

APPENDIX 5

Outdoor Burning Bylaw, 2007, No. 1428

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Prohibited Fire	2	\$150.00
Obstruction of Officer	7	\$200.00

APPENDIX 6

Property Maintenance Bylaw, 1990, No. 1383

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Allow Unsightly Property	3(b)	\$100.00
Fail to Clear Unsightly Growth	3(e)	\$100.00
Fail to Clear Accumulation of Water	3(f)	\$100.00
Fail to Clear Noxious Weeds	3(g)	\$100.00
Fail to Clear Destructive Insects	3(g)	\$100.00
Fail to Clear Fire Hazard	3(h)	\$100.00
Cause or Permit Rubbish to Collect	3(i)	\$100.00

APPENDIX 7

Sign Regulation Bylaw, 1997, No. 1276

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Prohibited Sign	6.1	\$100.00
Prohibited Sign	5.2	\$100.00
Fail to Maintain Sign & Adjacent Property	8.4	\$100.00
No Sign Permit	8.2	\$100.00
Dangerous Sign	8.3	\$100.00
Obstruct City Employee	8.7	\$200.00
Interfere with or Obstruct Traffic	8.11	\$100.00
Sign on Public Property	8.12	\$100.00

APPENDIX 8

Traffic Bylaw No. 269

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Disobey Traffic Control Device	12(1)	\$50.00
Park In No Parking Zone	15(a)	\$50.00
Park in Excess of Posted Limit	17(2)	\$50.00
Park Where Prohibited	18(1)(l)	\$50.00
Park On Wrong Side of Road	18(2)	\$50.00
Unattached Trailer on Highway	20(1)	\$50.00
Park More Than 24 Hours	20(2)	\$50.00
Park Vehicle Over 4500 Kg More Than 2 Hours	20(2)	\$50.00
Park Vehicle Over 7 m. More Than 2 Hours	20(2)	\$50.00
Deposit Refuse	26(1)	\$100.00
Obstruct Passage Of Pedestrians/Vehicle	35	\$50.00
Display Vehicle for Sale on Highway	18(1)(i)(i)	\$ 50.00
Park on Sidewalk	18(1)(a)	\$ 50.00
Park in Front of Driveway	18(1)(b)	\$ 50.00
Park Within Intersection	18(1)(c)	\$ 50.00
Park Within 15 feet of Fire Hydrant	18(1)(d)	\$ 50.00
Drive over Fire Hose	25	\$100.00

APPENDIX 9

Tree Management Bylaw, 2006, No. 1415

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Damage Tree	4.1	\$250.00
Cut Tree Without Permit	4.1	\$500.00
Work within 5 metres of Tree Dripline	4.2	\$250.00

APPENDIX 10

Zoning and Development Bylaw No. 2000

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Zoning and Development Bylaw No. 2000

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Unlawful Land Use - RS-1 Zone	202.1	\$100.00
Unlawful Land Use - RS-2 Zone	203.1	\$100.00
Unlawful Land Use - RS-3 Zone	204.1	\$100.00
Unlawful Land Use - MH-1 Zone	205.1	\$100.00
Unlawful Land Use - I-1 Zone	206.1	\$100.00
Unlawful Land Use - P-1 Zone	207.1	\$100.00
Unlawful Land Use - P-2 Zone	208.1	\$100.00
Unlawful Land Use - P-3 Zone	209.1	\$100.00
Unlawful Land Use - A-1 Zone	210.1	\$100.00
Unlawful Land Use - C-1 Zone	211.1	\$100.00
Unlawful Land Use - C-2 Zone	212.1	\$100.00
Unlawful Land Use - C-3 Zone	213.1	\$100.00
Unlawful Land Use - CS-1 Zone	214.1	\$100.00
Unlawful Land Use - CS-2 Zone	215.1	\$100.00
Unlawful Land Use - CS-3 Zone	216.1	\$100.00
Unlawful Land Use - CS-4 Zone	217.1	\$100.00
Unlawful Land Use - CS-5 Zone	218.1	\$100.00
Unlawful Land Use - E-1 Zone	219.1	\$100.00
Unlawful Land Use - CD-1 Zone	221.2	\$100.00

APPENDIX 10

Zoning and Development Bylaw No. 2000

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Unlawful Land Use - CD-2 Zone	222.2	\$100.00
Unlawful Land Use - CD-3 Zone	223.2	\$100.00
Unlawful Land Use - CD-4 Zone	224.2	\$100.00
Unlawful Land Use - CD-5 Zone	225.2	\$100.00
Unlawful Land Use - CD-6 Zone	226.2	\$100.00
Unlawful Land Use - CD-7 Zone	227.2	\$100.00
Unlawful Land Use - CD-8 Zone	228.2	\$100.00
Unlawful Land Use - CD-9 Zone	229.2	\$100.00
Unlawful Land Use - CD-10 Zone	230.2	\$100.00
Unlawful Land Use - CD-11 Zone	231.2	\$100.00
Unlawful Land Use - CD-12 Zone	232.2	\$100.00
Unlawful Land Use - CD-13 Zone	233.2	\$100.00
Unlawful Land Use - CD-14 Zone	234.2	\$100.00
Overheight Fence	501 (a), (b)	\$100.00
Prohibited Use	604 (a) - (g)	\$100.00
Height Obstruction at Corner	611	\$100.00
Fail To Comply With Secondary Suite Conditions	613 (a) - (j)	\$100.00
Swimming Pool Not Fenced As Required	617	\$100.00
Obstruct Authorized Entry	704	\$200.00

APPENDIX 11

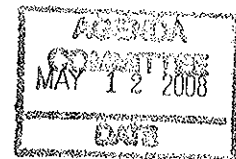
Park Regulation Bylaw No. 1327

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
<u>Offence</u>	<u>Section</u>	<u>Fine</u>
Damage to park plants	1	\$100.00
Damage to park property	2	\$100.00
Build any structure	3	\$100.00
Pollute fountain, lake, pool, pond, stream	4	\$100.00
Take up overnight accommodation	5	\$ 50.00
Obstruct free use & enjoyment of park	6	\$ 50.00
Discharge of explosives	7	\$100.00
Fire in park	8	\$100.00
Operate boat/waterski/contrivance in dangerous manner	9	\$100.00
Vehicle in park after hours	10	\$ 50.00
Vehicle parked in non-established area	11	\$ 50.00
Interfere/obstruct City employee	12	\$200.00
Use/operate device that disturbs	13	\$100.00
Possess liquor in park	14	\$100.00

APPENDIX 12

Fireworks Bylaw No. 1427

<u>Column 1</u> <u>Offence</u>	<u>Column 2</u> <u>Section</u>	<u>Column 3</u> <u>Fine</u>
Sell Fireworks	3(1)	\$150.00
Buy Fireworks	3(2)	\$150.00
Hold Fireworks	3(2)	\$150.00
Store Fireworks	3(2)	\$150.00
Possess Fireworks	3(2)	\$150.00
Discharge Fireworks	3(2)	\$150.00
Hold Fireworks without Event Permit	3(8)	\$200.00
Store Fireworks without Event Permit	3(8)	\$200.00
Possess Fireworks without Event Permit	3(8)	\$200.00
Discharge Fireworks without Event Permit	3(8)	\$200.00
Discharge Fireworks contrary to Event Permit	3(9)	\$200.00



May 7, 2008

MEMO TO: HER WORSHIP THE MAYOR AND MEMBERS OF COUNCIL

FROM: FRED MANSON, CHIEF ADMINISTRATIVE OFFICER

SUBJECT: EMPLOYEE CODE OF CONDUCT

ISSUE:

Consideration of Policy No. 7.16 – Employee Code of Conduct

SUMMARY

This is to reintroduce to Council the Employee Code of Conduct. Significant consultation has occurred between management staff and the Union.

REFERENCES

Draft Policy no. 7.16 – Employee Code of Conduct.

Letter dated April 30, 2008 from CUPE Local 401 regarding the Employee Code of Conduct.

Letter dated April 22, 2008 from the Chief Administrative Officer to 2nd Vice President – City of Parksville, CUPE Local 401

Letter dated April 18, 2008 from CUPE Local 401 regarding the Employee Code of Conduct.

Memo dated April 17, 2008 from the Chief Administrative Officer regarding the Employee Code of Conduct.

BACKGROUND

At the April 21, 2008 regular meeting of Council, the following resolution was passed after Council's consideration of the Memo dated April 17, 2008 from the Chief Administrative Officer regarding the Employee Code of Conduct and the Letter dated April 18, 2008 from CUPE Local 401 regarding the Employee Code of Conduct.

THAT a representative from CUPE Local 401 be requested to appear as a delegation at the May 12, 2008 Committee of the Whole meeting to explain to Council their specific detailed objections to the Employee Code of Conduct attached to the report from the Chief Administrative Officer dated April 17, 2008 entitled "Employee Code of Conduct";

AND THAT in response to the letter from CUPE Local 401 dated April 18, 2008 relating to the proposed City of Parksville Employee Code of Conduct, the Union be requested to provide in writing a detailed explanation specifically outlining the section and concerns that the union

may have with the section and how a specific section or the overall Code of Conduct is perceived to:

- Infringe upon workers rights as citizens and employees,
- Conflict with the collective agreement and any current legislation governing the terms under which union members work and interact with the employer,
- Be unreasonable and not reflective of the collective agreement and basic human rights;

AND THAT this response be provided to the Administration Department by the agenda deadline of noon on May 6, 2008 for the May 12, 2008 Committee of the Whole meeting for inclusion in the agenda packages.

The April 30, 2008 letter referenced above is the Union's response to Councils resolution.

The Union has declined Council's invitation to appear as a delegation. I will not debate the points the Union has made with respect to this decision other than to say this is contrary to their request to appear before Council in both their letter of September 7, 2007 and April 18, 2008.

In regards to the concerns they have identified with respect to the Code of Conduct I offer the following for Councils consideration:

1. Under the portion of the Code entitled Purpose, Point number 5.

This section of the Code of Conduct outlines the general purpose of the Document. The section starts with a general description and then under the heading "This code is intended to" includes 5 specific points including Point 5 referred to by the letter. The expressed concern to this point is that it contravenes the collective agreement.

In response I would draw Council's attention to the last Paragraph in the Purpose section of the Code of Conduct which states "This code is not intended to supersede the rights provided to employees under the Charter of Human Rights, the Union Collective Agreement or any other relevant statute, legislation of agreement."

I would also like to point out that the Collective Agreement itself states under Article 10 Grievance Procedure, "or any other dispute" which clearly would include items not specifically included in the Collective Agreement.

2. Outside Employment

The Code of Conduct will cover all City employees. Within the Employment Contract for exempt employees there are provisions which encourage exempt staff to participate in teaching professional development courses. With regards

to exempt staff, this aligns the Code of Conduct with existing employment contracts and now also provides this same opportunity to union staff.

3. Accepting Gifts

This section is taken directly from the boiler plate Gift Disclosure Policy drafted by UBCM for Elected Officials and matches the City's current policy for Council.

4. Employment of Relatives

The Code of Conduct does **not** prohibit the employment of relatives. As clearly outlined, this section would only apply where a conflict of interest with one family member having influence over another could occur.

I would also again draw Council's attention to the last Paragraph in the Purpose section of the Code of Conduct which states "This code is not intended to supersede the rights provided to employees under the Charter of Human Rights, the Union Collective Agreement or any other relevant statute, legislation or agreement."

5. Attitude and Conduct

The full sentence to which the union is referring states, "The conduct and language of Employees in the workplace must meet acceptable social standards and must contribute to a positive work environment". The concerns identified with the specific phrase referenced, seem to be out of context with the full sentence.

6. Email/Internet/Computer Use

The inference is that there will be "zero tolerance for personal use" of City computer equipment.

Nowhere in the section does the policy say "zero tolerance". With this section and others, it seems that the Union is assuming the hypothetical horrible and that the Code of Conduct is intended to, and will be used to punish. As has been stated many times in our discussions with both the union and staff, the intent is to provide staff with clear guidelines as to what is and isn't acceptable so we don't get into a position of punishment.

7. Political Activity

This section of the Code of Conduct is very self explanatory so my only comment to Council would be to again draw Council's attention to the last

Paragraph in the Purpose section of the Code of Conduct which states "This code is not intended to supersede the rights provided to employees under the Charter of Human Rights, the Union Collective Agreement or any other relevant statute, legislation of agreement."

OPTIONS

1. Approve the policy as currently presented.
2. Provide staff with direction as to any changes required by Council.

ANALYSIS

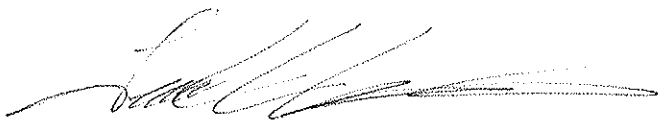
Adoption of an Employee Code of Conduct was one of the 2006 Audit recommendation made to Council by the City's auditor. Failure to adopt an Employee Code of Conduct may result in the Auditor providing a "qualified" audit report regarding the City's annual Financial Statements. The code also provides protection to both the City and employee as it clearly outlines what is expected of them as representatives of the City. The code when adopted would apply to all union and exempt employees. The code is not meant to be onerous, it is meant to codify what most people would see as the common sense way that staff already conducts themselves while carrying out the business of the City.

FINANCIAL IMPLICATIONS

There are no foreseen financial implications.

RECOMMENDATION

THAT the report dated May 7, 2008 from the Chief Administrative Officer be received;
AND THAT revised Policy No. 7.16 "Employee Code of Conduct" as attached to this report be approved.



Fred C. Manson, C.G.A.
C.A.O.



April 30, 2008

Fred Manson
Chief Administrative Officer
P.O. Box 1390, 100 E Jensen Avenue
Parksville, BC V9P 2H3

Submitted to Fred Manson, CAO, City of Parksville. In response to your letter dated April 22, 2008
Re: Employee Code of Conduct - as requested. This letter is not intended for Public consumption.

Thank you for your correspondence informing us of the resolutions passed by council and inviting us to attend and explain our specific detailed objections to the employee code of conduct. We also thank you for the opportunity to provide, in writing, our detailed explanation specifically outlining the sections and concerns we have with each.

That being said, we have two specific objections to resolutions of this nature being passed by council.

1. Councillors themselves are not generally involved in labour relation issues or in the direct management of issues that arise between the employer and Union. The parties engaged day to day in the operation and implementation of council's direction could and should deal with disputes amongst themselves in the spirit that sometimes one party or the other might disagree and this is not cause to involve the political process.
2. We do not engage in public debate about issues of this nature and allowing something like this unnecessary document to become the subject of a public disagreement is counter productive to a cooperative relationship between the parties. The media has contacted our office for comment already and it is apparent that any response will only lead to deterioration in Labour management relations as the issue moves outside of our control.

The decision to decline council's invitation does not in any way reflect the Unions agreement with the Code of Conduct, but does reflect our desire to refrain from debate and unwanted negotiations on the contents of that code. If we appear and answer specific concerns, we are in fact, negotiating the contents of a document that 80% of CUPE employees showed up at a general meeting to vote 100% against supporting in any way. I fail to see the



wisdom of engaging in this debate when it is so clear that the great majority of your employees oppose this document in any form.

With that in mind, please allow me to briefly outline the type of concerns we have with elements of the document and I will give *specific* examples.

1. Under the portion of the Code entitled Purpose, point number five states "Set out a means of correcting unethical conduct" which is a direct violation of the collective agreement which provides for a means of correcting any and all conduct which the employer considers disciplinable. This stated purpose contravenes the collective agreement provision governing dismissal and discipline in conjunction with section 84 of the BC Labour Relations Code (see attached). The alternate process referred to is found under point number eleven of the Employee Code of Conduct.
2. Under point number 2 entitled Outside Employment, there is an exemption granted to employees who teach courses for a fee during normal working hours with the consent of the CAO. Policies should apply evenly and across the board and targeted exemptions allowing certain types of extra income to be generated at the discretion of the CAO is unfair. It clearly favours employees engaged in certain professions and imparts to them a benefit which is not available to others.
3. Under point number 3 entitled Accepting Gifts, there are many "ifs" and a great deal of ambiguity which makes the policy improper in that it fails to live up to the requirements for workplace policies as established by the seminal case dealing with such matters, commonly referred to as "KVP". These requirements include the need for the rule to be clear and unequivocal - which this section of the Employee Code of Conduct is clearly not (see attached.)
4. Under point number 4 entitled Employment of Relatives, there are prohibitions relating to the employment of family members of existing employees. This section of the Employee Code of Conduct, at least on a *prima facie* basis, appears to be a violation of the BC Human Rights Code which guarantees the right to be free from discrimination in the hiring process based on Family Status (see attached). As an example of the dangers of policies such as this, I would refer you to the City of Campbell River. There was a ten year legal battle waged by them because of a policy similar to this one which became known as the "Bellefleur" case. The employer was found to be in violation of the Human Rights Code when they refused to employ a fire fighter's son and therefore they were found guilty of discrimination based on family status. The cost of the whole process is unreleased, but included costs to local taxpayers of more than 10 years worth of legal fees associated with Human Rights Tribunal hearings, a judicial review, Court of Appeal hearings, untold hours of compensation negotiations, and untold in-house person hours.
5. Under point number 6 entitled Attitude and Conduct, there is a requirement that an employee's conduct and language "must contribute to a positive work environment." This requirement, in conjunction with the Code's threat that any breach could result in discipline up to and including termination, seems to imply that the employer can punish employees who might not feel that their work environment is positive and have a difficult time contributing to same. It is highly subjective and open to interpretation as to what makes a positive work environment; many employees feel this Code of Conduct contravenes itself on this point.

6. Under point number 7 entitled Email/Internet/Computer Use, you will find zero tolerance for personal use. This is not a reasonable policy when coupled with the threats to discipline for any breach of this Code of Conduct. In today's environment, I would defy any manager or employee to claim that they had not sent a personal email or accessed a web site not strictly related to the performance of their duties. The policy is unrealistic in today's workplace.


7. Under point number 9 entitled Political Activity, in the section under what constitutes a breach; the policy reads: "b.) To engage during working hours in any activity for or against any candidate."
This section may infringe upon employee's right to freedom of expression.
Is it political activity to oppose a policy proposed by the elected officials when asked about it by a taxpayer? In British Columbia, the Public School Employers' Association and BCTF (Freedom of Expression Issues, unreported, May 7, 2004), Arbitrator Don Munroe, Q.C. addressed the right of teachers to criticize government education policy on school property in front of parents and others. He concluded that the **Charter** did apply to B.C. school boards and that the attempts to repress communications by union members constituted a breach of section 2(b) of **The Charter of Rights and Freedoms**. While unsure exactly what political activity would be included in the employer's interpretation of this section it would make little sense for the Union to agree to what could even potentially prove to be a violation of the Charter (please see attached.)

The above points highlight the many concerns we harbour in terms of agreeing to an "employee code of conduct" but in general terms, our opposition to it is as a whole. The specific examples are just that, examples. While not lawyers in any sense of the word it is our duty under legislation in the province of BC to ensure we fairly represent our member's interests to the best of our ability and agreeing to a document that potentially contains infringements of their rights is not in their or the Unions best interests.

Please accept this letter for what it is intended only, a response as requested. We have opposed this Code since it was conceived and will continue to do so as an unnecessary document that only serves to hurt employee morale, spark distrust and upset people a great deal for various and varied reasons.

We have no desire to see labour management relations deteriorate in Parksville. We are committed to working with council and management to ensure that the City of Parksville continues to provide its citizens with great service, an efficient/safe public infrastructure, great value for their tax dollars and we share in our common desire to see that the City of Parksville is the best place to live, work, and play.

Respectfully Submitted,



Blaine Gurrie
Canadian Union of Public Employees Local 401
President
Blaine.gurrie401@shawbiz.ca
c: All City of Parksville council members

Attachments

BC Labour Relations Code

1. 84 (1) Every collective agreement must contain a provision governing dismissal or discipline of an employee bound by the agreement, and that or another provision must require that the employer have a just and reasonable cause for dismissal or discipline of an employee, but this section does not prohibit the parties to a collective agreement from including in it a different provision for employment of certain employees on a probationary basis.
2. (2) Every collective agreement must contain a provision for final and conclusive settlement without stoppage of work, by arbitration or another method agreed to by the parties, of all disputes between the persons bound by the agreement respecting its interpretation, application, operation or alleged violation, including a question as to whether a matter is arbitrable.
3. (3) If a collective agreement does not contain a provision referred to in subsections (1) and (2), the collective agreement is deemed to contain those of the following provisions it does not contain:
 4. (a) the employer must not dismiss or discipline an employee bound by this agreement except for just and reasonable cause;
 5. (b) if a difference arises between the parties relating to the dismissal or discipline of an employee, or to the interpretation, application, operation or alleged violation of this agreement, including a question as to whether a matter is arbitrable, either of the parties, without stoppage of work, may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference to arbitration, and the parties must agree on a single arbitrator, the arbitrator must hear and determine the difference and issue a decision, which is final and binding on the parties and any person affected by it.

KVP rules (established requirements for employer rules and policies)

While an employer has the right to make some workplace rules, the rules must meet the following requirements:

- They must not be inconsistent with the collective agreement;
- They must not be unreasonable;
- They must be clear and unequivocal;
- They must be brought to the attention of the employee affected before the employer can act on it;

- The employee concerned must have been notified that a breach of such a rule could result in her/his termination if the rule is used as a foundation for termination; and
- Such rules should have been consistently enforced by the employer from the time it was introduced.``

BC Human Rights Code

13 (1) A person must not

(a) refuse to employ or refuse to continue to employ a person, or

(b) discriminate against a person regarding employment or any term or condition of employment

because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.

2005] B.C.J. No. 1719

British Columbia Court of Appeal
Donald, Huddart and Lowry JJ.A.

August 3 2005

The BC Public School Employers' Association ("BCPSEA") was unsuccessful in appealing from an arbitrator's decision to the effect that the British Columbia Teachers' Federation ("BCTF") was justified in taking a grievance from the decision of the School Boards to advise teachers that they were not to post materials on teacher bulletin boards or to distribute documents to parents regarding issues of class size that were the subject of collective bargaining negotiations between the BCTF and the BCPSEA.

During collective bargaining negotiations and partial strike actions being taken by the teachers, the BCTF president sent a memorandum to teachers enclosing materials that they could distribute to parents to help them become informed about the specific educational losses that had taken place pursuant to certain new legislation. These items included comments about class size and its effect on a child's education, as well as the elimination of certain guaranteed service levels from counsellors, teacher librarians and other specialist teachers and support for students with special needs.

School Boards in several districts subsequently tried to prevent teachers from writing to school trustees, parents or the media about these issues, and tried to prohibit teachers from posting these notices in the hallway of the school for parents to read.

The BCTF filed a general grievance and argued in front of the arbitrator that the School Boards' actions were contrary to section 2(b) of the Charter (freedom of expression) and to section 8 of the Labour

Relations Code. The BCPSEA submitted that the Charter did not apply to public school boards or to the impugned directives, and that even if it did, the directives did not contravene section 2(b), or could be saved by section 1 of the Charter.

The arbitrator concluded that School Boards do perform governmental functions rather than simply a "public function". Therefore School Boards were subject to the Charter by virtue of section 32(1).

The arbitrator then considered the Supreme Court of Canada's decision in *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927 in concluding that the teachers' intended actions in posting these notices and distributing them to parents came within the sphere of conduct that was protected by section 2(b) as an attempt to convey meaning with expressive content.

The arbitrator also concluded that the purpose or effect to the alleged government action was to restrict freedom of expression.

The Court agreed with the arbitrator's conclusion that School Boards appear to be subject to the Charter because they are a branch of government.

On the issue of whether the School Boards' directives violated section 2(b) of the Charter, the BCPSEA argued that section 2(b) was not intended to apply to government directives to employees regarding their employment activities while on government property during employer time. The Court held that the question was whether the teachers' discussion of their view of provincial education policies at parent-teacher interviews, handing out BCTF materials at those meetings, and hanging posters on school bulletin boards, was compatible with the fundamental purpose of school property to effectively operate the school. The Court agreed that there was no incompatibility between the teachers' intended communications and the principal function or purpose of the public school. Although the BCPSEA argued that a parent-teacher meeting or a school bulletin board is not an open forum for political messages of all sorts, the Court held that teachers are not excluded by their employment status from the guarantee of freedom of expression under the Charter.

The Court then proceeded to consider whether the section 2(b) violation was saved by section 1 of the Charter. The Court stated:

Undoubtedly, the balancing of competing values of public employees and of the government employing them raises very difficult problems, particularly when those employees wish to exercise their expression rights during the course of their employment. However, the authorities establish beyond doubt that questions about limits on expression based on status should be considered under section 1, not by narrowing the scope of the right.

The Court applied the analysis from *R. v. Oakes*, [1986] 1 S.C.R. 103 and ultimately held that the School Boards had not chosen to achieve their objective by a minimum impairment of the teachers' rights:

[T]he absolute ban of discussion on school property during school hours did not minimally impair teachers' rights. Few places would be more appropriate for a discussion of the need for resources for public schools than a parent-teacher interview dedicated to one child's education. The Supreme Court noted in *Pepsi*, "[f]ree expression in the labour context benefits not only individual workers and unions,

but also society as a whole" (at para. 35). The same holds true for teachers. Their political expression benefits society as a whole even where the concerns arise out of a labour relations dispute.

CITY OF PARKSVILLE

POLICY

SUBJECT: <i>Employee Code of Conduct</i>	POLICY NO: 7.16
	RESO. NO: 08-094
	CROSS REF:
<hr/>	
EFFECTIVE DATE: April 23, 2008	APPROVED BY: Council
<hr/>	
REVISION DATE:	RESO. NO:
	CROSS REF:

STATEMENT

Local government is an open, accessible and accountable form of government. To enhance the relationship of public trust and mutual respect that has evolved between government and the public requires high standards of ethical conduct by municipal employees.

PURPOSE

Employees of the City of Parksville are its representatives, and the way they conduct themselves will determine how others (customers, taxpayers, community partners) view the City. Because their conduct is so important to the City's success, it is critical that employees maintain the highest standards of honesty, integrity and impartiality in conducting the City's business and in related activities.

In providing the highest level of service possible, it is essential that all employees of the City work together in a co-operative and congenial manner, always respecting the established lines of authority.

The purpose of this code is to establish clear guidelines for all employees in the specific areas detailed below. This code is not meant to be exhaustive, and the City will continue to establish work rules on various matters as necessary. Existing work place rules continue in effect, except as modified by this code.

The requirement to comply with the Employee Code of Conduct is a condition of employment. Employees who fail to comply with these requirements may be subject to disciplinary action up to and including dismissal. Employees should contact either their Department Head or the Human Resources Assistant for advice and assistance on the interpretation or application of this policy.

This code is intended to:

1. Provide a universal understanding of the fundamental rights, privileges and obligations of Employees for their own protection.
2. Protect the public interest.
3. Promote high ethical standards among Employees.
4. Provide a means for Employees to obtain authorization for conduct in circumstances where they are uncertain as to the ethical appropriateness of that conduct.
5. Set out the means of correcting unethical conduct.

This code is not intended to supersede the rights provided to employees under the Charter of Human Rights, Union Collective Agreement or any other relevant statute, legislation or agreement.

DEFINITIONS

1. "Employee" - includes all employees and officers of the City of Parksville as defined in all Collective Agreements and employment bylaws.
2. "Exempt Employees" – includes all non union employees and officers of the City of Parksville.
3. "Confidential Information" – while the classification of information as "confidential" is a matter of administrative discretion whether to be labeled as confidential or not, disclosure of information will not constitute a breach of the Code of Conduct unless that information is of an inherently confidential nature such as:
 - a. personal data of employees or others;
 - b. records related to internal policies and practices which, if disclosed, may prejudice the effective performance of a municipal operation;
 - c. records of a financial nature reflecting information given or accumulated in confidence;
 - d. files prepared in connection with litigation and adjudicative proceedings;
 - e. reports of consultants, policy drafts and internal communications which, if disclosed, may prejudice the effective operation of a municipal operation or impugn the reputation of any person;
 - f. information regarding the acquisition or disposal of land; or
 - h. any information discussed in an In-Camera council meeting.
4. "City" – means the City of Parksville.

CODE

1. Conflict of Interest

A conflict of interest occurs when an employee's private affairs or financial interest are in conflict, or could result in a perception of conflict, with the employee's duties or responsibilities in such a way that:

- The employee's ability to act in the public interest could be impaired
- The employee's actions or conduct could undermine or compromise:
 - The public's confidence in an Employee's ability to discharge their work responsibilities, or
 - The trust that the public places in Employees

While the City recognizes the right of Employees to be involved in activities as citizens of the community, conflict must not exist between an employees' private interests and the discharge of their duties as an Employee. Employees must conduct their private affairs in a manner that will prevent conflicts of interest, or the perception of conflicts of interest from arising.

Employees with questions regarding interpretation of the policy may discuss them with their department head or the Human Resources Assistant. Employees who find themselves in an actual, perceived or potential conflict of interest must immediately disclose the matter to their department head. Employees who fail to disclose may be subject to disciplinary action up to and including dismissal.

Examples of conflict of interest include, but are not limited to the following;

- An Employee uses City property or the Employee's position, office or City affiliation to pursue personal interests;
- An Employee is in a position where the Employee is under obligation to a person who might benefit from or seek to gain special consideration or favour;
- An Employee, in the performance of official duties, gives or is reasonably perceived by the public to have given preferential treatment to an individual, corporation or organization, including a non-profit organization, in which the Employee, or a relative or friend of the Employee, has an interest, financial or otherwise;
- An Employee benefits from, or is reasonably perceived by the public to have benefited from, the use of information acquired solely by reason of the Employee's employment;
- An Employee benefits from, or is reasonably perceived by the public to have benefited from, a City transaction over which the employee can influence decisions (for example, investments, sales, purchases, borrowing, grants, contracts, regulatory or discretionary approvals);

2. Outside Employment

Employees may take supplementary employment including self-employment, unless such employment:

- a) causes an actual or apparent conflict of interest
- b) is performed in such a way so as to appear to be an official act of the City, or to represent the City's opinion or policy
- c) unduly interferes with the regular duties with the City;
- d) involves the use of City premises, equipment, or supplies.

Where it is evident that a conflict of interest might arise in taking supplementary employment, it is the duty of employees to notify their supervisor in writing as to the nature of the employment.

Employees shall not accept monetary or other payment in addition to normal salary, wages, or expenses for duties which they perform in the course of their employment with the City.

Employees, may with the consent of the CAO, teach courses at institutions for a fee during normal working hours provided that all preconditions established by the CAO can be met.

3. Accepting Gifts

Employees must ask themselves the following questions when trying to determine if a gift or benefit might be considered as an incident of the protocol of employment or a social obligation that normally accompanies the responsibilities of employment:

The following questions should be asked when trying to determine if the gift or benefit falls under this policy:

- Is the item a gift or benefit to the Employee personally either directly or indirectly? (e.g. will the Employee or a member of his/her family take personal possession of the gift or is it a gift over which the municipality will take control and custody?)
- Is the gift or benefit being given with any expectation whatsoever that the Employee will either currently or at some point in the future take some action (vote on a matter, intervene with municipal officials on the gift giver's behalf) that will benefit the giver of the gift?
- Is the value of the gift or benefit likely to influence any decision or action of the Employee?
- Employees should also ask themselves if an unbiased third party could expect or think that preferential treatment could/would be provided if the Employee accepted the gift or benefit.

If the answer to **all four** questions is **yes**; or the answer to the first question is **yes** and one of the other three questions is also **yes**, then the Employee should **not** accept the gift under any circumstances.

If the answer to the first question is yes, but the answer to the other three is no, then the gift might be considered to be incidental to the employee's duties. If this is the case, any gifts received which exceed \$250 in value, or an accumulation of individual gifts from the same person, exceeds \$250 in the course of a year, then the member is obligated to file an

appropriate disclosure statement with the Director of Administrative Services as soon as reasonably practical.

If the value of the gift is unknown, an attempt should be made to determine its fair market value.

One final comment with respect to this would be that, if in doubt error on the side of caution. A simple way to answer the questions above as yes or no is, that if you feel you have to ask somebody else their opinion, then the answer is "yes".

4. Employment of Relatives

Persons who are members of the same immediate family, or who share the same household shall not be employed in a reporting relationship where the superior has influence, input or decision making over the other's performance evaluation, salary, conditions of work, place of employment, potential for promotions or similar matters. Also they shall not be employed in the positions where the relationship affords an opportunity for collusion between the two employees which could have a detrimental effect on the City.

Employees and persons applying for employment are expected to disclose relationships covered by this policy to the Human Resources Assistant. The Chief Administrative Officer is authorized to waive this policy where it is essential to do so to meet operational needs and he/she is satisfied sufficient safeguards are in place to ensure that the City's interests are not compromised.

Notwithstanding the provisions of this policy, members of the immediate family or who share the same household as a member of the City's senior management team shall not be employed by the City.

5. Confidentiality

Employees must safeguard information contained in the records of the City, whether in written, electronic or other forms, against improper access and may disclose it only to persons who have a lawful right to such information.

Confidential information about the City, its' customers, clients, suppliers or employees should not be divulged to anyone other than persons who are authorized to receive such information. When an employee is in doubt as to whether certain information is confidential, no disclosure should be made without first asking appropriate management personnel.

Confidential information obtained as a result of employment with the City is not to be used by an Employee for the purpose of furthering any private interest, or as a means of making personal gains. In the course of any job, an employee may become aware of personal and confidential information and the City depends on each employee to keep private any such information. Each Employee may also depend on his/her supervisor to keep confidential any personal matters discussed.

6. Attitude and Conduct

Employees must provide service to the public in a manner that is courteous, professional, equitable and effective. Employees must be sensitive and responsive to the changing needs, expectations and rights of a diverse public while respecting legislation, bylaws, policies, and procedures of the City through which service to the public is provided.

The conduct and language of Employees in the workplace must meet acceptable social standards and must contribute to a positive work environment. An Employee's conduct must not compromise the integrity of the City.

7. E-mail/Internet/Computer Use

The City's computer network, internet accounts, web page and email systems have been established for the furtherance of the goals and objectives of the City. No Employee will make use of these systems for any personal gain, for purposes other than their normal job duties or for activities specifically authorized by the appropriate management personnel.

Use of the City's computers and related computer resources is restricted to authorized corporate purposes permitted by the City.

Employees are not to copy software purchased or developed by the City for use in connection with personal computers without obtaining their supervisor's authorization. Employees must follow all terms and conditions of software licenses and copyright laws.

Employees must ensure that computer accounts, access codes and passwords are not used for unauthorized purposes.

8. Illegal Conduct

Employees found guilty of criminal acts committed while on duty; or using City owned property or at City facilities or work sites when it could be reasonably perceived by the public that the employee is on duty, will be subject to discipline up to and including termination.

Employees found guilty of contravening lawfully enacted statutes of the Province (such as the Motor Vehicle Act) while on duty; or using City owned property or at City facilities or work sites when it could be reasonably perceived by the public that the employee is on duty, will be subject to discipline up to and including termination.

9. Political Activity

Employees are to be allowed as great a measure of political rights as can be reconciled with the need to ensure the fact and appearance of impartiality in the performance of their duties with the City. The point at which an appropriate balance can be struck in any particular case depends primarily on the nature and level of the employee's responsibilities.

Without restricting the scope of this principle, the following shall be considered breaches of the Code of Conduct:

- a. To use the authority or influence of his/her position with the City on behalf of a political party or candidate.
- b. To engage during working hours in any activity for or against any candidate.
- c. When seeking election to the City of Parksville municipal office, an Employee shall adhere to the applicable requirements of the Local Government Act and Community Charter.

10. Duty to Report

Employees have a duty to report any situation that they believe contravenes the law, misuses city funds or assets, or represents a danger to public health and safety or a significant danger to the environment. Employees can expect such matters to be treated in confidence, unless disclosure of information is authorized or required by law (for example Freedom of Information requests). Employee will not be subject to discipline or reprisal for bringing forward to the Chief Administrative Office, in good faith allegation of wrongdoing in accordance with this policy.

11. Administration

- (a) Council shall:
 - i Hear appeals on action taken by the Chief Administrative Officer concerning ethical conduct of Exempt Employees and following the appeal, decide on an appropriate course of action.
 - ii Conduct investigations into complaints against the Chief Administrative Officer under this policy.
- (b) Chief Administrative Officer shall:
 - i Investigate allegations and inquiries relating to ethical conduct by Exempt Employees.
 - ii Decide on the appropriate action in matters concerning Exempt Employees ethical conduct.
 - iii Hear appeals on action taken by the Department Heads concerning ethical conduct of Employees and following the appeal, decide on an appropriate course of action.
- (c) Department Heads shall:
 - i Investigate allegations and inquiries relating to ethical conduct by union Employees.
 - ii Decide on the appropriate action in matters concerning union Employees ethical conduct.
 - iii Fully inform newly appointed employees of the ethical standards they are expected to observe.
 - iv Keep employees informed, on an ongoing basis, of the City's policy on ethical behavior.



COPY

City of **PARKSVILLE**

PO Box 1390, 100 E. Jensen Avenue, Parksville, BC V9P 2H3
Telephone: (250) 248-6144 Fax: (250) 248-6650
www.parksville.ca

April 22, 2008

Herb Wright
2nd Vice President – City of Parksville
Canadian Union of Public Employees Local 401
11/12 1850 Northfield Road
Nanaimo BC V9S 3B3

Re: City of Parksville – Employee Code of Conduct

At the April 21, 2008 regular meeting of Council your letter of April 18, 2008 and my report dated April 17, 2008 both dealing with the proposed Employee Code of Conduct were considered by Council.

With respect to this matter, Council passed the following resolutions:

THAT the a representative from CUPE Local 401 be requested to appear as a delegation at the May 12, 2008 Committee of the Whole meeting to explain to Council their specific detailed objections to the Employee Code of Conduct attached to the report from the Chief Administrative Officer dated April 17, 2008 entitled "Employee Code of Conduct";

AND THAT in response to the letter from CUPE Local 401 dated April 18, 2008, relating to the proposed City of Parksville Employee Code of Conduct, the Union be requested to provide in writing a detailed explanation specifically outlining the section and concerns that the union may have with the section and how a specific section or the overall Code of Conduct is perceived to:

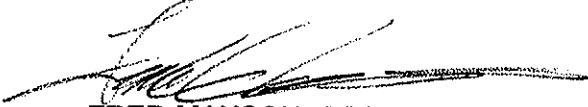
- Infringe upon workers rights as citizens and employees,
- Conflict with the collective agreement and any current legislation governing the terms under which union members work and interact with the employer,
- Be unreasonable and not reflective of the collective agreement and basic human rights;

AND THAT this response be provided to the Administration Department by the agenda deadline of noon on May 6, 2008 for the May 12, 2008 Committee of the Whole meeting for inclusion in the agenda packages.

.../2

If you have any questions or require any further information with regards to the above, please contact the writer.

Yours truly,

A handwritten signature in black ink, appearing to read 'Fred Manson', with a long horizontal flourish extending to the right.

FRED MANSON, CGA
Chief Administrative Officer

cc: Blaine Gurrie



CANADIAN UNION OF PUBLIC EMPLOYEES LOCAL 401

11/12-1850 NORTHFIELD ROAD, NANAIMO, B.C. V9S 3B3 TEL: (250) 729-7557 FAX: (250) 729-0866 EMAIL: CUPE401@SHAW.CA

April 18, 2008

COPY

Fred Manson, Chief Administrative Officer & Council Members
City of Parksville
100 East Jensen Ave, Box 1390
Parksville, BC
V9P 2H3

RE: City of Parksville – Employee Code of Conduct

CUPE Local 401 remains opposed to any Code of Conduct imposed on workers that infringes on their rights as citizens or employees.

With 80% of members present at the April 17, 2008 meeting regarding the Code of Conduct – 100% of those present were against the implementation of this code.

The Collective Agreement between the Parties as well as current legislation governs the terms under which our members work and interact with the employer and this Code of Conduct conflicts strongly with these terms.

The employer has a responsibility and obligation to enact rules/policies that are reflective of the Collective Agreement and basic human rights and must always be within reason. This code of conduct contains policies that are unreasonable and therefore, unacceptable.

We reassert the letter sent to Council September 7, 2007.

Although we do sincerely appreciate the hard work City of Parksville senior staff have put into producing the Code of Conduct, the membership and Union continue to oppose any policy that jeopardizes personal freedom; which is a fundamental right and guaranteed by law.

Yours truly,

Herb Wright
2nd VICE PRESIDENT - City of Parksville
Blaine Gurrie
PRESIDENT - CUPE LOCAL 401

/s/
L. Amy

PRESIDENT - BLAINE GURRIE



RECORDING SECRETARY - MICHAEL COATES

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March 28, 2008

MEMO TO: HER WORSHIP THE MAYOR AND MEMBERS OF COUNCIL

FROM: FRED MANSON, CHIEF ADMINISTRATIVE OFFICER

SUBJECT: EMPLOYEE CODE OF CONDUCT

ISSUE:

Consideration of Policy No. 7.16 – Employee Code of Conduct (revised).

SUMMARY

This is to reintroduce to Council the Employee Code of Conduct. Significant consultation has occurred between management staff and the union and union employees since this subject was last presented to Council. With the exception of personal use of City equipment all concerns expressed by the union regarding the code of been addressed to the employees and unions satisfaction.

REFERENCES

Draft Policy no. 7.16 – Employee Code of Conduct (revised).

Memo dated August 28, 2007 from the Director of Administrative Services regarding the Employee Code of Conduct.

Letter dated September 7, 2007 from CUPE Local 401 regarding the Employee Code of Conduct.

BACKGROUND

The City of Parksville currently does not have a Council approved "Employee Code of Conduct". This was noted by the City's Auditor in their 2006 Audit Management Letter to Council along with their recommendation that the City adopt an Employee Code of Conduct to "provide management with tools to communicate the need for integrity and ethical values to the employees of the City".

As a result of the Auditor's recommendation, Council instructed staff to prepare and implement an Employee Code of Conduct. This subject was brought before Council for consideration at the August 20, 2007 Incamera meeting of Council and again on September 5, 2007 at the Corporate Services Committee meeting at which the following recommendation to Council was made:

"That the report from the Director of Administrative Services dated August 28, 2007 entitled "Employee Code of Conduct" be received;
AND THAT Policy No. 7.16 "Employee Code of Conduct" be approved."

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