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## Library Board Report

To: Newmarket Public Library Board  
From: Todd Kyle, C.E.O.  
Date: April 17, 2019  
RE: **Revisions to Code of Conduct: provisions for Gifts**

### Background:

At the April 17, 2019 meeting, the Board was presented with a draft to replace the sections of the Governance Policy regarding the Oath of Office, Code of Conduct, and the procedure for investigating breaches of either. The Board mostly approved the drafts as presented, agreeing that the Board would initially investigate any Member alleged to have breached their Oath but refer it to Town of Newmarket Council if a recommendation of suspension or resignation was not accepted by the Member. However, the Board moved to revise the Code provisions for accepting gifts to match the Code of Conduct for town Council members.

The proposed draft was as follows:

- j) Gifts: Members will remain free from any improper influence, or the appearance of improper influence, in the performance of their duties. When outside individuals or organizations give Members gifts in connection to their position at the Library, they will only accept gifts that:
  - i. are infrequent and the value is reasonable;
  - ii. arise out of activities or events related to the Member's official duties;
  - iii. are within the normal standards of courtesy, hospitality or protocol; and
  - iv. do not compromise or appear to compromise the integrity of the Member or the Library.

The Council Code of Conduct instead states:

### 9. GIFTS

9.1 No Member shall accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless authorized by one of the exceptions below.

9.2 Notwithstanding Section 9.1 the following exceptions are applicable:

- (a) gifts received as an incident of protocol or social obligation that normally accompany the responsibilities of elected office;

- (b) gifts that are not connected directly or indirectly with the performance or duties of office;
- (c) compensation authorized by law;
- (d) a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with a legitimate municipal purpose;
- (e) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- (f) services provided without compensation by persons volunteering their time;
- (g) a suitable memento of a function honouring the Member or the Town;
- (h) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political sub-divisions of them, and by the federal government or the government of a foreign country;
- (i) food, beverages and/or admission fees provided by banquets, receptions or similar events if attendance is the result of protocol or social obligation consistent with the responsibilities of office, and the person extending the invitation has done so infrequently and that person or a representative of the organization is in attendance; and
- (j) communications to offices of a Member including subscriptions to newspapers and periodicals.

### **Conclusion:**

It is recommended that the Council provisions for Gifts be integrated into the Library Board Code of Conduct, with minor edits to remove references to “elected” office and to replace any reference to the Town with the Library. The Code of Conduct being thus clarified, The Oath of Office (which is unchanged) can then be administered to new Members. A full revised draft of Section 2 of the Governance Policy is presented in Appendix A with those minor changes tracked. A full revised Governance Policy with a small number of other minor edits will be presented to the Board at a future meeting.

### **The following motion is recommended:**

**THAT the Library Board receive the report on revisions to Code of Conduct: provisions for Gifts;**

**AND THAT the Library Board approve the recommended revisions to the Code of Conduct as contained in the Governance Policy.**

## **Appendix A: Recommended new text of Section 2 of the Governance Policy**

### **2. BOARD DIRECTORS**

Each Director is expected to become an active participant in a body that functions effectively as a whole. In addition to assisting in the exercise of the major duties of the Board outlined above, Directors are responsible to exercise due diligence in the performance of their duties.

Responsibilities include:

- a) To be informed of the legislation under which the Library exists and Library's by-laws mission, values, code of conduct, and policies
- b) To keep informed about the activities of the Library and its community,
- c) To attend Board meetings regularly, serve on committees of the Board and actively contribute to the work of the Board;
- d) To exercise the same degree of care, diligence and skill that a reasonably prudent person would show in comparable circumstances;
- e) To explicitly voice at the time a decision is being taken, any opposition to a decision being considered by the Board;
- f) To ask the Directors to review a decision if he, or she, has reasonable grounds to believe that the Board has acted without full information or in a manner inconsistent with its fiduciary obligations;
- g) To support Board decisions made in good faith in a legally constituted meeting, by Directors;
- h) Know and respect the distinction in the roles of Board and staff consistent with the principles underlying these governance policies;
- i) Exercise vigilance for and declare personal conflict of interest in accordance with the Library's By-laws and policies and the *Municipal Conflict of Interest Act*.

#### **2.1 Oath of Office and Confidentiality**

Respect for confidentiality is the cornerstone of trust and confidence as well as a legislated obligation. Directors must at all times respect the confidentiality of any patron names and/or circumstances that might identify patrons. Similarly, all matters dealt with by the Board during closed session meetings and matters related to personnel and/or collective bargaining must be held in strictest confidence. Confidentiality means Directors may not relate such matters to anyone including immediate family of Directors, unless required by law or authorized by the Board to do so. The duty of confidentiality continues indefinitely after a Director has left the Board.

Directors shall agree to an Oath of Office and Confidentiality upon joining the Board.

I, insert name, a Director of the Newmarket Public Library, declare that, in carrying out my duties as a Director, I will:

1. Exercise the powers of my office and fulfill my responsibilities in good faith and in the best interest of the Library;
2. Exercise these responsibilities, at all times, with due diligence, care and skill in a reasonable and prudent manner.
3. Respect and support the Library's By-laws, policies, Code of Conduct, and decisions of the Board.
4. Keep confidential all information that I learn about patrons, personnel, collective bargaining and any other matters specifically determined by board motion to be matters of confidence including matters dealt with during closed session meetings of the Board.
5. Conduct myself in a spirit of collegiality and respect for the collective decisions of the board and subordinate my personal interests to the best interests of the Library.
6. Immediately declare any personal conflict of interest that may come to my attention.
7. Comply with the Municipal Conflict of Interest Act, the Municipal Freedom of Information and Protection of Information and Protection of Privacy Act.

## **2.2 Code of Conduct**

Directors are expected to comply with the following Code of Conduct that encourages the development of a spirit of collective decision-making, shared objectives and shared ownership of and respect for Board decisions.

- a) **Serving the Community:** Members will serve and be seen to serve Library users and their community in a conscientious and diligent manner.
- b) **Respect:** Members will treat Library users, volunteers, staff and fellow Board Members with respect. In the performance of their duties, Members will not abuse, bully or intimidate others and Members will fulfill their responsibilities in ensuring that the Library is free from discrimination and harassment.
- c) **Board Meetings:** Members will honour the Board Governance By-law and this Code of Conduct at Board Meetings. Members understand that these meetings are public and that their behaviour affects the image of the Newmarket Public Library. Members will be courteous and refrain from using offensive language, and will show respect for diverse and opposing viewpoints.
- d) **Public Servants:** Members will respect the role of Library staff as public servants who provide professional and politically neutral advice to the Board.
- e) **Privacy and Confidential Information:** Members will respect the privacy of others and will not disclose or release by any means to any Member of the public, any confidential information acquired by virtue of their role at the Library. Members will maintain this

obligation even after Members leave the Board. Members will only disclose confidential information if required by law, or authorized to do so by the Board.

- f) Support of the Board's actions:** While Members may have dissenting views on decisions taken by the Board and are permitted to discuss those views publicly, they shall nonetheless demonstrate acceptance, respect and support for all decisions legitimately taken in transaction of the Library's business.
- g) Conflict of Interest:** Members will abide by the Conflict of Interest Policy as outlined in the Board Governance Document section 2.3.
- h) Improper Use of Influence:** Members will not use their positions at the Library to improperly influence others for private gain or to gain preferential treatment for their family, friends or organizations with which Members are associated.
- i) Political Neutrality:** Members will not use Library facilities, equipment, supplies, services (including staff services) or any other resources for election campaign or campaign-related activities. Members will not use a position of authority at the Library to compel staff or volunteers to engage in partisan political activities.
- j) Gifts:** No Member shall accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless authorized by one of the exceptions below:
  - i. gifts received as an incident of protocol or social obligation that normally accompany the responsibilities of office;
  - ii. gifts that are not connected directly or indirectly with the performance or duties of office;
  - iii. compensation authorized by law;
  - iv. a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with a legitimate Board purpose;
  - v. political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
  - vi. services provided without compensation by persons volunteering their time;
  - vii. a suitable memento of a function honouring the Member or the Library;
  - viii. food, lodging, transportation and entertainment provided by provincial, regional and local governments or political sub-divisions of them, and by the federal government or the government of a foreign country;
  - ix. food, beverages and/or admission fees provided by banquets, receptions or similar events if attendance is the result of protocol or social obligation consistent with the responsibilities of office, and the person extending the invitation has done so infrequently and that person or a representative of the organization is in attendance; and
  - x. communications to offices of a Member including subscriptions to newspapers and periodicals.

### **2.3 Conflict of Interest Policy**

Directors shall act at all times in the best interests of the Library rather than particular interests or constituencies. This means setting aside personal self-interest and performing their duties in transaction of the affairs of the Library in such a manner that promotes public confidence and trust in the integrity, objectivity and impartiality of the Board. Directors shall serve without remuneration. No Director shall directly or indirectly receive any profit from his or her position as such. The pecuniary interests of immediate family members of a Director are considered to also be the pecuniary interests of the Directors.

Directors may be paid reasonable expenses incurred by them in the performance of their duties. It is recognized that some Board Directors who are Councilors of the Town of Newmarket will have different roles at different times and any determination as to a conflict of interest will be governed by the *Municipal Conflict of Interest Act*.

#### **2.3.1 Principles for Dealing with Conflict of Interest**

- a) A Director must openly disclose a potential, real or perceived conflict of interest as soon as the issue arises and before the board or its committees deal with the matter at issue;
- b) If a Director is not certain he or she is in a conflict of interest position, the matter may be brought before the Chair, the Board or a committee of the Board for advice and guidance;
- c) If there is any question or doubt about the existence of a real or perceived conflict, the Board will seek legal advice as to how to proceed under the *Municipal Conflict of Interest Act*;
- d) It is the responsibility of other Directors who are aware of a real, potential or perceived conflict of interest on the part of a fellow Director to raise the issue for clarification, first with the Director and, if still unresolved, with the Board Chair, who will seek legal advice;
- e) The Director must abstain from participation in any discussion on the matter, shall not attempt to personally influence the outcome, shall refrain from voting on the matter and unless otherwise decided by the Board, may be required to leave the meeting room for the duration of any such discussion or vote;
- f) The disclosure and decision as to whether the matter needs to be referred for further investigation with respect to the *Municipal Conflict of Interest Act* shall be duly recorded in the minutes of the meeting.

#### **2.3.2 Interest on the part of a Director**

Interest includes, but is not limited to:

- a) Any circumstance that may result in a personal or financial benefit to a Director or their family or business associate. This includes, but is not limited to, accepting any payment for services rendered to the Library, including contracted work or honoraria; accessing

financial or other resources for personal use, i.e. transportation, training costs, supplies, equipment, etc.

- b) Personal interests which conflict with the interests of the patrons, or that are otherwise adverse to the interests of the Library;
- c) Seeking, accepting or receiving any personal benefit from a supplier, vendor, or any individual or organization doing or seeking business with the Library;
- d) Any involvement in the hiring, supervision, grievance, evaluation, promotion, remuneration or firing of a family member or business associate, of the Director;
- e) Individuals who serve as Directors on the same board with members of their family or others with whom they have a direct business or personal relationship will be subject to an immediate perception of apparent conflict of interest.

### ***2.3.3 Disposition of Complaints and Disputes involving Directors***

- a) A committee of the Board shall review any complaints from staff, the public, or Directors that a Director has violated any provision of the Library's By-laws, Governance Policies, Code of Conduct, and Oath of Office and Confidentiality. The committee shall be comprised of one Director who is also a councilor and two Directors who are citizen representatives.
- b) This committee shall similarly review disputes between Directors that interfere with the ability of the Board to carry on its business;
- c) Complaints of a serious nature may be referred to an independent arbitrator;
- d) Allegations of illegal activity shall be immediately referred to the appropriate authorities for investigation. Any Director against whom such allegations are made shall take a leave of absence from the Board pending completion of the investigation;
- e) The review of complaints or disputes shall include an opportunity for the Directors concerned to present their positions;
- f) Every attempt should be made to resolve matters expeditiously and fairly;
- g) The recommendations regarding resolution of matters shall be brought to the Board for approval;
- h) The Board shall make a ruling as to whether a violation has occurred and on the Committee's recommended resolution. Recommendations may include disciplinary action such as formal or informal censure by the Board or a request for the Director to resign or to take a leave of absence. Should the Director reject such a request, the Board

may refer the matter to Town of Newmarket Council as the body with the sole authority to appoint Directors.

- i) Notwithstanding this process, a Director who is also a Town councilor may separately be subject to investigation and/or discipline by Town of Newmarket Council for the same matter.