
MEMORANDUM

CSC-C 4-2019

Subject: Councillor Information Request – Code of Conduct Documents

Date: February 20, 2019

To: Corporate Services Committee

From: Ann-Marie Norio, Regional Clerk

At the Corporate Services Committee meeting held on January 9, 2019, the following Councillor Information Request was made:

Councillor Ip requested staff provide information respecting the review of the current code of conduct and report back at the Corporate Services Committee meeting being held on February 20, 2019 and include a copy of the Code of Conduct drafted by John Mascarin, Niagara Region's previous Integrity Commissioner.

Staff can confirm that a Committee of the Whole meeting has been tentatively scheduled for April 11, 2019 to have Dr. Sancton provide his final report to Council which will include his recommendations respecting the Code of Conduct.

In accordance with the above request, please find attached the Code of Conduct as drafted by John Mascarin, Niagara Region's previous Integrity Commissioner.

Respectfully submitted and signed by

Ann-Marie Norio
Regional Clerk

Attachments: PBLRC-C 11-2017 Appendix A Code of Conduct

Appendix A

Code of Conduct

REGIONAL MUNICIPALITY OF NIAGARA
CODE OF CONDUCT FOR MEMBERS OF COUNCIL
[MAY, 2017]

1.0 Application

1.1 This Code of Conduct applies to Members of the Council of Niagara Region, including the Regional Chair.

1.2 The purpose of this Code of Conduct is to establish a general standard to provide a common basis for the acceptable conduct of Members and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedural By-law and other sources of applicable law, including but not limited to:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*

2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Region by its Members as duly elected public representatives to ensure that they each operate from a foundation of integrity, justice, truth, honesty and courtesy.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office and act without self-interest;

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- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and that will bear public scrutiny;
- Members shall be cognizant that they are at all times representatives of the Region and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and always maintain and promote the public trust in the Region; and
- Members will uphold the letter of the laws of Canada, Ontario and the laws and policies adopted by Council from time to time.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) “CAO” means the Chief Administrative Officer of the Region;
- (b) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (c) “Chair” means the Regional Chair;
- (d) “confidential information” means information or records that are in the possession, in the custody or under the control of the Region that the Region is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;
- (e) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular matter;
- (f) “Council” means the Regional Council for Niagara Region;
- (f) “fiduciary” means the obligation of a person in a position of authority to act on behalf of another, assuming a duty to act in good faith and with care, candour and loyalty in fulfilling this obligation;
- (g) “frivolous” means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense;
- (h) “Member” means a Member of the Council for the Region;

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- (i) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (j) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (k) “Region” means the Regional Municipality of Niagara;
- (l) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (m) “staff” means the CAO and all commissioners, officers, directors, managers, supervisors and all non-union and union staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents and consultants acting in furtherance of the Region’s business and interest;
- (m) “vexatious” means something that is instituted without sufficient grounds and serving only to cause annoyance, frustration or worry.

4.0 Responsibilities of Council

4.1 Council is responsible for and dedicated to providing good and effective government for the public in the Region in an open, accountable and transparent manner.

4.2 A fiduciary relationship exists between the Council and residents of the Region.

5.0 General Obligations

5.1 In carrying out their duties, Members shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Region’s Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) respect the individual rights, values, beliefs and personality traits of any other person and refrain from imposing their own personal moral and religious beliefs on others;
- (e) refrain from making statements known to be false or with the intent to mislead Council or the public;

- (f) accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings; and
- (g) refrain from making disparaging comments about another Member or unfounded and speculative accusations about the motives of another Member.

6.0 The Role of Staff

6.1 Council as a whole approves the budget, policies and governance of the Region through its by-laws and resolutions. Individual Members do not direct or oversee the functions of the staff of the Region.

6.2 The Region's staff serve Council and work for the Region as a body corporate under the direction of the CAO. Inquiries of staff from Members should be directed to the CAO or to the appropriate senior staff as directed by the CAO. Members shall not publicly criticize staff. Should a Member have any issue with respect to staff such issue shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior.

6.3 Members shall respect the role of staff in the administration of the business affairs of the Region. Members shall respect that staff:

- (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
- (b) work within the administration of justice and Members must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, Members shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and
- (c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

7.0 Regional Property

7.1 Council is the custodian of the assets of the Region. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

7.2 By virtue of their office or appointment, Members must not use or permit the use of the Region's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Region. No Member shall seek financial

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gain for themselves, family or friends from the use or sale of Region-owned intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Region.

8.0 Gifts and Benefits

8.1 Gifts to Members risk the appearance of improper influence. Gifts may improperly induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Region. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality or any form of personal benefit connected directly or indirectly with the performance of his or her duties. A gift, benefit or hospitality 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 the Member's duties is deemed to be a gift to that Member. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.

8.2 For greater clarity, Members shall not accept any gift or benefits in their public capacity other than in the following circumstances:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law, in the case of Members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable token, memento or souvenir received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;
- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate purpose related to the normal business of the Region,
 - (ii) the person extending the invitation or a representative of the organization is in attendance, and
 - (iii) the value is reasonable and the invitations are infrequent;

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- (h) gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and
- (i) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

9.0 Confidentiality

- 9.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the Region that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council. Members shall comply with the Region's "Information Access and Privacy Protection Policy".
- 9.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting and the Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.
- 9.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Region that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Region and must follow the same processes as any private citizen to obtain such information.
- 9.4 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or as required by law.
- 9.5 Members shall not misuse confidential information in any way or manner such that it may cause detriment to the Region, Council or any other person, or will benefit themselves or others.
- 9.6 Members shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, Regional policies, procedures and rules, ethical standards and, where appropriate, professional standards.

10.0 Discrimination and Harassment

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10.1 Members shall treat all members of the public, another Member and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

10.2 Members shall not use indecent, abusive or insulting words, phrases or expressions toward any member of the public, another Member or staff. Members shall not make an expression in any manner that is discriminatory to any individual based on the individual's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability.

11.0 Improper Use of Influence

11.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.

11.2 Members shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

11.3 Members who are asked to support charitable activities within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

12.0 Conflicts of Interest

12.1 Members shall avoid conflicts of interest, both pecuniary and non-pecuniary. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Region and its elected officials. Members are encouraged to seek guidance from the Integrity Commissioner when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary.

13.0 Council Policies and Procedures

13.1 Members shall strictly observe and adhere to the policies, procedures and rules established by Council.

14.0 Election Activity

- 14.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any Region policies. The use of the Region's resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

15.0 Respect for the Code of Conduct

- 15.1 Members shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Region. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. Members shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.

- 15.2 Members shall cooperate with requests for information during any investigations or inquiries under the Code. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code or any process for complaints adopted by the Region.

16.0 Penalties for Non-Compliance with the Code of Conduct

- 16.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council may impose the following penalties on the Member:

- (a) a reprimand; or
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to 90 days.

- 16.2 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following actions in furtherance of a reprimand, and require that the Member:

- (a) provide a written or verbal apology;
- (b) return property or make reimbursement of its value or of money spent;
- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council.

17.0 Complaint Protocol

- 17.1 The Complaint Protocol – Code of Conduct is Appendix 1 to the Code of Conduct.