



ADVISORY BULLETIN REGARDING MEMBER CONDUCT AND STATEMENTS CONCERNING COUNCIL DECISIONS

Bruce P. Elman LL.D.
Integrity Commissioner
25 November 2022

THE CODE OF CONDUCT & PROCEDURAL BY-LAW

- [1] Member Conduct is governed by both the **Procedural By-law** (BY-LAW NO. 2014-91) and the **Code of Conduct – Council, Committees and Local Boards (“Code of Conduct”)** of the Town of Amherstburg (“Town”). Under section 8.1 (Duties of Council) of the **Procedural By-law**, Members shall carry out the duties of Council and shall act in accordance with the **Code of Conduct**.
- [2] Section 6 of the **Procedural By-law** (Conduct of Proceedings) further provides specific rules regarding speaking in Council Chamber. Section 8 (Duties of Council) of the **Procedural By-law** sets out the general principles governing the relationship between Council Members and Town employees.
- [3] Council Members should also be mindful of Council’s [Workplace Violence, Harassment, and Discrimination Prevention Policy](#).
- [4] The **Code of Conduct** provides a general standard that adds to the compendium of provincial laws and municipal by-laws that govern Member conduct. The purpose of the **Code of Conduct** is to improve the quality of municipal governance by encouraging high standards of conduct, ensuring Council Members maintain their commitment to performing their functions with integrity, and ensuring that official business conducted by the Town is performed in a professional and ethical manner. (See **Code of Conduct, s. 1 – Policy Statement and s. 2 – Purpose**).

MEMBER CONDUCT

- [5] Members shall not use the status of their position to influence the decision of another individual to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. (See **Code of Conduct, s. 7.8 - Improper Use of Influence**).
- [6] In all matters, and under all circumstances, the Members of Council shall be guided by the *Municipal Conflict of Interest Act*. (**Procedural By-law, Preamble**). To ensure that Council performs its functions with integrity, Members should avoid all conflicts of interest, whether apparent or real. (**Code of Conduct, s. 6.1 - Key Principles**).
- [7] Every Member of Council has the duty and responsibility to treat Members of the public, staff, and other Members of Council appropriately and without abuse to ensure the working environment is free of discrimination and harassment. (**Code of Conduct, s. 7.2.3 - Respecting Others**).
- [8] Specifically, Members of Council shall not use indecent, abusive or insulting words or expressions towards any other Member of Council, staff member, or member of the public. Members shall communicate in a manner that is respectful to all individuals regardless of their race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability. (**Code of Conduct, s. 7.2.3. - Respecting Others**).
- [9] Members should be aware that the role of Council is to establish policies within the authority of enabling legislation for the purpose of guiding the administration of the Town. No Member of Council or committee shall have the authority to direct or interfere with the performance of any work being carried out by an employee of the Town. (**Procedural By-law, s. 8 - Duties of Council**).
- [10] Municipal staff are required to service the Town, as a whole. As such, Council shall be respectful of the role of staff to provide advice based on political neutrality and objectivity, and without any undue influence from any Member or faction of Council. (**Code of Conduct, s. 7.2.2 -Respecting Staff**).
- [11] No form of harassment will be tolerated, whether it involves Council, staff, or members of the public. Any Member confronted with, or aware of, harassment of any nature will

report said harassment to the Mayor and/or CAO. (**Code of Conduct, s. 6.4 - Discrimination and Harassment**). “Harassment” is defined as improper conduct by an individual, that is directed at and is offensive to another individual, including at any event or any location related to work, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises objectionable act(s), comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat. (**Code of Conduct, s. 4 - Definitions**).

MEMBER STATEMENTS AND CONDUCT CRITICIZING COUNCIL DECISIONS

- [12] Members shall act in accordance with the **Code of Conduct** and shall not criticize any decision of Council or a decision of the Chair or Council. (**Procedural By-law, s. 8 - Duties of Council**).
- [13] Decisions made by Council become the official policy of the Town. When Members of Council speak out or engage in conduct indicating opposition to official Town policy outside the deliberative confines of the legislative process, their comments or conduct can diminish the integrity of Council decisions and, subsequently, damage public confidence in Council itself. Any such conduct, regardless of whether it is conveyed in print, social media, through an in-person conversation, or expressed through a Member’s action (e.g. signing a petition), must not contravene the **Code of Conduct**.
- [14] From time to time, however, Members of Council may encounter instances where they do not agree – or even vehemently disagree – with the outcome of a Council vote on a matter. Council must recognize and act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable to the Members of public as possible. (**Code of Conduct, s. 6.1 - Key Principles**). As such, Members might feel the need, whether based upon personal conviction or as a reaction to constituents, to speak out or act regarding the outcome of a Council vote in order to register their disagreement with the result. When doing so, Members must act within the bounds set by the **Code of Conduct** and **Procedural By-law**.
- [15] Members must recognize their professional boundaries and responsibilities in the appropriate use of electronic communications and social media. When communicating with Administration, Members must refrain from posting or forwarding links or comments that might be considered offensive, discriminatory, or inconsistent with the **Code of**

Conduct or the laws of Ontario and Canada. (**Code of Conduct, s. 7.4 - Electronic Communication and Social Media**).

- [16] As noted above, Members shall not criticize any decision of Council or a decision of the Chair or Council. (**See paragraph 12**). Rather than making public statements that disparage the legitimate decisions of Council, the reconsideration process is the appropriate avenue for Members who wish to revisit a decision of Council. Motions for reconsideration are possible pursuant to the **Procedural By-law, s. 10 – Motions**.
- [17] Members are free to explain why they voted as they did during the Council deliberations. However, they should acknowledge the legitimacy of Council decisions that result from the deliberative and democratic process.
- [18] Council Members are reminded that, under s. 223.4(5) of the *Municipal Act, 2001*, the Town Council, based upon the recommendation of the Integrity Commissioner, may impose a Reprimand or a Suspension of Remuneration of up to 90 days if a Report from the Integrity Commissioner finds that the Member violated the **Code of Conduct**.

FURTHER INFORMATION

This Advisory Bulletin is intended to provide general information. To rely on the advice of the Integrity Commissioner with respect to specific situations, Members of Council must seek written advice consistent with the provisions of Section 6.2 of the **Code of Conduct**.

If you have any questions or wish to seek written advice on this matter, please contact:

Office of the Integrity Commissioner
271 Sandwich Street South
Amherstburg, Ontario N9V 2A5
Tel: (519)-736-0012
Email: integrity@amherstburg.ca