Date:       June 18, 2019

To:         Chair and Members
            Environmental Policy Advisory Committee

From:       Charlene Touzel
            City Clerk/Director, Clerk’s Services
            Joelle Daniels
            Director of Finance

Re:         Request to Fundraise for Community Based Programs as part of the
            Environmental Policy Advisory Committee’s Mandate Review

The Environmental Policy Advisory Committee (EPAC) at its meeting held May 16, 2019 considered various revisions to its Mandate for recommendation to Committee of the Whole – Operations and Administration and subsequently City Council. One of the recommended revisions was to include the ability of EPAC to “fundraise for community based programs”.

At the request of the City Clerk, who was in attendance at the May 16, 2019 meeting, the Committee agreed to refer the EPAC Mandate Review and Revision to staff in order that this request could be reviewed in accordance with existing policies and procedures.

The City currently has a Corporate Sponsorship and Donation (Corporate – 038) Policy, with the following Statement, Objectives and Purpose:

   Statement

   The Corporation of the City of Brantford (the “City”) welcomes mutually beneficial Sponsorships and/or Donations that enrich the lives of the residents by enhancing City properties and programs.

   Objective and Purpose

   The purpose of this policy is to establish a City-wide Sponsorship and/or Donation protocol that:

   • aligns with the City’s programs and services; and
   • provide guidelines which facilitate and support opportunities for Sponsorship or Donation

A full copy of Corporate – 038 Policy is appended hereto.
It is important to note that the existing Policy currently applies to all City departments and does not include any reference to Boards or Advisory Committees established by City Council. In order to include same, the necessary by-law to amend Corporate – 038 Policy, or to create a new Donation Policy that applies specifically to Boards and Advisory Committee would need to be presented to City Council for adoption.

Prior to the presentation of such a by-law, staff would first need to undertake a review and bring back a comprehensive report to ensure a clear and consistent approach that aligns with the City’s corporate values, image and strategic goals. The report would also need to address donation handling to protect the Corporation from fraud, theft and embezzlement; protect volunteers appointed to City Committees from accusations of dishonesty or the temptation to commit to fraud; and, assure donors that their donations are used for the purpose for which they were given.

While not an exhaustive list, staff has the following questions/comments that would need to be explored further and addressed as part of the report back:

- The matter should be addressed corporately rather than on an individual Board or Advisory Committee basis.
- The proposed wording by EPAC to “fundraise for community based programs” is far too broad. Should the ability to fundraise not be tied to the Council-approved mandate of the respective Board or Advisory Committee?
- In response to questions raised with staff previously, could Boards and Advisory Committees solicit donations to be placed in a City account that could be drawn on by the Board or Advisory Committee to fund expenses tied to their mandate or for providing additional training for its Members, bringing in speakers, etc.

For the reasons outlined above, Staff is recommending that the revised mandate BE AMENDED to remove reference to “v. fundraise for community based programs” and to include a new Clause C as follows:

C. THAT staff BE DIRECTED to undertake a review of existing policies, procedures and by-laws, including Corporate Sponsorship and Donation (Corporate – 038) Policy and Chapter 26 of the City of Brantford Municipal Code (Boards – Advisory Committees) and report back to Council on the ability of Boards and Advisory Committees to solicit, receive and use donations.

Attachment: Corporate Sponsorship and Donation (Corporate – 038) Policy
POLICY NUMBER: CORPORATE-038

SUBJECT: CORPORATE SPONSORSHIP AND DONATION POLICY

POLICY STATEMENT:

The City of Brantford welcomes mutually beneficial Sponsorships and Donations that enrich the lives of residents by enhancing City properties and programs.

RELATED POLICY PROCEDURES/GUIDELINES

City of Brantford Purchasing Policy (By-law 76-2015)

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1. STATEMENT

1.1 The Corporation of the City of Brantford (the “City”) welcomes mutually beneficial Sponsorships and/or Donations that enrich the lives of the residents by enhancing City properties and programs.

2. OBJECTIVE AND PURPOSE

2.1 The purpose of this policy is to establish a City-wide Sponsorship and/or Donation protocol that:

- aligns with the City’s programs and services; and

- provide guidelines which facilitate and support opportunities for Sponsorship or Donation.

3. SCOPE

3.1 This policy does not apply to naming rights or advertising rights.

3.2 This policy is not applicable to philanthropic contributions, gifts, or Donations in which property is voluntarily transferred by a third party to the City without expectation of return. In such instances, no valuable consideration is provided to, and no business relationship exists with, the third party.

3.3 This policy applies to all City departments.

3.4 Funding or grants obtained from orders of government, foundations, trusts, etc. are exempt from this policy.

3.5 Sponsorship or Donation arrangements that pre-date this policy are exempt from this policy.

3.6 This policy does not apply to City Sponsorship or Donation support of external projects where the City provides funds to an outside organization.

3.7 All City properties and programs are subject to this policy.

3.8 Any Sponsorship or Donation which varies from the requirements of this policy shall be approved by Council.
4. **DEFINITIONS**

4.1 For the purposes of this policy, the following definitions apply:

- “Advertising” denotes the sale or lease of advertising or signage space on City-owned property. Unlike Sponsorship, it involves the use of public advertising contracted at pre-determined rates for a set period of time. Under an advertising arrangement, the Advertiser is only entitled to access to advertising space.

- “Donations” are cash or in-kind contributions towards City programs or used in City spaces which provide assistance to the City. Donations do not constitute a business relationship since no reciprocal consideration is sought. Donations generally qualify for a tax receipt; however in-kind Donations generally do not.

- “Naming Rights” are a type of Sponsorship in which an external organization or party receives the exclusive right to name a City property under specific terms. The naming right is sold or exchanged for cash or other valuable consideration and must be approved by Council.

- “Properties” refers to City assets. These include, but are not limited to, events, services, programs, activities, equipment, real property, facilities, intellectual property, parks, features (e.g. rooms, ice pads, bridges, playgrounds, etc.), and other assets, but not including streets and lanes.

- “Sponsorship” is a mutually beneficial business arrangement wherein an external organization or party, contributes funds and/or in-kind services to the City in return for promotional consideration. This promotional consideration may take the form of publicity, merchandising opportunities, or other related marketing benefits. Sponsorship does not qualify for a tax receipt.

5. **PRINCIPLES**

5.1 **General**

5.1.1 This policy supplements existing City policies and guidelines. However, in the event of conflict between this policy and other City protocols involving Sponsorship or Donation, this policy shall prevail.

5.1.2 Departments are responsible for soliciting, negotiating and administering their own Sponsorship agreements, subject to this policy, and within the established procedures.
5.1.3 Sponsorships or Donations must be for purposes consistent with the receiving department’s mandate and must be considered to be in the public interest of the City.

5.1.4 Charitable tax receipts shall be issued for Donations only in accordance with the *Income Tax Act* and the policies of the Canada Revenue Agency. The Director of Finance may make written procedures from time to time consistent with the requirements of the *Income Tax Act* and this policy for the acceptance of Donations and issuance of tax receipts. If there is an “expectation of return” (i.e. Advertising) by the sponsor, then only that portion over and above the value of the “return” can be treated as a Donation and receipted.

5.1.5 The City shall retain ownership and control over any donated or sponsored property and/or funds. Donated or sponsored funds received in excess of the project requirements will be placed in a reserve fund and reallocated for future projects of similar nature.

5.1.6 Potential donors or sponsors must not be canvassed in a manner that uses or implies coercion. Prospective donors or sponsors that decline solicitations for contributions shall not be penalized.

5.1.7 Unsolicited Donation or Sponsorship offers received by the City will be reviewed and evaluated by the department Director in accordance with the provisions of this policy.

5.1.8 Benefits to the sponsor are limited to those expressly stated in the Sponsorship Agreement.

5.1.9 The City does not endorse the products, services, or ideas of any donor or sponsor.

5.1.10 All Sponsorship or Donation relationships shall be subject to review by Finance prior to confirmation in writing in a form satisfactory to Legal and Real Estate Services.

5.1.11 Since Sponsorships or Donations are intended to supplement direct City funding and to enhance City initiatives or properties, a department’s normal funding must not be displaced by a Sponsorship agreement.

5.1.12 Subject to the agreement, proceeds received from a Sponsorship or Donation in respect of a Property shall be applied to the Property.

5.1.13 A competitive process is not required when soliciting Sponsorship or Donation opportunities. While there is no obligation to test the market, in order to maximize the contribution, it is expected that several prospective sponsors or donors will be approached when circumstances warrant.
5.2 Sponsorship and Donation Criteria

5.2.1 All Sponsorship agreements must be arranged for a fixed term.

5.2.2 The Sponsorship or Donation must not confer a personal benefit, directly or indirectly, to any particular City employee or official.

5.2.3 The Sponsorship or Donation must not create an ongoing financial obligation for the City beyond the term of the agreement.

5.2.4 The Sponsorship or Donation must not cause increased or unplanned operating or capital costs to the City.

5.2.5 Sponsorships or Donations shall conform to all applicable federal and provincial statues, and to all applicable City by-laws, policies and practices.

5.2.6 The Sponsorship or Donation must not interfere with the City’s existing contractual obligations.

5.2.7 The Sponsorship or Donation must not unduly detract from the character, integrity, aesthetic quality or safety of the property or unreasonably interfere with its enjoyment or use.

5.2.8 The Sponsorship or Donation must not result in, or be perceived to result in any competitive advantage, benefit or preferential treatment for the sponsor outside of the Sponsorship agreement.

5.2.9 Benefits to the sponsor/donor are to be commensurate with the size and scope of the Sponsorship/Donation. It is the responsibility of the recipient department to determine the appropriate level or manner of benefits.

5.3 Sponsor and Donation Eligibility & Restrictions

5.3.1 Departments shall decline proposals for Sponsorship or Donations from parties that are disqualified from doing business with the City or currently not in good standing (i.e. currently in violation of a by-law or under litigation or potential litigation).

5.3.2 Sponsors or donors are prohibited from implying that their products, services or ideas are sanctioned by the City.

5.3.3 There shall be no actual or implied obligation to purchase the product or services of the sponsor or donor.
5.3.4 Sponsorships must not:
(i) promote the sale of tobacco;
(ii) promote the support of or involvement in the production, distribution, and sale of weapons or other life-threatening products;
(iii) promote or condone stereotyping of any group or discrimination as defined by the Ontario Human Rights Code;
(iv) promote religious or political messages that might be deemed prejudicial to other religious or political groups;
(v) conflict with the City’s core values, vision or strategic goals;
(vi) cause a municipal employee or elected official to receive any product, services or asset for personal use gain;
(vii) adversely impact on the City’s identity; or
(viii) incite violence and hatred.

5.3.5 Sponsorships and Donations are appropriate for the following broad types of activities:
(i) Events – financial or in-kind Donations for events delivered by the City on City property;
(ii) City facilities development – financial or in-kind support associated with the design and construction of a particular community/public facility;
(iii) Program delivery – financial or in-kind Donations that facilitate the ongoing delivery of a particular program, event or activity.

6. PROcedure

6.1 Issues regarding the interpretation or application of this policy are to be referred to the Purchasing Division or Legal and Real Estate Services.

6.2 All Sponsorship or Donation agreements must be reviewed by Finance and Corporate Communications, documented in writing in a form satisfactory to Legal and Real Estate Services, and executed as per the Execution of Routine Documents policy, prior to acceptance, unless otherwise agreed upon. General Managers have overall responsibility for oversight and control of Sponsorship and Donation activities in their Commission. Copies of all Sponsorship/Donation agreements are to be stored for audit purposes, in accordance with the City’s retention policy.

6.3 All unsolicited Sponsorship or Donation offers are to be referred to the relevant department directly or via the Purchasing Division.

6.4 All new Sponsorships or Donations must be evaluated for compliance with this policy. Department Directors are responsible for ensuring that all
sponsors/donors and executed agreements comply with this policy and that staff abide by its provisions.

6.5 As part of its due diligence, prior to proceeding with a Sponsorship or Donation, the recipient department is responsible for consulting with relevant stakeholders, where necessary, and for conducting a risk/benefit assessment for the opportunity.

6.6 It is the responsibility of the recipient department to review the effectiveness of the Sponsorship/Donation and to ensure that the respective parties are adhering to the terms of the written agreement.

6.7 For purposes of financial control and accountability, Sponsorship/Donation funds are to be credited to the appropriate accounts as determined by the Commission’s Financial Analyst.

6.8 Sponsorship fees or Donations will be used to manage the costs associated with the delivery of City services and applied to:

(i) enhance or expand City property, including equipment and services;
(ii) reduce or eliminate the net costs of delivering a service or acquiring goods/services;
(iii) enhance or expand a City service or the ability to acquire goods or services;
(iv) provide a new service, program, event, equipment or activity;
(v) enhance community image; and
(vi) improve public awareness of City programs.

7. RECOGNITION OF SPONSORS

7.1 The Director of the department will determine an appropriate means of acknowledgement of sponsors.

7.2 Preference will be given to an off-site form of recognition that may include one or more of the following:

- a thank you letter;
- through the City’s website, City’s print media, non-permanent signs or media releases;
- acknowledgment at a community function; or
- another form of recognition consistent with this policy and on approval of the Director of the department.
8. RECOGNITION OF DONORS

8.1 Recognition of Donations received will be governed by the Canada Revenue Agency and the *Income Tax Act*.

8.2 The City may thank donors for their contribution by one or more of the following:
   - a thank you letter;
   - through the City’s website, City’s print media, non-permanent signs or media releases;
   - acknowledgment at a community function; or
   - placement and or affixing of a form of recognition at a location at or in a facility recognizing the contribution on approval of the Director of the department.

8.3 If a business receives the same level of recognition as all other donors, with no special treatment, and the recognition is nominal, this usually constitutes a simple acknowledgement, and a receipt may be issued for the full amount of the Donation.

8.4 The acknowledgement of the Donation shall be considered to have nominal value where its fair market value does not exceed the lessor of:
   - $50.00, or
   - 10% of the amount of the Donation.

9. RELATED POLICIES

9.1 The City’s Purchasing Policy (By-law 76-2015) can be found at:

http://www.brantford.ca/business/TendersBidsAndPurchasing/Pages/default.aspx