
Subject: Councillor Information Request re: Councillor Expense Policy

Report to: Corporate Services Committee

Report date: Wednesday, May 8, 2019

Recommendations

That this report **BE RECEIVED** for information.

Key Facts

- The purpose of this report is to respond to Councillor Ip's information request from the January 9, 2019 Corporate Services Committee meeting regarding the Regional Council Expense Policy.
- The Regional Council Expense Policy C-RC-001, approved by Council in November 2017 and last revised in April 2018, is meant to govern the reimbursement of expenses incurred by Members of Council during activities related to the Regional Business of Niagara Region.
- Andrew Sancton Consulting, as an Independent External Governance Auditor, first reported on the expense policy in his September 30, 2018 Fact Book, and again in his Final Report dated April 5, 2019 presented to the Committee of the Whole on April 11, 2019.
- This report compares the Regional Council Expense Policy, Dr. Sancton's analysis and recommendations, and staff expense policy and financial best practices.

Financial Considerations

There are no direct financial implications to changing the Regional Council Expense Policy; however, if Council were to impose limits that exceed the available budget there would be a corresponding financial impact. The 2019 annual budget for administrative expenses is \$80,300 for the office of the Regional Chair, and \$139,352 for Members of Council.

Analysis

At the January 9, 2019 Corporate Services Committee, Councillor Ip requested *"that staff provide a report respecting recommendations from a financial and accounting perspective regarding potential amendments to the Councillor Expense Policy related to expense approvals, spending limits, permitted expenses and required back up documentation to coincide with the independent external governance auditor's report respecting Councillor expenses."*

Dr. Sancton's and Dr. Cobban's Final Report COTW-C 04-2019 was brought forward at the April 11, 2019 Committee of the Whole meeting. Staff has completed a comparison of the independent external governance auditor's recommendations, the current Regional Council Expense Policy C-RC-001 (Appendix 1), and staff's interpretation of best practices regarding processing and approving business-related expenses.

Expense approvals

The independent auditor's final report made no recommendations regarding overall approval of Councillor expenses. Staff noted in our review that the policy is not clear on who is ultimately responsible for executing approval. Under Roles and Responsibilities, Members of Council, item 5.1.c states that Councillors "sign-off on all expenses submitted to or paid by Niagara Region". Regional Administrative Staff responsibility 5.2.d says staff "advise Members if any submitted or proposed expenditure is an ineligible expense or a breach" of the Councillor expense policy.

The Region uses PeopleSoft Financials (PSF) to process all employee travel and expense reports, including for Councillors, with an electronic workflow method of approval. Presently, Council expense reports are keyed into PSF by Region administrative staff and Councillors are not currently required to sign-off or review those expenses after receipts are submitted, therefore no evidence of item 5.1.c electronically exists. The Regional Clerk is assigned the authority in PSF to electronically approve Councillor expenses, and the CAO electronically approves the Regional Chair's expenses. Specific language regarding who owns authorization of the eligibility of an expense, and, by extension, the electronic approval responsibility for Council expenses, should be included in the policy for clear accountability.

In comparison, Region employee process is established based on best practice in accounting which suggests that an individual should not approve their own expenses, and based on our corporate structure, expenses should go to an approver. Employees are required to either key their own expenses into PSF, or, for those who have an administrative staff key expenses on their behalf, to regularly review their department operating statements for errors or omissions. Regardless of who keys the submission, all expenses are sent for electronic approval to the employee's manager. The employee is responsible for adhering to the policy and the manager is responsible for ensuring consistent application of the policy and authorizing the expense. (Please note, the employee expense policy is currently under review with updates expected to several sections in 2019; it was last revised in 2005.)

In addition, there seems to be ambiguity in the policy language regarding instances where staff is unable to confirm that the expense is eligible for reimbursement. The responsibilities for Audit Committee item 5.3 include to "a) Review any expenditures submitted by Members but not processed by Regional Administrative Staff as per this

policy; and b) Provide recommendation on reimbursement to Council who will make the final decision.”

In staff’s opinion, the policy should specify that expenses should only be directed to Audit Committee for approval when a reimbursement request is submitted that falls within a grey area of allowable expenses based on administrative staff’s review. This aligns with the independent auditor’s recommendation “that staff be required to forward any expense claims that do not clearly conform to the expense policy to the Audit Committee.” As currently written, it could be interpreted that Audit Committee, and ultimately Council, has the ability to override and authorize expenses deemed ineligible within the policy.

Staff recommends the policy should state that approval is delegated to the Regional Clerk for Councillors and to the CAO for the Regional Chair, with decisions regarding ambiguous expense eligibility to Audit Committee, as per the current operating model.

Spending limits

Dr. Sancton’s report recommends “That councillors may attend up to 3 conferences per year of two or more days in duration requiring overnight accommodations. Conferences must be related to their duties as a Regional Councillor, and they must register as a Regional Councillor (i.e., not as a Mayor). Conferences must be located within continental North American. No more than 4 council members may attend any one particular conference. Exceptions to these stipulations require approval of Council.”

We anticipate that will be difficult to administer such limits within grey areas, i.e. if the conference is two or more days, how to define the requirement of overnight accommodations, where then the maximum does not apply, despite what may be high registration and travel costs.

Also, the intricacy of Dr. Sancton’s suggestion could not be restricted in PeopleSoft Financials since budget checking for an expense category (i.e. registration fees) does not cross-reference against a group of employees. Therefore, the four council member maximum would require a manual verification process and be subject to error due to the timing of expense submissions (staff may not know who has registered until Councillors submit receipts one or more months after the fact). To mitigate this, a centralized registration or pre-approval process would be required so staff could ensure the maximum number of councillors is not exceeded, thereby adding additional processing complexity.

Administrative burden aside, from 2016 to 2018, an average of 14 Members of Council (including some mayors) were reimbursed for attendance at AMO’s annual conference each year, with an average of 12 (also including some mayors) reimbursed for each annual FCM conference over the same period. There were very few paid registrations

by Councillors at any conference outside of these two. As such, Dr. Sancton's recommendation would require a significant shift to Regional Council's usual practices. Staff also observed that in spite of having this number of Councillors attending AMO and FCM, we have not exceeded the Members of Council administrative budget over the same period (excluding one unusual legal expense).

Dr. Sancton discussed in the Final Report that he was not opposed to creating an overall budget limit for individual councillor expenses, but expressed concern regarding the equality of applying the same limits when each councillor is subject to differing population and geographic influences. In the Fact Book, he identified several comparable municipalities (Peel, Durham, and Waterloo) that applied equal limits on either overall spending or certain expense categories. In the spirit of transparency and ability to ensure consistent application of the policy, staff believe that if a spending limit per Councillor is to be considered it should be for an overall annual limit. For example, the 2019 administrative expense budget for all Members of Council is \$139,352 (includes registration fees; office, printing, and postage; advertising and promotion; travel and meals; and telephone and communication expenses). This budget could be split between all 31 Councillors so each has an annual budget of \$4,495, to be used for any conference, travel, and other expenses as a Councillor deems appropriate to serve their constituents (within expense policy guidelines) in furtherance of Regional business. The Regional Chair would be subject to different limits. Such limits could be managed electronically within the PeopleSoft Financials expense process.

In reviewing attendance at the AMO and FCM conferences, an average of five mayors were reimbursed for each annually from 2016 to 2018. Dr. Sancton's recommendation is that a mayor's attendance should instead be reimbursed at the local area municipality level and this would require amendment to the current policy.

It is important to note that in prior years when one-third of Councillor remuneration was deemed to be expenses and therefore exempt from taxation, some members expensed little to no mileage or meals. With the federal government's elimination of the tax-exempt Municipal officers' expense allowance as of January 1, 2019, we may find an increase in expense submissions. As such, the current 2019 administrative expense budget may not stretch as far as in the past. Staff will monitor expenses throughout 2019 to determine the ultimate impact.

On the whole, with respect to spending limits, staff are recommending an overall annual spending limit per Councillor, and updating the policy language to exclude reimbursement to mayors for the AMO and FCM conferences.

Permitted expenses

Staff believe that much of the language around permitted expenses is reasonable within usual prudent financial policy. The following areas are exceptions and may require clarification.

Annual newsletter

The final report from Dr. Sancton included a recommendation “That councillors be reimbursed for the expenses of producing and distributing 1 newsletter annually.” In the interest of determining an expense’s eligibility, staff would prefer to have as little ambiguity and as much ease of administration as possible. As such, a limit on newsletters or promotional materials could be accommodated within the spending limits discussed above. In addition, the policy does not currently specify newsletters as an allowable expense; instead item 4.7.d refers to “Promotional material related to Regional Business” and will require updating.

Staff also recommends specifying newsletters as allowable and stating a limit to the annual allowance during an election year to add clarity over and above the existing reference in section 4.10 to the *Use of Municipal Resources During an Election Campaign Period* policy. For example, Peel Region’s Councillor expense policy specifies that in an election year, “no newsletter shall be distributed or any expenses reimbursed relating to newsletters from May 1 to the end of the Council term”.

Legal expenses

In Dr. Sancton’s Fact Book, he questioned if legal costs relating to a Code of Conduct complaint should be considered “routine” enough to be included in the expense policy. The Final Report recommended “That legal expenses arising from or in any way related to complaints under the Code of Conduct be deemed ineligible expenses.”

In staff’s experience, “routine” isn’t a guiding accounting principle of expense reimbursement; instead “business purpose” and correlation to the requirements of an employee’s role would normally be considered. However, staff agrees with Dr. Sancton’s recommendation to deem legal fees related to Code of Conduct complaints as ineligible expenses. This was previously recommended by staff when the expense policy was last updated in 2018. Eligibility of other legal costs should continue to be governed by the Region’s *Legal Indemnification* policy, as currently referenced in expense policy section 4.9.c.

Mileage

The Councillor expense policy states in item 4.3.d that “the mileage rate applied will be in accordance with Canada Revenue Agency (CRA) guidance”, but does not specify a

rate. For clarity, the Region pays mileage for staff and Councillors at one year behind the current year's CRA rate (i.e. the 2019 Region rate is the 2018 CRA rate), as per direction given by Corporate Services Committee in 2013. The policy item should be updated to reflect as such.

In addition, under the Region's staff expense policy, an employee's travel from their home to their "normal work location" would not be an eligible expense, as that would be deemed a taxable benefit by CRA. It should be noted that Councillors are not employees of the Region. At this time, Councillor mileage to Regional headquarters is reimbursed, and Dr. Sancton's Final Report suggested that mileage for attending council meetings should continue to be an allowable expense claim. Therefore, the Council expense policy should clearly deem that Regional headquarters is not a Councillors' "normal work location" and, accordingly, mileage for travelling to committee and council meetings would be eligible for reimbursement.

Staff note that a Regional Chair would be excluded from this definition, given that his or her office is located at Regional headquarters. We also found that making this change in accordance with Dr. Sancton's recommendation would differ than some other upper tier municipality council expense policies. For example, in their policy, Peel Region specifically defines their headquarters address as the "normal work location" and states that "travel from home to a Member of Council's normal workplace and back is considered by the Canada Revenue Agency as personal use of the vehicle and is not subject to reimbursement".

The mileage calculation section also does not specify what constitutes an allowable trip; therefore, staff recommends adding language regarding what is permitted as "Regional business". In the Final Report, Dr. Sancton recommends "That councillors be reimbursed for mileage for attending official regional functions only". The independent auditor also comments that "travel costs related to other activities that, while they may relate to their duties and responsibilities as regional councillors, do not constitute official regional business (e.g., attending community events, meeting with constituents)" and should therefore not be reimbursed.

Consequently, along with recommending that the policy states that the mileage rate will be paid at one year behind the current year's CRA rate and defining "normal work location", Staff recommend defining "Regional business" within the expense policy as "attendance at official Regional functions". Staff acknowledge that this definition will be subject to interpretation unless Council wishes to define it more explicitly.

Per Diems

In reviewing the Council expense policy, staff also noted that the Councillors' applicable per diem rate is \$85 (item 4.5.c). For comparison, Peel Region, Waterloo Region, Durham Region, and Hamilton all have a Council per diem rate of \$75.

The policy also does not index the per diem rate for Councillors, nor does the Region's employee expense policy. (The rate is currently set at \$65 for staff and is under review as part of the employee expense policy update planned for this year).

Staff recommend updating the per diem rate to \$75 to be in line with comparable municipalities, and indexing the rate to inflation once per council term.

Required backup documentation

Staff found several gaps in the policy and procedure with respect to required backup documentation. For example, CRA guidelines require that when meals are reimbursed (as under the expense policy Meals/Per Diem sections 4.5.f and 4.5.g) the names of those attending the meal and business reason for expense must be specified with the receipt. This requirement is not specified in the existing policy. Adding such language would bring the Region in line with clauses in similar policies at several other municipalities including Peel Region, City of Toronto, and City of Ottawa.

Adding this requirement will also assist staff in properly administering the policy. When receipts are submitted without proper reference, staff may not be able to identify if a receipt was an allowable meal, or if it should have been included as part of a per diem (which could result in a Councillor being over-reimbursed). Councillors also do not always log information regarding the nature of the business on the receipt, so staff is unable to verify it was for Council-related ("Regional") business.

The policy does not currently require Councillors to provide documentation to support a mileage claim (see item 4.1). The policy should state that a Google Map printout (or equivalent) be provided as backup, similar to the requirements for staff under the employee expense policy.

We also recommend reviewing the expense submission process to ensure consistent application of the policy by Councillors (for example, by requiring a standard submission form that includes Councillor sign-off, or even granting limited PeopleSoft Financials access so Councillors can view and submit their own expenses electronically).

Overall, to improve requirements for documentation, staff recommend updating the policy language to require noting the names of attendees and business reason for the expense on meal receipts, to record brief details of the nature of the Regional business on any receipt, to provide a Google Map printout (or equivalent) as backup to a mileage claim, and to implement a new submission process for Councillor expenses.

Other - Timeliness

In addition to the four categories requested by Councillor Ip, staff are highlighting one other item for review. We noted that within the current Councillor expense policy there

exists conflicting instructions for Councillors regarding the timeliness of submission. Under item 4.11 Timelines, Councillors are required to submit expense reports within 30 days after the end of each quarter; however, item 5.1.b under Roles and Responsibilities for Members of Council states to “submit expenses on a regular monthly timeline.” Not only would standard business and accounting practices suggest that submitting at least once a month is preferable, but by submitting 30 days after quarter end, such expenses may not comply with the Region’s quarterly financial reporting timelines.

Adding in staff processing time, a Councillor’s expenses, if submitted 30 days after quarter end, would miss the quarterly financial statement deadline and therefore also miss inclusion in the Region’s quarterly Open Data report posted on our website. (Dr. Sancton recommended “That staff publish the councillor expenses quarterly disclosures on the Niagara Regional Council webpage”; however, this is already required and currently occurs accordingly under Council expense policy item 4.11.b). Those expenses would then not be included on any reports until the subsequent quarter end (potentially up to six months after the expense was actually incurred).

Staff recommend updating the policy language to require Councillors submit expenses at least once per month to align with best practices and to meet financial reporting deadlines.

Alternatives Reviewed

Instead of accepting this report for information only, Council could choose to accept some or all of the following staff recommendations regarding updating language and processes within the Council expense policy:

1. That section 5.2 be updated to define that approval of Councillor expenses shall be delegated to the Regional Clerk for Councillors and to the CAO for the Regional Chair;
2. That section 5.3.b regarding Audit Committee responsibilities be updated to state that when staff are unable to make determinations regarding eligibility, expenses shall be forwarded for approval by the Audit Committee;
3. That a clause be added to section 4 stating that allowable expenses shall be limited to an overall annual amount for each Councillor and Regional Chair, to be set as part of the annual budgeting process for the Region;
4. That section 4.8 regarding Ineligible Expenses be updated to include reimbursement to mayors for the AMO and FCM conferences;

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5. That the list of Eligible Expenses item 4.7.d is updated to include newsletters, specifically: “promotional material related to Regional Business, including newsletters”;
 6. That language is added under Election Year Restrictions item 4.10 to clarify that “In an election year, no newsletters or promotional material shall be distributed or any expenses reimbursed relating to newsletters or promotional material from May 1 to the end of the Council term”;
 7. That Legal Expenses item 4.9.a regarding Code of Conduct complaints is updated to state “Legal costs arising from or in any way related to complaints under the Code of Conduct are Ineligible Expenses”;
 8. That mileage section 4.3.d.ii is updated to specify that the rate will be paid at one year behind the current year’s CRA rate;
 9. That mileage section 4.3.d.i is updated to define an eligible trip as travel for “Regional business”, which is subsequently defined as “attendance at official Regional functions”, as well as to define that, with the exception of Regional Chair, a Councillor’s “normal work location” is not Regional headquarters;
 10. That the per diem rate in 4.5.c is amended to \$75 and language added to increase the per diem rate based on the Consumer Price Index once per term of council;
 11. That an item is added to the Meals/Per Diem section 4.5 to require that the names of all attendees and Regional business reason for the meeting must be listed on a meal receipt when claiming an actual meal expenditure instead of a per diem;
 12. That the supporting documentation section 4.1 is updated to require that any expense claim includes a brief description of the nature of the Regional business;
 13. That the supporting documentation section 4.1 is updated to require a Google Map printout (or equivalent) as backup to a mileage expense;
 14. That the Timelines item 4.11.a is revised to require Councillors to submit expenses at least once every month; and
 15. That staff be directed to formalize the expense submission process for Councillors, either with an updated Excel or PDF form (or equivalent), or with secure access to PeopleSoft Financials.

Relationship to Council Strategic Priorities

Though the current strategic priorities are under review, this report would tie to Advancing Organizational Excellence by improving expense transparency and streamlining processes.

Other Pertinent Reports

CL-C 64-2018 Niagara Region Independent External Governance Auditor Fact Book
COTW-C 04-2019 Niagara Region Independent External Governance Auditor Final Report

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Appendices

Appendix 1 C-RC-001 Regional Council Expense Policy