

Corporate Administration Report to
Priorities and Finance Committee
2017 April 18

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PROPOSED COUNCIL POLICY ON FUNDRAISING TO BENEFIT A THIRD PARTY

EXECUTIVE SUMMARY

Members of Council participate in fundraising to promote and benefit communities, non-profit organizations and charities (collectively referred to in this report and proposed Council policy as “Third Parties”). When Members of Council fundraise, and directly use raised donations to pay for expenses associated with organizing events for the benefit of Third Parties, it is important to demonstrate accountability and transparency respecting their involvement. To promote accountability and transparency, and provide Members of Council with consistent guidance and procedures related to fundraising, this report presents a proposed Council policy on *Fundraising to Benefit a Third Party*.

ADMINISTRATION RECOMMENDATION(S)

That the Priorities and Finance Committee recommend that Council:

1. Adopt the proposed Council policy on *Fundraising to Benefit a Third Party* (Attachment 1);
2. Direct that the Council policy on *Fundraising to Benefit a Third Party* come into effect on 2017 June 01; and
3. Adopt the proposed amendment to the *Gift and Benefits Policy for Members of Council* (Attachment 2).

PREVIOUS COUNCIL DIRECTION / POLICY

At the 2015 December 14 Regular Meeting of Council, Council adopted the Legislative Governance Task Force’s recommendation to refer the proposed Council policy on *Fundraising and Ward Events* to Administration for review by the City Solicitor, to return to Council as soon as possible.

At the 2015 December 01 Meeting of the Legislative Governance Task Force, the City Clerk’s Office presented report LGT2015-0894, containing a proposed Council policy on *Fundraising and Ward Events*.

At the 2015 May 11 Combined Meeting of Council, Council directed Administration to bring forward a proposed Council policy on fundraising and ward events to the Legislative Governance Task Force no later than Q4 2015.

At the 2015 April 27 Regular Meeting of Council, Council approved the initial terms of reference for the Integrity Commissioner.

BACKGROUND

At the 2013 April 22 Regular Meeting of Council, Council adopted a *Gifts and Benefits Policy for Members of Council* (CC043). The *Gifts and Benefits Policy for Members of Council* provides that “Members of Council shall not solicit, demand or request any gift or benefit by virtue of their position”. Further, the Council policy provides that “[a] Member of Council must never accept a gift of money, including pre-paid credit cards. This does not include compensation authorized by legislation, City bylaw, resolution of Council or Council policy”. The effect of this Council policy is that Members of Council, by virtue of their position, are not permitted to solicit or accept money in order to fund the organization of events for the benefit of Third Parties. Through engagement with Members of the Legislative Governance Task Force (LGTF), the City Clerk’s Office learned

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that the organization of events (e.g. Ward barbecues) is challenging without reliance on donations.

At the 2015 March 03 Meeting, LGTF identified a need for further clarity with respect to Members of Council accepting money in response to fundraising. Solicitation and acceptance of donations for Third Parties is distinct from accepting gifts and benefits for personal use and requires a separate transparent and accountable process. Further, personally accepting monetary donations, for the benefit of Third Parties, raises additional issues such as accounting, administration of surplus funds and the need for distinct procedures for election years. Accordingly, Administration recommended developing a separate Council policy rather than including an exemption clause for fundraising for Third Parties within the *Gifts and Benefits Policy for Members of Council*. An appropriate reference has been added to the *Gifts and Benefits Policy for Members of Council* in sections 8 and 11, and is detailed in Attachment 2.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

In 2015, in developing a proposed Council policy on *Fundraising and Ward Events*, consideration was given to the applicability of the Council policy, a process for accounting for donations, procedures for election years, management of surplus funds, disclosure of fundraising and donations and the role of the Integrity Commissioner. Following Council's referral of the proposed Council policy on *Fundraising and Ward Events* to Administration, the City Clerk's Office, the City Solicitor and the Ethics Advisor conducted additional reviews of the proposed Council policy and re-examined all of the previous considerations.

The additional consultations and reviews focused on bringing greater clarity to the proposed Council policy, as well as reducing any potential future challenges with either policy interpretation and/or implementation. Outlined below are the original key issues examined in the development of the proposed Council policy (Attachment 1), with revisions as per the City Solicitor's, Ethics Advisor's and City Clerk's additional reviews, as well as a new consideration with respect to establishing a limit on donations received by a Member of Council:

1. Applicability of the proposed Council policy: Members of Council engage in fundraising, or assist with other's efforts to fundraise, in a variety of ways. For instance, they bring awareness to charitable and non-for-profit organizations, encourage donations via social media, attend events to benefit local charities, and directly solicit donations in order to organize an event in one of their Ward's communities (e.g. Ward barbecues). It would be an impossible threshold for Members of Council to meet if they were requested to account for donors, donations, and expenditures directly provided by donors to Third Parties. Accordingly, the proposed Council policy can only apply to fundraising by a Member of Council, where the Member of Council directly receives and spends donations for the purpose of organizing an event to benefit a Third Party.
2. Accounting: Where a Member of Council fundraises for the purpose of organizing an event to benefit a Third Party, and intends on using any portion of the donations received to pay for expenses associated with organizing the event, the Member of Council must open an account for each specific event. Research of publicly available policies in other municipalities found that where policies for Member of Council organized events have been

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adopted, a Member of Council must open a City account or require that all donations be made out to the City. Given that a City versus a non-City account with a financial institution has implications with respect to public trust and administering of surpluses, the approach within the proposed Council policy allows the Member of Council to use their discretion with respect to where an account is opened, with The City or with a financial institution, for the purpose of receiving and expending donations. As accounting practices for the purposes outlined in the proposed Council policy are not currently in place within the Office of the Councillors, it is proposed that this Council policy come into effect on 2017 June 01 to permit the Office of the Councillors to establish a consistent procedure.

3. Election years: In 2012, Council adopted a Council policy on *Members of Council and Election Campaigns* (CC041), setting out guidelines and rules necessary to ensure candidates in an election have an equal opportunity to access City resources and that no preferential treatment is afforded to incumbents by The City. Through engagement, the City Clerk's Office was advised that it is important to Members of Council to continue organizing events during an election year. Given that fundraising for the purpose of organizing events may raise the profile of a Member of Council, or create a perception of preferential treatment, election years require specific considerations and procedures. Research of publicly available policies demonstrated that municipalities with Council Member organized event policies place restrictions on election years. For instance, the City of Toronto provides the following provision in the *Council Member-Organized Community Event Policy*:

“in an election year, a Member of Council must not seek donations and sponsorships for any community event that has not been staged in the previous two years nor accept donations or stage any community event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Toronto” (City of Toronto, adopted by City Council on 2008 July 15-18).

The approach taken in the proposed Council policy is similar to the provision cited above, and proposes limits on when fundraising to benefit a Third Party may occur in an election year.

4. Surplus: Where donations are accepted by a Member of Council to organize an event, transparent procedures must be in place to account for those circumstances where more donations are received than required for a Member of Council to organize the event. Research of publicly available policies demonstrated that municipalities with Council Member organized event policies in place provide various mechanisms for dealing with surpluses. For instance, surplus funds can be returned to donors, transferred to general Council revenue, transferred to a Third Party, or be carried over to a subsequent year. The proposed Council policy provides options for administering surpluses, and also provides direction in the event that a Member of Council ceases to be a Member of Council.
5. Disclosure of donations: To promote accountability and transparency, the proposed Council policy provides that Members of Council must disclose and publish an annual fundraising statement. This type of disclosure is consistent with the disclosure

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requirements contained in the *Gifts and Benefits Policy for Members of Council*, as well as with other municipalities.

6. **Role of the Integrity Commissioner and Ethics Advisor:** When the proposed Council policy was presented to LGTF and Council in 2015, the appointment of an Integrity Commissioner and an Ethics Advisor was imminent. At that time, the recommendation was to withhold the adoption of the proposed Council policy to allow for engagement with the Integrity Commissioner. In 2016, the Ethics Advisor conducted a review of the proposed Council policy and provided guidance on the roles of the Integrity Commissioner and the Ethics Advisor. Specifically, should Council adopt this proposed Council policy, the role of the Ethics Advisor will be to provide advice to Members of Council with respect to any questions or concerns regarding compliance with the proposed Council policy. The role of the Integrity Commissioner would be to adjudicate any complaints regarding non-compliance with the Council policy if adopted.
7. **Limits on donations:** Research of publicly available policies demonstrated that one municipality has set a permissible annual limit of \$10,000 in donations (monetary and in-kind) in support of events organized by Members of Council. Given that research of publicly available policies did not result in identifying a consistent and standard approach to donations, the proposed Council policy has been drafted with a limit on donation set at \$5,000 from each individual, corporation, union or organization per event. The limit on donations is intended to apply to money, in-kind donations such as equipment for staging an event or food, or services, where estimation is possible.

Stakeholder Engagement, Research and Communication

The City Clerk's Office conducted research into existing Council policies at the City of Calgary related to Members' of Council ethical conduct as well as publicly available policies in other municipalities. The City Clerk's Office consulted with the City Solicitor and the Ethics Advisor in the development and writing of the proposed Council policy.

Strategic Alignment

The proposed Council policy aligns with Council's priority of a well-run city: "Calgary's government is open, responsive, accountable and transparent, delivering excellent services at a fair price. We work with our government partners to ensure we have the tools we need" (*Action Plan 2015-2018*).

Social, Environmental, Economic (External)

Considering adopting a proposed Council policy on *Fundraising to Benefit a Third Party* is a step in promoting transparency and accountability at the City of Calgary.

Financial Capacity

Current and Future Operating Budget:

There are no current and future operating budget impacts.

Current and Future Capital Budget:

There are no current and future capital budget impacts.

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Risk Assessment

There is no policy or procedure in place to provide guidance to Members of Council with respect to fundraising and acceptance of donations for the benefit of Third Parties. In the absence of a policy, uncertainty exists around managing the donations and surpluses in a consistent and transparent manner. Inconsistent practices may lead to a reputational risk to Members of Council or The City. Adopting the proposed Council policy would assist in mitigating this risk.

REASON(S) FOR RECOMMENDATION(S):

The proposed Council policy addresses the lack of guidance provided to Members of Council with respect to fundraising and administering donations for the benefit of Third Parties. Adopting the proposed Council policy would assist in addressing lack of guidance.

ATTACHMENT(S)

1. Proposed Council policy on *Fundraising to Benefit a Third Party*
2. Proposed amendments to the *Gifts and Benefits Policy for Members of Council*.