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| <b>Council Orientation Manual</b> | Community Management Series |                |
|                                   | Effective Date              | November 2002  |
|                                   | Revision Date               | December 2022  |
|                                   | Page Number                 | <b>1 of 22</b> |

## Introduction

This manual will prepare community council members for their role and responsibilities and provides information that will help them meet the municipal needs of their community. This manual is located on the Manitoba government website at: <https://www.gov.mb.ca/inr/resources/community-docs.html>.

Council orientations are conducted following regular elections and where required after a by-election. These orientations provide an overview of what an elected official will encounter during their term of office and a basic understanding of the role and responsibilities of council and the administration, public participation in decision making, council’s role in financial management (including understanding and interpreting financial statements), conflict of interest, respectful workplaces and fraud awareness. The council orientation presentation developed by the department can be used for this purpose. The department municipal development consultants are also available to assist with delivering the council orientation.

Community council members are strongly encouraged to participate in the online code of conduct training to further gain a better understanding of the role and responsibilities of an elected official. This training was rolled out by the Manitoba government on November 1, 2020 and is mandatory training for an elected official of a Manitoba municipality. Your community administrative officer (CAO) can provide information on how to access this training at <https://manitobamunicipallearning.ca/> and any other applicable training available to council, such as respectful workplace training.

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## **Module 1: Governance**

### **Distribution of Legislative Powers in Canada**

The Canadian Constitution assigns sovereign powers (the power to make laws) to the federal government and provincial governments. The provincial governments are assigned these powers in the areas of health and education while the federal government is assigned domain over foreign affairs and the military. The federal government has geographical jurisdiction (areas where the constitution has granted authority) over all of Canada, whereas the provincial governments only have jurisdiction within their provincial boundaries. The federal government has been assigned all residual powers (those not specifically assigned to any government). This gives them powers that have been assigned to the provincial governments in areas of Canada that are not within a provincial boundary. All laws that each government makes within their jurisdiction are valid and enforceable by the applicable government.

Local government authorities which include Northern Affairs (NA) communities, rural and urban municipalities (cities), education and health authorities are creations of the Manitoba government. This means they have **no** sovereign powers. The only powers they have are those delegated to the local government authority by the Manitoba government. The Manitoba government may take away these powers whenever they choose. These powers are delegated by an act of the legislature, which delegates powers to a local government authority directly; or as in a majority of the cases, indirectly through a minister of the Manitoba government. In the case of NA communities, their power has been delegated through the minister of Manitoba Indigenous Reconciliation and Northern Relations (IRNR).

### **Community Council**

The minister of IRNR has the municipal authority to act on behalf of unincorporated communities pursuant to subsection 173(1) of The Northern Affairs Act (the act). The minister is advised by the locally elected community council. In practice, councils may actually manage many of their own affairs, including adopting the annual budget and the authorization of certain expenditures. The minister is still ultimately responsible for the actions of communities that are not incorporated.

The act provides for the incorporation of communities and the delegation of local government powers and responsibilities to duly elected community councils. This allows incorporated councils to achieve a higher level of independence in the management of their local affairs. The corporate powers an incorporated community may exercise for community purposes are outlined under sections 47 to 56 of the act.

A community council consists of a group of representatives of the community, elected by the residents of the community to meet the municipal needs of that community. Council is directly responsible to provide municipal services and programs to local residents within its boundaries. Council decisions are made by the majority of council by a resolution or bylaw. Members of council are expected to take an active role in making decisions that are in the best interests of the community and operating in an open and transparent manner.

The number of members on council and the maximum honorarium payable to a mayor and councillor is set by regulation and cannot be exceeded by council. Under the act per section 78, regular terms for a council member are for four years and start 14 days after the day of the election and end 14 days after the next regular election held to fill the position.

### **Purpose of a Community**

- provide good government
- provide services and facilities that council feels are necessary and desirable for all or part of the community
- develop and maintain a safe and viable community
- foster economic, social and environmental well being
- provide wise stewardship of public assets

### **Basic Principles of Elected Office**

In order to be successful as an elected official, there are 10 basic principles that need to be understood:

1. The right of citizens to expect their elected officials to reflect and represent their views on the issues – democratic representation.
2. Those elected are accountable for their actions to those by whom they were elected – principle of accountability.
3. The role of an elected official is unique. It is distinct and different from any other role. It needs to be learned and consciously applied.
4. Communicating out to the public is as important as receiving input from the public and both should be valued.
5. The will of the majority (as perceived by council) must be the most significant consideration in any decision making.
6. Council and the administration should serve as a team, each with distinct roles, yet working together in the interests of the public.
7. Council deals with the organization through one employee – the CAO. Any other course of action in attempting to guide the work of the administration does not fair well.
8. Council members need to respect their colleagues on council. Respect for the opinions and votes of these colleagues is essential to the functioning of council. Respect for each other is the hallmark of a mature council.
9. Ethical behaviour, involving honesty, fairness, integrity and understanding.
10. Council members should develop an expertise in leadership and governing – not in public works or finance.

### **Authority to Govern**

Some of the main legislative documents council must govern under are listed below and are available at the council office or on the Manitoba government website at [www.manitoba.ca](http://www.manitoba.ca) under Manitoba Laws which contain all acts and regulations. Regulations have the same authority as an act of the legislature.

It is important to note the meaning of the wording shall and may as used in legislation in relation to how a council must act.

- Shall – **obligates** council to act. This is a non-negotiable obligation and council must do it.
- May – **empowers** council to act.
- The Northern Affairs Act c. N100 is the most important piece of legislation for community councils. It is the legal authority under which councils exist and function. Community councils operate under the legislation contained in this act and the regulations associated with it which include:
  - Community Councils Election Regulation 71/2009 - governs the procedures and process for holding community elections.
  - Status and Boundaries – Unincorporated Communities and Settlements Regulation 67/2009 - describes the legal boundary and status of communities and settlements.
  - Council Compensation Regulation 252/2006 - states the maximum payable to a council member for honorariums and per diems.
  - Procedures and Delegation of Bylaw Making Powers (Communities that are not incorporated) Regulation 253/2006 - delegates the passing of specified bylaws to unincorporated community councils.
  - Conflict of Interest Regulation 254/2006 - sets out the rules required to be followed by a council member for conflict of interest.
  - Community Records Retention Regulation 68/2009 - sets the minimum retention period for which certain community records must be kept and then destroyed.

Other legislation which councils must govern under include: The Municipal Council Conflict of Interest Act, Freedom of Information and Protection of Privacy Act (FIPPA) and Criminal Code (Canada).

Further legislation councils must comply with and the regulations associated with them include:

- The Planning Act – Northern Manitoba Planning By-laws Regulation
- The Fires Prevention and Emergency Response Act – Fire Safety Inspections (2014) Regulation
- The Emergency Measures Act – Local Authorities Emergency Planning and Preparedness Regulation
- The Environment Act – Waste Management Facilities Regulation, Water and Wastewater Facility Operators Regulation
- The Drinking Water Safety Act – Drinking Water Safety Regulation
- The Workplace Safety and Health Act – Workplace Safety and Health Regulation
- The Employment Standards Code

For example, some of the common compliance issues associated with drinking water legislation by a community include failure to report a drinking water concern to the Office of Drinking Water (ODW) or failure to submit a bacteria sample to a lab for testing.

## **Governance During a State of Local Emergency**

Only the minister of IRNR may declare a state of local emergency (SOLE) on behalf of an unincorporated community, otherwise the mayor of an incorporated community may do so. Under The Emergency Measures Act, an emergency is defined as a present or imminent situation or condition that requires prompt action to prevent or limit: the loss of life; harm or damage to the safety, health or welfare of people; or damage to property or the environment. The type of event that may give rise to a SOLE includes, ex. forest fire within 10 km of the community, overland flooding, road wash out with no other access to the community.

The first step in an emergency is for the community to contact the department. The department maintains a toll free emergency line and email for this purpose. The department will determine if a SOLE is required based on the information provided by the community. If it is determined a SOLE is required, council will need to meet to pass a council resolution requesting a SOLE and identifying the powers to be used. The prescribed form is included in the community emergency plan. A SOLE stays in effect for at least 30 days unless a shorter period is stated in the declaration. This is pursuant to subsection 11(1) of The Emergency Measures Act. This act under subsection 12(1) outlines the powers a local authority must advise they will need to enact during a SOLE in order to resolve the emergency or disaster and the response to it and its effect on the community.

Once a SOLE has been declared, council must ensure it is communicated by the most appropriate means to the residents of the affected area. The department will work with council to enact the community emergency plan and support the community. The community emergency plan prepares the community to respond to and recover from emergencies and disasters. The department will assist with the response effort and communicate with the community emergency coordinator who in turn reports to and works with council during the emergency. Each community is required to appoint an emergency coordinator.

Even when a SOLE has been declared, there is no guarantee for funding. Regular communication with the department on financial decisions is encouraged early on as not all expenditures will be reimbursable. Council must track any expenditures made to ensure a proper paper trail exists. Council is ultimately responsible for its financial decisions during an emergency and will be responsible for any expenses made that are not reimbursable through a disaster financial assistance (DFA) program. For example, renting equipment is typically a cost recoverable expense under a DFA program, whereas purchasing a piece of equipment typically is not.

## **Community Documents**

These documents are produced by the department to assist council and administrative staff to manage municipal services and interpretation of various legislation under which council operates. They can be accessed on the Manitoba government website and include the following:

- *Northern Affairs Manual of Policies and Procedures (NAMPP)* - outlines the policies and procedures under which councils are expected to operate.

- *Financial Management Guide* - provides guidance to the CAO on financial and administrative matters and department reporting requirements.
- *Community Council Safety and Health Manual* - provides guidance to council on their role and responsibilities when it comes to complying with workplace safety and health legislation.
- *Community Development Corporation Manual for Northern Affairs Communities* - provides information to the community on how to start and operate a community development corporation in Manitoba.
- *Election Official's Handbook* - provides guidance and explanation of the community election process to the appointed community election officials.
- *Northern Affairs Community Management Series Manual* contains material on:
  - *Running for Council* - provides information to residents interested in running for a position on council on local governance, the election process and qualifications/disqualifications/items that do not disqualify candidates.
  - *Council Orientation Manual* - prepares community council members on their role and responsibilities.
  - *Employee Management Guide* - provides guidance on personnel matters with respect to the hiring, supervision and discipline of staff.
  - *Managing Your Own Affairs Manual* - provides information on the community incorporation process.
  - *Community Management Plan Manual* - provides a framework and guidance for adopting the annual community management plan (CMP).
  - *Land Use Planning Guide* - provides information on community planning for land use.
  - *Subdivision Process Guide* - provides information on the planning processes and approvals required for subdivisions.
  - *Capital Planning and Delivery Guide* - provides guidance for the planning and delivery of capital infrastructure, and preparation of capital plans.



## **Module 2: Role and Responsibilities**

### **Council Members**

As a council member, it is important you are aware of the responsibilities in your role, pursuant to sections 102 and 103 of the act which include:

- promote good government
- represent the public and act in the best interest of the community
- know council limitations and department policies
- attend all council meetings and council committee meetings (and any other meetings of bodies appointed to) and participate in council discussions and decisions
- make objective and unbiased decisions and accept responsibility for council decisions
- be aware of financial limitations in decision making and maintain financial integrity of the community
- ensure administrative practices and procedures are in place to implement the decisions of council and ensure staff are adequately trained
- protect community assets, including protection from theft, misuse, neglect and fraud
- adhere to conflict of interest rules as outlined in legislation
- keep matters confidential until they are discussed at a meeting open to the public
- seek and distribute information to community residents
- adhere to workplace safety and health requirements
- participate in developing and evaluating the policies, programs and services of the community
- perform any other duty or function imposed by the council or an act

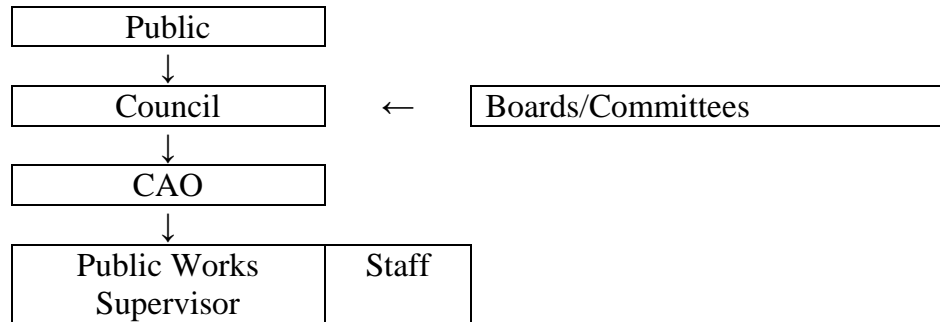
The mayor has the same duties as above and the following other additional duties:

- council representative
- chair council meetings
- ensure all council decisions are legal
- guard against conflict of interest
- ability to call special meetings
- responsible as head under FIPPA legislation

Council establishes the community's organizational structure to be followed when conducting council business which includes establishing council committees and their role and membership and how the deputy mayor is appointed. This is done by resolution if unincorporated or by bylaw if incorporated.

Council must adopt rules of procedure to govern itself which includes conduct at council meetings and public participation, timing/notice of regular meetings and special meetings. This is done by resolution if unincorporated or by bylaw if incorporated. The rules of procedure a council adopts should be handy for reference at every council meeting and all council members must be familiar with them. A council must conduct itself in accordance with the rules of procedure it adopts.

This is one model of establishing an organizational structure, however others exist and each community chooses their own.



Ultimately, council is responsible to the public and must have a CAO in place. The act explicitly states a council member can not be an employee, neither can a council member act like an employee doing a job a community employee would normally be responsible for doing. It is not a council member’s job to get involved with the day to day operations, that is left to the staff who are trained to perform those tasks. When a community is having trouble in this area, the cause is usually attributable to the organizational structure.

**Community Administrative Officer**

The CAO, pursuant to section 134 of the act, acts as an information resource and principal advisor to council on legislation, regulations, policies, procedures and finances. Council is the decision-maker and is ultimately responsible for all its decisions. The CAO is responsible for implementing council decisions. It is not the CAOs role to attempt to discipline council members, council governs themselves and are accountable to the public. Open, trusting and professional interaction between council and the CAO is vital to the smooth operation of the community. Responsibilities and administrative duties include:

- attend all council meetings
- prepare minutes of all regular and special meetings
- present financial statements to council on a monthly basis
- manage revenues and ensure accounts for authorized expenditures are paid
- maintain council files
- respond to correspondence as directed by council
- provide financial records for council inspection and audit purposes
- advise council on legislative and operational matters
- advise council on programs, policies and procedures
- participate in training programs
- maintain records necessary for conflict of interest per the regulation
- manage day to day operations
- manage and supervise employees
- report to council on monies spent or invested contrary to a resolution or bylaw
- carry out the decisions made by council

- report to the minister of IRNR if council does not address monies spent or invested contrary to a resolution or bylaw where previously reported to council

Communities can have their own CAO or can share a CAO with a neighboring community. Sharing a CAO is often an effective option for smaller communities that do not have the resources to attract and retain a qualified CAO or do not require a full-time CAO.

### **Other Council Employees**

The CAO will provide council an overview of the duties of the other council employees and appointed/volunteer positions that exist in the community, ex. public works staff (including water and wastewater operators), fire program (volunteer fire chief and deputy fire chief, volunteer firefighters, fire safety officer), public safety (community safety officer, emergency coordinator), recreation program (recreation director), designated workplace safety and health representatives (council member rep, worker rep), election officials (senior election official (SEO) and assistant SEO), community development (community development officer, community development corporation).

The CAO will also provide an overview of the municipal services provided to community residents. For example, water and wastewater operators (including backup operators) must be properly trained and certified. These operators help to ensure the health and safety of all community residents and work to protect the land and environment. Water operators help keep clean water flowing to homes and avoid boil water advisories, where possible. Council and the CAO need to support them in quickly addressing any safety concerns or equipment failures and getting training they need. Trained backup operators are needed to ensure water and wastewater operations continue smoothly in the event the primary operator is sick or away on training. Council and the CAO need to ensure appropriate routine and emergency reporting to regulatory authorities, such as ODW and regular bacteria sample submissions.

### **Department Staff**

The department supports NA communities through the Northern Affairs Branch (NAB) and Finance and Administration Branch (FAB). Contact information for department staff located in these two branches is contained in the Community Elected Officials and Employee Listing the department maintains and distributes quarterly to communities. The department's annual report provides more detail on the activities, programs and supports provided to NA communities through NAB and FAB.

### **Northern Affairs Branch**

This branch consists of the executive director's office (Winnipeg, Thompson) and the regional offices (Northern: Thompson, The Pas and North Central: Dauphin, Winnipeg).

#### Executive Director's Office

This office works closely with the regional offices to support NA communities comprised of the executive director, administrative assistant, regional administrator, manager of municipal support services, senior analysts (including principal electoral officer) and a senior engineer.

## Regional Offices

Regional office staff include a regional director, administrative assistant and consultants specialized in the following program areas: municipal administration (finance, governance, leadership), technical and public works (infrastructure, roads, equipment), environmental services (water, wastewater, household solid waste), workplace safety and health (respectful and safe workplaces), protective services (fire, emergencies, community safety), community and resource development (land use, economic development). Consultative services available to communities from the regional offices are outlined in summary form as follows:

- **Municipal Development Consultant** – facilitates increased financial management and administrative capacity through council and administrative staff development. Provides ongoing support to council and the CAO. Provides information on available resources and training and assists with interpretation of various legislation.
- **Technical and Public Works Consultant** – assists communities and public works staff to operate and maintain various public infrastructure. Assists and leads in capital project planning and delivery, including tendering and contracts. Helps community establish a preventative maintenance program and assists with trouble shooting. Conducts an annual infrastructure audit and works with council to implement a deficiency plan.
- **Environmental Services Consultant** – provides technical advice and guidance to communities in relation to safe drinking water, effective treatment of wastewater and household solid waste (including recycling) for water treatment plants and distribution systems, wastewater treatment plants and collection systems, and solid waste disposal grounds. Assists communities to interpret and comply with the various legislation and supports community operator certifications.
- **Workplace Safety and Health Consultant** – assists communities interpret and comply with workplace safety and health legislation. Conducts inspections twice a year to ensure compliance. Arranges required training to assist communities and supports council with respectful workplace responsibilities and resolving complaints through the process outlined in the community respectful workplace policy.
- **Protective Services Consultant** – works with communities to help improve their capacity to respond to public safety concerns such as fire, personal safety and community emergency situations (including planning and preparedness).
- **Community and Resource Development Consultant** – promotes, assists and facilitates the process for communities to improve social and economic conditions and assists with land use planning and is the main contact on all land related matters.

## **Finance and Administration Branch**

This branch works closely with NAB to support NA communities through the administration of the Northern Affairs Fund operations, taxation, financial audits and Municipal Employees Benefits Program (MEBP).

## **Module 3: Administration**

### **Meeting Management**

Council determines the date and time of regular meetings in their rules of procedure (or bylaw if incorporated). The mayor may call special meetings per section 128 of the act. If you are unable to attend a meeting, it is a courtesy to the other council members to notify the CAO.

Where a council member is absent for the full duration of three consecutive regular council meetings without prior approval by council, granted by a resolution passed at any of the three meetings, a prior meeting or the next meeting following the third absence, the member is deemed to have resigned per subsection 86(2) of the act. If this occurs, council would pass a resolution indicating the dates of the three meetings missed and whether to direct the SEO to proceed with a by-election to fill the vacant seat or decide not to hold a by-election.

Council meetings are open to the public, however the public cannot take part in any of the discussions or decisions. A community resident wishing to address council can contact the CAO to be added to the agenda. Discussions regarding personnel issues are held in-camera or closed session. The decision(s), if any, are made at the reconvened meeting.

Members of council cannot use their position for direct personal gain and must excuse themselves from the meeting if there may be a conflict of interest. You must disclose your interest each and every time the matter in which you have an interest is brought before council. Your disclosure of an interest in one meeting does not carry over to the other meetings or last for your full term on council. If you are absent from a council meeting at which a matter you have an interest in is discussed, you must disclose your interest at the next council meeting.

Regular council meeting agenda items will consist of the following and include itemized lists where appropriate: meeting called to order (start time), approval of agenda, reading and approval of minutes of last meeting (date), delegation or guests (list), reading and approval of current financial statements (date - including accounts receivable/accounts payable listings and bank reconciliation), approval of bills (recurring and new and total amount for each), correspondence (list), reports from committees/program areas (list), unfinished business (list), new business (list) and adjournment (end time).

#### **Duties of Community Administrative Officer:**

- prepare and distribute council meeting agendas and supporting documents in a timely manner
- prepare and present monthly financial statements (includes accounts receivables, accounts payables and bank reconciliation) that provide a snapshot of the financial position of the community
- request approval to pay accounts
- present correspondence

- provide well-researched and easy to understand reports that contain options to address issues, and a recommended course of action for council's consideration
- record minutes and resolutions

Re-occurring invoices are approved by blanket resolution at the start of the new fiscal year. The CAO presents these paid invoices for council ratification. Non re-occurring bills are listed by the CAO and presented for approval. The CAO must ensure the minutes of all regular and special meetings of council are recorded, contain all decisions made and distributed in a timely way. Minutes are the legal documentation of council's affairs.

### **Duties of Council Members:**

- attend all council meetings and other bodies to which the member is appointed
- participate in discussions
- represent concerns and views of the community and the opinions of others
- conduct themselves in an orderly manner and comply with the council member's code of conduct
- keep in confidence a matter discussed at a meeting closed to the public until the matter is discussed at a council meeting conducted in public
- consider the well-being and interests of the community as a whole

The mayor has the same duties as above and the following other additional duties:

- preside when in attendance at a meeting, unless otherwise provided
- ensure there is a quorum
- conduct an orderly meeting
- ensure everyone has a chance to voice their opinion
- ensure decisions are made by resolution and carried by majority vote
- provide leadership and direction to the council

As chair of the meeting, the mayor is responsible to ensure the speakers remain on topic and to control lengthy discussions. The chair should encourage all council members to participate in the discussions.

### **Decision Making**

Councils are required to act through council decisions. Council makes decisions by passing resolutions and bylaws approved by a majority vote of council members at a meeting open to the public. No decision is legal without council majority. Individual council members do not have legislated authority. Every member of council present at a meeting must vote on a motion put forward, unless excused from voting by a majority of the other members present, is prohibited from voting by a provision of the act or a regulation or has a conflict of interest, in respect of the motion. If there is a tie vote, the vote is defeated.

Resolutions are a formal expression of council's decisions. Resolutions usually deal with routine or administrative matters, such as approving monthly financial statements or accounts for payment. A resolution requires a mover, seconder and a vote.

A bylaw is necessary when legislation specifies a bylaw is required. Generally, bylaws are needed for matters that have a long-term or broad impact on the public. Bylaws are passed by giving three separate readings at a minimum of two regular council meetings, along with any other stipulations required by legislation, ex. holding a public meeting.

Unincorporated communities must file a copy of each resolution and bylaw passed by council with the minister. Where the minister disallows in whole or part of a resolution or bylaw, written notice will be provided to council and the part disallowed ceases to have effect and is deemed to be repealed. A resolution takes effect 14 days and a bylaw 30 days after the day it is filed with the minister, unless a later date is specified.

## **Financial Management**

Council has overall accountability for the financial position of the community. Council must ensure the community's finances are responsibly managed, so service and program priorities can continue to be delivered at a reasonable cost. Council achieves this by monitoring the financial position of the community throughout the year and reporting on the community's financial position at the end of the year.

As a council member, you are not expected to be an accountant or an auditor. Your CAO will provide you with the information you need. In addition, *Understanding and Interpreting Financial Statements* provided as an additional resource to this manual will further assist elected officials to become more knowledgeable about the financial affairs of the community and answer the most frequently asked questions about financial statements.

Financial management is making economic and efficient use of limited resources (including financial) and protection of community assets from theft, misuse, neglect and fraud. Financial management involves planning (includes budgeting), implementing and controlling.

## **Planning**

As a council member you must participate in the preparation of the CMP which is required to be adopted annually and submitted to the department by January 31 of each year. This plan must include, but is not limited to:

- an operating budget
- a capital budget
- a five year capital expenditure program
- any other component prescribed by the minister

Other components the department requires the community to include with the CMP are a: staff training plan and CED strategy (required for incorporated communities and those in receipt of CED funds).

Funding to communities is obtained from two sources:

- government grants (conditional and unconditional)
- locally generated revenue

To assist communities in the budgeting process, the department provides a Local Government Services Program (LGSP) funding schedule each year in accordance with the principles of the funding formula. Funding explanations can be found in Policy F1 – Funding Formula Overview of the NAMPP. This funding is approved annually through the Manitoba government’s estimates process. Council must submit a balanced budget (**expenditures must equal revenues**). This is in accordance with subsection 143(2) of the act.

It is important to begin the planning process early – in December. Starting early recognizes the planning process takes time to complete. The CAO will prepare a draft CMP and provide information for council’s review, to support council’s budget discussions.

### **Implementing**

Throughout the year, all decisions are made in relation to the CMP. Any deviations from the plan, ex. change in council priorities, emergencies, requires council to identify and implement changes which will ensure council does not incur a deficit. The CAO will provide explanations of large differences in budgeted expenditures compared to actual expenditures, at that point in time. For example, if training becomes available for a council employee which council feels is important for the employee to attend and the training budget is already spent or planned training will use it up; council must identify cost savings or additional revenue prior to approving the unplanned expenditure. Under section 149 of the act, where a council determines that expenditures are likely to exceed revenues provided for in its budget, the council must immediately advise the minister in writing and may incur a deficiency with the minister’s written approval, which may include any conditions the minister considers necessary or advisable. Under section 150 of the act, where council has excess revenue a council may by resolution expend some or all of it for a purpose not set out in the operating budget, transfer some or all of it to the capital budget or transfer it to a reserve fund.

### **Controlling**

In order to have financial control, council requires current and accurate financial information. The main sources of this information are the community monthly financial statements and if applicable, cash flow projection till year-end. A thorough understanding of these statements is required to make good financial decisions. The CAO provides advice and interpretation to council as required.



## **Module 4: Council Member’s Code of Conduct**

A code of conduct is a written document that helps to ensure members of council share a common basis for acceptable conduct and behaviour and is a public document. A code of conduct is not intended to replace personal ethics and is in addition to existing legislation under which councils govern. This code can be attached to the rules of procedure in place for council and posted in the council office. A code of conduct for council to adopt is provided in the *Financial Management Guide*. A consequence of breaching the code is the member may be subject to censure by council which means to publicly reprimand a member at an open meeting of council.

Responsible conduct of elected officials is not optional; it is essential to good governance. Responsible conduct is grounded in conducting oneself according to principles such as honesty and integrity, and in a way that furthers a local government’s ability to provide good governance to their community, ex. governing in a way that is transparent, ethical, accountable, respectful of the rule of law, collaborative, effective and efficient. A code of conduct is one tool that can be used by a council to promote or further responsible conduct.

The general standards of conduct set out in the code reflect the foundational principles of integrity, respect, accountability, leadership and collaboration. Every code of conduct should be built on these key foundational principles.

### **Developing a Code of Conduct**

Council should consider not just the content, but also how to make it meaningful for members, both as individuals and as a collective decision making body. Councils should consider the following to maximize the effectiveness of their code of conduct:

- *Don’t overlook the importance of the process:* provide opportunities to members to discuss the code, so it can be customized to best meet the needs of the council and individual members. Discussing shared expectations as part of the council orientation process could be a good way of ensuring a code of conduct is adopted in a meaningful way.
- *Make the code of conduct meaningful:* finding ways to integrate the code into the council’s ongoing governance will help to ensure it remains a relevant and efficient living document. Some councils may choose to refer to the code at every meeting, whereas others may have a copy included in every meeting agenda package or framed on the wall in the meeting room.
- *Make sure the code of conduct is consistent with existing laws and policies:* councils may consider a variety of topics in their code as long as they are consistent with those laws and policies that deal with the same topic.
- *Offer ongoing advice, education and support:* this could include general education around the purpose, orientation when new members are elected or regular debriefings following meetings to discuss how effectively the code guided the discussion.
- *Revisit it regularly:* councils should approach their code as a living document to be reviewed and amended often to ensure it remains a relevant and effective tool.

## **Module 5: Conflict of Interest**

As a member of council, you are in a position of trust. The public expects you to act in the best interests of the community. A conflict of interest can be defined as a situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of the official duties as an elected official. Existence of a conflict of interest is not evidence of wrongdoing.

A conflict of interest arises when a council member takes advantage of their position on council for personal gain (including immediate family) and/or financial gain. Immediate family refers to a spouse or common-law partner and any dependant child (natural or adopted) who resides with you. The Conflict of Interest regulation 254/2006 and The Municipal Council Conflict of Interest Act c M255 contains further detail. Section 10 of the conflict of interest act details the assets and interests which must be disclosed and section 11 covers the general exemptions.

Council members are in conflict if they:

- participate in a matter before council or use their influence as a council member to influence the community to enter into a contract or transaction where they, or their immediate family, have a direct or pecuniary (financial) interest
- use insider information they have acquired in the performance of official duties
- receive compensation from any person, business or organization for the services they provide as a council member, or receive compensation to influence another council member

It is the policy of the department to set out the manner in which council can legitimately acquire goods or services from a member of council. Policy G3 – Community Elected Official Providing Services to the Community on a Contracted or Purchase Basis of the NAMPP enables the council member to avoid conflict of interest situations. This means putting the interests of the community ahead of personal interest. It also means performing duties and the affairs of the community in such a manner that promotes public confidence and trust in the integrity, objectivity and impartiality of the council.

Each council member is required to complete a statement of assets and interests prior to entering on the duties of a council member and must file the statement with the CAO. There is no requirement to disclose the value of your assets and interests. Policy G9 – Conflict of Interest of the NAMPP contains the statement. Once filed it can be viewed by the public at any time during council office hours. It cannot be photocopied or publically distributed. You must keep it current and any changes noted within 30 days.

Most important is how a conflict of interest is handled by a council member. You should consider the public perception. A good motto to follow is if you have any doubt, then declare and get out. If you have a conflict of interest, firstly you must declare it **before** any consideration of the matter. Secondly, disclose what the conflict is and why and how it might

affect your impartiality. Thirdly, abstain from voting on a decision or recommendation on the matter. Fourthly, refrain from participating **before, during** and **after** any discussion on the matter. Lastly, leave the room until all discussion and voting on the matter has finished. It is the responsibility of each individual council member to follow the process for handling a conflict of interest. Following is a list of commonly asked questions to help you understand the rules and your responsibility to report and disclose a conflict of interest when it occurs.

### **Frequently Asked Questions**

#### **Does disclosure apply to council meetings only?**

No. It applies also to committee or subcommittee meetings, or an agency, board or commission where you serve as an elected official.

#### **How is the disclosure recorded?**

The CAO or recorder must record the nature of your disclosure and your withdrawal from a meeting. A central record is required to be kept by the CAO to show compliance.

#### **Can the public see the record?**

Yes. The record will reflect your statement regarding the disclosure, withdrawal from and time of your return to the meeting.

#### **What do I have to disclose in my statement of assets and interests? Do I have to provide all my private financial details?**

You must disclose real estate holdings in Manitoba and personal financial interests you, or each member of your immediate family have. Only the nature of the financial interest must be disclosed, not the financial details. You also do not have to disclose certain things such as: your primary residence, personal bank accounts, Canada Savings Bonds or retirement investment savings plans, your income or each member of your immediate family's income – you only need to record the employer's name.

#### **Do gifts have to be disclosed?**

Yes. You must declare any gift valued at \$250 or more. Gifts received continue to be part of the list of assets until the asset or interest is disposed of.

#### **What does the CAO do with the statement?**

The CAO will examine your statement to make sure you have completed the form. They do not verify the accuracy of your statement; all council members have an obligation to accurately disclose their assets and interests.

## **Module 6: Respectful Workplaces**

Every employee can expect to be treated respectfully in the workplace and has the responsibility to refrain from participating in behavior that is, or could be perceived to be disrespectful in nature. The principle of fair and respectful treatment is a fundamental one that the employer commits to uphold for its employees and members of the public.

Workplace safety and health legislation requires a community council to have a community respectful workplace and harassment prevention policy in place and to ensure all community employees and elected officials adhere to the policy. As a council, it is important to review this community policy in its entirety at least annually. The CAO will provide the policy for council to review.

The Workplace Safety and Health Branch of Manitoba Labour, Consumer Protection and Government Services conducts inspections and investigations to help keep everyone safe and ensure all employers are in compliance with the law. During inspections, safety and health officers interact with supervisors and workers to ensure appropriate training and supervision is in place.

### **Role of Council**

As an employer, you are responsible for ensuring a harassment-free workplace. This means providing leadership and taking responsibility for fostering a workplace culture of respect. A truly respectful workplace requires the cooperation and support of all. Elected officials and employees must set a positive example and avoid behaving disrespectfully, including behavior that would reasonably offend, intimidate, embarrass or humiliate others, whether deliberately or unintentionally. Council must ensure employees are aware of the policy and expected behaviours in the workplace, and participate in respectful workplace and harassment prevention training.

As an employer you have the responsibility to intervene promptly once aware of sexual harassment, harassment/bullying and/or workplace violence. A council must ensure all complaints are handled fairly, confidentially, effectively and in a timely manner, and appropriate action is taken respecting employees and that all actions taken to resolve the issue are documented. Where a complaint is made in good faith, council must ensure there is no reprisal or retaliation against the person who made the complaint. Following the resolution of a situation involving inappropriate behavior, council must ensure workplace restoration measures are put in place. Council has a duty to report or investigate all complaints and maintain confidentiality of all disclosures received under the community respectful workplace and harassment prevention policy. Council must refuse to tolerate any form of harassment and put a stop to it immediately.

Additional training on respectful workplaces can be requested through the department workplace safety and health consultants.

## **Module 7: Fraud Awareness**

One of the duties of each member of council is to protect community assets from theft, misuse, neglect and fraud. It is important to also be aware of the CAO's obligation under subsections 134(1)(e) and 135(1) of the act. In summary, the CAO is the administrative head of the community and is responsible for notifying the council if money of the community is spent or invested contrary to a resolution or bylaw or an act. If a CAO gives notice to the council under clause 134(1)(e) and the council does not within a reasonable time rectify the matter, the CAO must give the minister written notice of the matter as soon as is reasonably possible. In order to assist council members in fulfilling their duty in this area the following information is provided.

### **Fraud Related Facts:**

- Cases of fraud have occurred in NA communities.
- Fraud is often a result of tolerated poor council practice.
- Honesty is impacted by opportunity, pressure and attitude. Reducing opportunity and reflecting an attitude that perpetrators will be prosecuted to the full extent of the law will reduce the likelihood of theft and/or fraud occurring in the first place.
- In most cases, fraud is done by those we trust.
- Initial council response to suspected wrongdoing is often denial. This denial derails needed investigation.
- **Willful Blindness** has been identified as a significant contributing factor in many cases.
- Early detection reduces losses, whereas delay increases them.

### **Warning Signs:**

- lack of council meetings
- lack of approval of prior minutes, expenditures and financial statements in council minutes
- unapproved expenditures
- inadequate support for expenditures
- late bank reconciliations
- financial difficulties as evidenced by late payments, significant late payment charges, penalties, inability to complete projects on a timely basis and non-deposit of reserve funds into reserve investments on a timely basis
- use of private emails to conduct council business
  - using internet for financial transactions, ex. electronic invoicing resulting in lack of audit trail
- non-compliance with department reporting requirements or not providing in a timely manner
- late or no submission of requested documents

## **Preventing Fraud in Your Community**

As a member of council you must ensure:

- to attend all council meetings and that they occur **at least monthly**
- resolutions are passed approving all payments (non-reoccurring) to be made and payments made (re-occurring) each month, both matching the total on the list
- a resolution is passed approving the latest financial statement with the attached bank reconciliation
- minutes of past meetings are complete prior to approval, with all lists attached
- all payments presented for approval are adequately supported – this may be delegated to an individual council member without signing authority who reports they have verified this prior to passing the expenditure resolution – any significant interest charges should be noted in the minutes with council’s plan to investigate/correct the situation
- cheque recipients are not an authorizing signature on the cheque and **do not** pre-sign cheques – before signing a cheque, delegated signing officers must ensure there is evidence the transaction for which payment is being made is complete, accurate and authorized
- all travel advances are within department policy and adequately accounted for
- a full accounting is received from any individual who is handling cash on behalf of council – this includes situations where an individual is running a social or fundraising event in council’s name
- to take any complaint or rumor of misuse of community assets seriously
- your immediate family as defined under the conflict of interest act are not sole signatories on a cheque

Report any cases immediately, where council fails to adequately address any of the above deficiencies, to the department (municipal development consultant or regional director).