



ADVISORY BULLETIN REGARDING FUNDRAISING FOR THIRD-PARTY ORGANIZATIONS

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IMPORTANCE OF COMMUNITY ENGAGEMENT

- [1] As elected officials, Members of Council are seen by members of the public as community leaders. Members' words and actions carry significant influence. Members seek to utilize their office for the betterment of the Town of Amherstburg. From time to time, third-party organizations seek the assistance of Members to increase their profile within the community and to extend the reach of their fundraising activities. These third parties, essentially, want Members to use the influence of their office to assist the party in reaching its fundraising goals.
- [2] It is important that Members maintain a level of community engagement throughout their term. Within the scope of their official duties, Members should be able to highlight the good work done by organizations within the community and take an active role in community-building.
- [3] However, Members must be cognizant of the influence their actions can have. Consequently, it is of paramount importance that Members act in accordance with the **Code of Conduct**. Particularly where fundraising is concerned, Members must be diligent in ensuring that they do not violate any ethical standards.

POTENTIAL ETHICAL INFLUENCE WITH FUNDRAISING

- [4] It is important to realize that Members, and the offices they hold, carry a significant amount of weight and influence. As noted above, Members may use their influence to accomplish many worthwhile goals within the bounds of their official duties. However, Members are also obligated to wield this influence responsibly and to do so in a way that conforms with the standards set out in the **Code of Conduct**.

- [5] Fundraising activities, including the solicitation of donations, can create ethical difficulties for Members in at least two respects. First, the involvement of a Member of Council in a community organization's fundraising efforts may give the appearance of special treatment or favouritism for the organization in question. Second, these fundraising activities may create the appearance, or even the expectation, of a *quid pro quo* for those donors who might have matters coming before Council.
- [6] To put it more simply, if citizens or residents are approached by a Member as part of a fundraising campaign, they may feel pressure to donate to preserve the goodwill of the Member in any potential future dealings with the Town. Alternatively, in dealing with Town matters, the Member may feel pressure to act in accordance with a donor's wishes, particularly if the donor has made an especially generous gift.
- [7] Members must also be mindful that the appearance of impropriety may carry negative implications for the organization for which the Member is raising funds. An association with such negative conduct can diminish the organization's goodwill and stature within the community, possibly damaging its future work.
- [8] It should be noted that this **Advisory Bulletin** does not pertain to fundraising for election-related activity, which is governed by Section 6.14 of the **Code of Conduct** and sections 88.8 to 88.18 of the *Municipal Elections Act*, 1996.

FUNDRAISING & THE CODE OF CONDUCT

- [9] Under Section 2.3, one of the main purposes of the **Code of Conduct** is *"To ensure that Council maintains their commitment to performing their functions with integrity, avoiding the improper use of the influence in their office, and avoiding conflicts of interest, whether apparent or real."* This provision provides the rationale why a Member's participation in third-party fundraising must be treated with caution; members must avoid even the mere appearance of a conflict of interest and shall always use, and be viewed by the public as using, their influence of office appropriately.
- [10] Furthermore, Section 6.15 of the **Code of Conduct** (Improper Use of Influence) states that *"No member of Council shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes."* (s. 6.15.1) More specifically, it explains that Members cannot *"attempt to secure preferential treatment beyond activities in which Council members normally engage on behalf of their*

constituents as part of their official duties” (s. 6.15.3) or “hold out the prospect or promise of future advantage through the Council member’s supposed influence within Council, in return for any action or inaction” (s. 6.15.4). These provisions mean that Members are required to ensure they only use their influence within their scope of their official duties as Council Members – promoting private philanthropy and soliciting donations on behalf of an organization do not fall within the official duties of Members of Council and, therefore, must be avoided.

- [11] In an investigation of the conduct of then-Toronto City Councillor Rob Ford, Toronto Integrity Commissioner, Janet Leiper, noted that *“Where a Councillor asks someone to give money to a personal cause in his or her role as Councillor and underlines that role by putting the request in an official format, that is, on Councillor letterhead, **this is a use of the influence of office for a cause that is not part of the Councillor’s public duties**”*. [City of Toronto. *“Investigation Report Regarding the Conduct of Rob Ford”*, August 2010. Emphasis added.]
- [12] In a 2016 investigation of the conduct of another city councillor, Toronto Integrity Commissioner, Valerie Jepson, expanded on this principle, noting *“...there is no permissible time for Members of Council to be involved in soliciting donations of any kind . . . the perception of improper influence can cause harm to public confidence in Council equal to actual improper influence”*. [City of Toronto. *“Investigation Report Regarding the Conduct of Councillor Mark Grimes”*, July 2016.]
- [13] The reasoning provided in both of these investigations is sound and reflects the best practices for Members contemplating involvement with third-party fundraising. Regardless of whether the solicitation of donations is active (such as meeting with individuals to secure donations) or passive (sending a letter on the Member’s official letterhead), fundraising for third-party organizations does not fall within a Member’s official duties and must be avoided by Members in adherence with Section 6.15 of the **Code of Conduct**.
- [14] Additionally, Section 6.15.2 states that *“No member of Council shall use his or her office or position to influence or attempt to influence the decision of any other person, for the Council member’s private advantage or that of the Council member’s parent, child, spouse, staff member, friend or associate, business or otherwise.”* Doing this may create a conflict of interest, or the appearance of a conflict of interest, which may expose them to litigation pursuant to the *Municipal Conflict of Interest Act*. To avoid this, Members must

provide an equal level of treatment to all groups seeking assistance and ensure their conduct does not amount to an inappropriate use of the influence of their office.

- [15] This interpretation of the **Code of Conduct** does not prohibit Members from attending events hosted by organizations or from making remarks at such events that discuss the positive work that the organization does in the community and the importance of their mission. However, any solicitation of donations (whether active or passive) while participating in such events would constitute a violation of the **Code of Conduct**.
- [16] If fundraising for Town projects is authorized by a Resolution of Council or existing By-law, Members are permitted to engage in such activities as contemplated by the Resolution or By-law. Even in such instances, Members must avoid the improper use of the influence of their office, as well as avoid the provision or the appearance of the provision of special treatment to any individual or organization.
- [17] Members of Council do not serve the Town of Amherstburg on a full-time basis. Many Members hold occupations separate from their Council duties. An ethical dilemma may occur if a Member's occupation involves fundraising within the community. If an individual, corporation, association, or organization with which the Member has had a previous fundraising relationship is conducting business with the Town and is appearing before Council, there may be the appearance of either a *quid pro quo* relationship or special treatment. In these circumstances, Members should consider declaring a conflict of interest. Further, Members with such occupations should declare this to the Integrity Commissioner and disclose the receipt of any donations exceeding five thousand dollars (\$5,000) received during their ordinary occupational duties.
- [18] Finally, Members should be sensitive to the impact of their fundraising activities within the four walls of Town Hall. Some members of staff or the administration may feel pressured to contribute to a Member's cause or causes if he or she is actively seeking donations; it puts the staff in a difficult position when this occurs.

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 of the **Code of Conduct**. If you have any questions or wish to seek written advice on this matter, please contact:

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