

AGENDA
SPECIAL OPEN GOVERNANCE STEERING COMMITTEE MEETING
BOARD ROOM, 411 DUNSMUIR STREET, NANAIMO, BC
WEDNESDAY, 2014-APR-16, AT 9:00 A.M.

1. **CALL THE GOVERNANCE STEERING COMMITTEE MEETING TO ORDER:**
2. **ADOPTION OF AGENDA:**
3. **ADOPTION OF MINUTES:**
 - (a) Minutes of the Special Open Governance Steering Committee Meeting held Thursday, 2014-MAR-27 at 9:00 a.m. *Pg. 2-3*
4. **PRESENTATION:**
 - (a) Ms. Allison Habkirk, Consultant, to facilitate Committee discussion on Council roles, responsibilities and relationships as per WATSON Report Recommendation Nos. 1, 2, 3, 10 & 11. The following draft documents are attached: *Pg. 4*
 - Council Charter (Recommendation No. 1) *Pg. 5-8*
 - Role of Councillor (Recommendation No. 3) *Pg. 9-14*
 - Role of Mayor (Recommendation No. 2) *Pg. 15-19*
 - Council – Staff Protocol (Recommendations 10 & 11) *Pg. 20-21*
5. **ADJOURNMENT:**

MINUTES
SPECIAL OPEN GOVERNANCE STEERING COMMITTEE MEETING
BOARD ROOM, 411 DUNSMUIR STREET, NANAIMO, BC
THURSDAY, 2014-MAR-27, AT 9:00 A.M.

PRESENT: Councillor G. E. Greves, Chair

Members: Mayor J. R. Ruttan
Councillor G. Anderson (entered at 9:19 a.m., vacated at 11:23 a.m.)
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Others: Mr. Eli Mina, Board Effectiveness Consultant & Registered
Parliamentarian

Staff: E. C. Swabey, City Manager
I. Howat, General Manager of Corporate Services
T. L. Hartley, Director of Human Resources & Organizational Planning
G. Ferrero, Director of Information Technology & Legislative Services
(arrived 9:11 a.m.)
C. Jackson, Manager of Legislative Services
K. King, Steno Coordinator, Legislative Services
D. Smith, Recording Secretary

1. CALL THE OPEN GOVERNANCE STEERING COMMITTEE MEETING TO ORDER:

The Governance Steering Committee Meeting was called to order at 9:03 a.m.

2. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

3. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the Governance Steering Committee held in the Board Room, 411 Dunsmuir Street, Nanaimo, BC, on Tuesday, 2013-NOV-19 at 1:02 p.m. be adopted as circulated. The motion carried unanimously.

It was moved and seconded that the Minutes of the Governance Steering Committee held in the Board Room, 411 Dunsmuir Street, Nanaimo, BC, on Thursday, 2014-FEB-27 at 2:00 p.m. be adopted as circulated. The motion carried unanimously.

4. PRESENTATION:

- (a) Mr. Eli Mina, Board Effectiveness Consultant & Registered Parliamentarian, facilitated Council discussion regarding proposed revisions to Council's Procedure Bylaw as a result of Recommendations 25-27 in the Watson Report.

Councillor Anderson entered the Board Room at 9:19 a.m.

Councillor Kipp vacated the Board Room at 10:12 a.m.
Councillor Kipp returned to the Board Room at 10:13 a.m.

The meeting was recessed for a refreshment break at 10:34 a.m. with the intention to reconvene at 10:45 a.m.

The meeting reconvened at 10:45 a.m.

Councillor Anderson vacated the Board Room at 10:50 a.m.
Councillor Anderson returned to the Board Room at 10:54 a.m.

Councillor Anderson vacated the Board Room at 11:23 a.m.

Councillor Kipp vacated the Board Room at 11:24 a.m.
Councillor Kipp returned to the Board Room at 11:26 a.m.

Councillor Bestwick vacated the Board Room at 11:50 a.m.
Councillor Bestwick returned to the Board Room at 11:52 a.m.

Councillor Greves vacated the Board Room at 12:11 p.m.
Councillor Greves returned to the Board Room at 12:15 p.m.

5. ADJOURNMENT:

It was moved and seconded at 12:30 p.m. that the meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER

Attendees: Mayor John Ruttan, Councillors George Anderson, Bill Bestwick, Diane Brennan, Ted Greves, Diana Johnstone, Jim Kipp, Bill McKay & Fred Pattje.

Staff: Ted Swabey, Ian Howat, Terry Hartley

Facilitator: Allison Habkirk

----- Agenda -----

April 16, 2014 9 am – 11 am

City of Nanaimo Service and Resource Centre, Council Board Room

9:00 am – 9: 10 am	Welcome Overview of session
9:10 am – 9: 35 am	Watson Report Recommendation 1 City of Nanaimo Council Charter <ul style="list-style-type: none"> • Council feedback on draft documents: <i>Council Responsibilities</i> <i>Who does what</i> • Is anything missing? • Are there components that should be removed or revised?
9:35 am – 10:00 am	Watson Report Recommendation 3 The Councillors' Role <ul style="list-style-type: none"> • Council feedback on draft documents: <i>Councillors' Role</i> <i>Councillor Performance Expectations</i> • Is anything missing? • Are there components that should be removed or revised?
10:00 am – 10:25 am	Watson Report Recommendation 2 The Mayor's Role <ul style="list-style-type: none"> • Council feedback on draft documents: <i>Mayor's Role</i> <i>Mayor's Performance Expectations</i> • Is anything missing? • Are there components that should be removed or revised?
10:25 am – 10:50 am	Watson Report Recommendation 10 & 11 Staff – Council Interaction & Relationship <ul style="list-style-type: none"> • Council feedback on draft document: <i>Council –Staff Guidelines</i> • Is anything missing? • Are there components that should be removed or revised?
10:50 am – 11:00 am	Wrap up Next Steps

Watson Report page 8

"Our interviews indicated that, while there is an understanding of Council's broad role, there is not a common understanding among all Councillors as to the various components of Council's governance responsibilities nor is there a collective understanding of how these responsibilities are carried out. In our view, it would be helpful to articulate in more detail the specific governance responsibilities of Council.

Recommendation 1

Create a charter that sets out explicitly the areas of Council responsibility. The charter should include Council responsibilities set out in the Charter together with Council's general responsibilities to ensure a sound, sustainable organization."

Preamble: The purpose of the City of Nanaimo Council Charter is to set out the areas of Council responsibility and to articulate fully the role of Council.

The BC Community Charter

The Community Charter Section 6 (2) identifies Council as the governing body of the municipality.

Municipalities and their councils

Sec 6 (1) The governing body of a municipality is its council.

The Community Charter Section 7 details the responsibilities of the municipality.

Sec 7 The purposes of a municipality include

- (a) providing for good government of its community,
- (b) providing for services, laws and other matters for community benefit,
- (c) providing for stewardship of the public assets of its community, and
- (d) fostering the economic, social and environmental well-being of its community.

The role of Council: Council is the governing body of the Corporation of the City of Nanaimo. The BC Community Charter sets out Council's role in broad terms focusing on governing, providing services, stewardship of community assets and fostering economic, social and environmental well-being. Council's role is a governance role, distinct from a management role as described below.

"Governance is ... the set of responsibilities and practices, policies and procedures used to provide strategic direction, ensure objectives are achieved, manage risks and use resources responsibly and with accountability.

Management is ... the process of planning, organizing, directing and controlling organizational resources (human, financial, physical and informational) in the pursuit of organizational goals."

Watson Report

In its governance role Council is responsible for:

- setting the Corporation's **strategic direction**,
- **allocating resources**,
- **managing risks**, and
- **oversight & reporting**.

Strategic Direction

Council sets the strategic direction of the City by establishing a long term strategic plan.

In 2012 Council adopted the **2012-2015 City of Nanaimo Strategic Plan**. The plan sets priorities for this Council term but has a vision stretching to 2025. The plan details the City's strategic priorities and supporting strategies and initiatives.

The Strategic Plan is the umbrella guiding document for Council's decision making. All Council decisions including resource allocations should flow from and be consistent with the strategic plan. In this way the decision making of Council is at the strategic level as is appropriate for a governing body, and benefits from the investment of City and community resources in the development of the strategic plan. Further, Council's decisions reflect the will of the Council as a whole as determined by the adoption of the Strategic Plan.

Allocating Resources

Council allocates the City's resources through its budget and financial planning processes whereby each year Council invests considerable time and energy in weighing the priorities of the City and determining the annual budget and financial, operating and capital plans. Council's resource allocation decisions should flow from, be guided by, and be consistent with the Strategic Plan.

Managing Risk

Council manages risk to the City primarily through managing its financial and capital assets.

Financial risks are managed through the financial planning process and specifically through the budgeting and financial plan processes.

Council manages risks to the Corporation's capital assets by providing stewardship of the City's current infrastructure and facilities. Council's role in this process is guided by the Strategic Plan which recommends the development of an asset management plan.

Council is also responsible for strategic decision-making related to legal and liability threats and risks which might arise.

Oversight & Reporting

Council is responsible for oversight of the organization to ensure effective performance and accountability.

Council oversees the management and operations of the City through the appointment and performance evaluation of the City Manager.

Council is responsible for monitoring and evaluating the progress of the organization against its strategic plan and goals and targets set by Council decisions.

Council is responsible for reporting to the community on its progress towards its objectives through its Annual Report. The Community Charter requires the Annual Report include:

- a progress report respecting the previous year in relation to the objectives and measures for that year and
- a statement of municipal objectives, and the measures that will be used to determine progress for the current and next year.

In order to provide effective oversight and reporting Council must be guided by its Strategic and other plans which articulate its measurable objectives and by which progress can be evaluated.

Council focusses on setting the strategic direction of the City of Nanaimo. Council does not involve itself in the management or operational work of the city unless there is a direct linkage to the strategic level decisions of Council. Council involvement in the operational or management work of the City should be rare and exceptional.

Who does what? Council – Staff

The following table sets out the significant areas of responsibility of Council and senior staff in the decision-making and implementation process.

Governance		
Review & Decide		Develop/Implement
Council	Governance Policies e.g. procedure bylaw, council performance expectations, Committee Structure	Council/Administration
Appointment of City Manager		
Council	CAO Appointment & Compensation	Mayor
Council	CAO Objectives & Performance Evaluation	Mayor/City Manager
Council	Leadership Succession	Mayor/City Manager
Corporate Strategic Planning		
Develop & decide		Develop/Implement
Council	Strategic Plan	City Manager
Organizational Performance		
Review & decide		Develop/Implement
Council	Annual Business Plan	Administration
Financial, Asset & Risk Management		
Review & decide		Develop/Implement
Council	Operating & Capital Budgets	Administration
Council	Financial Plan	Administration
Council	Asset Management Plan	Administration
Council	Tax Rates and other charges	Administration
Council	Risk Management	Administration
Council	Contracts, leases, insurance, appointment of auditors	Administration
Council	Approval of Litigation	Administration
Council	Borrowing Bylaws	Administration
Policies, Bylaws & Planning		
Review & decide		Develop/Implement
Council	Planning & Development Policies & Plans	Administration
Council	Municipal Services Plans, Policies & Bylaws	Administration
Council	Emergency Plans & Policies	Administration
Corporate Communications & Reporting		
Review & decide		Develop/Implement
Council	Communications Policy Annual Report	Council/Mayor/Administration
External Relations		
Review & decide		Develop/Implement
Council	Build, maintain & strengthen relations with citizens, neighbouring and partner organizations e.g. Snuneymuxw First Nation, RDN, SD 68	City Manager

Watson Report pages 10 & 16

"Recommendation 3: Create a position description for the Councillor position that provides guidance for individual Councillors on their individual roles and responsibilities and includes reference to:

- a) the delineation between the role of Councillor as governor versus the role of staff;
- b) conflicts of interest;
- c) standards of conduct in meetings;
- d) relations with staff; and
- e) preparation and attendance at meetings.

"Recommendation 10: Ensure the role descriptions for individual Councillors, the Mayor and City Manager identify applicable working relationships and emphasize the importance of constructive relationships."

The BC Community Charter

The *BC Community Charter* Section 115 details the responsibilities of council members.

Responsibilities of council members

Sec. 115 Every council member has the following responsibilities:

- (a) to consider the well-being and interests of the municipality and its community;
- (b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;
- (c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;
- (d) to carry out other duties assigned by the council; and
- (e) to carry out other duties assigned under this or any other Act.

The specific responsibilities noted above are in addition to the collective responsibility of the council to fulfill the municipal purposes outlined in Sec 7 of the *BC Community Charter*.

Municipal purposes

Sec 7 The purposes of a municipality include

- (a) providing for good government of its community,
- (b) providing for services, laws and other matters for community benefit,
- (c) providing for stewardship of the public assets of its community, and
- (d) fostering the economic, social and environmental well-being of its community.

Preamble: The purpose of the Councillor role description is to articulate the role of Councillor and to provide guidance for individual Councillors on their roles and responsibilities to the Council and the City.

The role of councillor: Councillors are members of the governing body of the Corporation of the City of Nanaimo. The *BC Community Charter* sets out the role of a municipal councillor in broad terms focussing on their role in considering the interests of the community, contributing to the development and evaluation of programs and services, contributing to the meetings and the decision making of council and other duties as assigned.

The councillor role is a governance role, distinct from the management role as described below.

"Governance is ... the set of responsibilities and practices, policies and procedures used to provide strategic direction, ensure objectives are achieved, manage risks and use resources responsibly and with accountability.

Management is ... the process of planning, organizing, directing and controlling organizational resources (human, financial, physical and informational) in the pursuit of organizational goals."

Watson Report

Councillors have two broad areas of responsibility:

- 1) A **corporate responsibility** to contribute to leading and managing the Corporation of the City of Nanaimo and
- 2) An **individual responsibility** as an elected representative of the citizens of Nanaimo.

In fulfilling their role, Councillors should:

- understand their role and responsibilities;
- comply with all applicable legislation and laws;
- consider and represent the views of the community;
- prepare for, attend and participate in meetings;
- conduct themselves in a businesslike manner;
- develop a constructive and business like relationship with the Mayor;
- develop constructive and business like relationships with other councillors;
- develop constructive and business like relationships with City staff;
- comply with City policies regarding conflicts of interest; and
- comply with all city policies regarding keeping of confidential information.

A councillor is one of nine members of the Council. All authority is derived through the Council as a whole and individual councillors have no independent authority outside of their capacity as a member of the Council. **Thus all decisions of Council are made by the Council as a whole and not by individual councillors. Direction or representations given by individual councillors have no effect.**

The role of councillor is to contribute to the initiation, deliberation and decision-making related to the key areas of council responsibility:

- setting the Corporation's **strategic direction**,
- **allocating resources**,
- **managing risks**, and
- **oversight & reporting**.

(see the City of Nanaimo Council Charter for further detail regarding the Role of Council)

The overall success of the whole of Council depends to a great extent on the way in which individual councillors carry out and perform their responsibilities.

In order for individual councillors to contribute constructively and effectively to the deliberations and decision making of the whole of council the business of council must be carried out in a businesslike, efficient and effective manner. This can only be accomplished by Council members following the City of Nanaimo Procedure Bylaw for which they are responsible and by building constructive relationships amongst members of Council and between Council and the staff.

Councillor Performance Expectations

Performance expectations detail the expected actions and behaviours of Councillors; they assist Councillors in understanding their role and what is expected of them. It is anticipated that the performance expectations will be reviewed and endorsed by each Council following each municipal election.

Responsibility to live and adhere to the performance expectations falls exclusively on Council members and cannot be delegated to staff. In practical terms this means that the Mayor and Councillors must

actively monitor performance at Council and committee meetings and in their everyday work with other councillors, staff and the public. In order for these performance expectations to be effective it is important for members of Council to feel empowered to draw to Council's attention breaches of the performance expectations and to be prepared to sanction behaviour that threatens the constructive work of council as a whole.

Governance

- Councillors act in the public interest at all times by conducting business with integrity and in a fair, honest and transparent manner.
- Councillors consider the well-being and interests of the municipality and the community as a whole.
- Councillors are knowledgeable of and accept their governance role as outlined in the *BC Community Charter* and the City of Nanaimo Council Charter.
- Councillors understand, respect and adhere to the Council-City Manager structure of municipal government as practised in the City of Nanaimo. In this structure, Council focuses on their governance role and determines the policies of the City with the advice of staff and staff implements the direction of Council. Councillors do not involve themselves or interfere with the administrative, management or operational functions of the City.
- Councillors respect the role of the City Manager to oversee the administration and management of City services and programs. Councillors do not interfere with the City Manager's duty to oversee the administration and management of the organization.
- Councillors always act in compliance with the law and are expected to be familiar with any legislation that applies to their position and duties.
- Councillors act in compliance with the City of Nanaimo Procedure Bylaw.

Meeting preparation

- Councillors commit to attending all Council and committee meetings except when ill or out of town.
- Councillors will notify in advance the Mayor or the City Manager if they are unable to attend a Council meeting.
- Councillors arrive at meetings well prepared to discuss the items on the meeting agenda. More precisely preparation includes reading of agendas, reports, and other meeting materials and where appropriate and necessary making inquiries of the Mayor, City Manager or Department director for clarification about agenda items prior to the meeting.
- Councillors endeavour to notify the Mayor and City Manager in advance of introducing any significant items or information at a council meeting.

Conduct in meetings

- Councillors behave in a respectful manner towards other members of Council and members of the public.
- Councillors focus on the issues and matters being discussed and resist being distracted by or focussing on personalities at the table or in the gallery.
- Councillors use appropriate respectful business language and refrain from using inappropriate language including inappropriate body language in all communication at meetings.
- Councillors actively listen to and focus on Council meeting proceedings.

- Councillors do not interrupt or comment out of turn when members of the public or other members of Council are speaking.
- Councillors actively monitor Council member conduct at meetings and draw to Council's attention incidents of inappropriate behavior. Where appropriate, Councillors will be prepared to sanction behaviour that threatens the constructive work of Council as a whole.

Sanctions can include:

- a request by the presiding member for the behaviour to cease,
- a motion of censure by the Council,
- expulsion of the member from the meeting.

The BC Community Charter

The *BC Community Charter* Section 132 details the responsibilities of the presiding member at meetings of Council.

Authority of presiding member

132 (1) The mayor or the member presiding at a council meeting must preserve order and decide points of order that may arise, subject to an appeal under this section.

Expulsion from meetings

133 (1) If the person presiding at a council meeting considers that another person at the meeting is acting improperly, the person presiding may order that the person is expelled from the meeting.

(2) If a person who is expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a court order.

- Consistent with the *BC Community Charter* the Mayor or person presiding at a meeting of Council has authority to expel a member of Council or the public for acting improperly. This would be an extreme action but one that should be taken with the support of Council where a Council member's behaviour breaches the agreed to performance expectations or a member of the public behaves improperly.

Relations with the Mayor

- Councillors are familiar with the role of the Mayor as outlined in the *BC Community Charter* and in the City of Nanaimo Role of Mayor description.
- Councillors interact with the Mayor in a respectful and business like manner.
- Councillors actively work to build constructive business like relationships with the Mayor.

Relations with other Councillors

- Councillors respect the opinions of other councillors and recognize the opinions expressed by all individual members of council are of equal value.
- Councillors actively work to build constructive businesslike relationships with other members of council.
- When debating an item, Council members focus on the item at hand and avoid personal attacks or accusations.

Relations with staff

- Councillors interact with staff in a respectful and businesslike manner and at all times speak to staff using respectful business language, tone and body language.
- Councillors refrain from criticizing staff in public or in the media.
- Councillors refrain from building overly close or personal relationships with the City Manager or City staff.
- Councillors address any concerns about staff members or the City Manager by communicating those concerns to the Mayor who will take the concerns to the City Manager. The Mayor will be responsible for reporting back to the Councillor any action taken regarding the concern.
- If an individual Councillor is not satisfied with the attention given to his/her concern about staff the item will be placed on an in camera agenda for the consideration of all of Council.
- Requests for information from staff shall be directed to the City Manager, Director or Department Head. Staff will provide all substantive responses to enquiries to all members of Council.
- Where a request for information from a Councillor requires staff committing a significant amount of time (more than 30 minutes) to respond, the City Manager will be asked to approve the work or to direct the request to Council for consideration.

Conflicts of interest

- Councillors recognize and respect their personal responsibility to comply with the law and to avoid conflicts of interest.
- Councillors behave consistent with the City of Nanaimo Council Policies:
 - *Conflict of Interest Guidelines*, and
 - *Legal Advice for Council Members on Conflict of Interest*.

Confidentiality

- As required by the *BC Community Charter*, Councillors keep in confidence all confidential information until it is released by Council to the public.

Consequences of Breaches of Performance Expectations

In order for Council to achieve its leadership potential and to fulfill its governance mandate it must ensure that it focuses on its work and advances its majority driven decisions forward.

Behaviour by members of Council that breaches the agreed to performance expectations threatens the constructive work of Council as a whole and must not be ignored by members of Council. In this regard Council must be self-governing and take responsibility to ensure that members of Council conduct themselves in accordance with the law and with the City of Nanaimo Council Charter, the City of Nanaimo Role of Councillor, and City of Nanaimo Role of the Mayor including the performance expectations.

Council has available to it a range of actions it can take to sanction breaches of agreed to performance expectations. Recent BC court decisions including *Barnett v. Cariboo Regional District*, 2009 BCSC 471 and *Skaken v. Prince George*, 2011 BCSC 1796 support the concept of councils regulating the behaviour of their members and applying consequences or sanctions for misconduct. For further detail see: Controlling Councillor Conduct [http://www.younganderson.ca/images/uploads/files-documents/seminars/2013 Controlling Coucillor Conduct-bw.pdf](http://www.younganderson.ca/images/uploads/files-documents/seminars/2013%20Controlling%20Councillor%20Conduct-bw.pdf))

Inappropriate conduct at meetings can be dealt with, as discussed above, in one of three ways:

- a request by the presiding member for the behaviour to cease,
- a motion of censure by the Council, or
- expulsion of the member from the meeting.

Consequences for **serious breaches of agreed to performance expectations** such as release of confidential information, improper use of influence, conflicts of interest, discreditable conduct such as bullying or intimidation can include:

- a motion of censure,
- reassignment of committee or other civic appointments and duties, or
- limitations on access to staff or to municipal resources.

Breaches of the agreed to performance expectations should be taken seriously by all members of Council and as such sanctions or disciplinary actions are not to be taken lightly. In some instances, such as is the case with breaches of the *BC Community Charter* Conflict of Interest provisions, procedural steps must be followed and Council should seek the advice of staff and in some cases legal counsel before it proceeds with motions of sanction or other disciplinary steps or actions.

Watson Report page 9 & 16

"Recommendation 2: Create a position description for the Mayor's position that provides more detailed guidance on the Mayor's responsibilities.

"Recommendation 10: Ensure the role descriptions for individual Councillors, the Mayor and City Manager identify applicable working relationships and emphasize the importance of constructive relationships."

The BC Community Charter

The Community Charter Section 115 details the responsibilities of council members.

Responsibilities of mayor

Sec 116

- (1) The mayor is the head and chief executive officer of the municipality.
- (2) In addition to the mayor's responsibilities as a member of council, the mayor has the following responsibilities:
 - (a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;
 - (b) to communicate information to the council;
 - (c) to preside at council meetings when in attendance;
 - (d) to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;
 - (e) to establish standing committees in accordance with section 141;
 - (f) to suspend municipal officers and employees in accordance with section 151;
 - (g) to reflect the will of council and to carry out other duties on behalf of the council;
 - (h) to carry out other duties assigned under this or any other Act.

Responsibilities of council members

Sec. 115 Every council member has the following responsibilities:

- (a) to consider the well-being and interests of the municipality and its community;
- (b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;
- (c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;
- (d) to carry out other duties assigned by the council; and
- (e) to carry out other duties assigned under this or any other Act.

Preamble: The purpose of the Mayor's role description is to articulate the role of the Mayor and to provide guidance for the Mayor on his/her roles and responsibilities to the Council and the City.

The role of Mayor: The Mayor is the leader and a member of the governing body of the Corporation of the City of Nanaimo. The *BC Community Charter* sets out the statutory role of Mayor in Section 116. The Mayor has all the responsibilities of a member of Council outlined in the Community Charter section 115 and some additional responsibilities. The role of mayor is a governance role, distinct from the management role as described below.

"Governance is ... the set of responsibilities and practices, policies and procedures used to provide strategic direction, ensure objectives are achieved, manage risks and use resources responsibly and with accountability.

Management is ... the process of planning, organizing, directing and controlling organizational resources (human, financial, physical and informational) in the pursuit of organizational goals."

Watson Report

The Mayor has three broad areas of responsibility:

- 1) A corporate responsibility to contribute to leading and managing the Corporation of the City of Nanaimo,
- 2) A leadership role to the Council, and
- 3) An individual responsibility as an elected representative of the citizens of Nanaimo.

In fulfilling his/her role, the Mayor should:

- understand the role of Mayor and its responsibilities;
- comply with all applicable legislation and laws;
- consider and represent the views of the community;
- prepare for, attend and participate in meetings;
- conduct his/herself in a businesslike manner;
- develop a constructive and business like relationships with Councillors;
- develop a constructive and business like relationship with City staff;
- comply with City policies regarding conflicts of interest;
- comply with all city policies regarding keeping of confidential information.

The Mayor is an individual member of the Council. With a few exceptions all authority is derived through the Council as a whole and the Mayor has no independent statutory authority outside of his/her capacity as a member and representative of the Council. Thus virtually all decisions of Council are made by the Council as a whole and not by the Mayor individually. **In most cases direction given by the Mayor without the endorsement of Council has no effect.** Although these are the facts in law **the Mayor processes tremendous potential to develop persuasive and leadership strength through leading and developing constructive relationships with members of Council.**

The role of the Mayor is to lead Council in initiation, deliberation and decision-making related to the key areas of Council responsibility:

- setting the Corporation's **strategic direction**,
- **allocating resources**,
- **managing risks**, and
- **oversight & reporting.**

(see the City of Nanaimo Council Charter for further detail regarding the Role of Council)

In addition to the responsibilities and expectations of Councillors as members of the Council, the Mayor has special duties and responsibilities.

As outlined in the *BC Community Charter* the Mayor:

- provides leadership to the Council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;
- communicates information to the Council;
- presides at Council meetings when in attendance;
- provides, on behalf of the Council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the Council;
- establishes standing committee;
- may suspend municipal officers and employees in accordance with CC section 151; and
- reflects the will of Council and to carry out other duties on behalf of the Council.

The *BC Community Charter* also grants authority to the Mayor to require Council to reconsider a motion which it has previously voted on.

Spokesperson & Representative

- The Mayor reflects the will of the Council and is the primary spokesperson for the Corporation.
- The Mayor or appointee represents the City at official and community functions.

Corporate Oversight

- The Mayor and City Manager provide proactive oversight of the Corporation including maintaining awareness of changes in conditions or legislation that might provide opportunities or threats to the Municipality.
- The Mayor brings forward to Council issues, matters, resolutions or bylaws that further the goals and objectives of the Municipality.
- The Mayor maintains knowledge of and relationships with Council Committees so that the work of the committees and Council is coordinated, efficient and effective.
- The Mayor regularly briefs Council on the his/her activities.

Chair of Meetings

- The Mayor ensures that he/she has a solid grasp of meeting procedures contained in the City of Nanaimo Procedure Bylaw.
- The Mayor is proactive in managing Council meetings including managing the agenda, available time and ensuring Council members participate in a constructive, respectful and businesslike manner.
- The Mayor ensures all Council members have an equal opportunity to speak on issues at meetings of Council.
- The Mayor intervenes if a Council member or member of the public behaves in an inappropriate manner.
- The Mayor intervenes if a member of Council or member of the public criticizes the staff at a meeting.

Relationship with Councillors

- The Mayor facilitates an inclusive approach to decision-making and involvement in Council business.
- The Mayor assists Councillors to get their issues considered by Council.
- The Mayor ensures Councillors are kept informed of material issues between Council meetings;
- The Mayor works to build constructive relationships amongst and between Councillors.
- The Mayor receives any concerns a Councillor may have regarding the performance or behaviour of the City Manager or a staff member. The Mayor will take the concerns to the City Manager and will be responsible for reporting back to the Councillor any action taken regarding the concern. If an individual Councillor is not satisfied with the attention given to his/her concern about staff the item will be placed on an in camera agenda for the consideration of all of Council.
- The Mayor establishes and makes appointments to Standing Committees.

Relationship with Staff.

- The Mayor is the formal conduit through which the Council communicates with the City Manager and staff. This is particularly important in circumstances where individual members of Council or Council as a whole wish to bring forward concerns regarding the performance or behavior of the City Manager or a member of staff.
- The Mayor communicates responsibly and honestly with the City Manager in his representation of Councils direction and concern.

- The Mayor works actively to build a constructive relationship between the Council and staff.
- The Mayor works with the City Manager to steward emergent issues and matters and to bring them to Council.

Conflicts of interest

- The Mayor recognizes and respects his/her personal responsibility to comply with the law and to avoid conflicts of interest.
- The Mayor will behave consistently with the City of Nanaimo Council Policies:
 - Conflict of Interest Guidelines, and
 - Legal Advice for Council Members on Conflict of Interest.

Confidentiality

- The Mayor keeps in confidence all confidential information until it is released by Council to the public.

Consequences of Breaches of Performance Expectations

In order for Council to achieve its leadership potential and to fulfill its governance mandate it must ensure that it focuses on its work and advances its majority driven decisions forward.

Behaviour by members of Council that breaches the agreed to performance expectations threatens the constructive work of Council as a whole and must not be ignored by members of Council. In this regard Council must be self-governing and take responsibility to ensure that members of Council conduct themselves in accordance with the law and with the City of Nanaimo Council Charter, the City of Nanaimo Role of Councillor, and City of Nanaimo Role of the Mayor including the performance expectations.

Council has available to it a range of actions it can take to sanction breaches of agreed to performance expectations. Recent BC court decisions including *Barnett v. Cariboo Regional District*, 2009 BCSC 471 and *Skaken v. Prince George*, 2011 BCSC 1796 support the concept of councils regulating the behaviour of their members and applying consequences or sanctions for misconduct. For further detail see: Controlling Councillor Conduct [http://www.younganderson.ca/images/uploads/files-documents/seminars/2013 Controlling Coucillor Conduct-bw.pdf](http://www.younganderson.ca/images/uploads/files-documents/seminars/2013%20Controlling%20Councillor%20Conduct-bw.pdf))

Inappropriate conduct at meetings can be dealt with, as discussed above, in one of three ways:

- a request by the presiding member for the behaviour to cease,
- a motion of censure by the Council, or
- expulsion of the member from the meeting.

Consequences for **serious breaches of agreed to performance expectations** such as release of confidential information, improper use of influence, conflicts of interest, discreditable conduct such as bullying or intimidation can include:

- a motion of censure,
- reassignment of committee or other civic appointments and duties, or
- limitations on access to staff or to municipal resources.

Breaches of the agreed to performance expectations should be taken seriously by all members of Council and as such sanctions or disciplinary actions are not to be taken lightly. In some instances, such

as is the case with breaches of the *BC Community Charter* Conflict of Interest provisions, procedural steps must be followed and Council should seek the advice of staff and in some cases legal counsel before it proceeds with motions of sanction or other disciplinary steps or actions.

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"Recommendation 10: Ensure the role descriptions for individual Councillors, the Mayor and City Manager identify applicable working relationships and emphasize the importance of constructive relationships."

"Recommendation 11: Prepare written guidelines that provide guidance on the appropriate level of interaction between Councillors and individual staff members. The guidelines should provide guidance on how Councillors should handle concerns about the City Manager or staff performance."

Preamble: The purpose of the Council-Staff protocol is to provide guidance on the appropriate level and form of interaction between individual Councillors and staff and the Mayor and staff.

The nature of the Council-staff relationship

As detailed in the City of Nanaimo Council Charter, the role of Council is that of governance and the role of staff is that of management and implementation. Council and staff perform their individual roles and work in partnership. Although the roles of Council and staff are distinct they are interdependent; each one requiring the other to fulfill the Corporation's mandate and purpose as outlined in the *BC Community Charter*.

Appropriate level and form of interaction between individual Councillors and staff

By law the work of Council is conducted at meetings of Council where information is requested and received, discussion takes place, decisions are made and recorded and with some exceptions the public is present.

It then follows that the vast majority of Council work and decision making must take place at the Council table.

There are times however when individual members of Council have questions or want to make inquiries about agenda items, previously approved work or proposed initiatives. There are also circumstances when a Committee Chair needs to work with staff to guide and support the work of his/her Committee or a Council appointee to an external agency needs advice and information about his or her work.

The following guidelines are provided to assist members of Council to manage their interactions with individual staff members away from the Council table.

How should I as a Councillor interact with staff?

- Councillors interact with staff in a respectful and businesslike manner and at all times speak to staff using respectful business language, tone and body language.
- Councillors refrain from criticizing staff in public or in the media.
- Councillors refrain from building overly close or personal relationships with the City Manager or City staff.

- Councillors should be sensitive to the fact that staff time they occupy as individuals is time that is not being spent on work directed by all of Council.

If each individual member of Council takes an hour of the City Manager's time each week the result is the City Manager has one day less a week that he can devote to the work directed by the whole of Council. This same analogy is of course true for all of staff. Therefore Councillors should endeavour to limit requests they make of staff to those that they believe are essential or urgent and that can justify taking staff time away from carrying out the work of Council as a whole.

How should I as a Councillor make a request for information from staff?

- Requests for routine information from staff shall be directed to the City Manager, Director or Department Head. Staff will provide all substantive responses to enquiries to all members of Council.
- Where a request for information from a Councillor requires staff committing a significant amount of time (more than 30 minutes) to respond, the City Manager will be asked to approve the work or to direct the request to Council for consideration.

How should I as a Councillor communicate concerns about a member of staff or the City Manager?

- Councillors address any concerns about staff members or the City Manager by communicating those concerns to the Mayor who will take the concerns to the City Manager. The Mayor will be responsible for reporting back to the Councillor any action taken regarding the concern.
- If an individual Councillor is not satisfied with the attention given to his/her concern about staff the item will be placed on an in camera agenda for the consideration of all of Council.

What is special about the relationship between the Mayor and the City Manager?

The Mayor in his/her role as the leader of Council has a special relationship with the City Manager. There are key areas where the Mayor and City Manager must work together as the nexus between the Council and staff.

- The Mayor serves as the formal conduit of information from the Council to the City Manager and vice versa. As noted above this is particularly important in the Mayor's role in communicating a Councillor's concerns about staff or the City Manager.
- The Mayor and City Manager provide proactive oversight of the Corporation including maintaining awareness of changes in conditions or legislation that might provide opportunities or threats to the Municipality.
- The Mayor works with the City Manager to forward to Council issues, matters, resolutions or bylaws that further the goals and objectives of the Municipality.
- The Mayor works with the City Manager to steward emergent issues and matters and to bring them to Council.
- The Mayor is responsible for coordinating the annual evaluation of the City Manager.