

Ethics Commissioner Investigation Report File 18000-145

That Council:

1. Endorse the Ethics Commissioner's recommendation that all of Council, after the 2022 municipal election, attend a training session with the City Solicitor, Ethics Commissioner, or, at the discretion of the City Solicitor, both, regarding the role of the Ethics Commissioner as an independent officer of the City and the function of the Surrey Ethics Commissioner Office (SECO).
2. Endorse the Ethics Commissioner's recommendation that Council review the provisions of the Ethics Commissioner Establishment Bylaw and Code of Conduct to enhance and clarify the independence of its Ethics Commissioner, including, at a minimum, a review of the wording of section 87 of the Code of Conduct and section 9 of the Ethics Commissioner Establishment Bylaw to create enhanced obstruction protections for SECO and a higher bar for the dismissal of the Ethics Commissioner.
3. Direct staff to make public a Summary of the Investigation Report along with any recommendations endorsed by Council.

Summary re SECO 145

On July 8, 2022 the Ethics Commissioner delivered to the City an Investigation Report in accordance with section 73 of the *Council Code of Conduct Bylaw, 2020, No. 20020* (the "Code of Conduct"). This is a summary of the Commissioner's Report to Mayor and Council. It does not include all of the reasoning of the Ethics Commissioner or the evidence considered.

The Complaint

On December 17, 2021, the Ethics Commissioner received a complaint filed by a member of the public against a former Council Member. The Commissioner determined that certain portions of the complaint were outside of his jurisdiction, and therefore dismissed those portions of the complaint summarily on January 6, 2022. The portion of the complaint accepted by the Commissioner alleged that the former Council Member had a conflict of interest in relation to certain Council votes taken by them.

Investigation and Findings

In accordance with section 73 of the Code of Conduct, the Ethics Commissioner conducted an investigation in which he considered whether the former Council Member had a conflict of interest. In this investigation, the Commissioner reviewed City records obtained from Legislative Services and considered written submissions from the complainant as well as oral submissions from the former Council Member.

The Ethics Commissioner found that none of these votes cast by the former Council Member could give rise to a conflict of interest. Accordingly, the Commissioner found that the former Council Member did not breach the Code of Conduct.

Despite this finding, the Commissioner included in his investigation report a postscript dealing with a telephone call that he had with the former Council Member. The Commissioner noted that, in his view, the former Council Member had acted inappropriately on that telephone call in which they attempted to influence the Commissioner to dismiss the complaint summarily.

The Commissioner determined that this telephone call was not a breach of section 87 of the Code of Conduct, which makes it a breach of the Code for anyone to obstruct or interfere with the Ethics Commissioner. However, the Commissioner nonetheless reported this conversation to Council, given its inappropriate nature, and made two related recommendations.

Recommendations

The Commissioner recommended, pursuant to subsection 11(a) of the Ethics Commissioner Establishment Bylaw, which allows the Commissioner to provide advice to Council Members on behaviour that would be consistent with the Council Members' ethical obligations under the Code of Conduct, that Council adopt the following resolutions:

- a. That all of Council, after the 2022 municipal election, attend a training session with the City Solicitor, Ethics Commissioner, or, at the discretion of the City Solicitor, both,

regarding the role of the Ethics Commissioner as an independent officer of the City and the function of the Surrey Ethics Commissioner Office (SECO);

- b. That Council review the provisions of the Ethics Commissioner Establishment Bylaw and Code of Conduct to enhance and clarify the independence of its Ethics Commissioner. This should include, at a minimum, a review of the wording of section 87 of the Code of Conduct and section 9 of the Ethics Commissioner Establishment Bylaw to create enhanced obstruction protections for SECO and a higher bar for the dismissal of the Ethics Commissioner.