

## Integrity Commissioner Bulletin 2023-01: **Personal Interests and Conflict of Interest**

A citizen of Vancouver complained about two members of the City of Vancouver’s (“City”) Council (the “Members”) who voted on a Vancouver Police Department (“VPD”) budget issue (the “Motion”) despite having personal connections to the VPD. The Motion pertained to City Council “Enabling the Requisitioning and Hiring of 100 New Police Officers and 100 Mental Health Nurses.”

The citizen alleged that by voting on the Motion despite having personal connections to the VPD, the Members violated Part 4.1: Conflicts of Interest of the [Code of Conduct By-Law No. 12886](#) (“Code of Conduct”).

### **Conflicts of Interest**

The Integrity Commissioner found that the Members did not violate the Code of Conduct, and that the complaint should be closed. The Members’ interest was not personal to them but instead was an interest in common with the citizens of the City. The Integrity Commission relied on the following case law in making the decision.

- The test for conflict of interest was set out by the Supreme Court of Canada in *Old St. Boniface Residents Association Inc. v. Winnipeg (City) et al.*, [1990] 3 SCR 1170. In order to find a conflict of interest, a councillor must have a personal or other interest in the matter and that interest must be so related to the exercise of their public duty that a reasonably well-informed person would conclude that the interest might influence the exercise of that duty. A personal interest is particular to the councillor and not something held in common with other citizens in the electoral area.
- The case of *Watson v. Burnaby*, 1994 CanLII 1027 (BC SC) further explained the personal nature of the interest which must be at stake in order to find a conflict of interest. “The councillor’s interest in the subject matter of the vote must go beyond that which he or she may have in common with other members of the community; it must be an interest which is peculiar to the councillor, in effect, something that will serve his or her own personal ends.”

The Integrity Commissioner found that while both Members had personal connections with the VPD, there was no evidence to suggest that either Member had a personal interest which would be advanced by the approval of the Motion, including that there was no evidence of any direct or indirect benefit flowing to either Member on account of the Motion. Rather, the Integrity Commissioner found that any interest the Members had in the Motion was held in common with the citizens of the City given that, as residents of the City, they would be similarly impacted by the decision to increase resources in the areas of policing and mental health supports.

The Integrity Commissioner has already issued one Bulletin addressing the issue of “Election Activities and Conflicts of Interest” ([Bulletin 2022-03](#)). This is the second Bulletin on this issue.



CITY OF VANCOUVER  
REPORT TO  
CITY OF VANCOUVER COUNCIL, COMPLAINANT AND RESPONDENT

In this matter of

AN INTEGRITY COMMISSIONER INVESTIGATION  
ALLEGATIONS, FINDINGS, AND DECISIONS

Submitted by Lisa Southern,  
Integrity Commissioner  
City of Vancouver (the “Commissioner”)

December 15, 2023

## Background

A member of the public (“Complainant”) submitted a complaint (“Complaint”) against Mayor Ken Sim and Council Members Sarah Kirby-Yung, Mike Klassen, and Peter Meiszner (collectively, the “Respondent Council Members”) to the Integrity Commissioner under [Code of Conduct By-Law No. 12886](#) (“Code of Conduct By-law”).

The Complainant alleged Mayor Sim and the Respondent Council Members breached section 4.5 of the Code of Conduct By-law by promoting a Rolling Stones concert being held in Vancouver.

I examined the Complaint and issue this report in accordance with section 6.32 of the Code of Conduct By-law. In this report, I summarize the investigation process, make findings of fact with respect to the allegations in the Complaint, consider the Complaint in relation to the Code of Conduct By-law and the applicable law, and conclude there was no breach of the Code of Conduct By-law.

## Process

On November 24, 2023, I received the Complaint. I conducted a preliminary assessment of the Complaint and determined the allegations set out in it, if true, may constitute a violation of the Code of Conduct By-law.

On December 8, 2023, Mayor Sim provided a response to the Complaint.

In addition to Mayor Sim’s response, we gathered information by interviewing the City Manager about the Rolling Stones logo being displayed on City Hall on November 21, 2023. We determined that no response was needed from the Respondent Council Members.

## Summary of Complaint

The Complaint alleged Mayor Sim and the Respondent Council Members breached section 4.5 of the Code of Conduct By-law on November 21, 2023 when the Rolling Stones logo was displayed on the outside of City Hall and Mayor Sim promoted the Rolling Stones Vancouver concert date on social media.

## Summary of Complainant Submissions

On November 21, 2023, Mayor Sim and the Respondent Council Members promoted the Rolling Stones concert by having the band's logo displayed on the outside of City Hall and by posting about the concert and the light display on social media. The Complainant was concerned these activities were a potential conflict of interest and a misuse of influence for non-official purposes.

The Complainant stated the promotional activities were a possible violation of section 4.5 of the Code of Conduct By-law.

Section 4.5 states, in part, that Council Members must not use, or permit the use of, City land, facilities, or equipment for non-City business.

## Summary of Respondent Submissions

Mayor Sim contended the promotional event was City business. Prior to the Rolling Stones logo being displayed on City Hall, he said he confirmed with the City Manager that the event had been approved. He noted the City did not incur any expense and did not waive any permit or other fees.

## Findings and Decision

The facts giving rise to the Complaint are not contested. As noted above, on November 21, 2023, City Hall displayed the Rolling Stones logo using lights projected onto City Hall and Mayor Sim posted about the display and the Rolling Stones concert on social media. The Respondent Councillors attended and spoke at the event.

Based on the information from the City Manager and Mayor Sim's submission, I make the following findings.

The concert promoter or someone else affiliated with the Rolling Stones concert in Vancouver ("Promoter") approached the Mayor's office about using City Hall to promote the event. The Mayor's office then connected the Promoter with the City Manager.

While there is yet no City policy framework covering the use of City property or other resources to promote non-City events, the City sometimes allows private entities to access City facilities for a fee (for example, the Park Board has worked with for-profit concert promoters in the past). The current Council has directed City staff to explore these kinds of opportunities as another way to generate revenue and

this work is currently in progress (notably, the 2024 Draft Budget for the City<sup>1</sup> cites the monies expected from “sponsorships, advertising, naming rights and donations” as part of the 2024 Draft Operating Revenues of the City). Based on the direction from Council and past experience, City staff approved the Promoter’s proposal.

The Promoter paid \$500 for a licence to display the logo on the outside of City Hall, and covered all the costs associated with the light display, including the power required. The use of City administrative resources required to coordinate approval of the display was more than offset by the \$500 paid by the Promoter. While it was a small amount, there was a net revenue for the City.

## Analysis

For the reasons below, I conclude Mayor Sim and the Respondent Councillors did not contravene the Code of Conduct By-law.

The relevant clause of the Code of Conduct By-law is section 4.5:

*A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for activities other than the business of the city, except in accordance with city policies permitting reasonable personal use.*

The key question in deciding this Complaint is whether the light display on City Hall constitutes “City business.”

I find the display of the Rolling Stones logo on City Hall was City business. The circumstances around the event resulted in net revenue for the City and the promotion did not involve personal use of City property by the Respondent Councillors or Mayor Sim.

Whether City Hall or other City property should be used for marketing purposes to generate revenue for the City is a policy question for Council and City staff, and one they are currently exploring. However, there is nothing in the Code of Conduct By-law that prevents this type of activity, and therefore, there was no breach.

Regarding Mayor Sim’s social media posts about the event, he did not breach the Code of Conduct By-law. First, his posts did not use any City property or resources. Second, the posts were about a use of City property for City business.

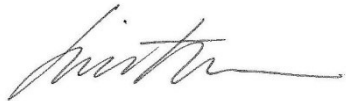
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<sup>1</sup> [City of Vancouver 2024 Draft Budget](#) at page B-33.

## Conclusion

For these reasons, I find that neither Mayor Sim nor the Respondent Councillors breached the Code of Conduct By-law.

All of which is respectfully submitted.



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Lisa Southern\*, Barrister & Solicitor  
Integrity Commissioner, City of Vancouver

Dated: December 15, 2023

\*Lisa Southern Law Corporation



OFFICE OF THE  
INTEGRITY COMMISSIONER  
FOR THE CITY OF VANCOUVER

CITY OF VANCOUVER  
REPORT TO  
CITY OF VANCOUVER COUNCIL, COMPLAINANT AND RESPONDENT

In this matter of

AN INTEGRITY COMMISSIONER INVESTIGATION  
ALLEGATIONS, FINDINGS & DECISIONS

Submitted by Lisa Southern,  
Integrity Commissioner  
City of Vancouver (the “Commissioner”)

February 17, 2023

## Background

On June 16, 2022, a member of the public (the “Complainant”) brought forward to the Integrity Commissioner a *Code of Conduct By-Law No. 12886* (the “Code of Conduct”) complaint against Councillor Sarah Kirby-Yung (“Cllr. Kirby-Yung”) regarding a “*Conflict of Interest*” (the “Complaint”).

The Complaint alleged that Cllr. Kirby-Yung’s participation during a June 8, 2022 City of Vancouver Council meeting (the “Council Meeting”) and related discussions about the adoption of the Chinatown Heritage Asset Management Plan (“CHAMP”) for the City of Vancouver’s Chinatown was a conflict of interest, given that Cllr. Kirby-Yung’s husband, Terry Yung, was the Chair of the Board of Directors for the Dr. Sun Yat-Sen Classical Chinese Garden (the “Garden”), an organization impacted by the CHAMP.

I examined the Complaint in the context of the Code of Conduct and the law.

This report is issued in accordance with section 6.32 of the Code of Conduct. In this report, I provide a summary of process and a summary of the evidence, make findings of fact with respect to the allegations set out in the Complaint, and conclude that there has not been a breach of the Code of Conduct.

## Process

A preliminary assessment of the Complaint was conducted, and it was determined that the allegations set out in the Complaint, if true, may constitute a violation of the Code of Conduct. Accordingly, on July 5, 2022, Cllr. Kirby-Yung was provided with notice of the Complaint.

From the outset, the Complainant requested they remain anonymous, as they are both a member of the public and an employee of the City of Vancouver. The Complainant expressed concern that there may be negative repercussions to them in their work if their identity was disclosed. In my view, nothing in the Code of Conduct mandates that the name of a complainant be provided to a respondent. To the contrary, section 6.38 requires that the Integrity Commissioner “*must make all reasonable efforts to investigate complaints in confidence.*” However, the Integrity Commissioner is mandated, under section 6.28, to investigate in compliance with the rules of procedural fairness and natural justice “*applicable in the circumstances.*”

In this case, the Complaint relates to proceedings that were public and captured on video. The basis on which the Complaint was brought is a matter of record. In these circumstances, the name of the Complainant related to these proceedings is not required in order for Cllr. Kirby-Yung to know the nature of the Complaint and the basis on which the Complaint was made, and to provide an answer to the Complaint. In short, procedural fairness and natural justice obligations are met in the absence of disclosure of the name of the Complainant. I have assessed the request for anonymity, including the



reasons given for the request, against the nature of the Complaint and public nature of the evidence, and granted the Complainant's request. Accordingly, I have not disclosed the name of the Complainant.

Cllr. Kirby-Yung provided a written response to the Complaint on July 22, 2022 in which she denied she had breached the Code of Conduct.

Between July 22, 2022 and September 21, 2022, the Office of the Integrity Commissioner explored whether the Complainant and Cllr. Kirby-Yung were amenable with engaging in an Informal Resolution Process to address the Complaint (see sections 6.17–6.23 of the Code of Conduct), but ultimately I determined an informal resolution was not possible and the matter should proceed to a Formal Resolution process (i.e., an investigation; see sections 6.24–6.28 of the Code of Conduct). I suspended the investigation pursuant to section 6.11 of the Code of Conduct given the proximity to the Municipal Election. Given that Cllr. Kirby-Yung was re-elected, I resumed the investigation on October 21, 2022.

I held meetings via videoconference with the Complainant and Cllr. Kirby-Yung. Cllr. Kirby-Yung was provided the opportunity to make further written submissions, which she did through legal counsel on January 3, 2023. The Complainant was then given an opportunity to provide a response to those submissions, which they did in writing on January 29, 2023. Final submissions were requested from Cllr. Kirby-Yung, which she provided through her legal counsel on February 10, 2023.

## Summary of the Complaint

The Complainant expressed concern that Cllr. Kirby-Yung's actions during the Council Meeting resulted in a conflict of interest because she provided what they perceived to be advantages to the Garden that were not given to other stakeholders. The Complainant said that in various actions, Cllr. Kirby-Yung demonstrated bias and favouritism towards the Garden. The Complainant framed the concern in the following terms:

*Throughout the Council meeting, Kirby-Yung repeatedly [took] a position to call for special consultation with the organization that her husband is the board chair for, despite the fact they were already highly involved in the process.*

## Issue

The issue that must be decided is whether Cllr. Kirby-Yung contravened the Code of Conduct when she participated in, made an amendment to a motion, and voted on discussions during the Council Meeting about the adoption of the CHAMP given that her husband was the Chair of the Board of Directors for the Garden, which was directly impacted by the CHAMP.

The following facts are a matter of public record:

- Cllr. Kirby-Yung’s husband is the Chair of the Board of Directors for the Garden;
- On June 8, 2022, the Council Meeting was held during which the “*Chinatown Transformation: Cultural Heritage Assets management Plan (CHAMP) Strategic Framework and UNESCO World Heritage Site Process*” was discussed and voted upon;
- During the Council Meeting, Cllr. Kirby-Yung did not disclose that her husband was the Chair of the Board of Directors for the Garden, nor did she recuse herself from any discussions or subsequent votes on matters affecting the Garden;
- During the Council Meeting, Cllr. Kirby-Yung actively participated in discussions and votes pertaining to the CHAMP, including the following amendment moved by Cllr. Kirby-Yung:

*THAT, in A, the word “adopt” be struck and replaced with the word “refer”;*

*FUTHER THAT the following be added to the end of A:*

*“to staff for further consultation and engagement on the framework with anchor and legacy Chinese cultural organizations including for example, the Chinatown BIA, Chinese Cultural Centre, Vancouver Chinatown Foundation, Vancouver Chinese Benevolent Association, Vancouver Chinatown Merchants Association and the Dr. Sun Yat-Sen Classical Chinese Garden and report back by September 2022 or as soon as feasible”;* and

- The final motion as approved by Council included, *inter alia*, the following:

*B. THAT staff and the co-chairs of Legacy Stewardship Group (LSG) consult with the Chinese Cultural Centre, Vancouver Chinatown BIA, Vancouver Chinatown Merchants Association, Chinatown Benevolent Association, Dr. Sun Yat-Sen Classical Chinese Garden Society, and the Vancouver Chinatown Foundation to gather their feedback about the framework and Phase I engagement, and incorporate feedback into the framework and their ideas on how to adjust the engagement process moving forward, and consider that feedback in the design of engagement for Phase 2, Implementation Plan Development. This consultation and resulting discussion by and with LSG should happen by end of August, 2022.*

## Summary of Complainant Submissions

The Complainant expressed concern that during the Council Meeting, Cllr. Kirby-Yung provided advantages to the Garden that were not given to other stakeholders. They said that she demonstrated bias and favouritism towards the Garden by advocating for additional and special consultation with the Garden and other “*legacy Chinese cultural organizations,*” and that such favouritism could risk undermining the lengthy and inclusive consultation processes that had already occurred with a broad and inclusive group of stakeholders. The Complainant said their concerns about bias or favouritism to the Garden were demonstrated by the motions and amendments pertaining to the Garden (and other “*legacy Chinese Cultural organizations*”) put forward, and voted upon, by Cllr. Kirby-Yung, as well as the questions

asked by Cllr. Kirby-Yung to members of the public who spoke during the Council Meeting, which they described as “*leading questions that [gave] the Garden the opportunity to further espouse their position*” with respect to the CHAMP consultation process.

## Summary of Respondent Submissions

Cllr. Kirby-Yung denied she was in a conflict of interest.

Cllr. Kirby-Yung initially submitted that the CHAMP did not provide recommendations for support of specific organizations, or financial grants or benefits, but was “*intended to present a cohesive collective vision for ensuring this historic neighbourhood is not lost, as such ensuring all relevant organizations are represented is fundamental to the work.*” Later, through legal counsel, Cllr. Kirby-Yung submitted that:

*The “matter” in this case concerned discussion of a Plan applicable to a particular Vancouver neighbourhood, including many iconic cultural or legacy institutions. The Garden is among the members of the Legacy Stewardship Group, referenced below, but was not the recipient of a benefit, and was not independently the focus of the Councillor’s participation or vote. There is no basis in fact for the supposition that Councillor Kirby-Yung’s participation resulted in “rights or opportunities for the Garden that differ from other stakeholders.” These mischaracterize the matter.*

Cllr. Kirby-Yung explained the amendment she made during the Council Meeting:

*... simply provides the opportunity for a diverse and comprehensive group of stakeholders, not any one person or organization, to have further dialogue and engagement; it does not propose any pecuniary or specific benefits to any organization.*

Cllr. Kirby-Yung said there needed to be evidence of an “*actual connection between the elected official and the matter to be voted on, and that such a connection cannot be inferred merely by the presence of a familial relationship.*” She said that in this instance, “*any connection is absent entirely.*”

Cllr. Kirby-Yung also put forward the following evidence:

1. All communication between the Garden and Cllr. Kirby-Yung on the subject of the CHAMP took place on a group call which included the Executive Director of the Garden, and other community stakeholders;
2. Cllr. Kirby-Yung did not discuss the matter or related matters with her husband;
3. Cllr. Kirby-Yung was aware the Garden was a governance board, and there was no reasonable basis upon which she ought to have taken precautions (such as declare a conflict) as the Garden was squarely represented by its Executive Director without any direct involvement of the board; and

4. Cllr. Kirby-Yung's husband did not direct, request nor participate in any direction to representatives of the Garden, nor was there any reasonable expectation in the circumstances that he might have.

Cllr. Kirby-Yung's overall position was that:

*There is no suggestion in the present matter that Councillor Kirby-Yung undertook to vote or participate for any reason other than what she believed to be the best interests of her community. In this matter, the issue before Council was a strategic framework (e.g. the implementation of the Plan [CHAMP] under discussion would follow later). The vote in question did not assign any value to particular entities, nor provide benefits or preferential treatment.*

*Nor is it even suggested that Councillor Kirby-Yung had any personal interest in the matter.*

*Speaking or arguing in favour of a proposal is not a disqualifying action. Rather, it is argued that Councillor Kirby-Yung by virtue of her marriage, was precluded from speaking to the Plan, or using the Garden as an example (among several example organizations) of the types of institutions that deserved better consultation due to the communities they represent. In the circumstances this is not an interest in the matter ...*

## Assessment of Credibility

The material facts are not in dispute. The sole question is whether Cllr. Kirby-Yung's failure to disclose her husband's role as Chair of the Board of Directors for the Garden, and her subsequent participation during the Council Meeting, contravened the Code of Conduct because it was a conflict of interest.

The entirety of the Council Meeting was recorded for the public record, and may be accessed here: <https://www.youtube.com/watch?v=tkPSrQZteN8> [youtube.com]

## Analysis

The Complaint was regarding Cllr. Kirby-Yung's close familial relationship with the Chair of the Board of Directors for the Garden and her participation in discussion and votes about the CHAMP process and rights or opportunities for the Garden, in a way that differed from her participation with respect to other stakeholders.

The applicable sections of the Code of Conduct are found in Part 4 – Conflicts of Interest, sections 4.1 and 4.8, which state:

*4.1 A Council Member must comply with the conflict of interest requirements set out in section 145.2 to 145.911 of the Vancouver Charter.*

...

*4.8 A member must be independent and impartial, and must not provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of their duties.*

In addition to Part 4 of the Code of Conduct, Part 2 – Standards and Values is also applicable, including section 2(c):

*(c) integrity: a member must avoid improper use of influence and avoid all conflicts of interest, both apparent and real;*

### *Section 4.1 of the Code of Conduct*

As is made clear in section 4.1 of the Code of Conduct, Council Members must conduct themselves in accordance with sections 145.2 to 145.911 of the *Vancouver Charter*. While I have considered each of the relevant provisions of the *Vancouver Charter*, the provision for the purposes of this investigation is section 145.2, which states:

**145.2** *(2) If a Council member attending a meeting considers that the member is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has*

*(a) a direct or indirect pecuniary interest in the matter, or*

*(b) another interest in the matter that constitutes a conflict of interest,*

*The member must declare this and state in general terms the reason why the member considers this to be the case.*

*(3) After making a declaration under subsection (2), the Council member must not do anything referred to in section 145.3(2) [restrictions on participation].*

The *Vancouver Charter* does not limit conflicts to direct or indirect pecuniary interests; it also includes “another interest in the matter that constitutes a conflict of interest,” which is a non-pecuniary interest. However, under section 145.3(1) of the *Vancouver Charter*, only if a Council Member has a direct or indirect pecuniary interest must the Council Member disqualify themselves from attending or participating in a meeting where their conflict is discussed or voted on.

The test for a conflict of interest, pecuniary or non-pecuniary, is set out by the Supreme Court of Canada in *Old St. Boniface Residents Association Inc. v Winnipeg (City) et al.*, [1990] 3 SCR 1170 (“*Boniface*”). There must be a personal or other interest and that interest must be so related to the exercise of public duty that a reasonably well-informed person would conclude that the interest might influence the exercise of that duty (at para 55).

In *Boniface*, a councillor voted on a development application when, prior to public hearings on the application for rezoning, the councillor was personally involved in the planning of the proposed

development and had advocated for the application at in-camera meetings of the finance committee. However, there was no conflict of interest because there was nothing to suggest his support for the development application was motivated by some relationship with, or interest in, the developer rather than in the development (at 1197–1198). There was no suggestion he did what he did for any reason other than what he believed to be in the best interests of his community, or that he had any personal interest in the success of the application. The Supreme Court of Canada said a personal interest in the development could have been pecuniary or by reason of a relationship with the developer, but there was no such interest in that case (at 1198):

*55 I would distinguish between a case of partiality by reason of pre-judgment on the one hand and by reason of personal interest on the other. It is apparent from the facts of this case, for example, that some degree of pre-judgment is inherent in the role of a councillor. That is not the case in respect of interest. There is nothing inherent in the hybrid functions, political, legislative or otherwise, of municipal councillors that would make it mandatory or desirable to excuse them from the requirement that they refrain from dealing with matters in respect of which they have a personal or other interest. It is not part of the job description that municipal councillors be personally interested in matters that come before them beyond the interest that they have in common with the other citizens in the municipality. Where such an interest is found, both at common law and by statute, a member of Council is disqualified if the interest is so related to the exercise of public duty that a reasonably well-informed person would conclude that the interest might influence the exercise of that duty. This is commonly referred to as a conflict of interest. [page1197] See *Re Blustein and Borough of North York*, [1967] 1 O.R. 604 (H.C.); *Re Moll and Fisher* (1979), 23 O.R. (2d) 609 (Div. Ct.); *Committee for Justice and Liberty v. National Energy Board*, *supra*; and *Valente v. The Queen*, [1985] 2 S.C.R. 673.*

*56 Statutory provisions in various provincial Municipal Acts tend to parallel the common law but typically provide a definition of the kind of interest which will give rise to a conflict of interest. See *Blustein and Moll*, *supra*. In Manitoba, the relevant provisions are found in the *Municipal Council Conflict of Interest Act*, R.S.M. 1987, c. 255, ss. 4, 5 and 8. No reference is made to these sections in this appeal nor is there any suggestion that they have been contravened.*

Consequently, to have breached section 145.2 of the *Vancouver Charter* and thus section 4.1 of the Code of Conduct:

1. Cllr. Kirby-Yung must have had a personal or other interest in the outcome of the Council discussion and vote on the CHAMP; and
2. That interest must have been so related to her duties as Councillor that a well-informed person would consider her interest might have had an influence on her exercise of public duty.

Turning first to whether Cllr. Kirby-Yung had a personal or other interest, I conclude she did have such an interest, given her spousal relationship with the Chair of the Board of Directors for the Garden. The

Garden, along with other Chinatown entities, was likely to be impacted by the CHAMP, which was presumably why Cllr. Kirby-Yung made the amendment to refer the CHAMP back to staff and the Co-Chairs of the Legacy Stewardship Group (“LSG”) for further consultations with several named Chinatown organizations, including the Garden. The motion ultimately approved at the Council Meeting was the result of Cllr. Kirby-Yung’s amendment. These facts support my finding that Cllr. Kirby-Yung had a personal interest in the Council discussion and vote on the CHAMP beyond the interest she had in common with other citizens in the City of Vancouver.

A personal interest can include a relationship with a person or an entity with an interest in the outcome of the discussion and/or vote: *Boniface* at 1197–1198; *Schlenker v Torgrimson*, 2012 BCSC 41 (“*Schlenker v Torgrimson*”) at paras 48–73, rev’d 2013 BCCA 9 (on the pecuniary interest issue but the non-pecuniary interest issue was not appealed); *Godfrey et al. v Bird and District of North Saanich*, 2005 BCSC 626 at paras 42, 49, 76; *Waste Management of Canada Corporation v Thorhild (County)*, 2008 ABQB 762 at paras 63–65.

A personal interest is particular to the Councillor and not something held in common with other citizens in the electoral area or other persons of like opinion: *Boniface* at 1196; *Watson v Burnaby (City)*, [1994] BCJ No 1413 (SC) (“*Watson*”) at paras 50–51; *Schlenker v Torgrimson* at paras 56, 58, 61–62, 66; *re L’Abbé and the Corporation of Blind River*, [1904] OJ No 130 (Div Ct), 7 OLR 230 at 233–234, cited in *Schlenker v Torgrimson* at para 60 and in *Watson* at paras 47, 50–53; *Calgary Roman Catholic Separate School District No. 1 v O’Malley*, 2007 ABQB 574 at paras 96–99.

Given that Cllr. Kirby-Yung did have a personal interest in this matter, the question then narrows to whether that personal interest was substantial enough to give rise to a conflict of interest. The decision in *Watson* provides a useful example of where there was insufficient personal interest to give rise to a conflict of interest. In *Watson*, a Masonic councillor was alleged to have acted in a conflict of interest when he voted to grant funds to a replica of a Masonic lodge for a local outdoor village museum in Burnaby. The replica was proposed by a Masonic historical society. The British Columbia Supreme Court determined there was no conflict of interest because there were no “*personal ends to be gained*” by the councillor “*over and above the benefits to his fellow citizens*” (para 56). In reaching that decision, the British Columbia Supreme Court provided helpful elaboration on the findings from *Boniface* and older decisions, stating that:

*I return therefore to make some observations on the L’Abbé and Old St. Boniface cases. I draw from L’Abbé that the non-pecuniary interest required to warrant disqualification from voting must be a “substantial interest.” This, I note, would eliminate interests that are remote or of little consequence. I draw from both L’Abbé and Old St. Boniface that the councillor’s interest in the subject matter of the vote must go beyond that which he or she may have in common with other members of the community; it must be an interest which is peculiar to the councillor, in effect, something that will serve his or her own personal ends.*

*Finally, I draw from Old St. Boniface that where there is such an interest it must be so related to the subject matter of the vote that a reasonably well-informed person would conclude that the interest may well influence the councillor's vote.*

I have considered the unique facts in these circumstances. I understand why the Complainant took issue with Cllr. Kirby-Yung's participation and actions given her relationship to Mr. Yung, and his relationship to one of the stakeholders. On first blush, the Complaint is logical, and it is rational that one may question Cllr. Kirby-Yung's participation given her husband's role. A perception of a conflict of interest arises based on their familial relationship. However, relationship alone does not determine if there is a conflict of interest under the Code of Conduct. I must consider the significance or magnitude of her interest. The question is whether there was a 'substantial interest'?

Cllr. Kirby-Yung's amendment to the motion was to refer the CHAMP back to staff and the LSG for further consultations with a number of organizations. While the Garden was included in that list, it was only one of several organizations. Further, the right conferred was for more consultation, and consultation does not necessarily confer any additional benefits on the Garden. In these circumstances, I conclude that Cllr. Kirby-Yung's personal interest was not substantial enough to give rise to a conflict of interest. I make this finding on the basis of the nature of the benefit conferred on the Garden.

In *Schlenker v Torgrimson*, the British Columbia Supreme Court found that a non pecuniary conflict of interest did not exist when three Island Trust trustees voted to provide money to non-profit societies of which they were directors and members.<sup>1</sup> At para 73, the chambers judge stated:

*In short, a non-pecuniary conflict of interest must go beyond that which elected officials may have in common with other members of the community; it must be a substantial interest peculiar to their personal interest that will serve his or her own needs.* [emphasis added]

On the facts before me, I cannot conclude that Cllr. Kirby-Yung had a substantial interest in this matter that was peculiar to her personal interests and was such that it served her own needs as opposed to serving what she believed to be the best interests of her community.

I have also considered whether, in the circumstances, Cllr. Kirby-Yung's interest was so related to her duties as Councillor that "a reasonably well-informed person" would consider her interest to have had an influence on her exercise of her public duty. I find a reasonably well-informed person would not consider Cllr. Kirby-Yung's interest, that is her marriage to Mr. Yung, influenced her exercise of her duty as Councillor in this matter. I make this finding on the basis of the following facts that go beyond simply her relationship with Mr. Yung:

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<sup>1</sup> On appeal, the Chambers Judge's conclusion that there was no direct or indirect pecuniary interest was overturned; the non-pecuniary interest issue was not appealed.



1. Cllr. Kirby-Yung's amendment to, and vote on, the motion about the CHAMP was for referral back to staff and the LSG for further consultation with several organizations affected by the CHAMP, not just the Garden;
2. The amended motion only resulted in more consultation without any specific benefit to the Garden;
3. The amended motion did not result in personal benefits or gains by either Cllr. Kirby-Yung or Mr. Yung;
4. The Garden's Executive Director did not engage with Mr. Yung, nor were they aware of Mr. Yung participating in any direction to representatives of the Garden, regarding the CHAMP. The CHAMP was the responsibility of the Garden's Executive Director; and
5. Cllr. Kirby-Yung said she did not discuss the CHAMP vote or related matters with Mr. Yung.

#### *Section 4.8 of the Code of Conduct*

I find there is no basis to conclude that Cllr. Kirby-Yung's actions breached section 4.8 of the Code of Conduct. I find that there was no preferential treatment on these facts. As noted above, the Garden was one of a list of organizations to be consulted with on the amended motion. Consultation itself does not necessarily confer any additional benefits on the Garden or the other organizations.

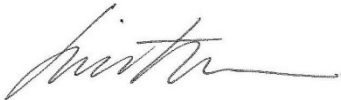
#### *Part 2 – Standards and Values of the Code of Conduct*

Part 2 of the Code of Conduct expresses the Standards and Values expected of Council Members. However, conflicts of interest, "*apparent or real*," must be understood in light of the law. Section 2(c) of the Code of Conduct does not alter the requirements under section 4.1, and therefore, my analysis of whether Cllr. Kirby-Yung engaged in a conflict of interest remains unchanged.

## Conclusion

A close familial connection to a matter before Council is no doubt cause for concern. It is a common-sense notion that family members of Council Members should not be given special advantages in matters before Council. It is unsurprising that there was a perception of bias or unfairness raised, and I understand why the Complainant brought the Complaint.

However, the legal question of whether Cllr. Kirby-Yung's actions breached the Code of Conduct is a more complicated question than simply an assessment of perception. For the reasons set out above, I have determined that, in these circumstances, she did not have "*personal ends to be gained ... over and above the benefits to h[er] fellow citizens.*" I conclude that Cllr. Kirby-Yung has not violated the Code of Conduct.

A handwritten signature in black ink, appearing to read "Lisa Southern".

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Lisa Southern\*

Integrity Commissioner for the City of  
Vancouver Dated: February 17, 2023

\*Law Corporation



OFFICE OF THE  
INTEGRITY COMMISSIONER  
FOR THE CITY OF VANCOUVER

CITY OF VANCOUVER  
REPORT TO  
CITY OF VANCOUVER COUNCIL, COMPLAINANT AND RESPONDENT

In this matter of

AN INTEGRITY COMMISSIONER INVESTIGATION  
ALLEGATIONS, FINDINGS & DECISIONS

Submitted by Lisa Southern,  
Integrity Commissioner  
City of Vancouver (the “Commissioner”)

July 5, 2022

## Background

On March 25, 2022, Councillor Colleen Hardwick (the “Complainant”) brought forward to the Integrity Commissioner a *Code of Conduct By-Law No. 12886* (the “Code of Conduct,” attached at **Tab 1**) complaint against Mayor Kennedy Stewart (the “Respondent”) regarding a four-part series of Tweets (the “Tweets”) he made from his personal Twitter account on March 24, 2022 (the “Complaint”).

The Complaint alleged that the substance of the Tweets sent by Mayor Stewart was untrue and was an improper use of the Office of the Mayor (the “Allegations”).

We examined the Allegations in the context of the Code of Conduct and the law.

This report is issued in accordance with section 6.32 of the Code of Conduct. In this report, we provide a summary of process and a summary of the evidence, make findings of fact with respect to the Allegations, and conclude that there has been a breach of the Code of Conduct.

## Process

A preliminary assessment of the Complaint was conducted, and it was determined that the Allegations, if true, may constitute a violation of the Code of Conduct. Accordingly, on March 28, 2022, Mayor Stewart was provided with notice of the Complaint (as required per section 6.25 of the Code of Conduct).

Mayor Stewart provided a written response to the Complaint on April 5, 2022 (the “Mayor’s Response”), in which he denied the Allegations.

On April 8, 2022, Councillor Hardwick was provided with a copy of the Mayor’s Response and was given an opportunity to reply, which she did in writing on April 18, 2022 (the “Councillor’s Response”).

In conducting an investigation, Section 6.27 of the Code of Conduct states that the Integrity Commissioner may:

- a) speak to anyone relevant to the complaint;*
- b) request disclosure of documents relevant to the complaint; or*
- c) access any record in the possession or control of the city, [except] a record that is subject to privilege*

We held interviews via videoconference and telephone with Mayor Stewart, five witnesses employed by the City of Vancouver (the “City”), and one witness not employed by the City (together, the “Participants”).

At the beginning of each interview, the Participants were advised of the need for honesty and their obligation to maintain confidentiality of the fact that the investigation was occurring and the information that was discussed. Each Participant acknowledged understanding of both obligations.

Consistent with section 6.33 of the Code of Conduct, we have preserved the anonymity of the witnesses.

Consistent with section 6.29 of the Code of Conduct, we are making this decision “*within 90 days of making a decision to proceed with a formal investigation.*”

## Summary of the Complaint

The Complaint alleged that Mayor Stewart breached the Code of Conduct when he sent the Tweets on March 24, 2022 regarding Councillor Hardwick’s motion for a plebiscite on the 2030 Olympics (the “Motion”):

1. *@CllrHardwick's action violates the signed agreement between the governments of Vancouver and Whistler with the Musqueam, Squamish, Tsleil-Waututh and Líl'wat upon whose unceded lands our cities are built. 1/4*  
*#vanpoli*  
*<https://t.co/f3kSEU2cZ5> [t.co]*
2. *City Council approved a formal Memorandum of Understanding to work in partnership with host First Nations to explore how the 2030 Winter Olympics might become the world's first reconciliation games. 2/4*
3. *The MOU is a critical component of our UNDRIP obligations - now formalized in provincial law - as it outlined a clear process for all to follow in good faith which, at it's conclusion, includes council voting on a recommendation and may still involve community votes. ¾*
4. *I will not second this motion. I urge other councillors to consider what supporting @CllrHardwick's decision to essentially tear up our MOU says about their own commitments to reconciliation. 4/4*  
*#vanpoli*

[Author’s original text; additional numbering was added for clarity. Copies of the Tweets are attached at **Tab 2**]

The “*signed agreement,*” “*Memorandum of Understanding*” and “*MOU*” referenced in the Tweets refer to a Memorandum of Understanding (“MOU”) between Chief Sparrow (Musqueam Nation), Chairperson Khelsilem (Squamish Nation), Chief Thomas (Tsleil-Waututh Nation), Chief Nelson (Lil’wat Nation), Mayor Crompton (Resort Municipality of Whistler) and Mayor Stewart forming a “*Host Nations Exploratory Assembly for the 2030 Olympic and Paralympic Winter Games Big Consideration*” (the MOU is attached at **Tab 3**).

The Complaint alleged that information in the Tweets *“is not true”* and that a *“review of the MOU will demonstrate that [the Tweets are] an erroneous statement.”* The Complaint further alleged that the Tweets misrepresented the Motion and that as a result, it detracted from *“any opportunity for a fair discussion and debate in Council.”* Further, Councillor Hardwick wrote, *“His tweets have effectively cast me as anti-reconciliation, which is categorically incorrect.”*

## Summary of Evidence

### *Evidence of the Complainant*

In the Councillor’s Response, she provided considerable evidence with respect to the Complaint.

Councillor Hardwick confirmed that the MOU was approved by City Council in October 2021 and was announced publicly in December 2021.

She maintained that the Motion did not violate the MOU. She confirmed that the original draft Motion was submitted to the City Clerk on February 28, 2022, and that she sought input from City staff and Council through the appropriate processes. She confirmed that *“at no time was the MOU mentioned as a concern by Staff, the Mayor’s Office, or City Council in the period leading up to the City Council meeting three weeks later.”* She said she received an email on March 18, 2022 that included an attachment of *“Staff Input on Council Motions,”* which provided input on the Motion but did not include any mention of the MOU.

Councillor Hardwick said she amended the Motion to reflect staff input, and then submitted it to the City Clerk’s office on March 21, 2022, at which point it was included in the City Council agenda (which was posted on the City’s website on March 23, 2022). The Motion was the subject of a *Vancouver is Awesome* news article (attached at **Tab 4**) on March 23, 2022, and the Tweets were published the next day on March 24, 2022.

Councillor Hardwick wrote that *“if my motion violated or otherwise undermined the MOU, the ‘Staff Input on Council Motions’ process would have certainly flagged this as a concern. It did not.”* Further, Councillor Hardwick provided evidence that the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was not applicable to the Motion.

To summarize Councillor Hardwick’s evidence, she said there was no specific language in the MOU that was violated by the Motion and if the Motion otherwise violated the MOU, then she would have been made aware of the violation through the ‘Staff Input on Council Motions’ process. Further, her evidence was that the Motion was not anti-reconciliation and did not violate UNDRIP obligations.

### *Evidence of the Respondent*

In the Mayor's Response, he stood by his Tweets and maintained his position by stating that *"my tweets affirm my understanding of the applicability and validity of this MOU."*

Mayor Stewart also said his belief was that in publishing the Tweets, he used the influence of his Office appropriately. Mayor Stewart's responses to the Complaint focused on reconciliation and he elaborated on the importance of having oral traditions, building trust, and exercising good faith when working with First Nation partners. He said that when the Motion first surfaced, it was viewed as a *"betrayal"* of the MOU by the First Nations signatories to the MOU and he provided names of witnesses to support that this was their interpretation, and not his alone.

However, during this investigation, Mayor Stewart conceded that *"by definition there is nothing in the MOU"* that was violated by the Motion, but he maintained that the broader understanding between the signatories to the MOU was that the intended function of the MOU was to encourage the respective parties to engage in exploratory discussions among themselves and to bring those discussions back to the Host Nations Exploratory Assembly prior to determining how to move forward. In Mayor Stewart's view, the Motion was a unilateral action that undermined the efforts undertaken by the Host Nations Exploratory Assembly.

### *Witness Evidence*

Each City witness confirmed that Councillor Hardwick submitted the Motion for review, and that the review did not flag or otherwise identify the Motion as potentially in violation of the MOU.

The witness not employed by the City of Vancouver, but present during relevant meetings between Mayor Stewart and the Host Nations Exploratory Assembly members (among other interested parties), corroborated the evidence of Mayor Stewart by confirming that the Motion caused considerable concerns in discussions with the Host Nations Exploratory Assembly members and was, in effect, viewed by them as inconsistent with the intentions of the MOU.

### **Assessment of Credibility**

All Participants were genuine, forthright, and candid in the evidence they provided. There were no issues of credibility in this investigation.

## The Code of Conduct

### *Code of Conduct By-Law 12886*

The applicable sections of the Code of Conduct are found in Part 3 – Communications and Confidentiality, including Section 3.4, which states:

*3.4 Without limiting the ability of a Council member to hold a position on an issue and respectfully express their opinions, a Council Member must:*

- a) ensure that their communications accurately reflect the facts of Council decisions;*
- b) ensure that all communications relating to Council business are accurate and not issue any communication that the member knows, or ought to have known, to be false;*
- c) ensure that all communications by, and on behalf of a member, including communications made via social media, are respectful and do not discriminate, harass, or defame any person, recognizing that free and open debate is guaranteed under the Charter of Rights and Freedoms.*

Part 4 – Conflicts of Interest, including Section 4.7, is also applicable:

*4.7 A member must only use the influence of their office for the exercise of their duties.*

## Findings

The primary concern outlined in the Complaint was that the Tweets were “*not true.*”

Section 3.4(b) of the Code of Conduct requires members of Council to “*ensure that all communications relating to Council business are accurate and not issue any communication that the member knows, or ought to have known, to be false.*”

Mayor Stewart did not say that, in his opinion, the Motion was contrary to the MOU; nor did he say that it was counter to the spirit of the MOU. If he had, we would have concluded that no violation of the Code of Conduct had occurred. He was more definitive than this and said that the Motion was “*in violation*” of the MOU. We reviewed the MOU with due consideration of the principles of contractual interpretation and have considered the input of City staff with respect to the MOU. We find that Councillor Hardwick’s Motion was not a violation of the MOU on the language of the MOU. For that reason, we conclude that the Tweets were not accurate, and therefore violated section 3.4(b) of the Code of Conduct.



Councillor Hardwick also raised concerns that Mayor Stewart misused the influence of his Office by publishing the Tweets. The preamble to section 3.4 of the Code of Conduct states that the entire section, including section 3.4(b), applies “*Without limiting the ability of a Council member to hold a position on an issue and respectfully express their opinions.*” The decision in *Monforts v Brown*, 2021 ONMIC 10 is also applicable to our findings in this respect, when Integrity Commissioner Giorono stated:

*121. Before turning to the applicable sections of the Code, I wish to make general observations about communications by elected municipal officials. The role of a Council Member includes communicating with members of the public about local issues. This includes not just responding to residents but initiating communication with the public. In fact, the Courts have clearly stated that, as an elected representative of the public, a municipal councillor is entitled to take “an open leadership role” on an issue. As part of the political process, a Council Member has every right to form views, to hold views, to express views and, while in office, to give effect to those views.*

*122. In a case involving the previous Mayor of Orangeville, I observed that a municipal elected official is not required to avoid communicating on controversial, high-profile issues. Quite the contrary. “Given the political and representational roles of a municipal councillor, controversial and/or highly visible topics are ones on which a Council Member would be expected to communicate and on which a Council Member is entitled to communicate.” See *Greatrix v. Williams*, 2018 ONMIC 6 (CanLII), at para. 204.*

As we have noted, the Tweets were not accurate in stating that there was a violation of the MOU. However, as supported by a third-party witness, we find that there were concerns by the Host Nations Exploratory Assembly about the Motion, and that Mayor Stewart “*has every right to form views, to hold views, to express views and, while in office, to give effect to those views.*” His error was in the characterization of the Motion as a violation of the MOU, which it was not. However, on the evidence, particularly as supported by evidence of a third party witness, we cannot conclude that he misused the influence of his Office when he published the Tweets.

## Recommendations

We recommend the public record should be corrected to reflect that the Motion was not a violation of the MOU. Consistent with the Code of the Code of Conduct, this Report will be published as one effort to correct that record. We also recommend further training for Mayor Stewart and Council on their obligations under section 3.4(b) of the Code of Conduct.

## Conclusion

Mayor Stewart breached section 3.4(a) of the Code of Conduct when he published Tweets that were not accurate about Councillor Hardwick.

All of which is respectfully submitted.

A handwritten signature in black ink, appearing to read "Lisa Southern".

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Lisa Southern

Integrity Commissioner for the City of Vancouver

Dated: July 5, 2022



OFFICE OF THE  
INTEGRITY COMMISSIONER  
FOR THE CITY OF VANCOUVER

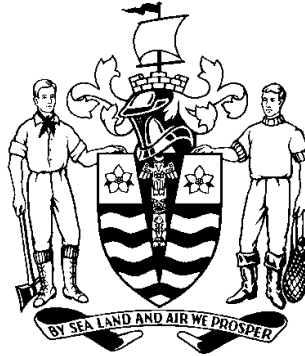
## REPORT APPENDIX

Submitted by Lisa Southern,  
Integrity Commissioner  
City of Vancouver (the “Commissioner”)

July 5, 2022

**Tab 1**

# **CITY OF VANCOUVER BRITISH COLUMBIA**



## **CODE OF CONDUCT BY-LAW NO. 12886**

**This By-law is printed under and  
by authority of the Council of  
the City of Vancouver**

**(Consolidated for convenience only  
to February 9, 2021)**

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## BY-LAW NO. 12886

### The Code of Conduct for Council Members and Advisory Board Members

[Consolidated for convenience only,  
amended to include By-law No. 12886  
effective February 9, 2021]

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THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts the following:

#### PART 1 GENERAL

##### Name

- 1.1 The name of this By-law, for citation is the “Code of Conduct By-Law”.

##### Definitions

- 1.2 In this By-law:

“Advisory Board Member” means a person sitting on an advisory committee, task force, commission, board, or other Council-established body;

“city” means the City of Vancouver;

“complaint” means a formal allegation that a member has breached this By-law submitted to the Integrity Commissioner in accordance with the complaints procedure set out in Part 6 of this By-Law;

“complainant” means a person who has submitted a complaint to the Integrity Commissioner;

“confidential information” means information that is not publicly available and is treated as confidential by the city and includes information that may or must be considered by Council in a closed meeting pursuant to section 165.2 of the *Vancouver Charter* including:

- a) decisions, resolutions or report contents forming part of the agenda for or from a closed meeting of Council until a Council decision has been made for the information to become public or otherwise released;
- b) information about the acquisition, disposition or expropriation of land or improvements if disclosure could reasonably be expected to harm the interests of the city;



- c) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages if disclosure could reasonably be expected to harm the interests of the city;
- d) advice that is subject to any privilege at law; and
- e) personal information that is prohibited from disclosure under the provisions of the *Freedom of Information and Protection of Privacy Act*;

“Council” means the Council of the city;

“Council Member” means a member of Council, including the Mayor;

“Integrity Commissioner” means the person appointed by Council to fulfill the duties and responsibilities assigned to that position as set out in this By-law;

“gift or personal benefit” means an item or service of value that is received by a member for their personal use including money, gift cards, tickets to events, clothing, jewelry, pens, food or beverages, discount/rebates on personal purchases, entertainment, participation in sport and recreation activities, and invitations to social functions;

“member” means a Council Member or an Advisory Board Member;

“personal information” means recorded information about an identifiable individual other than contact information as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*; and

“respondent” means a member whose conduct is the subject of a complaint.

## **Table of Contents**

1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

## **Purpose**

1.4 This By-law sets out the rules members must follow in fulfilling their duties and responsibilities as elected or appointed officials, and the powers and procedures of the Integrity Commissioner in exercising oversight over members.

## **Application**

1.5 This By-law applies to Council Members and Advisory Board Members.

1.6 This By-law does not apply to city employees.

1.7 In the event of a conflict between this By-law and another city by-law or policy governing member conduct, this By-law prevails.

1.8 This By-law does not apply to conduct that may subject a member to disqualification under the *Vancouver Charter*, including sections 140(4), 143(4), and 145.3 to 145.911.

1.9 This By-law does not apply to a member's conduct in their personal life, except to the extent that such conduct reasonably undermines, or has the potential to reasonably undermine, public confidence in city governance.

### **Severability**

1.10 A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

## **PART 2 STANDARDS AND VALUES**

2. A member must uphold the following standards and values:
- a) competence: a member must act competently and diligently;
  - b) fairness: a member must consider all issues consistently and fairly, and in light of all relevant facts, opinions and analysis of which a member should be reasonably aware;
  - c) integrity: a member must avoid improper use of influence and avoid all conflicts of interest, both apparent and real;
  - d) leadership in the public interest: a member must act in the best interests of the city as a whole, and without regard to the member's personal interests;
  - e) respect: a member must treat members of the public, one another, and staff respectfully, without abuse, bullying or intimidation and ensure that the work environment is free from discrimination and harassment;
  - f) responsibility: a member must respect and comply with the Acts of the Parliament of Canada, the Legislature of British Columbia, including the *Vancouver Charter*, city by-laws, and applicable city policies, and avoid conduct that, reasonably, undermines, or has the potential to undermine, public confidence in city governance, except members may participate in peaceful civil disobedience; and
  - g) transparency: a member must to conduct their duties in an open and transparent manner, except where this conflicts with their duties to protect confidential information.

**PART 3  
COMMUNICATIONS AND CONFIDENTIALITY**

**Public Communications by a Council Member**

3.1 A Council Member must not communicate on behalf of the city unless authorized to do so by Council resolution or by virtue of a position or role the member has been authorized to undertake by Council.

3.2 A statement or communication made by a Council Member is presumed to be made on the Council Member's own behalf, not the city's behalf.

3.3 Where a Council Member is authorized to communicate on behalf of the city, the Council Member must take reasonable efforts to ensure that the communication is fair and accurate.

3.4 Without limiting the ability of a Council Member to hold a position on an issue and respectfully express their opinions, a Council Member must:

- a) ensure that their communications accurately reflect the facts of Council decisions;
- b) ensure that all communications relating to Council business are accurate and not issue any communication that the member knows, or ought to have known, to be false; and
- c) ensure that all communications by, and on behalf of a member, including communications made via social media, are respectful and do not discriminate, harass, or defame any person, recognizing that free and open debate is guaranteed under the *Charter of Rights and Freedoms*.

**Confidential Information**

3.5 A member must:

- a) not disclose or release any confidential information acquired by virtue of their office, except as authorized by Council, or required by law;
- b) not use confidential information with the intention to cause harm or detriment to Council, the city or any other person or body;
- c) protect confidential information from inadvertent disclosure;
- d) use confidential information only for the purpose for which it is intended to be used;
- e) take reasonable care to prevent the examination of confidential information by unauthorized individuals; and
- f) not take advantage of, or obtain private benefit from, confidential information acquired by virtue of their office.

3.6 A member must access and use city information only in the normal course of their duties.

3.7 A member must retain records and other information in accordance with the procedures, standards, and guidelines established by the city, including the Records Management By-law No. 9067, as amended, and must assist the city in good faith in responding to all requests for information made pursuant to the *Freedom of Information and Protection of Privacy Act*.

3.8 A member must comply with the *Freedom of Information and Protection of Privacy Act* when dealing with personal information and take all reasonable and necessary measures to ensure that personal information is protected.

## **PART 4 CONFLICTS OF INTEREST**

### **Conflicts of Interest**

4.1 A Council Member must comply with the conflict of interest requirements set out in sections 145.2 to 145.911 of the *Vancouver Charter*.

### **Use of Municipal Assets and Services**

4.2 A member may not direct the work of city employees, other than city employees assigned to assist a member, and should follow the processes established by the City Manager when communicating with city employees.

4.3 A member must respect that it is the role of city employees to provide neutral and objective information without undue influence and interference.

4.4 A member must not request or require city employees to undertake personal or private work on behalf of a member, or accept an offer to perform such work from a city employee.

4.5 A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for activities other than the business of the city, except in accordance with city policies permitting reasonable personal use.

4.6 A member must not instruct, or direct any of the city's contractors, tenders, consultants or other service providers regarding city business.

### **Use of Influence**

4.7 A member must only use the influence of their office for the exercise of their duties.

4.8 A member must be independent and impartial, and must not provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of their duties.

4.9 A member must not use the prospect of future employment by a person or entity, or other future economic opportunities, to detrimentally affect the performance of their duties.

4.10 A member must not use, or attempt to use, their office for the purpose of intimidating, improperly influencing, threatening, or coercing city employees.

### **Election Activities**

4.11 A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for any election campaign or campaign-related activities, unless those resources are similarly available to all candidates and any associated fees have been paid for with election campaign funds.

4.12 A member must not compel city employees to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.

### **Gift or Personal Benefit**

4.13 A member must not accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless permitted by the exceptions listed in sections 4.14 and 4.15.

4.14 A Council Member may accept a gift or personal benefit if it is:

- a) received as an incident of the protocol of social obligations that normally accompany the responsibilities of office;
- b) compensation authorized by law; or
- c) a lawful contribution made to a member who is a candidate for election conducted under the Vancouver Charter or Part 3 of the *Local Government Act*.

4.15 An Advisory Board Member may accept a gift or personal benefit if it:

- a) has a value under \$50; and
- b) is received as an incident of protocol or as a city representative for an activity reasonably related to their role with the city.

4.16 If a Council Member accepts a gift or personal benefit pursuant to section 4.14(a), and if the total value of the gift or personal benefit exceeds \$50, or the total value of the gift or personal benefit received from one source during the calendar year exceeds \$100, the Council Member must within 30 days of receipt of the gift or personal benefit, or reaching the annual limit, file a disclosure statement with the City Clerk. The disclosure statement must set out:

- a) the name of the Council Member;

- b) the nature of the gift or personal benefit, by description, photograph, or both;
- c) the date the gift or personal benefit was received;
- d) the estimated value of the gift or personal benefit;
- e) the source of the gift or personal benefit, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation;
- f) the circumstances under which the gift or personal benefit was given; and
- g) the final disposition of the gift or personal benefit.

4.17 If a member is unable, or elects not, to accept a gift or personal benefit, a member must as soon as practicable, either:

- a) return the gift or personal benefit to the donor along with an explanation as to why the gift or personal benefit cannot, or will not, be accepted; or
- b) turn the gift or personal benefit over to the City Clerk for disposition.

4.18 A gift or personal benefit turned over to the City Clerk is deemed property of the City. At the City Clerk's discretion, a gift or personal benefit may be disposed of as follows:

- a) returned to the donor;
- b) displayed in individual offices, general offices, or in the public areas of City Hall; or
- c) disposed of by donation, sale or auction, with any proceeds credited to the city's general revenues or to the direct or indirect support of a charitable organization.

4.19 A gift or personal benefit provided to a member's spouse, child or parent, or the member's staff, that to the member's knowledge, is connected directly or indirectly to the performance of the member's duties is deemed to be a gift or personal benefit to that member.

## **PART 5 APPOINTMENT OF INTEGRITY COMMISSIONER**

### **Appointment of an Integrity Commissioner**

5.1 Council must appoint an Integrity Commissioner to undertake the duties and responsibilities set out in this By-law.

5.2 The appointment of an Integrity Commissioner must be for a set period of two (2) years. An Integrity Commissioner may be appointed for more than one term.

5.3 At the request of the Integrity Commissioner, Council may suspend the appointment for a mutually agreed period of time.

5.4 Council will not terminate an Integrity Commissioner except for cause.

5.5 The appointment of an Integrity Commissioner may only be made, suspended, or terminated by a 2/3 vote of all Council Members.

### **Interim of Ad Hoc Appointment**

5.6 The City Manager may appoint an ad hoc Integrity Commissioner in the following circumstances:

- a) if the City has not yet entered into a contract for the appointment of an Integrity Commissioner;
- b) in the interim period between the expiry of the appointment of one Integrity Commissioner and the appointment of a new Integrity Commissioner; or
- c) if the appointed Integrity Commissioner is unable or unwilling to act.

### **Duties and Responsibilities**

5.7 The duties and responsibilities of the Integrity Commissioner are as follows:

- a) provide advice and recommendations to a member on questions of compliance with this By-law where requested to do so by that member;
- b) provide advice and recommendations to a Council Member, regarding their compliance or disclosure obligations under a provincial statute, such as the *Financial Disclosure Act*, or other such statute that imposes an express compliance or disclosure obligation on the Council Member due to their position as an elected official, where requested to do so by a Council Member;
- c) prepare written materials and content for the city's website for distribution to, and use by, the public, to aid in their understanding of the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under this By-law;
- d) deliver educational programs regarding the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under this By-law;
- e) assist with informal resolution of confidential requests and complaints;
- f) receive and assess all complaints to determine if the complaint must be rejected, closed, resolved or investigated;
- g) investigate and conduct inquiries as to violation of this By-law;

- h) report to Council as to whether a member has breached this By-law;
- i) make recommendations on an appropriate remedy if a member has breached this By-law;
- j) submit an annual budget for approval by Council; and
- k) publish an annual report that includes a summary of the work of the Integrity Commissioner and any advice or recommendations that the Integrity Commissioner has to improve the text or operation of this By-law.

5.8 The Integrity Commissioner must perform the duties and responsibilities of their office in an independent manner.

## **PART 6 COMPLAINT AND RESOLUTION PROCEDURES**

### **Confidential Requests**

6.1 If a person believes that they have been subject to conduct by a member in breach of this By-law, that person may approach the Integrity Commissioner on a confidential basis, without the need to file a complaint, to request that the Integrity Commissioner inform the member of the alleged breach. Upon receipt of the confidential request, the Integrity Commissioner may attempt to address the conduct with the member.

6.2 The Integrity Commissioner must protect the confidentiality of a person making a request under section 6.1, unless the person making the request consents to disclosure.

### **Complaint Procedure**

6.3 Any person may submit a complaint to the Integrity Commissioner.

6.4 A complaint must be in writing and describe with sufficient detail:

- a) the name of the complainant;
- b) the name of the respondent;
- c) the conduct that the complainant alleges to have breached this By-law;
- d) the date of the alleged conduct;
- e) the part or parts of this By-law that the complainant alleges has or have been breached; and
- f) the basis for the complainant's knowledge about the conduct.

6.5 A complainant may specify in the complaint if they are willing to participate in an informal resolution of the complaint.



6.6 The Integrity Commissioner may prescribe a form for submitting a complaint.

6.7 Provided that a complaint has been submitted, the Integrity Commissioner may accept a complaint, notwithstanding that the form of the complaint does not comply with all of the requirements set out in section 6.4 if, in the Integrity Commissioner's opinion, the circumstances warrant.

6.8 The Integrity Commissioner must not accept multiple complaints concerning the same matter. In the event that the Integrity Commissioner receives multiple complaints concerning the same matter, the Commissioner must proceed with the first complaint accepted, but may expand the complaint and/or add complainants for the purpose of conducting the investigation and preparing the investigation report.

6.9 The Integrity Commissioner must reject a complaint received more than 180 days after the complainant knew or reasonably ought to have known of the alleged breach of this By-law.

6.10 The Integrity Commissioner must reject a complaint received regarding a Council member seeking re-election in the period from the last day of the nomination period to the general voting day.

6.11 In the period 90 days prior to general voting day, the Integrity Commissioner may suspend any investigation underway until the day after the general voting day.

### **Complaint Outside of Jurisdiction**

6.12 The Integrity Commissioner has the authority to investigate a complaint alleging that a member is in breach of this By-law.

6.13 If a complaint is submitted that, on its face, is not made with respect to a breach of this By-law, or if a complaint would be more appropriately addressed through another process, including if the complaint is:

- a) an allegation of a criminal nature consistent with the Criminal Code;
- b) with respect to non-compliance with the *Freedom of Information and Protection of Privacy Act*;
- c) with respect to conduct that may subject a member to disqualification pursuant to sections 140(4), 143(4) and 145.3 to 145.911 of the *Vancouver Charter*;
- d) with respect to non-compliance with a more specific Council policy or by-law with a separate complaint procedure; or
- e) with respect to a matter that is subject to another outstanding process, such as a court proceeding or a Human Rights complaint,

the Integrity Commissioner must reject the complaint, or part of the complaint, and must notify the complainant in writing that the complaint is not within the jurisdiction of this By-law, or that the complaint would be more appropriately addressed

through another process, as the case may be, and set out any additional reasons and referrals the Integrity Commissioner considers appropriate.

6.14 Where a complaint is made against a Council Member and the complaint procedure overlaps with a municipal election and the Council Member is not re-elected in that election, the Integrity Commissioner must notify the complainant and the Council Member in writing that the Integrity Commissioner is closing the complaint on this basis and close the complaint.

### **Preliminary Assessment**

6.15 On receipt of a complaint, the Integrity Commissioner must conduct a preliminary assessment and if at that time, or any time thereafter, the Integrity Commissioner of the opinion that:

- a) the statement is not with respect to a breach of this By-law;
- b) the complaint is frivolous, vexatious, or not made in good faith;
- c) an investigation of the complaint would not be in the public interest;
- d) the investigation is, or might be, hampered, or the member might be prejudiced by the complainant's failure to provide a complaint in compliance with section 6.4, or otherwise cooperate with the investigation;
- e) the complainant wishes to withdraw the complaint, and it would be appropriate in the circumstances to allow the withdrawal; or
- f) there are no grounds or insufficient grounds for concluding that a violation of this By-law has occurred,

the Integrity Commissioner must notify the complainant and the respondent in writing that the Integrity Commissioner is closing the complaint, set out the reasons therefore, and close the complaint.

6.16 Notwithstanding section 6.15, the Integrity Commissioner may request further information from the complainant before determining whether or not there are sufficient grounds for believing that a breach of this By-law may have occurred.

### **Informal Resolution**

6.17 When the Integrity Commissioner has decided to proceed with a complaint, the Integrity Commissioner must determine whether the complaint requires a formal investigation, or whether the complaint may be resolved informally. In the latter case, the Integrity Commissioner may, at their discretion, either attempt to resolve the complaint directly, or refer the complaint to:

- a) the Mayor, if the complaint is made by a member, unless the complaint is against the Mayor, in which case the complaint will be referred to the Deputy Mayor; or

b) the City Manager, if the complaint is made by a City employee or the public.

6.18 When determining whether the complaint may be resolved informally, the Integrity Commissioner may consider culturally appropriate, or transformative or restorative justice approaches, and may engage a third party to assist the Integrity Commissioner for this purpose.

6.19 Where the Integrity Commissioner refers the complaint in accordance with section 6.17, the Mayor, the Deputy Mayor, or the City Manager, as the case may be, may agree to assist in resolving the complaint directly, or may appoint a third party to assist in resolving the complaint at their discretion.

6.20 The person assisting in the informal resolution of a complaint will assess the suitability of the complaint for settlement or resolution on an ongoing basis and may decline to assist at any point.

6.21 The complainant, or the respondent, can decline to participate in an informal resolution at any time.

6.22 If a complaint is resolved informally, the person assisting in resolving the complaint must notify the Integrity Commissioner in writing of the terms of the resolution, upon receipt of which, the Integrity Commissioner must close the complaint.

6.23 If a complaint cannot be resolved informally, the person assisting in resolving the complaint must refer the complaint back to the Integrity Commissioner for a formal investigation.

### **Formal Resolution**

6.24 If a complaint is not rejected, closed, or resolved informally, the Integrity Commissioner must proceed with a formal investigation.

6.25 The Integrity Commissioner must serve the complaint on the respondent with a request that the respondent provide a written response to the complaint together with any submissions the respondent chooses to make within 10 days, subject to the Integrity Commissioner's discretion to extend the timeline.

6.26 The Integrity Commissioner may serve the complainant with the respondent's written response together with any submissions, on a strictly confidential basis, and request a reply in writing within 10 days, subject to the Integrity Commissioner's discretion to extend the timeline.

6.27 The Integrity Commissioner may:

- a) speak to anyone relevant to the complaint;
- b) request disclosure of documents relevant to the complaint; or
- c) access any record in the possession or control of the city, except a record that is subject to privilege.

6.28 The Integrity Commissioner must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.

### **Adjudication and Reporting**

6.29 The Integrity Commissioner must make a decision within 90 days of making a decision to proceed with a formal investigation, unless section 6.11 applies, or the Integrity Commissioner determines that doing so is not practicable, in which case the Integrity Commissioner must notify the complainant and respondent of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days on provision of written notice to the complainant and the respondent.

6.30 A notification issued pursuant to sections 6.13, 6.14, 6.15 or 6.29 is confidential and must not be disclosed except in the following circumstances:

- a) the Integrity Commissioner may use information in the notice in an annual report in the form of context and statistics;
- b) the Integrity Commissioner may prepare an anonymized bulletin based on the notice if the Integrity Commissioner believes that doing so would be of public benefit;
- c) to Council for the purpose of considering a resolution for reimbursement of legal fees pursuant to section 6.44; and
- d) the respondent may disclose the fact that the complaint has been closed, or that a finding has been made that the respondent did not breach this By-law.

6.31 If after reviewing all material information, the Integrity Commissioner determines that the respondent did not violate this By-law, then:

- a) Integrity Commissioner must prepare a written investigation report providing reasons for their determination that the member did not breach the By-Law;
- b) the Integrity Commissioner must deliver a copy of the investigation report to the complainant, respondent and Council; and
- c) the Integrity Commissioner must make the investigation report available to public forty eight (48) hours after delivery of the investigation report to the complaint, respondent and Council.

6.32 If after reviewing all material information the Integrity Commissioner determines that a member did violate this By-law then:

- a) the Integrity Commissioner must prepare a written investigation report providing reasons for their determination that the member breached this By-law;

- b) the investigation report will make recommendations as to the appropriate sanction for the breach;
- c) if the Integrity Commissioner determines that a member did breach this By-law, but that the member took all reasonable steps to prevent it, or that it was trivial or done inadvertently or because of an error in judgment made in good faith, the Integrity Commissioner will so state in the investigation report and may recommend that no sanction be imposed;
- d) the Integrity Commissioner must deliver, on a strictly confidential basis, a copy of the investigation report to the respondent; and
- e) the Integrity Commissioner must deliver a copy of the investigation report to the complainant and Council forty eight (48) hours after delivery of the investigation report to the respondent; and
- f) the Integrity Commissioner must make the investigation report available to public after delivery of the investigation report to the complainant and Council.

6.33 The Integrity Commissioner must ensure that the investigation report as drafted complies with the city's obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act*, or ensure that appropriate redactions are applied prior to release to the public.

#### **Final Determination by Council**

6.34 Council must, within 30 days of delivery of the investigation report pursuant to section 6.32 (e), or a longer period if approved by a vote of Council, decide on the appropriate measures, if any, that are warranted by the breach of this By-law, and will take such actions as Council considers appropriate in the circumstances.

6.35 Prior to Council making any decision regarding the findings and recommendations set out in the investigative report, the respondent must be provided with an opportunity, either in person or in writing, to comment on the decision and any recommended censure, sanctions or corrective actions.

6.36 While an investigation report provided to Council may be considered in a closed meeting for the purpose of receiving legal advice, or other valid reason, when Council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public in a form that complies with section 6.33.

#### **Remedies**

6.37 Sanctions that may be imposed for violating this By-law include the following:

- a) a letter of reprimand from Council addressed to the member;
- b) a request from Council that the member issue a letter of apology;

- c) the publication of a letter of reprimand and a request for apology by the Integrity Commissioner, and the member's written response;
- d) a recommendation that the member attend specific training or counselling;
- e) suspension or removal of the appointment of a Council Member as the Deputy Mayor;
- f) suspension or removal of the Council Member from some or all Council committees and bodies to which the Council Member was appointed by Council;
- g) termination of the Advisory Board Member's appointment from the advisory committee, task force, commission, board, or other Council-established body to which the Advisory Board Member was appointed by Council; and
- h) public censure of a member.

### **Confidentiality of the Investigation**

6.38 The Integrity Commissioner must make all reasonable efforts to investigate complaints in confidence.

6.39 The Integrity Commissioner and every person acting under the Integrity Commissioner's instructions must preserve confidentiality with respect to all matters that come into the Integrity Commissioner's knowledge in the course of any investigation or complaint except as required by law.

6.40 An investigation report must only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purpose of the investigation report.

### **Reprisals and Obstruction**

6.41 No member or City employee will obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner's duties or responsibilities.

6.42 No member or City employee will threaten or undertake any active reprisal against a complainant or against a person who provides information to the Integrity Commissioner in the context of an investigation.

6.43 No member or City employee will tamper with or destroy documents or electronic records related to any matter under investigation under this By-law or refuse to respond to the Integrity Commissioner when questioned regarding an investigation.

## Reimbursement of Costs

6.44 If appropriate after considering all circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member in relation to a complaint in accordance with the provisions of the *Vancouver Charter*.

## PART 7 ENACTMENT

### Force and effect

7. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 9<sup>th</sup> day of February, 2021

Signed \_\_\_\_\_ "Kennedy Stewart"  
Mayor

Signed \_\_\_\_\_ "Rosemary Hagiwara"  
Acting City Clerk

**Tab 2**





Kennedy Stewart

@kennedystewart



.@CllrHardwick's action violates the signed agreement between the governments of Vancouver and Whistler with the Musqueam, Squamish, Tsleil-Waututh and Lílwat upon whose unceded lands our cities are built.  
1/4

#vanpoli



[vancouverisawesome.com](http://vancouverisawesome.com)

Vancouver councillor Colleen Hardwick wants plebiscite on 2030 Olympic bid  
Councillors Adriane Carr and Sarah Kirby-Yung want to hear from First Nations before stating positions

10:28 AM · Mar 24, 2022 · Twitter Web App

10 Retweets 3 Quote Tweets 42 Likes





**Kennedy Stewart** @kennedystewart · Mar 24 ...

Replying to @kennedystewart

City Council approved a formal Memorandum of Understanding to work in partnership with host First Nations to explore how the 2030 Winter Olympics might become the world's first reconciliation games. 2/4

4      4      12     



**Kennedy Stewart** @kennedystewart · Mar 24 ...

The MOU is a critical component of our UNDRIP obligations - now formalized in provincial law - as it outlined a clear process for all to follow in good faith which, at it's conclusion, includes council voting on a recommendation and may still involve community votes. 3/4

3      1      8     



**Kennedy Stewart** @kennedystewart · Mar 24 ...

I will not second this motion. I urge other councillors to consider what supporting @CllrHardwick's decision to essentially tear up our MOU says about their own commitments to reconciliation. 4/4

[#vanpoll](#)

9      4      25

**Tab 3**

**Memorandum of Understanding**

**(MOU)**

**BETWEEN**

**Chief Sparrow/Musqueam Nation**

**AND**

**Chairperson Khelsilem/Squamish Nation**

**AND**

**Chief Jennifer Thomas/Tsleil-Waututh Nation**

**AND**

**Chief Dean Nelson/Lil'wat Nation**

**AND INVITEE**

**Mayor Stewart/City of Vancouver**

**AND INVITEE**

**Mayor Crompton/ Resort Municipality of Whistler**

**CONCERNING**

**HOST NATIONS EXPLORATORY ASSEMBLY**

**FOR THE**

**2030 OLYMPIC AND PARALYMPIC WINTER GAMES BID CONSIDERATION**

**October 29th 2021**

WHEREAS:

1. As the Title holders of the region, Musqueam Indian Band (“Musqueam”), Squamish Nation (“Squamish”), Tsleil-Waututh Nation (“Tsleil-Waututh”), and Lil’wat Nation (“Lil’wat”) have expressed interest in exploring the impacts and benefits of hosting the 2030 Winter Olympic and Paralympic Games exploring a potential formal bid with the Canadian Olympic Committee (“COC”) and Canadian Paralympic Committee (“CPC”).
2. The Municipality of Vancouver (“Vancouver”) and the Resort Municipality of Whistler (“Whistler”) as 2010 Winter Olympic and Paralympic Games co-host cities have been invited by the host nations, Musqueam, Squamish, Tsleil-Waututh, and Lil’wat to participate in these exploratory discussions and have a mutual interest in and exploring a potential formal bid with the COC and CPC.
3. Vancouver and Whistler have a deep commitment to fostering a sustained relationship of mutual respect and understanding with the host nations, Musqueam, Squamish, Tsleil-Waututh, and Lil’wat on all matters, including cooperating to facilitate a potential future 2030 Winter Olympic and Paralympic Games.
4. In order to redress the legacy of residential schools and advance the process of Reconciliation, the Truth and Reconciliation Commission calls upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples’ territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.

THEREFORE the host nations elected Chiefs/Chair from Musqueam, Tsleil-Waututh, Lil’wat, Squamish, and the invitees, the elected Mayors from Vancouver and Whistler enter into an agreement outlined in this Memorandum of Understanding (MOU) to form the **HOST NATIONS EXPLORATORY ASSEMBLY** (“Assembly”) **FOR THE 2030 OLYMPIC AND PARALYMPIC WINTER GAMES BID CONSIDERATION** by which the parties pledge to work together to explore the feasibility of hosting the 2030 Winter Olympic and Paralympic Games and potentially making a bid.

The parties agree to the following principles:

1. The members of the Assembly will share and seek formal endorsement of this MOU from their respective elected councils by November 30, 2021.

2. Endorsement will allow the Assembly to work directly with the COC/CPC to assess the feasibility such as costing, procurement and concept for pursuing a 2030 Winter Olympic and Paralympic Games bid in the region and authorizes the Assembly to enter into a working agreement with the COC/CPC.
3. The Assembly will pursue discussions with the Government of Canada and the Government of British Columbia, to explore funding opportunities and timelines to be incorporated into the bid feasibility analysis.
4. The final action of the Assembly will be to make a recommendation about whether or not the feasibility of the 2030 Winter Olympic and Paralympic Games should move forward to a formal bid. This recommendation needs to be reached no later than March 2022 in accordance with 2030 Winter Olympic and Paralympic Games timelines.
5. This MOU imposes no legally binding obligations on any of the parties nor does it in any way affect the rights and title claims of any of the signatories.

SIGNED:

X

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Chief Sparrow/Musqueam Nation

X

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Chairperson Khelsilem/Squamish Nation

X

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Chief Jennifer Thomas/Tsleil-Waututh Nation

X

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Chief Dean Nelson/Lil'wat Nation

X

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Mayor Stewart/City of Vancouver

X

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Mayor Crompton/Resort Municipality of Whistler

**Tab 4**



JOIN OUR NEWSLETTER

## Vancouver councillor Colleen Hardwick wants plebiscite on 2030 Olympic bid



Mike Howell

Mar 23, 2022 1:03 PM



A city councillor who is running for mayor this year wants a plebiscite on whether citizens want Vancouver to host the 2030 Winter Olympics and Paralympics.

But rather than have a stand-alone vote, Colleen Hardwick wants a plebiscite question on the same ballot voters will cast in the October municipal election.

Hardwick, who was not immediately available for comment Wednesday, has stated her case for a plebiscite in a motion that she is expected to introduce when council meets next week.

“Vancouver electors/residents have not yet had the opportunity to express their views on this important matter that affects them,” she said in her motion.

Hardwick’s motion comes four months after the Musqueam, Squamish, Tsleil-Waututh and the Lilwat First Nations announced they jointly entered into a Memorandum of Understanding with the City of Vancouver and the Resort Municipality of Whistler to begin the process of assessing the feasibility of hosting an Olympic and Paralympic Games.

Hardwick’s suggested ballot question is straightforward: “Do you support or do you oppose the City of Vancouver’s participation in hosting the 2030 Olympic Winter Games and Paralympic Winter Games?”

**\$575,000**

Hardwick doesn’t provide an estimated cost to tie the question to the ballot.

But she noted the plebiscite held in 2003 to gauge whether citizens wanted to host the 2010 Winter Olympics and Paralympics cost \$575,000. More than 63 per cent of voters supported the city’s bid for the Olympics.

A byelection in 2017 cost \$1.2 million.

Given the significant financial commitment involved in hosting the Games, Vancouver electors should have a say on whether they favour proceeding with a 2030 Olympic bid, she said in her motion

✕

"In the event that any and all exploratory or concrete bids involving Vancouver for hosting the 2030 Olympics are dropped by the time ballots need to be finalized, this ballot question can be omitted," Hardwick said.

## **Mayor won't support motion**

Mayor Kennedy Stewart said in a written statement Wednesday that Hardwick's call for a plebiscite does not honour the Memorandum of Understanding with First Nations "and risks severely undermining our relationship with the Musqueam, Squamish and Tsleil-Waututh people upon whose unceded lands our city is built."

"I will not second this motion and suggest other councillors consider what supporting councillor Hardwick's decision to essentially tear up our MOU says about their own commitments to reconciliation," Stewart said.

Councillors Adriane Carr and Sarah Kirby-Yung would not say Wednesday whether they supported Hardwick's motion, noting they want to hear from the four nations on what they think about a plebiscite.

"Without me knowing where they stand, I wouldn't vote for it," Carr said.

Kirby-Yung: "I've been a big fan of the importance of public input, but I also think that it's phenomenal that we have an Indigenous-led bid, and I don't want to discount that. I also know the significant boon that this could have to our tourism sector, which has just been decimated and is struggling."

*Vancouver Is Awesome* contacted Musqueam Chief Wayne Sparrow Wednesday but he wasn't available for comment at the time of this story being posted. Messages were also left for Khelsilem of the Squamish Nation.

## **'Stop this idea right now'**

In November 2020, council voted 7-4 to direct staff to conduct preliminary work on the feasibility of hosting another Winter Olympics and Paralympics

✕

“In the Downtown Eastside, everybody pretty much understands that had we spent money on ending poverty and homelessness that we spent on the Olympics, that we could have done that,” she said at the time.

“I’m actually very uncomfortable with the idea of promoting something during a climate emergency that involves a bunch of flying around in airplanes all over the world. So I think there’s lots of reasons that we should just stop this idea right now.”

Hardwick, a first-term councillor, was acclaimed March 13 as the mayoral candidate for TEAM for a Livable Vancouver.

[mhowell@glaciermedia.ca](mailto:mhowell@glaciermedia.ca)

@Howellings

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## Comments (2)

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