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November 12, 2020

VIA Email (clerk@hamilton.ca)

Andrea Holland
City Clerk
City Hall
71 Main St. W., 1st Floor
Hamilton, Ontario
L8P 4Y5

Dear Ms. Holland,

Please be advised that at its meeting of October 22, 2020, the Board of Directors of the Niagara Peninsula Conservation Authority adopted the following resolution:

Resolution No. FA-139-20
Moved by Board Member Foster
Seconded by Board Member Beattie

1. **THAT** Report No. FA-53-20 RE: Code of Conduct Complaint Procedure **BE RECEIVED**.
2. **THAT** the Code of Conduct Complaint Procedure as outlined in Report FA-53-20 **BE APPROVED**.
3. **AND THAT** staff **BE AUTHORIZED** to execute agreements, as appropriate, with partner municipalities to facilitate shared services of Integrity Commissioners.

CARRIED

For your reference, NPCA Report No. FA-53-20 RE: Code of Conduct Complaint Procedure is attached hereto. I will reach out to your office in the coming week to follow-up on the matter. In the interim, should you have any questions or concerns, please feel free to contact me at the phone number and/or email noted below.

Sincerely,

Misti Ferrusi

Misti Ferrusi
Manager, Human Resources
Niagara Peninsula Conservation Authority
Tel: (905) 788-3135 ext. 232
mferrusi@npca.ca

Report To: Board of Directors

Subject: Code of Conduct Complaint Procedure

Report No: FA-53-20

Date: October 22, 2020

Recommendation:

1. **THAT** Report No. FA-53-20 RE: Code of Conduct Complaint Procedure **BE RECEIVED**.
2. **THAT** the Code of Conduct Complaint Procedure as outlined in Report FA-53-20 **BE APPROVED**.
3. **AND THAT** staff **BE AUTHORIZED** to execute agreements, as appropriate, with partner municipalities to facilitate shared services of Integrity Commissioners.

Purpose:

The purpose of this report is to seek Board approval at the recommendation of the Governance Committee of a proposed Code of Conduct Complaint procedure that allows for transparency and accountability of Board Members and is also in alignment with that of the appointing municipalities.

Background:

On October 22, 2019 the Governance Committee directed staff to enter into discussions with appointing municipalities regarding the handling of Code of Conduct complaints regarding board members appointed from that municipality to the NPCA board. Additional information was presented to the Committee on December 13, 2019, and staff were subsequently directed to discuss shared Integrity Commissioner services with appointing municipalities.

Based on conversations with appointing municipalities, the desire of the NPCA Board for further transparency and accountability, while also acting in a fiscally responsible manner, a proposed code of conduct complaint procedure was developed for consideration of the Governance Committee provided as Appendix 1.

At its most recent meeting of October 1, 2020, the Governance Committee has recommended the following to the NPCA Board of Directors:

1. **THAT** Report No. GC-08-20 RE: Code of Conduct Complaint Procedure **BE RECEIVED**.

2. **THAT** the Code of Conduct Complaint Procedure as outlined in Report GC-08-20 **BE APPROVED**.
3. **THAT** Report No. GC-08-20 Code of Conduct Complaint Procedure be **APPENDED** to the next Full Authority Board meeting.
4. **AND THAT** staff **BE AUTHORIZED** to execute agreements, as appropriate, with partner municipalities to facilitate shared services of Integrity Commissioners.

Discussion:

NPCA will be required to gain formal agreement from each municipality outlining the parameters of any relationships, (specifically those stated in point 3.3 of the Code of Conduct procedure). Sharing Integrity Commissioner services with appointing municipalities will provide consistency with municipality's procedures.

An agreement with an Integrity Commissioner service will also provide the NPCA with various other resources including:

- Acting as an advisor for the Board
- Education for Board Members and staff on legislation, protocols and office procedures with respect to ethics
- Providing advice to individual members regarding specific situations as they relate to Code of Conduct and/or Conflict of Interest questions
- Providing advice respecting the Code of Conduct governing the ethical behaviour of Board Members
- Providing an annual report to the Board with findings and recommendations for the preceding year
- Providing advice and investigations related to conflicts of interest

Financial Implications:

In changing the NPCA Code of Conduct procedure to include formal investigations conducted by an Integrity Commissioner, the NPCA will incur costs associated with any formal investigation. Costs of an Integrity Commissioner would be relatively similar to costs of a lawyer and/or other workplace investigation firm.

Links to Policy/Strategic Plan:

The Board has been clear in their desire to be transparent, accountable and to work with integrity and honesty. This practice will aid in meeting these objectives.

Related Reports and Appendices:

Appendix 1: NPCA Board of Director's Code of Conduct Complaint Procedure

Authored by:

Original Signed by:

Misti Ferrusi, BA, CHRL
Manager, Human Resources

Submitted by:

Original Signed by:

Chandra Sharma, MCIP, RPP
Chief Administrative Officer/Secretary-
Treasurer

NPCA Board of Director’s Code of Conduct Complaint Procedure

The Niagara Peninsula Conservation Authority expects all Board Members to abide by the NPCA Board Code of Conduct. When an individual suspects a Board Member has violated the Code of Conduct, the following procedure shall be followed:

Complainants are encouraged file a complaint immediately after an alleged incident or immediately upon becoming aware of an incident. All incidents should be reported within 60 days of the complainant becoming aware of it or as soon as reasonably possible.

Any Code of Conduct complaints shall be submitted in writing to the Appropriate Authority in accordance with the chart below.

Respondent to the Complaint	Parties Responsible to Receive the Complaint (Appropriate Authority)
Board Member	Chair of the Board Vice-Chair of the Board CAO
NPCA Chair of the Board	Vice-Chair of the Board CAO
NPCA Vice-Chair of the Board	Chair of the Board CAO

1.0 Self-Declaration

1.1 In the event a Board member believes they have violated the Code of Conduct, they shall advise the Appropriate Authority in writing of the violation immediately.

1.1.1 The Board member shall be given an opportunity to meet with Appropriate Authority as well as any other party deemed appropriate in an attempt to resolve the matter within 5 business days of receipt.

1.1.2 If the matter cannot be resolved, the item will be forwarded to the appropriate Integrity Commissioner for investigation (see Formal Investigation)

2.0 Board Member Complaint from a Board Member

2.1 Prior to the launch of a formal complaint, Board members are encouraged to bring suspected matters of violation to the attention of the member in question in an effort to resolve the issue within 24 to 48 hours.

2.1.1 Members are encouraged to document any behaviours, actions, witnesses and conversations should they be required.

2.2 If the issue has not been resolved amicably and the Board member wishes to make a formal complaint, they shall do so in confidentiality by completing the identified complaint form to be submitted to the Appropriate Authority within 5 business days.

2.3 All complaints must be dated and signed by an identifiable individual.

2.4 The complainant shall receive confirmation of receipt of the complaint within 5 business days.

- 2.5 In the event clarification is needed, the complainant shall be contacted to provide further required information.
- 2.5.1 The Appropriate Authority reserves the right to terminate the complaint in the event it has been resolved, if it is a duplicate complaint (and/or merge it with an existing complaint), in the event it is deemed frivolous or vexatious or in the event it is not deemed to be a complaint. Complainants will be advised if a complaint has been terminated.
- 2.6 Informal Resolution: The Board member in question will be given an opportunity to address the issue and the Appropriate Authority will attempt to resolve the issue through informal means to the satisfaction of the concerned parties.
- 2.6.1 Informal means may include, but is not limited to clarification, joint discussions or mediation.
- 2.6.2 The Appropriate Authority has the ability to include any other party in discussions deemed appropriate towards aiding in resolution.
- 2.7 If the matter cannot be resolved, the item will be forwarded to the appropriate Integrity Commissioner for investigation (see Formal Investigation)

3.0 Formal Investigation

- 3.1 In the event a complaint is not terminated and/or an informal resolution is not practical or successful, a formal investigation shall ensue, and the complaint will be forwarded to the appropriate Integrity Commissioner for investigation.
- 3.1.1 Complaints regarding Members appointed by the Regional Municipality of Niagara will be forwarded to the current Integrity Commissioner for the Regional Municipality of Niagara.
- 3.1.2 Complaints regarding Members appointed by the City of Hamilton will be forwarded to the current Integrity Commissioner for the City of Hamilton.
- 3.1.3 Complaints regarding Members appointed by Haldimand County will be forwarded to the current Integrity Commissioner for Haldimand County.
- 3.2 Upon receipt of a formal complaint, the Integrity Commissioner will enter into a "Consent and Confidentiality" Agreement with the complainant prior to beginning the investigation.
- 3.3 In the event the Integrity Commissioner determines that the behaviour identified in the complaint occurred while the member was acting in a role related to the appointing municipality versus as an NPCA board member, the Integrity Commissioner shall have the ability to transfer the complaint to the appropriate party and complete the investigation as dictated by the appropriate agreement.
- 3.4 The summary and results of the Integrity Commissioner's report will be provided to the Full Board in open session. Based on the report, should it be concluded that a Board member has breached the Code of Conduct, a letter will be forwarded to the representative's appointing municipal Council, by the Board Chair or in his/her absence, the Vice-Chair, advising of said breach. The decision for the Board member to continue representing their municipality and/or any other penalty will be determined by the appointing municipal Council.
- 3.4.1 At the conclusion of an investigation, if it is deemed in the best interest of the Authority that a board member be placed on leave, this shall be communicated in writing to the Board member.

4.0 Confidentiality

- 4.1 All complaints will be treated as confidential and sensitive to the extent possible and as permitted by law.
- 4.2 All documentation related to a Board member Code of Conduct complaint will be kept confidentially by the CAO for a period of five (5) years following resolution or the conclusion of the investigation, unless required to be disclosed by law.
- 4.3 All Board members that are the subject of a complaint shall maintain their board member status until that time in which an appointing municipality determines any penalties or changes, if applicable.