

Saskatoon Municipal Review Commission – 2022 Municipal Code of Conduct Committee Report

ISSUE

Should Clause 38(h) of Bylaw No. 9537, *The Code of Ethical Conduct for Members of City Council Bylaw, 2019* (“Code”) be amended to change the rules with respect to attendance at events by members of City Council?

BACKGROUND

2.1 History

[At its meeting on August 22, 2022](#), the Governance and Priorities Committee (“GPC”) considered a report from the City Solicitor entitled “Saskatoon Municipal Review Commission – 2022 Municipal Code of Conduct Committee Report” along with the Saskatchewan Municipal Review Commission (“SMRC”) Code of Conduct Committee’s report dated June 1, 2022, and resolved in part:

That the Administration report back on the consideration of including the language from the Winnipeg code of conduct bylaw with regards to determining what is considered a legitimate basis for Council members to receive tickets to attend events. In preparing this report would the Administration consult with both the Integrity Commissioner and the Saskatoon Municipal Review Commission for their comments on the merits of the Winnipeg language in helping provide further definition to what is acceptable and not acceptable as a legitimate purpose to receive such tickets.

2.2 Current Status

At its [Regular Business Meeting on August 29, 2022](#), City Council considered the same report as noted above and resolved in part: “That Section 38(h) be amended in part by changing “tickets to meals, banquets, receptions, community events, business events, sporting events, charitable or fundraising events, professional theatre events, concerns or other similar events”.

The City Solicitor’s Office is working on preparing this and other amendments to the Code in accordance with the previous instructions of City Council.

2.3 Public Engagement

As instructed, the Integrity Commissioner and the SMRC were consulted prior to the drafting of this report. Specific comments from the Integrity Commissioner and the SMRC are incorporated into the body of the report. As City Council is aware, the Integrity Commissioner provides advance rulings with respect to compliance with the Code and/or investigates complaints made pursuant to the Code. With this in mind, any comments provided by the Integrity Commissioner in the context of this report are general in nature and cannot be relied on as a definitive interpretation of the Code.

2.4 City of Saskatoon's Current Approach

Currently, Clause 38(h) of the Code states as follows:

- 38. A member may receive a gift or personal benefit if it is:
 - ...
 - (h) tickets to meals, banquets, receptions, sporting events, or similar activities if:
 - (i) attendance serves a legitimate purpose associated with the member's duties;
 - (ii) the person extending the invitation or a representative of the inviting organization is in attendance; and
 - (iii) the value is reasonable and the invitations infrequent.

2.5 Approaches in Other Jurisdictions

Several other jurisdictions in Canada have codes of conduct for members of Council. Provincial and federal levels of government also have codes of conduct established for elected officials. A jurisdictional scan was conducted of other Canadian cities focusing, in particular, on the Gifts and Benefits provisions of each. Attached at Appendix 1 is a chart outlining the information obtained. This chart was previously provided to City Council.

The City of Winnipeg's bylaw states:

- 4. Gifts and Benefits
 - ...
 - c. For clarification, it is generally not a violation of Rule 4.a. to accept the following:

...

- v. admission to charitable or community organized events, widely-attended events such as conventions, conferences, or training and education programs, provided that:
 - 1. admission is offered by the entity responsible for organizing and presenting the event;
 - 2. admission is unsolicited by the Member; and
 - 3. the Member is attending or participating in their official capacity;

OPTIONS

At its meeting held on August 22, 2022, GPC resolved that the language in Clause 38(h) be amended to broaden the events that could be attended by City Council. This change was at the recommendation of the SMRC and follows the language adopted by the City of Edmonton. As directed by City Council, this change will be made to the Code. All of the options outlined below incorporate this change. The focus of the options below is around Subclauses 38(h)(i), (ii), and (iii) or, in the other words, the three conditions currently outlined in the Code for attendance at events.

Option 1: Status Quo

Under this option, the conditions outlined in Clause 38(h) of the Code would remain “as is”. In particular, the Code would continue to require that attendance at events serve a legitimate purpose associated with the member’s duties.

We note from Appendix 1 that most jurisdictions in Canada require attendance at events to have some correlation to member duties. Our section is similar to that of several jurisdictions, and less restrictive than that of some other jurisdictions. Thus, continuing with the section “as is” would be consistent with the practice of other municipalities. It would be the Administration’s intention to focus on additional materials for City Council, with the assistance of the Integrity Commissioner, to provide additional clarity for members of City Council around the rules for attendance at events.

Advantages

- Current wording is already less restrictive or similar to that of several other jurisdictions so would be consistent.
- Helps to prevent accusations of influence or bias against members of City Council.
- Promotes transparency and accountability to the public.

Disadvantages

- May discourage members of City Council from attending some events.

Option 2: Adopt Winnipeg Language

Under this option it is proposed that Subclause 38(h)(i) be changed from “attendance serves a legitimate purpose associated with the member’s duties” to “the member is attending or participating in their official capacity”. This language is similar to that contained in the City of Winnipeg’s bylaw.

We were asked to report back on possibly amending this section to language similar to the City of Winnipeg. However, we have discussed this language with the Integrity Commissioner, and she does not feel changing the language would result in a significant change to her interpretation of the Code. Simple attendance at events would be unlikely to meet the intent of this section and members of Council would still likely be expected to have an additional role at the event.

Advantages:

- Still consistent with language in the bylaws of other municipalities.
- Helps to prevent accusations of influence or bias against members of City Council.
- Promotes transparency and accountability to the public.

Disadvantages:

- May discourage members of City Council from attending some events.

Option 3: Repeal Subclause 38(h)(i)

This option contemplates Subclause 38(h)(i), which requires attendance at events to serve a legitimate purpose associated with the member’s duties, could be repealed.

We provided these three options to the SMRC for their comment. They have responded saying this is their preferred option as it may allow members of City Council to attend events that they are invited to, but they agree that members of City Council should continue to be required to disclose their acceptance of tickets or attendance at these events. They have also suggested that there should be continued education and clarification for members of City Council on this issue.

We also provided this option to the Integrity Commissioner who expressed concern. This change would significantly alter the Code and broaden the exemption for types of events that members of City Council can attend. Such a result may not be consistent with the spirit and intent of the gifts and benefits portion of the Code, which is to avoid situations where it appears that the member is being improperly influenced by a third party, or that creates the

perception that influence is being bought. This change may result in a stricter interpretation of the types of events to which the section applies by the Integrity Commissioner.

Advantages:

- Significantly alters the language in the section allowing the Integrity Commissioner to interpret the section differently.
- Still promotes transparency and accountability to the public because members of City Council would be required to disclose the acceptance of tickets.

Disadvantages:

- Not consistent with the wording of several other municipalities and may be a departure from best practice.
- Will not help to prevent accusations of influence or bias against members of City Council.

RECOMMENDATION

That the Governance and Priorities Committee recommend to City Council that no further amendments be made to Clause 38(h) of Bylaw No. 9537, *The Code of Ethical Conduct for Members of City Council Bylaw, 2019* other than what was already directed by City Council at its Regular Business Meeting of August 29, 2022 (Option 1: Status Quo).

RATIONALE

Many jurisdictions are grappling with this issue. Several other municipalities have either adopted language similar to the City of Saskatoon or have adopted more restrictive language which limits the acceptance of tickets to events by members of City Council.

However, we recognize the challenges being faced by members of City Council regarding this issue and we will focus on putting together additional materials for members of City Council to provide clarity around the rules. For example, materials could be developed that include examples of ‘acceptable’ and ‘not acceptable’ situations. The advance ruling process would also remain as an option.

Further, if members of City Council want to attend more events in the community, there are other ways to manage this issue. One possibility might be to consider the provisions of the *Communications and Constituency Relations Allowance Policy* and the allowances provided under this Policy. Changes to this Policy may allow members of City Council to simply purchase tickets to events they feel are important to attend to maintain constituency relations. The Administration will be responding to a report from the SMRC regarding City Council remuneration which includes consideration of this Policy in November of 2022.

The Administration has put forward three options for the consideration of City Council. Our recommendation was chosen based on a review of what other jurisdictions are doing. The framework provided in the Code is ultimately the decision of City Council.

ADDITIONAL IMPLICATIONS/CONSIDERATIONS

If City Council instructs that Clause 38(h) of the Code be amended, the City Solicitor will bring forward these bylaw amendments for City Council's consideration when the rest of the amendments are brought forward.

APPENDICES

1. Chart of Jurisdictions – Gifts and Benefits

Report Approval

Written and Approved by: Cindy Yelland, City Solicitor

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