Minutes – Executive Policy Committee – June 11, 2019

REPORTS

Item No. 7 Legal Representation for Members of Council

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Governance Committee of Council:

1. That the Public Service be directed to report back to the appropriate committee of Council within 120 days with recommendations for: a process for determining the circumstances in which the City will engage and pay for external legal counsel when a Councillor is the subject of a proceeding or claim where Legal Services is unable to represent them, including:

    A. a jurisdictional scan of similar policies in other municipalities; and
    B. financial impacts.

2. A process for determining the circumstances in which the City will pay for costs awarded when a Councillor is the subject of a proceeding or claim, including:

    A. liability insurance; and
    B. asset protection options.

DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Governance Committee of Council be concurred in.

Carried

COMMITTEE RECOMMENDATION:

On May 9, 2019, the Governance Committee of Council passed the following resolution, namely

WHEREAS section 497 of The City of Winnipeg Charter (the "Charter") provides that "no action or proceeding for damages or other relief may be commenced against a member of council…(a) for any act done in good faith in the performance or exercise, or intended performance or exercise, of a duty or authority under this Act or a by-law passed under this Act; or (b) for any alleged neglect or default in the performance or exercise in good faith of the duty or authority."

AND WHEREAS section 497 of the Charter does not apply to proceedings or claims that allege bad faith or defamation or to complaint investigations conducted by the Integrity Commissioner;

AND WHEREAS the City's Legal Services Department ("Legal Services") represents the municipal corporation of The City of Winnipeg, and not its individual Councillors, officers or employees;

AND WHEREAS Legal Services will act to have a Councillor, officer, or employee's name removed from a claim where bad faith or defamation are not alleged, but cannot represent Councillors, officers or employees in proceedings or claims that allege bad faith or defamation, or in complaint investigations conducted by the Integrity Commissioner;

AND WHEREAS the City's collective agreements and employment contracts provide a process for determining the circumstances in which the City will engage and pay for external legal counsel when an officer or employee is the subject of a proceeding or claim where Legal Services is unable to represent them;

AND WHEREAS it is desirable to have a similar process for Councillors who may be the subject of such a proceeding or claim, or complaint investigation conducted by the Integrity Commissioner;

DECISION MAKING HISTORY:

COMMITTEE RECOMMENDATION (continued):

THEREFORE BE IT RESOLVED that the Public Service be directed to report back to the appropriate committee of Council within 120 days with recommendations for:

1. A process for determining the circumstances in which the City will engage and pay for external legal counsel when a Councillor is the subject of a proceeding or claim where Legal Services is unable to represent them, including:
   A. a jurisdictional scan of similar policies in other municipalities; and
   B. financial impacts.

2. A process for determining the circumstances in which the City will pay for costs awarded when a Councillor is the subject of a proceeding or claim, including:
   A. liability insurance; and
   B. asset protection options.

and submitted the matter to the Executive Policy Committee.