

MEMO

Citizen questions about application of the Vancouver Code of Conduct (Policy AE-028-01)
to the Mayor's West End Community Advisory Committee
24 August 2010

INTRODUCTION

The following is to be read in context of "Activities" of the Advisory Committee's Terms of Reference. The eleven page *Code of Conduct for Council officials, staff, and advisory bodies of the City of Vancouver* has eight *policy statements*, the first of which is *Key Principle*. Below are excerpts, with comments and questions that concerned citizens (especially those 12 selected to be on the Committee) may wish to ask themselves, to determine if the Committee will be serving the public interest. Or will there be constraints caused by confidentiality rules, etc.

EXCERPTS AND COMMENTS

1.1 make decisions that benefit the community

➔Who defines what is of "benefit" to the community? What is the definition of "benefit"? How can twelve people define "benefit" on behalf of 45,000 or so people in the community we call the West End? What if these twelve people do not, in fact, define "benefit" as the majority in that community would? What recourse does the "community" have and/ or what is the penalty for those acting on an incorrect definition of "benefit" to the community? Do some "benefits" for a few over ride the "benefits" of others? If so how is that decision made and by whom?

...be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests

➔What is "undue" influence as opposed to "due" influence? Who decides? How are those that do decide gain the power to make this decision and is that decision maker somehow under "undue" influence or not? How can twelve people who will be free of the charge of acting without "undue influence"?

1.6 Council officials, staff and advisory body members have a duty to be as open as possible about their decisions and actions. This means communicating appropriate information openly to the public about decision-making processes and issues being considered; encouraging appropriate public participation; communicating clearly; and providing appropriate means for recourse and feedback.

➔Who decides what is "appropriate information"? Who decides what is "appropriate public participation"? Who decides what is "appropriate means of recourse and feedback"? Is it the developers who may be making presentations to the Advisory Committee? Is it the majority of the twelve who are appointed to the Advisory Committee? Or, is it each individual member sitting on the Advisory Committee?

➔The answer to these questions are of critical importance to anyone appointed to or who is considering application to the Advisory Committee given that the committee will be speaking for the 46,000 people who make the West End home. If indeed it is the interests of the community as a whole that are to be served by each individual on the Advisory Committee, those responsible for establishing the Advisory Committee must answer these questions in public, for the public and all concerned in a clear, direct and honest manner.

2.5 Council officials, staff, and advisory body members must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council officials, staff and advisory body members must avoid conduct that:

- ***Contravenes the law, the Vancouver Charter, City By-laws, associated regulations, City policy and the City's Code of conduct.***

→What sections of the Vancouver Charter are referred to in the above statement. Further, which City By-laws, associated regulations and City policy may limit, control or otherwise dictate the confines in which recommendations of the Advisory Committee must be made. Since this is, what the Mayor has called “an interim planning process” it must be made clear which “associated regulations and City Policy” are at play. What exactly is “City Policy”? Is it policy that is consistent from one administration to the next or is it policy that changes with each administration? If it is a shifting policy please explain the current policies which may direct, limit, control or prejudice the decisions of the Mayor’s West End Advisory Committee

2.9 (second bullet) Is the conduct or decision consistent with City Policy, Council’s objectives and Code of Conduct?

→What are the Council’s objectives in establishing the Mayor’s West End Advisory Committee? How might these objectives fit with the current West End Guidelines and Policies? How might these objectives be seen to take the place of a West End Planning Process? In what ways do these objectives limit, define or control what is brought before the Advisory Committee and the actions the Advisory committee may take?

2.9 (fourth bullet) Can the decision or conduct be justified in terms of public interest and would it withstand public scrutiny?

→Who decides what is in the public interest? How is that decision made? Is that an imposed decision and if so by whom?

3.1 Council Officials, staff and advisory body members must:

- ***Protect information that is specifically marked confidential and other material understood to be confidential in nature;***

Refrain from discussing/disclosing any confidential information with/to other staff, or with persons outside the organization except as authorized;

→If information is marked or considered confidential, especially when Councillors, the Mayor and/or developers are making presentations how are the twelve members of the Advisory Committee to seek feedback from the community at large or is it presumed that they will be able to determine “what is in the public interest” without a full public, well advertised public process?

4.2 A conflict exists when an individual is, or could be, influenced, or appear to be influenced, by a personal interest, financial (pecuniary) or otherwise, when carrying out their public duty. Personal interest can include direct or indirect pecuniary interest, bias, pre-judgment, close mindedness or undue influence.

→Who is it that will decide and how will they decide when there is “personal interest, bias, pre-judgment, close mindedness or undue influence” at play? By what means would this determination be made? Would the person making such judgment be free of bias and how would that be demonstrated?

4.9.1 Obligations to others: Staff and advisory body members must not place themselves in a situation where they may be under obligation to someone who has business dealings with the City, and who would benefit from special consideration or treatment.

4.9.4 Representation to City Council, its Committees, Boards or Tribunals: Staff and advisory body members must not represent any private interest(s) except on their own behalf;

→What is the exact meaning of the two above sections of the *Code of Conduct*?