



## GENERAL COMMITTEE

Tuesday, June 8, 2021

Meeting Number 2021 – 05

*Due to COVID-19 and the closure of the Civic Square  
All Electronic Meetings can be viewed at:*

City of Welland website: <https://www.welland.ca/Council/LiveStream.asp>

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1. OPEN GENERAL COMMITTEE MEETING AT 5:00 P.M.
  - 1.1 CALL TO ORDER BY VICE MAYOR MARY ANN GRIMALDI
  - 1.2 ADDITIONS/DELETIONS TO AGENDA
  - 1.3 DISCLOSURES OF INTEREST
  - 1.4 ADOPTION OF MINUTES

General Committee Meeting of May 11, 2021.
  - 1.5 ITEMS TO BE REMOVED FROM BLOCK FOR DISCUSSION IN COMMITTEE-OF-THE-WHOLE (OPEN) (See blue tab)
2. VERBAL REPORTS AND DELEGATIONS
  - 2.1 PRESENTATIONS:

12-96 Deborah C. Anschell, Integrity Commissioner re: Code of Conduct and Formal Complaint Process.  
(Background information included in Council member's packages).
  - 2.2 DELEGATIONS (MAXIMUM 5/10/5 RULE) - Nil
  - 2.3 AGENCIES, BOARDS, COMMISSIONS AND COMMITTEES REPORT(S) - Nil
3. COMMITTEE-OF-THE-WHOLE (OPEN) - Nil  
(Discuss items removed from Agenda Block)
4. ADJOURNMENT



**ADR**  
CHAMBERS

Integrity Commissioner Office  
for the City of Welland

CITY OF WELLAND EDUCATION SESSION

DEBORAH C. ANSCHELL  
INTEGRITY COMMISSIONER  
JUNE 8, 2021

DEBORAH C. ANSCHELL  
INTEGRITY COMMISSIONER

- Integrity Commissioner for the City of Welland, the City of Timmins, the City of Waterloo, and the Town of Georgina
- Practiced law for over 20 years in Alberta, British Columbia and Ontario
- Mediator and Arbitrator
- Deputy Judge of the Toronto Small Claims Court

## ADR CHAMBERS

- ADR Chambers provides dispute resolution services throughout Canada and internationally
- ADR Chambers has operated an Office of the Integrity Commissioner since 2011
- ADR Chambers provides services to municipal clients under the *Municipal Act, 2001*, and the *Municipal Conflict of Interest Act*

## INTEGRITY COMMISSIONER FUNCTIONS

The Integrity Commissioner has two primary functions:

- To review and report on complaints or requests for inquiry; and
- To provide advice to Council and Council Members.

## ROLE OF THE INTEGRITY COMMISSIONER

Role of the Integrity Commissioner expanded significantly on March 1, 2019, as a result of the Bill 68 amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*.

- jurisdiction to investigate an alleged contravention of the Code of Conduct
- jurisdiction to investigate an alleged breach of sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* (MCIA)

## COMPLAINT OF CONTRAVENTION

Requires a written request by an identifiable individual (no verbal or anonymous complaints) in respect of a possible Code or MCIA contravention.

Complaint must set out the grounds for the allegation that the Member has breached the Code or MCIA.

Time limitation: All requests must be submitted within six weeks of the Complainant becoming aware of the alleged contravention (Code and MCIA), and no more than six months after the alleged violation (Code).



## COMPLAINT PROCEDURE

- Must be accompanied by an affidavit setting out the supporting evidence
- Filed with the Clerk who forwards it to the Integrity Commissioner or directly with the Integrity Commissioner's Office

## INITIAL CLASSIFICATION ACTIONABLE

- Complaint with respect to non-compliance with the City's Code of Conduct or applicable sections of the *Municipal Conflict of Interest Act*
- Two different investigation protocols

## CODE INVESTIGATION PROTOCOL

- IC sends the complaint and supporting material to the Member whose conduct is in question and requests a written response within 10 working days.
- IC sends the Member's response to the Complainant who may provide a written reply within 10 working days.
- IC may speak to anyone relevant to the complaint and may access and examine any information relevant to the complaint.

## SETTLEMENT OF COMPLAINTS

The Integrity Commissioner may attempt to settle a complaint at any point during the investigation process if the Integrity Commissioner deems it appropriate.

## INVESTIGATION REPORT – CODE

- Draft Investigation Report
  - If IC finds a Code violation then Member provided with draft report and given opportunity to comment.
- Final Investigation Report
  - Completed within 90 days of the Complaint
  - May recommend a penalty

## REPORT TO COUNCIL – CODE

- Where the Complaint is sustained in whole or in part, the IC shall report her findings and/or recommended penalty to Council.
- Where the Complaint is dismissed, other than in exceptional circumstances, the IC shall not report to Council except as part of an annual or other periodic report.

## PENALTIES AND RECOMMENDATIONS

Council may impose either of the following penalties on a Member if the Integrity Commissioner reports that, in his opinion, the Member has contravened the Code of Conduct:

- A reprimand; or
- Suspension of the remuneration paid to the Member in respect of his or her service as a Member of Council for a period of up to 90 days.

## CONFIDENTIALITY

- The Integrity Commissioner shall preserve secrecy with respect to all matters that come before the Integrity Commissioner.
- If the Integrity Commissioner recommends a sanction, however, that will be reported to Council.
- If the Integrity Commissioner reports to Council an opinion about whether a Member contravened the Code of Conduct, the Integrity Commissioner may disclose in the report such matters the Integrity Commissioner considers necessary for the purposes of the report.



## CRIMINAL ACTIVITY OR BREACH OF OTHER LAWS

- If the Integrity Commissioner has reasonable grounds to believe there was a contravention of the Criminal Code or any other Act, the Integrity Commissioner will suspend the investigation, report to the appropriate authorities, and report to Council.
- The Investigation will remain suspended until any police investigation and charges have been finally disposed of.

## MCIA INVESTIGATION PROTOCOL

- Similar investigation protocol for alleged MCIA contravention
- IC has 180 days to complete the investigation from the date of submission of the complaint.
- Upon completion of the investigation, the IC decides whether or not to apply to a judge under Section 8 of the MCIA for a determination as to whether the Member has contravened Sections 5, 5.1, or 5.2 of the MCIA.
- The IC provides the Municipality's Clerk, the Complainant and the Member with written reasons for the decision about whether or not to apply to a judge.

## CODE OF CONDUCT PURPOSE

- Ensure Members share a common basis for acceptable conduct
- Provide a reference point and a supplement to legislative parameters within which Members must operate
- Enhance public confidence that Members operate with integrity, justice, and courtesy

## CODE OF CONDUCT AND OTHER LEGISLATION

The Code of Conduct is a general standard that augments the provincial laws and municipal by-laws governing the conduct of Members of Council.

## CODE OF CONDUCT APPLICATION

The Code of Conduct applies to every Member of Council, including the Mayor.

## CODE OF CONDUCT GENERAL PRINCIPLES

Members shall:

- Observe highest standard of ethical conduct
- Act honestly, independently, impartially, with discretion, and without regard to self-interest
- Avoid any situation liable to give rise to a conflict of interest
- Behave in manner that promotes the public's trust in the Municipality
- Serve constituents in a conscientious and diligent manner



## CODE OF CONDUCT RESPECT, TRUTH, HONESTY, AND INTEGRITY

- Members shall serve and be seen to serve their constituents in a conscientious and diligent manner.
- Members shall perform their functions with integrity, accountability, and transparency, avoiding the improper use of the influence of their office, and conflicts of interest, both real and apparent.
- Members shall perform their duties of office in a manner that promotes public confidence and will bear close public scrutiny.
- Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, the Ontario Legislature, and Council.

## CODE OF CONDUCT RESPECT FOR DECISION-MAKING PROCESS

- Members will show respect for Council's decision-making process, accurately communicate the decisions of Council, even if they disagree with the decision of Council, and acknowledge that information related to decisions and resolutions of Council will normally be communicated to the community by the Council as a whole, or the Mayor as Head of Council, or his or her designate.



## CODE OF CONDUCT RELEASE OF CONFIDENTIAL INFORMATION

- No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law, or authorized by Council to do so.
- No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.
- No Member shall disclose the content of a matter that has been discussed at or the substance of deliberation of an in-camera meeting, except for content that has been authorized by Council to be released to the public.
- The obligation to keep information confidential is a continuing obligation even if the Member ceases to be a Member.

## EXAMPLES OF CONFIDENTIAL INFORMATION

- Personal information under the *Municipal Freedom of Information and Protection of Privacy Act*, or other legislation;
- A matter that has been debated or discussed at a meeting of Council closed to the public, unless the matter is subsequently discussed in Open Council, or is authorized to be released by Council;
- Reports of consultants, draft documents and internal communications, which, if disclosed may prejudice the reputation of the City, its officers and employees, or its effective operation;
- Information concerning litigation, negotiation or personnel matters.

## CODE OF CONDUCT GIFTS AND BENEFITS

- Members should not accept any gift, benefit, service, entertainment or hospitality which could be seen to compromise their decision on a matter or create any obligation or special consideration by an individual, group or organization.
- No Member shall solicit or accept a fee, advance, gift or benefit that is connected directly or indirectly with the performance of their duties in office, unless permitted by the enumerated exceptions.
- A fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Member's spouse, child or parent, or to a Member's staff that is connected directly or indirectly to the performance of their duties in office is deemed to be a gift or benefit to that Member.
- The specified exclusions include mementos, souvenirs, and gifts received as an incident of protocol or social obligation.

## CODE OF CONDUCT PERSONAL BEHAVIOUR

- Every Member has the duty and responsibility to treat members of the public, one another and staff, appropriately and without abuse, bullying, or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.
- A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any member of staff, or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.
- During Council and Standing Committee meetings, Members shall conduct themselves with decorum and in accordance with the City's Procedural By-law.

## SAMPLE DECISION - YORK REGION - CODE OF CONDUCT COMPLAINT AGAINST COUNCILLOR PERRELLI - MARCH 30, 2021

- Issue: whether “blocking” on Twitter constitutes a contravention of the Code of Conduct
- Blocking is a means of preventing a participant from adding or otherwise providing input to the Twitter post.
- The complainant alleged that the Councillor blocked him on Twitter because the complainant criticized the position expressed by the Councillor.
- The York Region Code of Conduct did not contain a specific provision regarding blocking on Twitter or other social media.
- Members of Council who utilize open social media platforms for communicating with their constituents should not unreasonably or arbitrarily block participants.
- The complainant’s comments were not offensive or abusive.
- The Councillor’s action in blocking the complainant on his social media account constituted conduct which undermined the apparent transparent and open public discourse and debate on a matter of significant public interest. Therefore, the Councillor’s action in blocking the complainant was contrary to the Code of Conduct.
- No sanction was recommended.

## CODE OF CONDUCT INFLUENCE ON STAFF

- Members are expected at all times to treat staff with respect, professionalism and courtesy. Members who contact staff shall ensure that their request is within the employee’s realm of responsibility, approved work plan, or available resources.
- Members and staff will work cooperatively based on shared values of honesty, trust, mutual respect, and leadership for continuous improvement.
- Members shall be respectful of the fact that staff are charged with making recommendations that reflect their professional expertise and corporate perspective without undue influence from any individual Member or group of Members.



## CODE OF CONDUCT CONFLICT OF INTEREST

- Members shall avoid conflict of interest or unethical behavior.
- Members shall comply with the *Municipal Conflict of Interest Act*.

## REQUEST FOR ADVICE FROM THE INTEGRITY COMMISSIONER

- Members, or Council as a whole, may contact the Integrity Commissioner in writing to ask questions and obtain advice.
- The Integrity Commissioner will endeavour to respond in writing to such requests within 5 business days (or less in urgent cases) of receipt.



## CONFLICT OF INTEREST *MUNICIPAL CONFLICT OF INTEREST ACT*

- An elector or person demonstrably acting in the public interest may apply in writing to the Integrity Commissioner for an inquiry into an alleged contravention of sections 5, 5.1, or 5.2 of the *Municipal Conflict of Interest Act* by a Member of Council or a Member of a local board.

## *MUNICIPAL CONFLICT OF INTEREST ACT (SECTION 2)* PECUNIARY INTEREST

A Member has an indirect pecuniary interest in any matter in which the Council or local board is concerned, if,

- (a) the Member or his or her nominee,
  - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,
  - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or
  - (iii) is a Member of a body,

that has a pecuniary interest in the matter; or

- (b) the Member is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter.

## MUNICIPAL CONFLICT OF INTEREST ACT (SECTION 3) INTEREST DEEMED THAT OF MEMBER

For the purposes of the *Municipal Conflict of Interest Act*, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the Member shall, if known to the Member, be deemed to be also the pecuniary interest of the Member.

## MUNICIPAL CONFLICT OF INTEREST ACT (SECTION 5) DUTY OF MEMBER WHEN PRESENT AT MEETING

- Where a Member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of Council or local board at which the matter is the subject of consideration, the Member,
  - (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
  - (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
  - (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.
- Where the meeting is not open to the public, in addition to complying with the above requirements, the Member shall leave the meeting or the part of the meeting during which the matter is under consideration.

**MUNICIPAL CONFLICT OF INTEREST ACT (SECTION 5)  
WHEN ABSENT FROM MEETING**

Where the interest of a Member has not been disclosed as required by reason of the Member's absence from the meeting, the Member shall disclose the interest and otherwise comply with the disclosure requirements at the first meeting of Council or local board attended by the Member after the meeting.

**MUNICIPAL CONFLICT OF INTEREST ACT (SECTION 5.1)  
WRITTEN STATEMENT RE DISCLOSURE**

At a meeting at which a Member discloses an interest under section 5 of the *Municipal Conflict of Interest Act*, or as soon as possible afterwards, the Member shall file a written statement of the interest and its general nature with the Clerk or the secretary of the committee or local board, as the case may be.



## QUESTIONS?

- Any questions?

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