn't welcome any contradiction of her understanding of the TRC; Doubt and Isakson thought it proper to censure an elected official for promoting a book containing counter-narrative historical essays; and Southcott said Ms. Sparks' delegation might be viewed as (racial, I assume) discrimination.

The Policies, therefore, seem to formalize the modes of censorship and censure already employed by council, including the use of vague and subjective concepts which are not only ripe for abuse but which have, I would submit, already been well abused.

In addition to these violations of council's legal jurisdiction, the Policies clearly infringe citizens' rights under the *Charter* including, most obviously, the fundamental freedoms of thought, belief, opinion and expression protected under section 2(b). These freedoms protect not only those wishing to express themselves, but those who would listen.²² They further protect Canadians from compelled speech, like the apology required for a delegation to continue.²³

A government may "reasonably" infringe *Charter* rights where "demonstrably justified in a free and democratic society." However, given the factual context, including that these restrictions will have the effect of censoring expression by content, in a legislative chamber, and with the effect of maintaining bias, the Policies could not possibly be justified in a free and democratic society. As stated by the Supreme Court of Canada:

"The connection between freedom of expression and the political process is perhaps the linchpin of the s. 2(b) guarantee, and the nature of this connection is largely derived from the Canadian commitment to democracy."²⁴

²² *Harper v. Canada (Attorney General)*, [2004] 1 S.C.R. 827

²³ *Slaight Communications Inc. v. Davidson*, [1989] 1 S.C.R. 1038

²⁴ *R v Keegstra*, [1990] 3 S.C.R. 697

A similar observation as to the centrality of freedom of expression in the democratic process is quoted in *Dixon*:²⁵

“It is hardly necessary to repeat here the importance of the rights protected by s. 2(b) of the Charter, namely ‘freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication’. These rights are an inherent aspect of our system of government and have been generously interpreted by the courts. Democracy depends upon the free and open debate of public issues and the freedom to criticize the rich, the powerful and those, such as police officers, who exercise power and authority in our society. ... Debate on matters of public interest will often be heated and criticism will often carry a sting and yet open discussion is the lifeblood of our democracy. This court recognized in *R. v. Kopyto* (1987), 62 O.R. (2d) 449 at 462 that “[i]f these exchanges are stifled, democratic government itself is threatened.” [emphasis mine]

Conclusion

Policies

My client, therefore, demands that the Policies be amended to resolve the issues addressed above including, specifically, that:

- The Proposed Bylaw:
 - Section 10 be amended to permit expulsion²⁶ only for breaches of criminal law, breaches of the Proposed Bylaw, or persistent conduct which directly and substantially interferes with the ability of people to reasonably speak or hear;
 - Sections 21(4) and 28(8) be deleted;
- Harassment Policy and Proposed Code:
 - Amended to clarify they do not, directly or indirectly, impose duties on citizens who are not workers or elected officials; and
 - Amended to remove all vague and subjective provisions.

Ms. Martin understands the need for council to facilitate productive democratic dialogue however she believes the Proposed Bylaw and Proposed Code are likely to worsen matters. Productive dialogue requires that residents remain free to express their full and honest views to elected representatives – whether or not they “sting”. Should council members use these policies, as seems inevitable, to continue to censor or censure content they find “unwelcome”, “disrespectful”, “discrimination”, or “hate”, dialogue and civic relations in Powell River seem likely only to deteriorate.

²⁵ Quoting Sharpe J.A. in *Cusson v. Quan* (2007), 286 D.L.R. (4th) 196 (Ont. C.A.)

²⁶ I am unsure what “exclusion” adds but if it means “exclude from future meetings” the word should be deleted.

Consultation Scheme

My client also reiterates her demand that council fundamentally alter the manner in which it is approaching Tla'amin Nation's demanded name change – although it seems doubtful that council can now salvage this consultation process.

Recusals

While Council must reasonably consider the views of dissenters with an open mind, not just those of its “educated” and censored citizenry, at least two current members of Council (Doubt and Isakson) have, I would submit, clearly demonstrated irredeemable bias. Two other members of Council (Southcott²⁷ and Elliott²⁸) have evidenced bias which is likely disqualifying. Given the structural issues with the JWG process described above, to the extent other members of Council approved those structural elements, they too have demonstrated bias that is likely disqualifying. Ultimately, Council itself has the best information as to which councillors objectively retain an open mind.

To restore the possibility of meaningful citizen-driven consultation in accordance with the Minister's Directive, in addition to a fundamental shift in approach, councillors who have demonstrated disqualifying bias and councillors who are, in fact, irredeemably biased, must recuse themselves from further debate and decision-making in connection with the name change.²⁹

Sincerely,



Glenn Blackett
Barrister

²⁷ See above.

²⁸ See: <https://canada-info.ca/en/city-of-powell-river-may-be-renamed/>; <https://cortescurrents.ca/city-councillor-reflects-on-lessons-learned-so-far-on-potential-powell-river-name-change/>; and my client's delegation to the [March 5, 2024](#), Regular Council meeting.

²⁹ Including, given the obvious connections, considerations in respect of the Policies.

Schedule "A"



Original for Filing
Rec'd: June 21, 2021
File No: 0470-01
Action: To be included on
July 13 COTW agenda

June 21, 2021

Mayor and Council
City of Powell River

Re: Proposed Name Change

We, Tla'amin Nation Executive Council, are writing to you to follow up on our request of Mayor and Council at our May 12th 3C meeting to change the name of the City of Powell River. We have observed the discussions had at your table and the Committee of the Whole and we felt the need to share some of our positions on the matter in advance of your July 15th meeting.

If the City believes in reconciliation, it must disassociate our homelands with the name of Israel Powell, a man who was instrumental in carrying out the residential school policy and is credited with outlawing the potlatch. This legacy has been devastating to our people, inflicting severe generational trauma and causing irreversible loss to our culture and language. In light of the recent finding of a 215-child grave at the Kamloops Residential School, and more being found daily at other schools, no one can deny the truth any longer that the atrocities our people faced under this appalling colonial policy are **real**.

We are extremely concerned with the idea to have a referendum as a means to determine whether the name of Powell River should be changed. A referendum has no place in this process. Having the dominant culture decide whether the harms done to Tla'amin people and our rights outweigh their attachment to colonialism is a classic strategy to maintain the status quo. This is not reconciliation – it is doubling down on the colonial playbook. The correct approach for this process is to work collaboratively government to government, with meaningful community engagement. Based on the overwhelming positive response evident from the letters from City residents included in the June 15th Committee of the Whole meeting package, we believe there is general support for this approach.

We understand that the City has adopted both the Truth and Reconciliation Commission (TRC) Calls to Action and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). We raise our hands to the City leadership for these commitments, and these commitments must now be followed up with actions. We are not aware of any actions that have been identified to breathe life into the UNDRIP commitment, and would like to point out Article 13 which reads:

*Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to **designate and retain their own names for communities, places and persons.***

We do acknowledge that some meaningful actions have been taken to support the TRC Calls to Action, such as mandating the blanket exercise. Another action that City Council committed to was to *“consider reforming those bylaws and municipal policies that continue to rely on concepts used to justify European sovereignty over Indigenous peoples and lands”*.

The prospect of changing the name must not be a matter of **“if”**, but a matter of **“when”**. To suggest that a name change is simply a possibility and not an eventuality is to suggest that it is still appropriate to celebrate the legacy of residential schools and cultural genocide. How will this be viewed by your grandchildren and great-grandchildren? Now is the time to make things right and be on the right side of history – commit to changing the name as part of the City’s commitment to reconciliation, UNDRIP, and TRC, and let’s work together on process, options and timing.

We are prepared to establish a joint Committee process founded in mutual respect to advance this work, including the necessary community engagement. In the spirit of reconciliation and *qathet* (working together), let’s find a more respectful and inclusive name that is more reflective of both the oral history of these lands and the present-day collaborative communities. Additionally, the Nation is committed to contributing financially to support this initiative.

On behalf of Tla’amin Nation, *čəčəhatənapəč* (I honour you all),



Hegus John Hackett

Cc:



Schedule "B"

**CITY OF POWELL RIVER
BYLAW NO. 2756, 2024
COUNCIL PROCEDURE BYLAW**

A Bylaw to provide for the procedure to be followed for the conduct of the business of the City of Powell River and the business of its select and standing committees and commissions.

PART 1 – INTRODUCTION

Whereas section 124 of the *Community Charter* requires that Council must, by bylaw, establish the general procedures to be followed by Council and council committees in conducting their business;

NOW THEREFORE the City of Powell River Council in open meeting assembled, enacts as follows:

1. CITATION

This bylaw may be cited for all purposes as the “City of Powell River Council Procedure Bylaw No. 2756, 2024”

2. DEFINITIONS

In this Bylaw,

“Committee” means a standing or select committee of Council, but does not include COTW;

“COTW” means the Committee of the Whole Council;

“Commission” means a commission established by Council under section 143 of the *Community Charter*;

“Corporate Officer” means the Corporate Officer appointed by the Council in accordance with section 148 of the *Community Charter*;

“Council” means the elected Council of the City of Powell River;

“City” means the City of Powell River;

“Hybrid Meeting” means a meeting where some members are attending in-person and some members are attending electronically.

“Mayor” means the elected Mayor of the City of Powell River;

“City Hall” means the City of Powell River Municipal Hall, located at 6910 Duncan Street, Powell River, British Columbia;

“Public Notice Posting Place” means the City’s public notice board and website.

3. RULES OF PROCEDURE

- (1) The provisions of this bylaw govern the proceedings of the Council, COTW and all standing and select committees and commissions of Council.
- (2) In all cases not provided for in this bylaw, Council and its standing and select committees and commissions shall be governed by the rules of the most recent edition of “Robert’s Rules of Order”, to the extent that those rules are applicable in the circumstances and there is no inconsistency with this bylaw, the *Community Charter* or the *Local Government Act*.

- (3) Unless expressly required to be exercised by bylaw, all powers of the Council may be exercised by bylaw or by resolution.

PART 2 – MEETINGS

4. QUORUM

- (1) The quorum of Council members is a majority of the entire Council.

5. INAUGURAL MEETING

- (1) Following a general local election, the inaugural meeting of Council will be held the first Thursday in November in the year of the election.
- (2) If a quorum of Council members elected at the general local election has not taken office by the first Thursday in November, the first Council meeting must be called by the Corporate Officer and held as soon as reasonably possible after a quorum has taken office.

6. TIME AND LOCATION OF MEETINGS

- (1) All Council meetings will take place within City Hall except when the Council resolves to hold meetings elsewhere within or outside the boundaries of the City.
- (2) A Regular Council meeting schedule shall be established annually, by resolution of Council, whereby regular meetings will:
 - (a) be held on two Thursdays of each month except;
 - (i) in July, August, September and December, only one meeting will be held;
 - (ii) where, pursuant to section 7(1) or (2), Council has established a different day for the regular meeting;
 - (b) be called to order at 5:30 pm or 7:00 pm
 - (i) when called to order at 5:30 pm, Council will, following adoption of the agenda, and if required, consider a motion to close the meeting.
 - (ii) where, subject to (b) (i), Council must re-open its regular meeting to the public at 7:00 pm
 - (c) be adjourned by 9:00 pm if called to order at 5:30 pm on the day scheduled for the meeting unless the Council resolves, by unanimous consent, to proceed beyond that time.
 - (d) be adjourned by 10:30 pm if called to order at 7:00 pm on the day scheduled for the meeting unless the Council resolves, by unanimous consent, to proceed beyond that time.
- (3) Regular Council meetings may be:
 - (a) cancelled by resolution of Council;
 - (b) postponed to a different day, time and place by the Mayor, provided that the Corporate Officer is given at least two working days' written notice.

7. NOTICE OF COUNCIL MEETINGS

- (1) Council will prepare annually on or before December 31st, a schedule of the dates, times and places of regular Council meetings and will make the schedule available to the public by posting it at the Public Notice Posting Place.
- (2) Where revisions are necessary to the annual schedule of regular Council meetings, the Corporate Officer will, as soon as reasonably possible, post a notice at the Public Notice Posting Place which indicates any revisions to the date, time and place or cancellation of a regular Council meeting.

8. NOTICE OF SPECIAL MEETINGS

- (1) The Mayor may call a special Council meeting at their discretion giving at least 24 hours' notice in writing by email to Council, with a copy to the Corporate Officer, and specifying the purpose for which the meeting is called.
- (2) Special meetings without notice shall be called only to address urgent matters and be permitted only with unanimous consent of all Council members.
- (3) Two or more Council members may, in writing by email, with a copy to the Corporate Officer, request that the Mayor call a special Council meeting.
- (4) Two or more Council members may themselves call a special Council meeting if,
 - (a) within 24 hours after receiving the request under subsection (3), no arrangements are made under subsection (1) for a special Council meeting to be held within the next seven days, or;
 - (b) both the Mayor and Council member designated as acting Mayor are absent or otherwise unable to act.
- (5) Except where notice of the special meeting is waived by unanimous vote of all Council members, a notice of the date, hour and place of the special Council meeting will be given at least 24 hours before the time of the meeting by posting a copy of the notice at the Public Notice Posting Place and will be emailed to each Council member.
- (6) A notice under subsection (5) will describe in general terms the purpose of the meeting and be signed by the Corporate Officer or Mayor.
- (7) If a special Council meeting is called under subsection (4), the Council members calling the meeting must provide the Corporate Officer with the description, in general terms, of the purpose of the meeting and must provide a notice of the date, hour and place of the special Council meeting giving at least 24 hours' notice before the time of the meeting. The Corporate Officer will post a copy of the notice at the Public Notice Posting Place and the notice must be signed by the Corporate Officer.
- (8) A special meeting agenda will be limited to the posted purpose of the meeting only. No additional items may be added.

9. ELECTRONIC MEETINGS & ELECTRONIC ATTENDANCE AT MEETINGS

- (1) A member of the Council who is unable to attend in person at a Hybrid Meeting of Council, COTW, or a Standing Committee may participate in the meeting by means of electronic or other communication facilities, if the conditions in section 128 of the *Community Charter* are met, and if:

~~(a) the member is able to provide their own necessary devices [e.g., landline phone, cell phone, electronic or another communications facility/device];~~

(a) the meeting is a regular or special meeting and not an inaugural meeting of Council;

~~(e) the member has indicated, in writing, their interest to the Corporate Officer to participate electronically in a Hybrid Meeting at least four hours in advance of the meeting.~~

- (2) The member presiding at a Council, COTW, or a Standing Committee Hybrid Meeting must not participate electronically.
- (3) No more than 6 (six) members of the Council at one time may participate at a Hybrid Council Meeting electronically.
- (4) A member may not participate by electronic means for more than eight consecutive Council meetings **unless otherwise authorized by the Council.**
- (5) During a meeting where a member is in attendance via electronic or other communication facilities, if there is a technical failure resulting in the member being disconnected from the meeting, there will be only two efforts made to reconnect to the member. If reconnection to the member is not achieved within 10 minutes, the member will be deemed to have left the meeting and the Corporate Officer will record this in the minutes.
- (6) Any member attending a meeting electronically must have a full agenda package available at the time of the meeting.

10. CONDUCT AT MEETINGS

- (1) Where the Mayor or other person presiding at a meeting considers that a person is acting improperly, the person presiding may expel and exclude that person from the meeting.

PART 3 – CONFLICT OF INTEREST

11. (1) Division 6 of Part 4 of the *Community Charter* shall apply to Council members.

PART 4 – ACTING MAYOR

12. DESIGNATION OF A MEMBER TO ACT IN PLACE OF THE MAYOR

- (1) When the Mayor is absent or otherwise unable to act or when the office of the Mayor is vacant, an acting mayor shall be designated. The acting mayor designation shall be on a monthly rotating basis, in alphabetical order by surname, commencing the first month of Council's term following a general local election.
- (2) Each Councillor designated under section 12(1) must fulfill the responsibilities of the Mayor, if the Mayor is absent, and has the same powers, duties and responsibilities as the Mayor.
- (3) If both the Mayor and designated acting mayor are absent from a Council meeting, the members present must choose the next Council member in the acting rotation to preside.
- (4) The member designated under section 12(3) has the same powers, duties and responsibilities as the Mayor.

PART 5 – COUNCIL PROCEEDINGS

13. ATTENDANCE OF PUBLIC AT MEETINGS

- (1) Except where the provisions of section 90 of the *Community Charter* [meetings that may or must be closed to the public] apply, all Council meetings must be open to the public.
- (2) Before closing a Council meeting or part of a Council meeting to the public, the Council must pass a resolution in a public meeting, stating the fact that the meeting or portion thereof is to be closed, and the basis under the applicable subsection of section 90 of the *Community Charter* which authorizes the meeting to be closed.
- (3) No member of the Council shall disclose to the public the proceedings of a closed meeting unless a resolution has been passed at the closed meeting declassifying an item or items which would permit disclosure.
- (4) Minutes of a closed meeting must be kept in the same manner as minutes of a regular meeting but must be kept in a secure location and must not be filed with the minutes of regular meetings, unless and until it has been declassified by resolution of Council.

14. CONFIDENTIAL MATTERS

- (1) Matters deemed to be of a confidential nature may be considered in the portion of the meeting closed to the public (Closed Meeting) if the subject matter being considered relates to any of the items in section 90 of the *Community Charter*.

15. MINUTES OF MEETINGS

- (1) Minutes of the proceedings of the Council must:
 - (a) be legibly recorded,
 - (b) not record the names of the mover or seconder of a motion,
 - (c) not record motions that are withdrawn,
 - (d) record the main motion, as amended, but not each amendment,
 - (e) be certified as correct by the Corporate Officer, and
 - (f) be signed by the Mayor or other member presiding at the meeting or presiding at the next meeting at which the minutes are adopted.
- (2) Subject to subsection (1) and in accordance with section 97 of the *Community Charter* [other records to which public access must be provided] minutes of the proceedings of the Council will be open for public inspection at City Hall during regular office hours.
- (3) Subsection (2) does not apply to minutes of a Council meeting or that part of a Council meeting from which persons were excluded under section 90 of the *Community Charter* [meetings that may be closed to the public].
- (4) Minutes or notes will not be recorded or taken for matters taking place during the Public Input Period or Public Clarification.

16. CALLING THE MEETING TO ORDER

- (1) As soon after the time specified for a Council meeting as there is a quorum present, the Mayor or the Councillor designated as the member responsible for acting in place of the Mayor must take the Chair and call the Council meeting to order.
- ~~(2)~~ Immediately after calling the meeting to order, the Mayor or the presiding member shall begin each meeting with the following statement: "We acknowledge and respect the traditional territory (gŭŭ) and treaty lands of the Tla'amin Nation where we live, work, and play.
- ~~(2)~~ If a quorum of Council is present but the Mayor or the Councillor designated as a member responsible for acting in the place of the Mayor under section 12 do not attend within ten (10) minutes of the scheduled time for a Council meeting:
 - (a) the Corporate Officer must call to order the members present, and
 - (b) the members present must, by resolution, choose a member to preside at the meeting.

17. ADJOURNING THE MEETING WHERE NO QUORUM

- (1) If there is no quorum of Council present within ten (10) minutes of the scheduled time for a Council meeting, the Corporate Officer must:
 - (a) record the names of the members present and those absent, and
 - (b) adjourn the meeting until the next scheduled meeting.
- (2) If a quorum ceases to exist during a Council meeting, the meeting shall be adjourned, and the Corporate Officer will record the name of the Council member who left the meeting and the time the meeting was adjourned.

18. AGENDA

- (1) Prior to each Council meeting, the Corporate Officer will prepare an agenda setting out all the items for consideration at that meeting, noting in short form a summary for each item on the agenda.
- (2) Subject to the provisions of this bylaw, for regular meetings, the Corporate Officer will make available, by e-mail, a link to the agenda. ~~and when emailing is not possible, a copy will be made available for pick up at City Hall.~~ The Corporate Officer will endeavour to make the agenda available to the members of Council and to the public no later than the Friday afternoon prior to the meeting. The Corporate Officer shall post the regular meeting agenda to Public Notice Posting Place.
- (3) Special meeting agenda's will be posted to Public Notice Posting Place within 24 hours.
- (4) **Confidential agendas for the closed portion of a regular or special council meeting will be made available to council members via the City's secure portal.**
- (5) All agenda items shall be submitted to the Chief Administrative Officer for review and approval no later than 4:30 pm, on the Monday of the week prior to the week of the meeting.

- (6) To enable the Corporate Officer to prepare the agenda for the regular meeting and closed portion of the meeting, all documents, matters and business to be submitted to the Council, must be delivered to the Corporate Officer no later than 11:00 am on the Tuesday of the week prior to the week of the meeting except:
 - (a) those items introduced by members of Council as a "Notice of Motion" pursuant to section 23(1); and
 - (b) where the Council by an affirmative vote has agreed to deal with the motion at the meeting at which the notice was given.
- (7) An agenda item from a member of Council must be submitted to the Corporate Officer in writing, in the form of a report containing relevant explanatory information and background, with a recommendation, in accordance with the deadline established in subsection (6).
- (8) An item of business not included on a Council agenda must not be considered at a Council meeting unless:
 - (a) the matter is of an emergent nature that is time sensitive and cannot wait for the next scheduled meeting.

19. ORDER OF PROCEEDINGS AND BUSINESS

- (1) The usual order of business at a regular Council meeting is as set out in the agenda for that meeting under the following headings, if there is business to be listed under the matter:
 - (a) Call to Order
 - (b) Adoption of Agenda
 - (c) Motion to Close the Meeting to the Public, if required
 - (d) Reconvene (7:00 pm)
 - (e) Public and Statutory hearings
 - (f) Public Input Period
 - (g) General Matters [delegations | recognitions]
 - (h) Consent Agenda
 - (i) **ITEMS REMOVED from the CONSENT AGENDA**
 - (j) Legislative Matters [bylaws, development variance permits, agreements, contracts, financial plan]
 - (k) Unfinished Business
 - (l) Committee | Commission Recommendations
 - (m) New Business [Council verbal or written **reports** including announcements & staff reports, correspondence]
 - (n) Introduction of Late Items [in accordance with subsection 18(8) for regular agenda]
 - (o) Introduction of "Notice of Motion"

- (p) Public Clarification [questions]
- (q) Adjournment by Mayor

20. CONSENT AGENDA

- (1) Consent Agendas are intended for regular Council meetings only and for routine business items that can be approved with a single motion and do not require any discussion or debate. It may include bylaws, correspondence, minutes, ~~and~~ information only reports, and items carried unanimously by members of the committee at a COTW.
- (2) Items listed in the Consent Agenda are considered for approval in one motion unless a member of Council wishes to remove an item, to ask questions regarding it or have a separate vote on it.
- (3) The presiding member will ask members what items, if any, they wish to be removed from the Consent Agenda to be discussed or debated individually.
- (4) If any member requests that an item be removed from the Consent Agenda, it must be removed. Members may request that an item be removed for any reason.
- (5) Items that present a Conflict of Interest for a Council member must be removed and considered separately.
- (6) Corrections to minutes may be noted without removing the item from the Consent Agenda.
- (7) The presiding member will then ask that the members adopt those items not removed from the Consent Agenda.
- (8) Removed items will then be voted on individually.
- (9) Any items removed from the consent agenda will be placed and considered under the heading "Items Removed from Consent Agenda".

21. PUBLIC INPUT PERIOD

- (1) Members of the public may make oral comment only regarding items listed under (j) (l) and (m) on the Council agenda for that meeting, must first state their name and address for the record; and may speak once for up to two [2] minutes each.
- (2) Where a member of the public wishes to provide comments electronically at a Hybrid Meeting that person may:
 - (a) provide comments in writing to the Corporate Officer or their designate no later than 1:00 pm on the day of the meeting; or
 - (b) make oral submissions in accordance with subsection (1) ~~and~~ provided the person ~~registers to participate~~ is virtually present in the Hybrid Meeting.
- (3) The presiding member may provide additional direction respecting public input.
- (4) Members of the public who, when providing input use disrespectful language, make defamatory statements, allegations, inferences etc., will be asked to stop speaking immediately, be given the opportunity to apologize and adjust their comments accordingly. If the member of the public continues to speak disrespectfully, the presiding member will immediately advise the member to, once again stop speaking and advise them to return to their seat in the gallery or leave the meeting room.

22. PUBLIC CLARIFICATION

- (1) Members of the public are limited to asking clarification questions regarding business discussed by Council at that meeting [excluding public hearing topics]; must first state their name and address for the record; and may speak once for up to two [2] minutes each.

23. NOTICE OF MOTION

- (1) Under introduction of Notice of Motion, a member may introduce an item as a "Notice of Motion" for the next agenda. A "Notice of Motion" must be in writing, may contain no more than two [2] WHEREAS clauses, is introduced by reading the motion, and is not debatable. After providing "Notice of Motion" the Council member shall prepare a written report for the next Council meeting in accordance with subsections 18(6) and 18(7). The Council, by unanimous vote of members present, may deal with the matter at the same meeting in which it is introduced.

24. PRECEDENCE

- (1) All items on the agenda are taken up in the order in which they appear on the agenda, except that when necessary for the better conduct of business, an item may be withdrawn from the agenda at the beginning of the meeting or taken out of order by consent of Council.
- (2) Adoption of the Agenda as presented or as amended, includes receipt of all business items, e.g., reports, minutes, and delegations, included in the agenda and therefore, separate motions to receive are not required.

25. RECESS

- (1) The Mayor **or the presiding member** may call a recess when reasonable circumstances warrant.

26. END OF MEETING

- (1) When the business outlined on the agenda has been completed the Mayor or the presiding member will declare the meeting adjourned. If the agenda is not completed, a motion to adjourn the meeting is in order.

27. VOTING AT MEETINGS

- (1) Council members shall vote on the question of each motion put before Council.
- (2) Voting, unless elsewhere stipulated, shall be by show of hands. Any Council member present who abstains from voting shall be deemed to have voted in the affirmative.
- (3) The Mayor or the presiding member shall be deemed to have voted at the same time as other Councillors.
- (4) A motion shall be passed with a majority of votes except as required otherwise in the *Community Charter*. A motion shall be defeated otherwise.
- (5) The following procedures apply to voting at Council meetings:
 - (a) when a debate on a matter is closed the presiding member must put the matter to a vote of Council members;
 - (b) when Council is ready to vote, the presiding member must put the matter to a vote by stating words to the effect: "those in favour raise your hands" and then "those opposed raise your hands"; and

- (c) when the presiding member is putting the matter to a vote under subsections (a) and (b), a member must not:
 - (i) cross or leave the room,
 - (ii) make a noise or other disturbance, or
 - (iii) interrupt the voting procedure under paragraph (a) or (b), unless the interrupting member is raising a point of order;
- (d) after the presiding member puts the question to a vote under paragraph (b), a member must not speak to the question or make a motion concerning it;
- (e) the presiding member's decision about whether a question has been finally put is conclusive;
- (f) whenever a vote of Council on a matter is taken, each member present shall signify their vote by raising their hand;
- (g) the presiding member must declare the result of the voting by stating that the question is decided in either the affirmative [Carried] or the negative [Defeated];
- (h) in all cases [except a motion to Sustain the Chair] where the votes of the members present and entitled to vote, including the vote of the presiding member, are equal for and against a question, the question shall be declared in the negative and shall be defeated, in which case the presiding member or other member presiding must so declare.
- (i) the presiding member must declare the results of the voting by stating the name(s) of those members opposed and that the question is decided in either the affirmative or the negative ["Carried" or "Carried Unanimously" or "Defeated"].

28. DELEGATIONS

- (1) A delegation of one or more persons may apply to the Corporate Officer to address Council at a meeting, provided written application on a form approved by the Corporate Officer has been received by the Corporate Officer prior to 12 noon on the Monday of the week prior to the week of the meeting. Only those delegations scheduled on the Council agenda will be heard. Unless otherwise previously arranged, delegations are required to limit their oral comments to 5 (five) minutes and be supported by written submission, which is to be provided to the Corporate Officer in accordance with Section 18(6). Following the conclusion of oral comments by the delegate, Council will allow up to 5 (five) minutes for clarifying questions from Council.
- (2) Where a written application has not been received, presentations from the audience shall not be heard unless approved by an affirmative vote of Council members present and, if approved, they are required to limit their oral comments to 3 [three] minutes. Council when considering whether to approve adding a late delegation to the agenda, will consider whether the item arose since the agenda deadline for submissions, if the delegation can be heard at the next meeting, and whether the topic is time-sensitive and requires urgent consideration.
- (3) The number of delegations at a Council meeting shall be limited to 2 [two] at each meeting.

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- (4) Council shall not act on a request from a delegation until the next regular meeting, unless consent by a unanimous vote of Council is given to consider the matter following the delegation under, "New Business".
- (5) Delegations must not be heard at a regular, special or COTW Council meetings on the following:
 - (a) Official Community Plan, OCP amendment bylaws, Zoning Bylaw and Zoning amendment bylaws that have not yet been adopted, defeated or abandoned;
 - (b) Personnel matters;
 - (c) Matters on which Council has commenced legal action and on which judgement has not been rendered;
 - (d) Nominated political candidate;
 - (e) where Council has established an alternate process soliciting public comment/feedback on a matter;
 - (f) the matter is an item being considered/discussed by Council in a Closed meeting and has not been declassified by a resolution of Council.
 - (g) the delegation has **within the last 30 business days** addressed Council on the same matter and no new information is being provided; and
 - (h) the matter has already been acted upon by Council or been referred to staff by Council.
- (6) Council shall not provide response to public inquiries related to matters set out in paragraphs (a), (b), (c) and (f) of subsection (5).
- (7) Individuals requesting to appear as a delegation concerning a complaint or an issue with the municipality will first be referred by the Corporate Officer to the appropriate staff person. The delegation request will be approved only when the Corporate Officer has evidence that the staff referral has been unsuccessful.
- (8) The Corporate Officer may refuse to place a delegation on the agenda if he or she does not believe the issue is within the jurisdiction of Council or does not comply with the **City's Respectful Workplace and Prevention of Harassment, Bullying and Discrimination Council Policy No. 248**. If the delegation wishes to appeal the Corporate Officer's decision, the information must be distributed under separate cover to Council for its consideration.

29. POINTS OF ORDER

- (1) Without limiting the Mayor's or presiding member's duty under section 132(1) of the *Community Charter* (authority of a presiding member), the Mayor or presiding member will apply the correct procedure to a motion:
 - (a) if the motion is contrary to the rules of procedure in this Bylaw, and
 - (b) whether or not another member has raised a point or order in connection with the motion.
- (2) When the Mayor or presiding member is required to decide a point of order:
 - (a) the Mayor or presiding member will cite the appropriate rule or authority if requested by another Council member.

- (b) another member must not question or comment on the rule of authority cited by the Mayor or presiding member under paragraph (a).
- (3) The Mayor or presiding member may reserve the decision until the next Council meeting.
- (4) A member must cease speaking when called to order and while the point of order is being stated.
- (5) When the presiding member is of the opinion that a motion is contrary to the rules and privileges of the Council, the presiding member shall apprise the members present without proposing the question and shall cite the rule or authority applicable to the case without argument or comment, and state the appropriate remedy thereafter. The ruling of the presiding member may be appealed by the other members of Council present.
- (6) On an appeal by a Council member from the decision of the presiding member, the question shall be immediately put by them and decided without debate "shall the Chair be sustained?" and the presiding member shall be governed by the vote of the majority of Council members present, excluding the Mayor. In the event of the votes being equal, the question shall pass in the affirmative.
- (7) If the presiding member refuses to put the question "Shall the presiding member be sustained?", the Council shall immediately appoint a presiding member temporarily. A resolution or motion carried under this section is binding.

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PART 6 | RULES OF CONDUCT AND DEBATE

30. CONDUCT OF SPEAKER

- (1) a Council member may speak to a question or motion at a Council meeting only if that member first addresses, and is recognized by, the presiding member.
- (2) Members must address the presiding member by that person's title of Mayor or Acting Mayor.
- (3) Members must address other non-presiding members by the title Councillor.
- (4) No member shall interrupt a member who is speaking except to raise a point of order.
- (5) If more than one member speaks, the presiding member must call on the member who, in the presiding member's opinion first spoke.
- (6) Members who are called to order by the presiding member;
 - (a) must immediately stop speaking, and
 - (b) may explain their position on the point of order and may appeal to the presiding member for a decision on the point of order in accordance with section 132 of the *Community Charter*.
- (7) Members speaking at a Council meeting:
 - (a) must use respectful language,
 - (b) must not use offensive gestures or signs,
 - (c) must speak only in connection with the matter being debated,

- (d) may speak about a vote of Council only for the purpose of making a motion that the vote be rescinded; and
 - (e) must adhere to the rules of procedure established under this bylaw and to the decisions of the presiding member and Council in connection with the rules and points of order.
- (8) If a member does not adhere to subsection (7), the presiding member may order the member to leave the member's seat, and:
- (a) if the member refuses to leave, the presiding member may cause the member to be removed from the member's seat by a peace officer, and
 - (b) if the member apologizes to the Council, Council may by resolution, allow the member to retake the member's seat.
- (9) A member may require the question being debated at a Council meeting to be read at any time during the debate if that does not interrupt another member who is speaking.
- (10) No member of Council may speak more than once to the same question without the permission of Council, unless the member is explaining a material part of a previous speech without introducing a new matter.
- (11) A member wishing to speak for the purpose of:
- (a) making a motion or entering the debate may speak after being recognized by the presiding member, but only;
 - (i) to make a motion; and
 - (ii) directly and concisely on the matter under debate;
 - (b) if necessary, by interrupting a member who is speaking, request the presiding member to consider and decide on a matter of comfort, convenience or privilege of the Council or of a member [question of privilege].

31. COMMUNICATING ON BEHALF OF COUNCIL

- (1) As per "City of Powell River Code of Conduct Bylaw No. 2757, 2024" members must not post personal comments or status updates that reflect negatively on the integrity of the organization.
- (2) Members will use caution in reporting Council decision-making before the City has released any formal communication.
- (3) Members acknowledge that the Mayor is the primary spokesperson for the City. As such, members must not purport to speak on behalf of the City or Council unless expressly authorized to do so except where appropriate, interviews can be referred to a member of Council or the Chair of the relevant Committee at the discretion of the Mayor.
- (4) When a member of Council is speaking as an individual, members will include "in my opinion" or use a similar disclaimer to ensure it is expressly clear members are speaking only for themselves and not on behalf of either the City or Council as a whole.
- (5) In an effort to promote the integrity of and respect for the collective and democratic decision-making process, members will not misrepresent the decisions of Council or

Committees/Commissions if they disagree with the majority decision. Further, members will not make personal comments in public that would reflect negatively on the decision-making process or the integrity of the organization.

- (6) When discussing publicly the positions taken by other members during a vote on a matter, members will refrain from making disparaging comments about other members.

32. CLOSING DEBATE

- (1) Debate shall be closed by the presiding member when in the presiding member's opinion there has been a reasonable amount of debate.

33. MOTIONS GENERALLY

- (1) The Council may debate and vote on a motion only if it is first moved by one Council member and then seconded by another.
- (2) A motion that deals with a matter that is not on the agenda shall be considered out of order.
- (3) After a motion is moved and seconded, it shall be deemed to be in possession of the Council but may be withdrawn at any time, before decision or amendment, with unanimous consent of Council.
- (4) When the presiding member is of the opinion that there has been sufficient debate on a specific question or matter, the presiding member may call the question and no member of Council shall speak to the question nor shall any other motion be entertained except those of subsection (6) until the results of the vote have been declared.
- (5) No member shall speak on any question for longer than five (5) minutes or may speak in reply for longer than three (3) minutes, and for a maximum speaking time of 10 minutes.
- (6) A member may make only the following motions which take precedence when the Council is considering a question:
 - (a) to refer;
 - (b) to amend;
 - (c) to postpone [indefinitely or to a specific time];
 - (d) to adjourn.
- (7) A motion made under subsections (6) (c) and (d) is not amendable or debatable, with the exception that a motion to postpone to a certain time is debateable only as to the time and reasons for postponement and is amendable only to change the time to which the main motion is to be postponed.
- (8) Council must vote separately on each distinct part of a question that is under consideration at a Council meeting if requested by a Council member.
- (9) When the presiding member is of the opinion that a motion put before the Council is contrary to the rules of Council, the presiding member shall apprise the members immediately before putting the question and shall cite the rule or authority applicable to the case without argument or comment.

34. MOTION TO POSTPONE

- (1) Until it is decided, a motion made at a Council meeting to postpone precludes an amendment to the main question.

35. MOTION FOR THE MAIN QUESTION

- (1) In this section, "main question", in relation to a matter, means the motion that first brings the matter before the Council.
- (2) Only one amendment to the main question shall be permitted at any one time. Amendments to an amendment motion will not be permitted. The Corporate Officer shall not record the amendments to motions in the final minutes.

36. AMENDMENTS GENERALLY

- (1) A member may, without notice, move to amend a motion that is being considered at a Council meeting.
- (2) An amendment may propose removing, substituting for, or adding to the words of an original motion.
- (3) The proposed amendment must be reproduced in writing by the mover if requested by the presiding member.
- (4) A proposed amendment must be decided before the main motion being considered is put to a vote.
- (5) An amendment that has been negated [defeated] by a vote of Council cannot be proposed again.

37. RECONSIDERATION OF A MATTER

[In addition to the Mayor's right of reconsideration found at s.131 of the Community Charter]

- (1) After a decision has been made on a matter, two [2] Council members, with the mover being a member who voted in the majority of the motion to be reconsidered, may move for reconsideration.
- (2) Reconsideration of a defeated matter may not be taken at the same meeting at which the motion was decided unless Council so resolves by unanimous consent.
- (3) A Council member who was not present at the meeting when a resolution was adopted may move at any time to rescind that resolution.
- (4) Without limiting the authority of Council to reconsider a matter, the presiding member may require the Council to reconsider and vote again on a matter that was the subject of a vote.
- (5) As restrictions on the authority under subsection (4),
 - (a) reconsideration under this section may only be initiated if:
 - (i) at the same Council meeting as the vote took place, or
 - (ii) within 30 [thirty] days following that meeting or the subsequent regular Council meeting, and
 - (b) a matter may not be reconsidered under this section if:

- (i) it has had the approval or assent of the electors and was subsequently adopted by Council;
 - (ii) there has already been a reconsideration in relation to the matter;
 - (iii) the matter has been acted upon by an officer, employee or agent of the municipality; or
 - (iv) it is a reconsideration of a motion to adopt a bylaw.
- (5) Council shall not discuss the main motion until the motion for reconsideration is passed in the affirmative.
- (6) On a reconsideration under this section, the Council:
- (a) must deal with the matter as soon as convenient, and
 - (b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.
- (7) If the original decision was a resolution and that decision is rejected on reconsideration, the resolution is of no effect and is deemed to be rescinded.
- (8) If a motion for reconsideration is lost [defeated], the motion shall not be reintroduced to Council for 6 [six] months.

38. ADJOURNMENT

- (1) Regular meetings shall be deemed to be adjourned at 9:00 pm [if called to order at 5:30 pm] or at 10:30 pm [if called to order at 7:00 pm] on the day scheduled for the meeting unless the Council resolves to proceed beyond that time by unanimous vote of the members present.
- (2) A motion to adjourn either a Council meeting or the debate at a council meeting is always in order if that motion has not been preceded at that meeting by the same motion.
- (3) Section 2 does not apply to either of the following motions:
- (a) a motion to adjourn to a specific day; or
 - (b) a motion that adds an opinion or qualification to a preceding motion to adjourn.

PART 7 | BYLAWS

39. RULES APPLYING TO BYLAWS

- (1) A proposed bylaw may be introduced at a Council meeting only if a copy of it has been delivered to each member before the Council meeting, or all members unanimously agree to waive this requirement.
- (2) The Council must consider a proposed bylaw at a Council meeting either:
- (a) separately when directed by the presiding member or requested by another member,
 - (b) jointly with other proposed bylaws in the sequence determined by the presiding member

- (3) Before adoption, a bylaw requires the following readings:
 - (a) at first reading, the bylaw will be introduced by title only and will not be debated;
 - (b) at second reading, the bylaw will be read by title only unless Council resolves that it be read in whole or in part and to consider the body of the bylaw;
 - (c) third reading, the bylaw will be read by title only, and subject to the bylaw and applicable legislation, may be debated; and
 - (d) at fourth reading [adoption] the bylaw will not be debated.
- (4) Three readings of a bylaw may be given at one meeting of Council except as provided in subsection (5).
- (5) A bylaw which requires a public hearing must, following its second reading, be referred to public hearing and other statutory referral requirements.
- (6) A bylaw may be amended at any time during second or third reading, except a Zoning or Official Community Plan bylaw may be amended after a required public hearing only to the extent that the alteration does not:
 - (a) alter the use;
 - (b) increase the density;
 - (c) without the owner's consent, decrease the density of any area from that originally specified in the bylaw.
- (7) There must be at least one day between third reading and adoption of a bylaw, except as provided for under the *Community Charter* or the *Local Government Act*.
- (8) If a bylaw fails to receive a mover and seconder at any readings or at adoption, that bylaw shall be deemed to have been defeated.
- (9) If a motion to pass any reading or adoption of a bylaw is defeated, that bylaw shall be deemed to have been defeated.
- (10) Bylaws may be considered only at meetings open to the public.

PART 8 | RESOLUTIONS

40. COPIES OF RESOLUTIONS TO COUNCIL MEMBERS

- (1) A resolution pertaining to an agenda item may be introduced at a Council meeting only if a copy of it has been delivered to each member at least 24 hours before the Council meeting, or if all Council members present unanimously agree to waive this requirement.
- (2) A resolution introduced at a Council meeting must be printed and provided to the Corporate Officer.
- (3) The presiding member of a Council meeting may, if a resolution was introduced:
 - (a) read the resolution, or request the member who introduced the resolution, to read the resolution.

PART 9 | PUBLIC HEARINGS

41. PROCEDURE

- (1) Subject to subsection (2), a public hearing may be held before an Official Community Plan bylaw or a Zoning bylaw, or an amendment to such bylaw may be given third reading to allow the public to make representations to Council respecting matters contained in the proposed bylaw, as provided in the *Community Charter or Local Government Act*.
- (2) The public hearing, if required, must be held after first reading of the bylaw and before third reading, as provided in the *Community Charter or Local Government Act*.
- (3) Should a public hearing be required, at the public hearing all persons who believe that their interest in property is affected by the proposed bylaw must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the hearing, as provided in the *Community Charter or Local Government Act*.
- (4) The presiding member of the public hearing may establish procedural rules for the conduct of the hearing. The presiding member will call the Public Hearing to order and advise of the purpose of the hearing and the process, which will include the amount of time each speaker may speak. The applicant may make a presentation to Council regarding the application. Staff, on occasion, may be requested by the presiding member to provide a brief description of the application. The Director of Planning Services will indicate dates and locations the Public Hearing was advertised. The presiding member will call for representations from the audience as provided in the *Community Charter or Local Government Act*.
- (5) Representations made at a Public Hearing will not be treated as confidential.
- (6) A Public Hearing may occur at a Hybrid Meeting.

PART 10 | COMMITTEES

42. COMMITTEES OF COUNCIL

- (1) Standing and select committees and commissions as appointed from time to time by Council or the Mayor shall be governed by this bylaw.
- (2) **The City of Powell River Committee System Policy and any amendments thereto provide the processes that are to be followed by committees.**
- (3) The committees of Council shall make recommendations to Council, and must not take action on any matters, nor direct department business, affairs or staff assigned to that committee.

43. GOING INTO COMMITTEE OF THE WHOLE

- (1) At any time during a Council meeting Council may, by resolution, go into COTW.
- (2) In addition to subsection (1), a meeting, other than a standing or select committee meeting, to which all members of Council are invited to consider but not to decide on matters of the City's business, is a meeting of COTW.

44. NOTICE FOR COTW MEETINGS

- (1) Subject to subsection (2), a notice of the date, time and place of a COTW meeting must be given at least 48 hours before the time of the meeting by:
 - (a) posting a copy of the notice at the Public Notice Posting Place;
 - (b) posting a copy on the City's web site; and
 - (c) emailing **a copy of the notice to each Council member.**
- (2) Subsection (1) does not apply to a COTW meeting that is called, in accordance with section 43, during a Council meeting for which public notice has been given under section 6 or 7.

45. COTW AGENDA

- (1) The Corporate Officer must:
 - (a) Prepare an agenda setting out all items for consideration at each COTW meeting, except for a COTW called in accordance with s. 43(1);
 - (b) Make the agenda available to the public and members of the Committee [Council] at least 48 hours before the time of the meeting by:
 - (i) posting a copy of the agenda at the Public Notice Posting Place;
 - (ii) posting a copy on the City's website; and
 - (iii) **emailing the link to the agenda to each Council member.**

46. MINUTES OF COTW MEETINGS TO BE MAINTAINED AND AVAILABLE TO THE PUBLIC

- (1) Minutes of the proceedings of COTW must:
 - (a) be legibly recorded;
 - (b) not record the names of the mover and seconder of a motion;
 - (c) not record motions that are withdrawn;
 - (d) record the main motion, as amended, but not each amendment;
 - (e) be certified by the Corporate Officer;
 - (f) be signed by the Mayor or other member presiding at the meeting or at the next meeting at which the minutes are approved; and
 - (g) open for public inspection in accordance with section 97(1)(c) of the *Community Charter*.

47. PRESIDING MEMBERS AT COTW MEETINGS AND QUORUM

- (1) The Acting Mayor, at the time a COTW is held, shall preside in a COTW meeting.
- (2) **If the Acting Mayor is absent, the members of Council attending a meeting of COTW must appoint the next Council member in the acting rotation to preside at the COTW meeting.**

- (3) The quorum of COTW is the majority of Council members.

48. POINTS OF ORDER AT MEETINGS

- (1) The presiding member must preserve order at a COTW meeting and, subject to an appeal to other members present, decide points of order that may arise.
- (2) Points of order at a COTW meeting as outlined in s. 29 apply.

49. CONDUCT AND DEBATE

- (1) The following rules apply to COTW meetings:
 - (a) a motion for adjournment is not allowed during discussion or debate of a motion;
 - (b) a member may speak any number of times on the same question, as long as they are presenting new information, questions or perspectives; and
 - (c) a member must not speak longer than a total of 10 minutes on any one question.

50. VOTING AT MEETINGS

- (1) Votes at a COTW meeting must be taken by a show of hands if requested by a member.
- (2) The presiding member must declare the results of voting by stating the name[s] of those members opposed and that the question is decided in either the affirmative or the negative ["Carried" or "Carried Unanimously" or "Defeated"].

51. REPORTS

- (1) COTW may consider reports and bylaws only if:
 - (a) they form part of the agenda that was distributed for the COTW and the members each have a copy; or
 - (b) a majority of the members present decide without debate that the requirements of paragraph (a) do not apply.
- (2) A motion for COTW to rise and report to Council must be decided without debate.
- (3) The COTW's reports to Council may be in the form of the minutes of the meeting, and the recommendations to Council, in the form of the motions, that the Corporate Officer shall add to a Council agenda or staff may include in reports.

52. RISING WITHOUT REPORTING

- (1) A motion made at a COTW meeting to rise without reporting:
 - (a) is always in order and takes precedence over all other motions;
 - (b) may be debated; and
 - (c) may not be addressed more than once by any one member.
- (2) If a motion to rise without reporting is adopted by COTW at a meeting constituted under section 43(1), the Council meeting must resume and proceed to the next order of business.

PART 11 | REPEAL

53. REPEAL

City of Powell River "Council Procedure Bylaw 2415, 2015" and all amendments thereto, are hereby repealed.

PART 12 | SEVERABILITY

54. If any section, clause, subclause or phrase of the bylaw is for any reason held to be invalid by a decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

READ A FIRST TIME this day of , 2024.

READ A SECOND TIME this day of , 2024.

READ A THIRD TIME this day of , 2024.

ADOPTED this day of , 2024.

Mayor

Corporate Officer

Schedule "C"



SECTION CORPORATE POLICIES
POLICY 1.46
SUBJECT COUNCIL CODE OF CONDUCT
ADOPTED July 26, 2023 2024

PREAMBLE

Being a ~~m~~Member of ~~Council~~Council ~~the Board~~ or an appointed member of Committees ~~or Commissions~~ of the ~~City of Powell River~~qathet Regional District (qRD) (City), answerable to the public, comes with standards of ethical behaviour and conduct that are different than the standards that may be found in one's other roles in the community. The standards set out in this *Code of Conduct Policy* (the "Policy") are a guide to assist ~~Council~~Council~~Board~~ members (and members of Committees/Commissions) in decisions faced ~~in the course of~~while carrying out their duties and to support them in being proactive toward ethical dilemmas that may arise in the course of their activities. This Policy does not cover every possible situation ~~Council~~Council~~Board or~~ Committee, ~~or Commission~~ members may face so it is important that actions are in harmony with the spirit and intent of this Policy.

PURPOSE

Members of ~~Council~~Council~~the Board and~~ ~~and its~~ ~~Committees~~committees ~~and Commission~~ represent the interests of the public in the processes of their local government. As such, they are entrusted with upholding the bylaws of the ~~City~~ qRD as well as all applicable provincial and federal laws. The purpose of this Policy is to set the expectation that members adhere to the standards set out in this Policy while carrying out their duties and functions as members of ~~Council~~the Board, and as members of the various bodies to which they have been elected/appointed, including in their interactions with other local governments, higher orders of government and First Nations.

SCOPE

This Policy applies to ~~Council~~qRD ~~Board, and~~ Committee, ~~and Commission~~ members. It applies to all interactions of ~~Council~~Council~~Board~~ and Committee/~~Commission~~ Members in relation to ~~City~~ qRD matters whether in duly constituted meetings, interactions with staff, the press, or the public and during their use of social media. It is intended to govern and apply to relations and conduct between and among members of ~~Council~~the Board, Committees, ~~Commissions~~, and staff.

As such, only members of ~~Council~~Council, ~~the Board~~, ~~C~~committees, ~~Commissions~~ and staff shall have standing to file complaints under this Policy. ~~Complaints from the public with respect~~

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~~to the conduct of elected officials can be filed under the qRD's General Complaints Policy (No. 2-11), and will be administered under the terms of that Policy rather than this Code of Conduct Policy.~~

Complaints filed under this Policy must be rooted in demonstrable violations. Complaints that are deemed by an independent ~~T~~hird-~~P~~arty iInvestigator to have been filed frivolously, vexatiously, or out of a motivation to politically or personally discredit or harm a respondent shall in and of themselves constitute a violation of this Policy.

In the event that it is a member of staff who is found by an independent ~~T~~hird-~~P~~arty iInvestigator to have filed a frivolous or vexatious complaint per the above, the matter shall be referred to the ~~C~~ity's ~~D~~istrict's Human Resources ~~D~~epartment. ~~D~~ivision under the qRD's ~~W~~orkplace ~~D~~iscrimination and ~~B~~ullying and ~~H~~arassment Policy (No 4.16).

APPLICATION OF THE CODE

Recognizing that the ~~C~~ity~~q~~RD seeks to maintain and enhance the quality of life for all residents through effective, responsive and responsible government, members will conduct their business with integrity and in a fair, honest and open manner. Further, this Policy is founded on the principles of **Integrity, Respect, Accountability, and Leadership and Collaboration.**

For clarity, these principles are defined as follows:

Integrity means conducting oneself honestly and ethically. Conduct under this principle is demonstrated by being open and truthful in all local government dealings, protecting confidentiality where necessary, behaving in a manner that promotes public confidence, avoiding perceptions of conflicts of interest or unethical conduct, ensuring actions are consistent with ~~the Board's Council's~~ shared principles, values, policies and bylaws, demonstrating ethical principles during both open and closed meetings, and expressing sincerity when correcting or apologizing for any errors or mistakes made while carrying out official duties.

Respect means having due regard for others' perspectives, wishes and rights; it also means displaying deference to the offices of local government, staff, and the role of local government in community decision making. Conduct under this principle is demonstrated when a member fosters an environment of trust by ~~demonstrating showing~~ due regard for the perspectives, wishes and rights of others and an understanding of the role of the local government.

Accountability means an obligation and willingness to accept responsibility or to account for one's actions. Conduct under this principle is demonstrated when members, individually and collectively, accept responsibility for their actions and decisions.

Leadership and Collaboration means an ability to lead, listen to, and positively influence others; it also means coming together to create or meet a common goal through collective efforts. Conduct under this principle is demonstrated when members encourage one another to work together in pursuit of collective objectives by leading, listening to, and positively influencing others.

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POLICY

1. COMPLY WITH THE LAW

1.1 This Code of Conduct Policy is intended to be developed, interpreted, and applied in a manner that is consistent with all applicable Federal and Provincial Laws, as well as the bylaws and policies of the City of RD, the common law, and any other legal obligations which apply to members individually or to the Board Council as a collective.

1.2 Additionally, members agree to refrain from any conduct that could be perceived as discriminatory on the basis of race, religion or belief, age, gender, marital status, national origin, physical or mental disability or sexual orientation or identity.

2. CONDUCT OF MEMBERS

The conduct of members in the performance of their duties and responsibilities with the City of RD must align with the four “principles” identified under “*Application of the Code*” as follows:

2.1 **Integrity** is demonstrated by the following conduct:

- (a) Members will be truthful, honest, and open in all dealings, including those with other members, staff and the public.
- (b) Members will ensure that their actions are consistent with the shared principles and values collectively agreed to by the Board Council.
- (c) Members will follow through on their commitments, correct errors in a timely and transparent manner, and engage in positive communication with staff, the community, other levels of government and external agencies.
- (d) Members will direct their minds to the merits of the decisions before them, ensuring that they act on the basis of relevant information and principles and in consideration of the consequences of those decisions.
- (e) Members will behave in a manner that promotes public confidence in all of their dealings.

2.2 **Respect** is demonstrated through the following conduct:

- (a) Members will treat every person with dignity, understanding, and respect.
- (b) Members will show consideration for every person’s values, beliefs, experiences and contributions to discussions.
- (c) Members will demonstrate awareness of their own conduct, and consider how their words or actions may be, or may be perceived as, offensive or demeaning.
- (d) Members will not engage in behaviour that is indecent, insulting or abusive. This behaviour includes verbal slurs such as racist remarks, unwanted physical contact,

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or other aggressive actions that are harmful or threatening.

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2.3 **Accountability** is demonstrated through the following conduct:

- (a) Members will be responsible for the decisions that they make and be accountable for their own actions and the collective actions of the ~~Board~~Council, Committee, or Commission on which they serve.
- (b) Members will listen to and consider the opinions and needs of the community in all decision-making and allow for appropriate opportunities for discourse and feedback.
- (c) Members will carry out their duties in an open and transparent manner so that the public can understand the process and rationale used to reach decisions and the reasons for taking certain actions.

2.4 **Leadership and Collaboration** is demonstrated through the following conduct:

- (a) Members will behave in a manner that builds public trust and confidence in the local government, including considering the different interests of the people who make up the community.
- (b) Members will consider the issues before them and make decisions as a collective body. As such, members will actively participate in debate about the merits of a decision, but once a decision has been made, all members will recognize the democratic majority, ideally acknowledging its rationale, when articulating their opinions on a decision.
- (c) Members will recognize that debate is an essential part of the democratic process and encourage constructive discourse while empowering other members and staff to provide their perspectives on relevant issues.
- (d) As leaders of their communities, members will calmly face challenges, and provide considered direction on issues they face as part of their roles and responsibilities while empowering their colleagues and staff to do the same.
- (e) Members will recognize, respect and value the distinct roles and responsibilities others play in providing good governance and commit to fostering a positive working relationship with and among other members, staff, ~~and the~~ community, other levels of government and external agenciespublic.
- (f) Members will recognize the importance of the role of the Chair of meetings and treat that person with respect at all times.

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3. RESPECT FOR PROCESS

All meetings will be conducted in a manner consistent with the Council Procedure Bylaw 2415 - ~~Board~~Council Procedure Bylaw (No. 557), and will provide adequate and substantive opportunity for persons to state their position on any matter before the assembly. Members shall perform their duties in accordance with the policies, procedures, and rules of order governing the deliberation of public policy issues established by ~~Council~~Council~~the~~ ~~Board~~Council, including the provision of meaningful involvement of the communitypublic, and implementation of policy decisions of ~~Councilthe Board~~Council by ~~City~~RD staff.

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4. CONDUCT OF PUBLIC MEETINGS

Members shall prepare themselves for meetings; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall not interrupt other speakers, make personal comments not relevant germane to the business of the body, nor otherwise disturb a meeting.

5. DECISIONS BASED ON MERIT

5.1 Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

5.2 In the context of Statutory or other Public Hearings, ~~Board~~Council members shall keep an open mind on the matters being discussed and refrain from expressing their opinions on the merits of the matter under consideration until the Hearing has concluded and ~~Council~~Council~~the Board~~ is considering/debating the matter that was the subject of the Hearing.

6. TRANSPARENCY AND INFORMATION SHARING

Wherever possible, members will share with staff and ~~Council~~Council~~the Board~~ or fellow-Committees/~~Commission members~~, in as timely a manner as possible, any substantive information which they may have received from sources outside of the public decision-making process if that information is relevant to a matter that is under consideration.

7. CONFIDENTIAL INFORMATION

Members shall respect the confidentiality of information concerning the property, personnel or legal affairs of the ~~City~~RD. Information that is discussed in meetings that are closed to the public under Section 90 of the *Community Charter* is to be kept confidential and shall not be publicly disclosed nor publicly discussed in any manner without ~~Council~~Council~~Board~~ authorization. Members further agree that this confidential information will not be used to advance their personal, financial or other private interests.

8. USE OF PUBLIC RESOURCES

Members shall not use public resources not available to the public in general, such as staff time, equipment, supplies or facilities, for private gain or personal purposes.

9. COMMUNICATIONS – SOCIAL MEDIA

9.1 ~~Per Section 4 b) of the eRD Social Media Policy (No. 2-13), members~~“Members ~~mM~~ must not post personal comments or status updates that reflect negatively on the integrity of the organization.”

9.2 Members will use caution in reporting ~~Council~~Board decision-making by way of their social media profiles and websites before the ~~City eRD~~ has released any formal communication.

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9.3 Members will refrain from using or permitting the use of their social media accounts for purposes that include:

- (a) defamatory remarks, obscenities, profane language or sexual content;
- (b) negative statements disparaging staff or calling into question the professional capabilities of staff;
- (c) content that endorses, promotes, or perpetuates discrimination or mistreatment on the basis of race, religion or belief, age, gender, marital status, national origin, physical or mental disability or sexual orientation or identity;
- (d) statements that indicate a closed mind in relation to a matter that is to be the subject of a Statutory or other Public Hearing; or,
- (e) promotion of illegal activity.

9.4 Members must regularly monitor their social media accounts and immediately take measures to deal with the publication of messages, comments, or other postings by others that violate the terms of this Policy.

10. COMMUNICATIONS – INTERACTIONS WITH THE PUBLIC AND MEDIA

10.1 Members acknowledge that the ~~Mayor/Board Chair~~ is the primary spokesperson for the ~~City of RD~~. As such, members must not purport to speak on behalf of the ~~City of RD~~ or ~~Council/Council the Board~~ unless expressly authorized to do so.

(a) The exceptions to the above are itemized ~~below, in Section 5 of the qRD's "Public Communication and Engagement" Policy, (No. 2.9):~~

- “Where appropriate, interviews can be referred to the Chair of the relevant Committee ~~or Commission~~ at the discretion of the ~~Mayor/Board Chair~~.
- ~~Municipal Directors are the primary spokespersons for their municipality regarding current events, sub-regional services, partnerships with other Electoral Areas or other organizations and Board decisions affecting their municipality.~~
- ~~Regional District Electoral Area Directors are the primary spokespersons for their Electoral Areas regarding current events, sub-regional and local services, partnerships with other Electoral Areas and Board decisions affecting their respective Electoral Areas.”~~

10.2 When speaking for themselves as individuals, ~~Council/Council Board~~ members will include “in my opinion” or use a similar disclaimer to ensure it is expressly clear they are speaking only for themselves and not on behalf of either the ~~City of RD~~ or ~~Council/Council the Board~~ as a whole.

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10.3 In an effort to promote the integrity of and respect for the collective and democratic decision-making process, members will not misrepresent the decisions of ~~Council~~Council ~~the Board, or~~ Committees, ~~or Commissions~~, even if they disagree with the majority decision. Further, members will not make personal comments in public that would reflect negatively on the decision-making process or the integrity of the organization.

10.4 When discussing publicly the positions taken by other members during a vote on a matter, members will refrain from making disparaging comments about those other members.

11. CONFLICT OF INTEREST

11.1 Members shall be aware of and act in accordance with the provisions of Division 6 of the *Community Charter* with respect to matters of potential conflict of interest.

(a) Members are expected to make decisions that benefit the community. They are to be free from undue influence and not act, or appear to act, in a manner that would result in financial gain or other benefits for themselves, family, friends or business interests;

(b) Members are expected to be aware of appearances and strive to conduct themselves ~~in~~ in a manner that upholds or increases the public trust by taking steps to reduce or eliminate the possible appearance of a conflict of interest.

11.2 For further clarity, examples of conflict that may be encountered by members include, but are not limited to:

(a) Obligation to others: members must not place themselves in a situation where they may be under obligation to someone who has business dealings with the ~~City~~City ~~RD~~ and who would benefit from special consideration or treatment;

(b) Special advantage/disadvantage: when members can gain special advantage because of their position or when the ~~City~~City ~~RD~~ is disadvantaged as a result of the other interests of members;

(c) Discounts/Rebates: Members may not take advantage of discounts/rebates on personal purchases from suppliers having an existing business relationship with the ~~City~~City ~~RD~~ unless those suppliers offer the same discount/rebates to the general public.

12. GIFTS AND FAVOURS

Specifically with respect to ~~Council~~Council ~~RD~~ ~~Board~~ members, the receipt and reporting of gifts and personal benefits is dealt with under sections 105 and 106 of the *Community Charter*. Ultimately, the interpretation of those sections is a matter for the courts. However, this Policy is intended to provide additional guidance to ~~Council~~Council ~~Board~~ members.

12.1 Members must not accept a gift or personal benefit that could reasonably be expected to result in a real or perceived conflict of interest. To assist in avoiding that situation, members will not accept gifts or personal benefits from business or commercial enterprises having a value that exceeds the amounts prescribed in section 106 of the *Community Charter*.

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12.2 In the event that gifts as described in Section 12.1 are received, a member must, per Section 106 (2) of the *Community Charter*, file with the Corporate Officer, as soon as reasonably practicable, a disclosure statement indicating the nature of the gift or benefit.

12.2

- (a) For clarity, the following are not considered gifts or personal benefits as:
- (b) Compensation authorized under section 105(2)(b) of the Community Charter;

12.3

(c) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office;

(a)

(d) compensation authorized by law; or

(b)

(e) a lawful contribution made to a member who is a candidate for election to a local government;

13(c) And

(a) reimbursement for out-of-pocket costs incurred for authorized travel, living and accommodation expenses associated with attendance at an event or in connection with authorized travel; or

(b) A lawful contribution made to a Board Member who is a candidate for election conducted under the *Local Government Act*; and

(c)

(d) a random draw prize at an event attended by a Board Council Member.

12.4 For the purposes of this Policy, the value of each gift or personal benefit shall be determined by its replacement cost, i.e., the retail cost to replace the item.

13. POLICY ROLE OF MEMBERS

13.1 Members shall respect and adhere to the Board Council-Chief Administrative Officer (“one-employee”) structure of governance as practiced in the City of RD. In this structure, the Council Board determines the policies of the City of RD with advice, information and analysis provided by staff, and Committees, Commissions, and the public as warranted.

13.2 Council Board members will generally direct inquiries regarding departmental issues or questions to the CAO and the manager of the appropriate department, and refrain from contacting any other staff directly unless the communication is minor and for the purpose of seeking administrative clarity.

13.3 Members will not engage in “debate” with staff; they will be respectful of staff input and advice and, while free to disagree with the substance of such advice, will not question either the integrity, motivation, or competence of staff in the performance of

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their duties.

~~44.413.4~~ Members will not interfere with the administrative or operational functions of the ~~City or RD~~ or with the professional duties of staff, nor shall they impair the ability of staff to implement ~~Board~~Council policy decisions.

~~45.14.~~ POSITIVE WORKPLACE ENVIRONMENT

~~45.414.1~~ Members shall treat each other, the public, and staff with respect and shall be supportive of the personal dignity, self-esteem and well-being of those with whom they come in contact with during the course of their professional duties. Members shall be aware of and act in accordance with the ~~Council's or RD's~~ Respectful Workplace and Prevention of Harassment, Bullying and Discrimination Policy~~Workplace Discrimination and Bullying and Harassment Policy. (No 4.16).~~

~~45.214.2~~ In furtherance of a positive workplace environment, and in the interest of transparency for the public, members agree that all substantive discussion or debate on policy matters will be conducted at duly constituted ~~Council~~Board meetings. Members will refrain from "caucusing" or otherwise predetermining their positions or votes on policy matters in informal meetings, by email, or through any other means of communication outside of debate in duly constituted meetings.

~~46.15.~~ BREACHES, COMPLAINT HANDLING AND DISCIPLINARY ACTION

~~46.415.1~~ ~~Council~~Board and Committee/~~Commission~~ Members must abide by the requirements of this Policy and shall endeavour to resolve disputes in good faith, recognizing that interpersonal rancour does not facilitate good governance.

~~46.215.2~~ An alleged breach of this Policy may be submitted by a ~~Council~~Council~~Board~~ or Committee/~~Commission~~ Member or staff. Complaints shall be submitted as soon as possible simultaneously in writing to the ~~Mayor~~Board Chair and the CAO within six (6) months of the last alleged breach, with a copy simultaneously submitted to the Respondent(s). The ~~Mayor~~Chair and CAO are authorized to extend this six (6) month deadline if circumstances warrant an extension.

~~46.315.3~~ Complaints regarding the conduct of a ~~Council member~~ Director seeking re-election will not be accepted in the period from 120 days prior to the first day of the nomination period to the general voting day:-
(a) —In the event that a complaint is filed prior to 120 days prior to the general voting day,
(b) ~~the first day of the nomination period~~, but remains unresolved by election day ~~the start of and through the campaign period~~, the investigation will continue into the next term of ~~Council~~Council~~the Board~~, unless either the complainant or respondent do not seek or gain re-election.

~~46.415.4~~ In the event that the ~~Mayor~~Board Chair is the subject of or is otherwise a party to the complaint, the complaint shall be addressed to the ~~Deputy Mayor~~Vice Chair and CAO. In the event that both the ~~Mayor~~Chair and ~~Deputy Mayor~~Vice Chair are the subject of or

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otherwise a party to the complaint, the complaint shall be submitted to the next in line for Deputy Mayor and the CAO who will determine if the complaint should be forwarded to the DistrictCity Solicitor.

~~46.5~~15.5 Upon receipt of a complaint under section 15.2, the Mayor Board Chair, (or Deputy Mayor Vice Chair as per Section 15.4) and the CAO shall put forward every effort to have the parties resolve their differences informally through discussions between the Complainant(s) and the Respondent(s). The strongest possible preference shall be given to an informal resolution wherever possible.

~~46.6~~15.6 If an informal resolution is not achieved within thirty (30) days of receipt of the complaint, the Mayor or Deputy Mayor Board Chair (or Vice Chair) and the CAO may, with the consent of the Complainant(s) and the Respondent(s), forward the complaint to a qualified mediator (or alternate qualified dispute resolution professional) who has the necessary professional skills, knowledge and experience (the "Mediator"). The Mediator shall attempt to resolve the matter and, in doing so, may employ whatever methods they consider appropriate, including culturally appropriate and transformative or restorative justice approaches.

~~46.7~~15.7 If the Complainant(s) and Respondent(s) reach a mediated resolution, the Mediator must notify the Mayor or Deputy Mayor Board Chair (or Vice Chair) and the CAO in writing of the terms of the resolution, upon receipt of which notification the Mayor or Deputy Mayor and Board Chair and CAO shall close the matter.

~~46.8~~15.8 If the Complainant(s) and Respondent(s) do not reach a mediated resolution within sixty (60) days of the commencement of the Mediation, the Mediator must refer the complaint back to the Mayor or Deputy Mayor Board Chair (or Vice Chair) and CAO, who shall forward the complaint to an independent third party identified and agreed upon between the Complainant(s) and Respondent(s) who has the necessary professional skills, knowledge and experience to investigate the complaint (the "Third-Party Investigator").

~~46.9~~15.9 Both the Complainant(s) and Respondent(s) shall each have the right to recommend three (3) names as a Third-Party Investigator, from which lists a Third-Party Investigator may be mutually agreed upon by both parties. If the parties cannot agree on the choice of investigator, a single nominee of the Complainant(s) and the Respondent(s) shall jointly select a suitable Third-Party Investigator. If this nominee cannot select the Third-Party Inspector, the DistrictCity's Solicitor will appoint this person.

~~46.10~~15.10 The Third-Party Investigator must conduct a preliminary assessment of the complaint. Within (30) days of their appointment, the Investigator will determine whether to continue the investigation or make a written determination that the complaint be dismissed as unfounded, beyond the jurisdiction of the Policy or unlikely to succeed. If the complaint is determined to be unfounded, the Third-Party Investigator shall also have the power to find that the complaint is vexatious or frivolous, and per the "Scope" of the Code above, such a finding will itself constitute a breach of this Policy on the part of the Complainant(s).

~~46.11~~15.11 If the Third-Party Investigator determines to continue the investigation, the Third-Party Investigator shall:

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- (a) Conduct an independent and impartial investigation of the complaint in a manner that is fair, timely, confidential and otherwise accords with the principles of due process and natural justice;
- (b) Provide an investigation update within sixty (60) days of their appointment to the Mayor or Deputy Mayor~~Chair (or Vice-Chair~~ as per Section 15.4,) to the CAO, and to the Complainant(s) and the Respondent(s);
- (c) Provide, within ninety (90) days of their appointment, a written, confidential report (the "Report") of the findings of the investigation, including findings as to whether there has been a breach of this Policy, to the Mayor or Deputy Mayor~~Board Chair, (or Vice-Chair~~ as per Section 15.4), the CAO, and the Complainant(s) and Respondent(s); and,
- (d) Provide recommendations in the Report as to the appropriate resolution of the complaint. Recommendations may include:
 - (i) dismissal of the complaint;
 - (ii) a letter privately reprimanding the respondent for their conduct;
 - (iii) a public censure of the Respondent(s);
 - (iv) a recommendation that the Respondent(s) apologize, publicly or privately, for their conduct;
 - (v) removal of the Respondent(s) from Committee/Commission membership;
 - (vi) a recommendation that the Respondent(s) attend training, counselling, or coaching relating to the conduct at issue;
 - (vii) a recommendation that the Respondent(s) complete a specified number of volunteer hours;
 - (viii) prohibition from representing the District~~City~~ at events and/or attending conferences or seminars at City~~RD~~ expense;
 - (ix) a recommendation that the Respondent(s) make a charitable donation of a specified or unspecified amount to a particular charity;
 - (x) limiting of the Respondent(s)' access only to certain members of staff; and/or;
 - (xi) any other sanction that is within the authority of Council~~Council~~~~the Board~~.

~~46.42~~15.12 Under Section 15.11(d), the Investigator may also determine to dismiss the complaint and further find it to have been filed vexatiously and frivolously. Such a finding shall constitute a breach of this Policy on the part of the Complainant(s), and the Investigator shall therefore include in the Report a recommended remedy.

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~~46.43~~15.13 The ~~Mayor or Deputy Mayor-Board Chair (or Vice Chair~~ per Section 15.4) shall provide the Report or a summary of the Report to ~~Council~~Council~~the Board~~, who must, after hearing any submissions the Respondent(s) wishes to make, decide on the appropriate remedy, if any, that is warranted by a breach of this Code of Conduct.

~~46.44~~15.14 ~~Council~~Council~~The Board~~ must consider the following factors when determining whether to impose a remedy on ~~the~~ Respondent(s):

- (a) the degree and nature of the conduct;
- (b) whether the contravention was a single or repeated act;
- (c) whether the Council Member knowingly contravened the Code;
- (d) whether the Council Member took steps to mitigate or remedy the contravention; and
- (e) the Council Member's history of other contraventions.

~~46.45~~15.15 Where a ~~Council member~~member~~Director~~ has been found by the Third-Party Investigator to have breached this Policy, and irrespective of any other recommendations in the Investigator's Report, the remuneration to which that ~~Council~~Council ~~member~~member~~Director~~ would otherwise be entitled shall be impacted as described in ~~Section 3 of the Directors Remuneration and Expenses Bylaw No. 558.~~

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- (a) For clarity, the reduction in remuneration shall apply in every instance where the Third-Party Investigator has determined there has been a breach, including a breach as determined under Section 15.12 above.

~~46.46~~15.16 In the event that a member has been found in violation of this Code of Conduct, all penalties imposed for the violation will expire at the end of the electoral term in which they were imposed.

~~46.47~~15.17 The ~~City-District~~ will retain all Reports.

~~46.48~~15.18 Where a member alleges a breach of this Policy by another member, all members shall refrain from commenting on such allegations at open meetings, or generally make any public comment on such a complaint pending the conclusion of the matter with the presentation of the Report to the ~~Board~~Council under 15.13 above.

COMMITMENT

As a member of the ~~City of Powell River Council~~Council~~or the Regional District Board or~~ or a member of a ~~City of Powell River~~RD Committee ~~or Commission~~, I attest I have read and understood this Code of Conduct, and hereby agree to uphold and adhere to the standards and policies contained herein.

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Name

Signature

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CITY OF POWELL RIVER
COUNCIL POLICY 248

HUMAN RESOURCES

**RESPECTFUL WORKPLACE AND PREVENTION OF
HARASSMENT, BULLYING AND DISCRIMINATION**

The City is committed to providing all employees and elected officials with a respectful work environment, expressly free from discrimination, bullying and harassment.

The City will take steps to ensure all employees and elected officials are aware of both their rights and obligations regarding appropriate workplace conduct.

The City will take steps to prevent discrimination, bullying and harassment, including through: training; regular reminders of appropriate standards of behaviour; expeditious and efficient investigations of concerns and complaints; and the imposition of effective responses to conduct which amounts of bullying, discrimination or harassment.

PURPOSE

1. To ensure that all workers and elected officials are aware of their rights and obligations regarding appropriate workplace behaviour; to set standards for respectful workplace conduct; to provide a means of reporting behaviour inconsistent with the standards, including incidents of harassment, bullying and discrimination; to provide the processes for investigating and responding to such incidents; and, to comply with the provisions of the *Human Rights Code* of BC and the *Workers' Compensation Act* and WorkSafe BC's Occupational Health and Safety Policies.

SCOPE

2. All employees and elected officials are protected from all bullying, harassment and discrimination, while performing work for the City and/or attending work-related functions, including protection from such behaviour by members of the public and elected officials.

DEFINITIONS

3. For the purposes of this Policy:

Advisor means the Manager of Human Resources or other person designated by the Chief Administrative Officer. (CAO)

Bullying and Harassment includes any conduct or comment by a person towards an employee or elected official that the person knows or reasonably ought to know would be unwelcome, humiliating or intimidating. Examples include:

- (a) Verbal aggression, threats, intimidation;
- (b) Spreading malicious rumours;
- (c) Vandalizing belongings/work equipment;
- (d) Sabotaging another's work;
- (e) Humiliating initiation practices, hazing, name-calling, or insults;
- (f) Condescending or patronizing behaviour;
- (g) Written or verbal communications, gestures, actions, 'practical jokes', the natural consequence of which is to humiliate or intimidate;
- (h) Cyber-bullying;
- (i) Abuse of authority which undermines morale or performance, or which threatens the career of the complainant;
- (j) Physical assault;
- (k) Discrimination as defined below.

Complainant means an employee or worker or elected official who makes an allegation of bullying, harassment or discrimination pursuant to this Policy.

Cyber Bullying means bullying that occurs through the use of electronic communication (email, text messaging, social media, etc). Incidents of cyber bullying will be handled in accordance with the procedures outlined in this Policy.

Discrimination includes the refusal to employ or to continue to employ; harassment; and/or any other offensive behaviour which creates a hostile or negative environment or has adverse consequences due to or on the basis of: race, colour, ancestry, place of origin, political believe, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or criminal conviction or summary conviction offence that is unrelated to the employment or the intended employment of an individual. Examples include:

- (a) Unwanted remarks, comments, actions, jokes, innuendo or taunting based on any of the above factors;
- (b) Displaying offensive pictures, cartoons, or other object focused on any of the above factors;
- (c) Unwelcome repeated invitations or requests based on sex or sexual orientation;
- (d) Unwelcome physical contact based on any of the above factors;
- (e) Failure to attempt to accommodate or to accommodate to the point short of undue hardship.

Discrimination does not have to be intentional and may result from policies or practices that seem neutral or are well-intentioned, but which have a discriminatory effect, or are unwelcome.

Elected Official means any Councillor, or the Mayor.

Employee means any Union, excluded employee, or paid-on-call firefighter.

Employer means the City of Powell River.

Investigator means the person designated by either the CAO or his designate to ensure that complaints are processed effectively and efficiently, including through alternative dispute resolution and/or investigation and/or appointment of an external investigator.

Respondent means the person or persons against whom the allegations are made under this Policy.

Witness means any individual who has pertinent information regarding the complaint made under this Policy.

Workplace includes any location, or while travelling to/from a location, where an employee/elected official carries out their job duties, attends an event directly related to their employment, including training, meetings, social, or other purpose, and which has the potential for affecting the workplace or the health and safety of employees.

MANAGEMENT FUNCTIONS NOT BULLYING OR HARASSMENT

4. It is not harassment, bullying or discrimination for supervisors and managers to exercise management functions, in good faith and for operational reasons. These include:
 - (a) Establishing workloads and deadlines;
 - (b) Re-organizations, including transfers, promotions, lay-offs and other consequences of re-organizations;
 - (c) Work instruction, supervision, correction, feed-back or other performance management;
 - (d) Work performance evaluations;
 - (e) Refusal, limitation, specification or preference based on a bona fide occupational requirement;
 - (f) Imposition of discipline, including warnings, suspensions and termination of employment.

ROLES AND RESPONSIBILITIES

5. All employees, supervisors, managers and elected officials are responsible for preventing bullying, harassment and discrimination in the workplace.

The City is committed to its responsibility for worker health and safety and a workplace free from discrimination. To that end, it will take steps to prevent such behaviour and/or to minimize it.

Employees, supervisors, managers and elected officials have a duty to take steps to protect their own health and safety and not to engage in behaviours which places the health and safety of others at risk. Obligations include:

- (a) Risk assessments;
- (b) Not engaging in bullying, harassment or discrimination of other employees, managers, supervisors, elected officials, the employer or persons acting on behalf of the employer;
- (c) Reporting bullying, harassment or discrimination if they observe same in the

- (d) workplace;
Applying and complying with City policies on these matters.

Workers and elected officials who witness behaviours that may constitute harassment or bullying under this Policy must report what they have witnessed to a responsible member of the City's management team.

PROCEDURES FOR INVESTIGATION AND RESOLUTION

6.1 Informal Resolution

6.1.1 An employee or elected official who believes they have been the subject of bullying, harassment or discrimination may be able to resolve the matter informally by:

- (a) Calmly speaking to the respondent about the event;
- (b) Describing the effect the respondent's behaviour is having on the complainant and their workplace;
- (c) Asking that the respondent refrain from the same or similar behaviour in the future.

6.1.2 If the employee or elected official is either unable to approach the respondent or, the issue is not resolved after such an approach; or, there is a repetition of the behaviour, the Complainant may:

- (a) Speak to their immediate supervisor or manager and ask that they intervene;
- (b) Speak to another supervisor, manager or department head;
- (c) Speak to human resources personnel.

6.1.3 If the Complainant is an elected official, they may:

- (a) Speak to human resources personnel;
- (b) Speak to the Mayor or the CAO.

6.1.4 The Complainant should create and keep a written record of the event and of the steps taken to resolve the problem informally, including the resolution reached.

When a Complainant is unable or unwilling to resolve the issue informally or, it is inappropriate to do so, the Complainant may bring a formal complaint. Further, should the City become aware of the issue, it may investigate the matter, depending on the seriousness, severity and effect on the Complainant or other employees of the behaviour.

6.2 Formal Investigation, Review and Resolution

The Complainant can request a formal investigation at any time in the process or when the informal approach has not resolved the issue.

6.2.1 The Complainant requesting a formal investigation must make the request, in writing, to the Manager of Human Resources within ten (10) days of the most recent incident. The written request must provide a detailed account of the circumstances of the complaint, including:

- (a) Name, title and department of the Complainant and the Respondent;
 - (b) Description of the behaviour, conduct, events, context and circumstances of the complaint;
 - (c) Times and dates of the incident(s), if available;
 - (d) Name of any witnesses;
 - (e) Previous attempts to resolve the complaint, if any; and,
 - (f) The remedy sought by the Complainant.
- 6.2.2 Within three (3) working days of the receipt of a request for an investigation, the Manager of Human Resources will notify the Respondent that a formal complaint has been initiated; the nature of the complaint; and, that the Respondent will be invited to respond to the complaint at the appropriate time.
- 6.2.3 When the complaint involves an elected official, the manager, department head or human resources personnel will notify the CAO, who will advise the Mayor.
- 6.2.4 The CAO may determine that the circumstances and extent of the complaint require the involvement of the BC Human Rights Council, the RCMP, or the City's solicitor or other knowledgeable Advisor(s).
- 6.2.5 The CAO has authority to investigate the complaint or to delegate an appropriate internal or external investigator to conduct the investigation. In the latter case, the CAO will be available in a supportive role to the designated investigator.
- 6.2.6 The Investigator will conduct interviews with both the Complainant and the Respondent to obtain information and clarify the details of the reported incident. Both the Complainant and the Respondent will have an opportunity to identify witnesses or others to be interviewed. The Investigator may interview other individuals as is needed in the circumstances.
- 6.2.7 The Investigator will document the results and conclusions of the investigation after interviewing the Complainant, the Respondent and any relevant witnesses. Every effort will be made to complete the investigation and document the findings as quickly as possible and in any event, no later than four (4) weeks following the receipt of the formal request.
- 6.2.8 At the conclusion of the investigation, the Investigator will discuss the findings with the Complainant, the Respondent and the CAO. Where the results of the investigation find the Respondent has engaged in behaviour contrary to the Policy, the CAO will make a final decision on the appropriate corrective action(s). Where the complainant or respondent is a member of Council, the Mayor and Council shall be advised of the investigation results.
- 6.2.9 Corrective action may include but is not limited to:
- (a) Education and training for the Respondent and/or other individuals;
 - (b) Review and modification of policies, procedures, and practices;
 - (c) Continuous monitoring of the Respondent; and,
 - (d) Disciplinary action for those engaged in a breach of this Policy up to and including dismissal.

6.2.10 In keeping with the commitment of the City to the prevention and eradication of harassment and discrimination in the workplace, corrective action is intended to be appropriate to the situation. When determining appropriate corrective action, the following factors will be considered:

- (a) Nature and seriousness of the breach;
- (b) Whether the harassment was a single or a repeated act;
- (c) The relationship of the Complainant and the Respondent;
- (d) The impact of the harassment on the Complainant;
- (e) The employment history of the Respondent; and,
- (f) Any other relevant factors.

INFORMING OTHER AGENCIES

7. The Complainant shall be advised of their right to file a complaint with the BC Human Rights Council or to report the matter to the RCMP should they feel it necessary. If the Complainant is a member of a Union, they shall also be reminded that their bargaining unit may assist them in the matter.

The CAO may ask for a recommendation for a fair and just resolution to the matter from the BC Human Rights Council or the City's solicitor.

RECORD KEEPING

8. The investigator and/or the City will maintain a complete written record of the investigation, including the names of the parties involved (i.e. the complainant, respondent and witnesses); the details of the complaint; notes or other documentation of interview or other fact finding exercises; any evidence considered; the investigator's findings; any corrective action recommended and/or taken; and the investigation report.

If the complaint is substantiated, a record of the incident(s) and outcome(s), including any corrective action taken, will be kept in the respondent's personnel file. If the complaint is unsubstantiated, there will be no record of the complaint kept in the respondent's personnel file.

FALSE ALLEGATIONS

9. The City recognizes that not every incident complained of will constitute bullying, discrimination or harassment. Determining whether a particular action or incident occurred and/or constitutes harassment or discrimination will depend on an evaluation of all the facts, surrounding circumstances and applicable legal principles. A Complainant reporting an event in good faith and reporting truthfully will not be subject to negative consequences if the behaviour complained of does not amount to bullying, harassment or discrimination.

However, the City recognizes that false allegations can have serious detrimental effects on innocent parties. Where as a result of a formal investigation, it is determined that a complaint was malicious, frivolous, vexatious or deliberately misleading, disciplinary action will be taken against the Complainant.

EMPLOYEES EXPERIENCING ADVERSE SYMPTOMS

10. Employees experiencing an adverse symptom as a result of bullying and harassment in the workplace should consult a physician for treatment or referral.

Managers or supervisors or other City representatives to whom an employee reports an adverse symptom arising from bullying and harassment in the workplace should advise the employee to consult a medical professional for treatment or referral, and ensure the employee is aware of the services available through the Employee Family Assistance Program.

CONFIDENTIALITY AND ACCESS TO INFORMATION

11. The City will not disclose any information about a bullying, harassment, or discrimination complaint, except as necessary to investigate the complaint or to take disciplinary action, or as required by law. The participants (the Complainant, the Respondent, and any witnesses) will also be expected to keep all matters relating to the complaint and the investigation strictly confidential.

RETALIATION

12. This Policy and its procedures seek to prevent and remedy workplace bullying, harassment, and discrimination. Any act of retaliation against a person who raises a concern under this Policy is expressly forbidden and may result in interim measures such as suspension, or may result in progressive discipline up to and including suspension or dismissal.

REPEALED

13. With the adoption of this Policy, Council Policy #148 Discrimination and Personal Harassment is repealed.

Adopted November 21, 2013