



Municipality of Mississippi Mills

# SPECIAL COUNCIL AGENDA

Thursday, February 21, 2019

12:00 p.m.

Upper Hall, Stewart Community Centre

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**PLEASE REMEMBER TO SET YOUR CELL PHONE TO SILENT AND THAT NO RECORDING DEVICES ARE PERMITTED.**

- A. CALL TO ORDER (12:00 p.m.)
- B. ATTENDANCE
- C. APPROVAL OF AGENDA
- D. DISCLOSURE OF PECUNIARY INTEREST
- E. DELEGATION, DEPUTATIONS, AND PRESENTATIONS
  - 1. Presentation by Fred Dean and Nigel Bellchamber  
Re: Effective Municipal Councils – Setting the Course
- F. CONFIRMATORY BY-LAW – 19-19
- G. ADJOURNMENT

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# ***EFFECTIVE MUNICIPAL COUNCILS***

## ***Setting the Course***

***Presentation by  
Fred Dean & Nigel Bellchamber  
Mississippi Mills  
February 2019***

## ***Introducing Fred Dean***

- **Municipal Lawyer & Coach**
- **Former Sudbury City Solicitor**
- **Acts exclusively for municipalities and municipal associations**
- **Chair ROMA Question Box Panel**
- **Chair OGRA Last Word Panel**
- **AMO**
  - **Facilitator & Trainer**
  - **Named to Honour Roll in 2007**
- **Amberley Gavel**
  - **Closed Meeting Investigations**
  - **Integrity Commissioner**
  - **Staff Training**

## ***Introducing Nigel Bellchamber***

- Former Municipal CAO with up to 500 staff; former Treasurer City of London
- Former part time GM OMAA
- Past Chair PSAB
- Training for AMO since 2002
- Amberley Gavel Principal, CMI and IC work
- Frequent conference presenter.
- Consults with municipalities on senior staff recruitment, strategic planning, financial analysis and organizational review
- AMO Honour Roll 2007
- UWO MPA Faculty member Financial Management.

## **This Term will be Challenging**

- **Whether You are**
  - Newly Elected
  - Returning To Council
  - Staff
- **There is a lot to learn**
- **Recent legislative changes are substantial**
- **Impact your personal and public roles**
- **And there will be surprises!**

## The Agenda...

- Powers
- Roles, Responsibilities & Relationships
- Accountability & Transparency
- Council Policies
- Meetings
- Procedure By-law
- Municipal Finance
- Code of Conduct
- Conflicts
- Safe Drinking Water Act
- Dialogue

## Municipal Powers

- Powers come from the Province
  - Acts and Regulations
- No inherent jurisdiction
- Size does not matter
  - Types of Municipalities

## **Basic Principles**

- **Municipal Powers**
  - **Complex, technical, multi-faceted**
  - **Section 5 Municipal Act**
    - Shall be exercised by Council
    - Exercised by By-law

## **How Powers are Exercised**

**Powers are exercised at a duly constituted meeting**

- ✓ **Open to the public**
- ✓ **Notice to the public**
- ✓ **Quorum**
- ✓ **Majority vote**
- ✓ **All members vote**

## **What have you been elected to do?**

- **Job description?**
- **Duties/responsibilities that come with your office?**
- **Scope of your duties?**
- **Limitations?**

## **Statutory Roles & Responsibilities**

- **Municipal Act, 2001**
- **Updated in 2007**
  - **Council**
  - **Head of Council**
  - **CAO**
  - **Municipal Staff**

## **Roles & Responsibilities**

- **Members of Council**
- **Staff**
- **Public**
- **Media**

## **Council**

**It is the role of Council to...**

- **represent the public and to consider the well-being and interests of the municipality**
- **develop and evaluate the policies and programs of the municipality**
- **determine which services the municipality provides**

## **Council**

*It is the role of Council to...*

- ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council

## **Council**

*It is the role of Council to...*

- ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality



# Council

*It is the role of Council to...*

- maintain the financial integrity of the municipality
- carry out the duties of council under this or any other Act

## In Summary...Council

- Exercises corporate powers
- Acts collectively, publicly & with advanced notice
- No management functions by
  - Council
    - Members
    - Head
- Council sets the course, staff row the boat

## **Head of Council**

- **“Mayor”**
- **“Reeve”**
- **“Warden”**
- **“Chair”**
- **“Lord Mayor”**

## **Role of the Head of Council to...**

- **preside over council meetings so that its business can be carried out efficiently and effectively**
- **provide leadership to the council**
- **represent the municipality at official functions;**

## **Role of the Head of Council to...**

- **provide information and recommendations to council with respect to the role of council respecting the administrative & controllership policies, practices and procedures in place to implement the decisions of council**

## **Role of the Head of Council to...**

- **provide information / recommendations to council with respect to the role of council respecting the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality**
- **Practically , how does this happen?**

## **It is the role of the Head of Council to...**

- **act as chief executive officer of the municipality (CEO)**
- **carry out the duties of the head of council under this or any other Act**

## **As CEO the Head of Council shall...**

- ✓ **uphold and promote the purposes of the municipality**
- ✓ **promote public involvement in the municipality's activities**

**As CEO  
the Head of Council shall...**

- ✓ **act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally, and**

**As CEO  
the Head of Council shall...**

- ✓ **participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents**

## **Head of Council**

- ✓ **Leadership to council**
- ✓ **Advice provider to council on key matters**
- ✓ **Effective chair**
- ✓ **Influence is key, not power**
- ✓ **No management powers**
- ✓ **Municipal “Champion” as CEO**
- ✓ **Deputy**

## **Chief Administrative Officer**

- **Council may appoint a CAO who reports to Council and shall be responsible for**
  - **exercising general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality**
  - **performing such other duties as are assigned by the municipality**
- **Council has “One Employee”**

## **Municipal Staff**

**It is the responsibility of Administration to:**

- **undertake research & provide advice to council**
- **implement council's decisions**
- **establish administrative practices & procedures to carry out council's decisions**

## **Statutory Officers**

- **Appointed by council by-law**
- **Have duties under a provincial statute or regulation**
- **Council or other staff cannot interfere with the exercise of those powers**
- **Examples –**
  - **Clerk / CBO / Treasurer**

## **Councillor**

- **Public Official**
- **Limited individual powers**
- **No management powers**
- **Member of Council that**
  - **Sets Policy**
  - **Makes decisions**
  - **In effect, sets the “course” for the ship of state**

## **The Public**

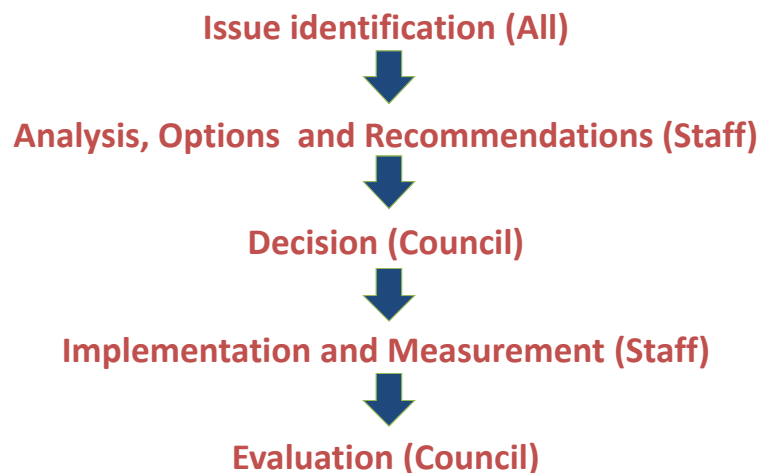
- **Provide input to members**
- **Observe meetings of council**
- **Appear as delegation**



## The Media

- What makes news?
- What is Media's role?
  - Report what observed
  - Sell advertising
- Councillors do not speak on behalf of council
- The Head of Council does
- Be prepared before being interviewed
- Members require media training

## Roles Summary



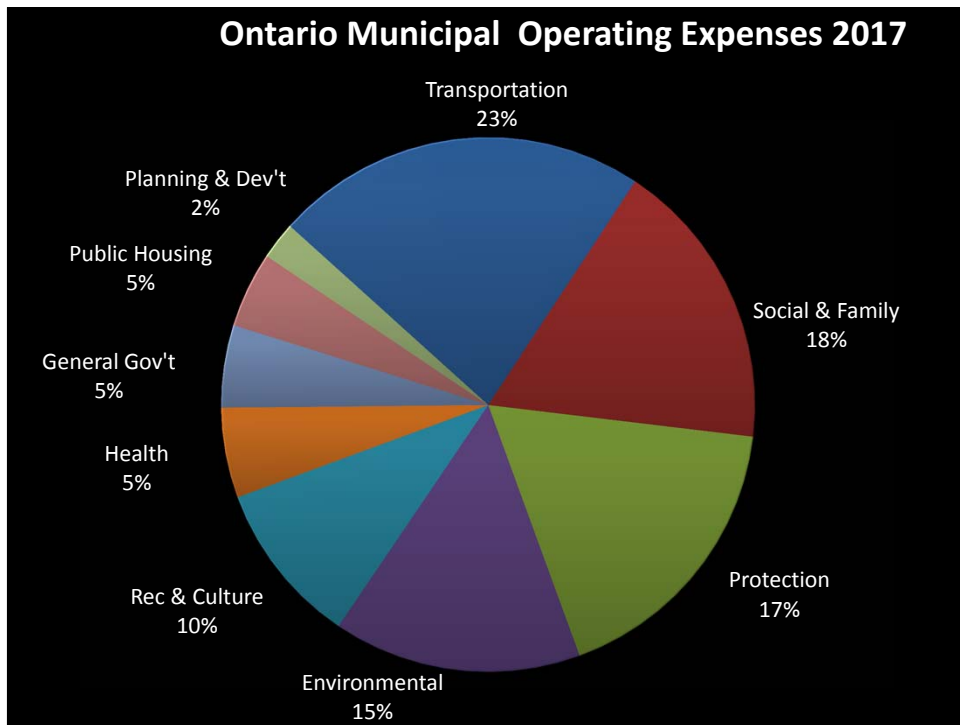
## **Council should guide the boat rather than row it**

- Council should decide what services and programs the municipality will offer and leave to staff the “how to”
- Osborne and Gaebler (*Reinventing Government*)

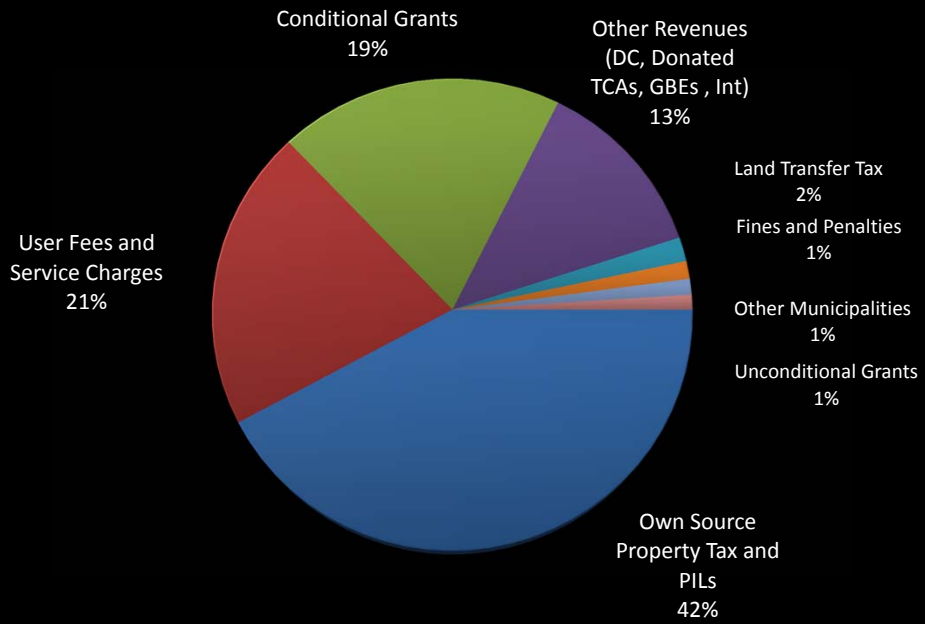
## **Things to Consider...**

- *Council Exercises Power*
- *Micromanaging not helpful*
- *Unique role of Head of Council*
- *Being on a local board or upper tier*
  - ✓ *Other legislation, regulations*
  - ✓ *Other accountability*
  - ✓ *Fiduciary responsibility*

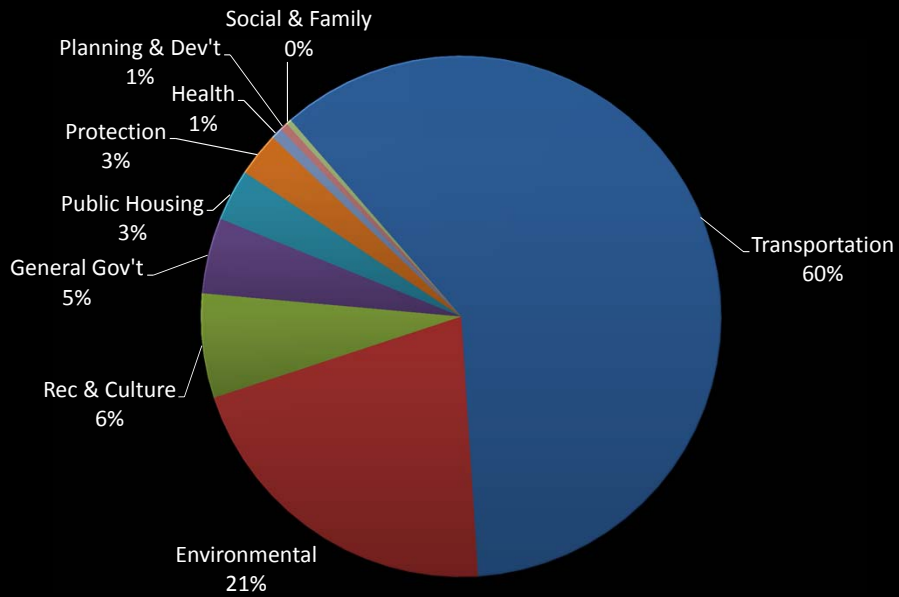
# Municipal Finance



## Ontario Municipal Revenue 2017



## Ontario Municipal Capital Formation 2017



## **Municipal Finance**

- **What are the public pressures?**
- **What are the fiscal realities?**
- **How can they be reconciled?**
- **Information is key!**

## **Asset Management**

- **Ontario Regulation 588/17**
- **Affects all municipalities**
- **Phased approach**
- **Covers all Tangible Capital Assets**
- **Will include condition assessment and life cycle projections and costs**
- **Will drive senior government funding and hence municipal capital budgets.**

## ***Accountable and Transparent Government***

- **Policies**
  - **A & T Policy**
- **Duly constituted open meetings**
- **MFIPPA**
- **Other document access and service protocols**
- **Codes of Conduct**
- **MCIA**
- **Integrity officers**

## **Council Policies Section 270 MA**

- **Shall be adopted & maintained -**
  - **Sale & Disposition of Land**
  - **Hiring of Employees**
  - **Procurement**
  - **Notice**
  - **Accountability & Transparency**
  - **Delegation**

## **New Council Policies**

- **To be adopted by March 1,2019**
  - **The manner in which the municipality will protect and enhance the tree canopy & natural vegetation in the municipality**
  - **Pregnancy leave & parental leaves of members of council**
  - **The relationship between members of council and the officers & employees of the municipality**

## **Council Members/Employee and Officer Relations Policy**

- **Council is the Employer**
- **Statutory duties of officers**
- **CAO has general management duties**
- **Respect for chain of command**
- **Comments and questions at Council**
- **OHSA Policies on Workplace Violence and Harassment and training**
- **Personal relationship disclosure**
- **Information/action requests and sharing of responses**
- **And more.....**

## **Meetings**

**“Meeting” is now defined –**

**“meeting” means any regular, special or other meeting of a council, of a local board or of a committee of either of them, where**

- a) A quorum is present, and**
- b) Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee.**

## **Electronic Participation**

- New provision**
- Procedure by-law may provide for a member to participate electronically**
- Must be an open meeting**
- Electronic attendee not counted in quorum**
- There are some concerns**



## **Procedure By-law**

- **Along with the annual budget it is the most important document in your municipality!**
- **Governance model**
- **Rules of procedure for all meetings**
- **Look to the Clerk for advice**

## **Procedure By-law**

- **Defines relationships**
  - **with public**
    - **eg rules for delegations**
  - **With staff**
  - **With each other**
- **Review it every term**

## **Minutes**

- **Required for all meetings of council, local boards and committees, open or closed**
- **Duty of Clerk, recording secretary**
  - **“without note or comment”**
- **Minutes are a record of corporate acts, not a story.**

## **Predictable and Transparent Meetings**

- **Predictable meetings?**
- **Transparent meetings?**
- **No additions to published agenda?**
- **How can you be surprised?**
- **A matter of trust**

## **Municipal Governance**

- **How does Council make decisions?**
- **Staff**
- **Committees**
  - **Types**
  - **Purposes**
- **Local Boards**
- **Meetings and more meetings...**
- **Procedure By-law**

## **Meetings – Open or Closed?**

- **Key element of Accountable and Transparent Government**
- **Members and staff must know legislated rules for holding closed meetings**
- **Closed meetings**
  - **Limited ability to hold closed meetings**
  - **Subject to review by an Investigator**

## **Basic Principles...**

- **All meetings of council, local boards and committees shall be open to the public!**
- **Meetings may only be closed in circumstances set forth in section 239, Municipal Act**
- **Rules apply to council, committees and some local boards**

## **Closed Meetings**

- **Possible subjects**
- **Required procedures**
- **Governing legislation**
- **Errors to avoid**
- **FAQs –coffee shop, road tour, electronic...**

## **Subject Matters at Closed Meetings Section 239**

- **Security of property**
- **Personal matter about an identifiable individual**
- **Acquisition or disposition of real property**
- **Labour relations or employee negotiations**

## **Subject Matters at Closed Meetings Section 239**

- **Litigation or potential litigation**
- **Advice that is subject to solicitor-client privilege**
- **Under another Act**
  - *Emergency Management Act*
  - *MFIPPA*

## **Subject Matters at Closed Meetings Subsection 239 (3.1)...**

- Meeting may be closed if –
  - for the purpose of educating or training the members AND
  - no member discusses or deals with a matter in a way that materially advances the business or decision-making

## **Subject Matters at Closed Meetings Section 239 (New)**

- information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
- a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization

## **Subject Matters at Closed Meetings Section 239 (New)**

- a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

## **Public Resolution Required**

- Required before closed meeting can occur
- Must be passed at an open meeting
- The Resolution must
  - Acknowledge fact of closed meeting
  - Indicate the general nature of the matter to be considered
- No additional items!!

## Votes at Closed Meetings

- Votes are only permitted for the following -
  - Procedural Matters
  - Direction
  - Adjournment
- Why are written Resolutions important?

## Closed Meeting Investigations

- Any person may request an investigation whether municipality, local board or committee has complied with s. 239 or the procedure by-law in respect of a closed meeting
- Independent investigation
- Amberley Gavel Ltd



## **Personal Responsibilities**

- ✓ **Municipal Conflict of Interest**
- ✓ **Water**
- ✓ **Occupational Health and Safety**
- ✓ **Criminal Code**
- ✓ **MFIPPA**
- ✓ **Council Members Code of Conduct**
- ✓ **Integrity Commissioner**

## **Code of Conduct**

- ✓ **Applies to members of council, local boards & committees**
- ✓ **Mandatory on March 1 2019**
- ✓ **Min. Prescribed matters –O. Reg 55/18**
  - ✓ **Gifts, benefits & hospitality**
  - ✓ **Respectful conduct including conduct toward officers & employees**
  - ✓ **Confidential information**
  - ✓ **Use of property of municipality or local board**

## **Integrity Commissioner**

- ✓ **Mandatory on March 1 2019**
- ✓ **Independent officer**
- ✓ **Role has been expanded**
  - ✓ **Education, advisor, investigations**
  - ✓ **Reports & recommends to council**
  - ✓ **Written opinions**
- ✓ **Limitations at election time**

## **Workplace Incivility**

- **A relatively new term**
- **Not harassment**
- **May have emerged slowly in a workplace**
- **But where it has the impact is serious**
- **So, what is it?**

## Definition

- Workplace incivility has been defined as low-intensity deviant behavior with ambiguous intent to harm the target. Uncivil behaviors are characteristically rude and discourteous displaying a lack of regard for others.

## Subtle/Covert Examples

- asking for input and then ignoring it
- "forgetting" to share credit for a collaborative work
- interrupting others
- not listening
- side conversations during a formal business meeting/presentation
- speaking with a condescending tone

## Overt Examples

- disrupting meetings
- emotional put-downs
- giving dirty looks or eye rolling
- giving public reprimands
- giving the silent treatment
- Insulting others
- making accusations about professional competence
- not giving credit where credit is due
- overruling decisions without giving a reason
- sending a nasty and demeaning note
- talking about someone behind his or her back
- Repeating gossip
- Undermining credibility in front of others

## Workplace Incivility

- Does not extend to the level of violence or harassment
- But it is corrosive and leads to workplace distress, lower productivity and higher turnover, all costly and undesirable
- Left unchecked it can easily lead to harassment

## **In the general workplace**

- **It is the duty of managers to be aware of it and to deal with it before it becomes harassment.**

## **Incivility in Council Meetings**

- **It is rare in some Councils, but rampant in others.**
- **It is never positive, and has a very negative impact on staff and on the public image of the Council**

## **How to Deal with Incivility**

- **“Decorum” is in almost all procedure by-laws for a reason**
- **Role of the Chair**
- **Role of other Councillors**
- **It is not acceptable to say “everyone knows what Tom/Joe/Mary is like”**
- **If unchecked it becomes the norm for the individual and the body**

## **The Municipal Conflict of Interest Act**

- ✓ **Major changes in Bill 68 come into effect March 1 2019**
- ✓ **Your personal obligation**
- ✓ **Governs conduct of members**
- ✓ **Does not apply to staff**

## **Conflict of Interest**

- ✓ **What are the requirements imposed on a member?**
- ✓ **What are the changes in Bill 68?**
- ✓ **What are the impacts of the changes**
  - ✓ **on members?**
  - ✓ **on the municipality?**

## **Pecuniary Interest**

- ✓ **What is a pecuniary interest?**
- ✓ **Direct & indirect**
  - ✓ **Parent, spouse, child**
  - ✓ **Corporations**
  - ✓ **Member of a body**
  - ✓ **Employee**
  - ✓ **Partner**

## Member's Duties

### If a member has a pecuniary interest:

- **Declare the pecuniary interest**
- **State the general nature of the interest**
- **Do not:**
  - **Influence before, during or after the meeting**
  - **Participate**
  - **Vote**

## Declarations

- **Currently**
  - **Verbally disclose a PI and the general nature at the meeting**
  - **Make sure it is properly recorded in minutes**
- **New – in addition**
  - **Member must file a written declaration with Clerk**
  - **Registry with verbal & written declarations maintained by Clerk**



## **“Do I have a Pecuniary Interest?”**

### **“NO”**

- ✓ Participate
- ✓ Influence &
- ✓ Vote
- ✓ “Business as usual”

### **“YES”**

- Does a section 4 Exception Apply?
- “YES”
- Participate, Influence & Vote
- “NO”
- Declare Pecuniary Interest
  - Do NOT Participate, Influence or Vote

## **Conflict of Interest Exceptions**

- user of any public utility service
- member being entitled to receive any service or commodity on same terms as others
- purchasing or owning a debenture of the municipality
- member making a deposit with the municipality or local board, which is or may be returnable to the member in like manner as such a deposit is or may be returnable to all other electors
- having an interest in any property affected by a work under the Drainage Act or relating to local improvements

## **Conflict of Interest Exceptions**

- **having an interest in farm lands that are exempted from taxation**
- **being eligible to fill a vacancy in the council or local board when the council to fill such vacancy**
- **being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of the member being a member of a board, commission, or other body as an appointee of a council or local board**

## **Conflict of Interest Exceptions**

- **setting compensation for members of council**
- **setting compensation for members of a volunteer fire brigade**
- **an interest in common with electors generally**
- **interest which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member**

## **Municipal Conflict Of Interest Act**

- **If Exception applies**
  - **business as usual**
- **Closed meetings**
- **Quorum**
  - **Can be reduced to 2 members**
- **Absence from meeting**
  - **Declare at next meeting**

## **“Where do I find general advice?”**

- **Educate yourself**
  - **Read the Act regularly**
  - **Ask your Integrity Commissioner**
  - **Book and articles**
  - **Google Alerts**
- **Staff**

## **Written Opinion of IC**

- **Members may request in writing an opinion from IC**
- **IC will respond in writing**
- **Request must offer full disclosure**
- **Member can rely on IC opinion**

## **Traditional Complaint Process**

- **Court Application**
  - **By Elector**
  - **Within 6 weeks of knowledge**
  - **Up to 6 Years from alleged contravention**

## **Bill 68 Changes**

- **Elector or a person demonstrably acting in the public interest may apply to IC**
- **IC investigates & reports to council**
- **IC may apply to court**
- **Penalties**
  - **Reprimand**
  - **Up to 90 days loss of remuneration**

## **Application to Court**

- **By an elector, a person demonstrably acting in the public interest or the Integrity Commissioner**
- **Within 6 weeks but not during election period**
- **Why would IC apply to court?**

## **Powers of Court**

- **Reprimand the member or former member**
- **Suspend remuneration for up to 90 days**
- **Declare seat vacant**
- **Disqualify member for up to 7 years**
- **Restitution**

## **Court May Consider**

- **Member took measures to prevent contravention**
- **Provided all relevant facts to IC when asking for opinion**
- **Followed advice of IC**
- **Inadvertance**
- **Error in judgment**

## **Possible Impacts of Bill 68 Changes**

- ✓ **Greater scrutiny by public**
- ✓ **Greater ease of complaints**
- ✓ **Costs for all code violations will be borne by municipality**
- ✓ **Court costs will be borne by public where IC begins court process**

## **Safe Drinking Water Act, 2002**

- ✓ **Section 19**
- ✓ **Personal liability of decision makers**
- ✓ **Need for training**

## **Training**

- **Multi-faceted, highly regulated public organization**
- **Training plan for**
  - **Members**
  - **Staff**
  - **Committee and local board members**
- **Hold training in public when possible**

## **Council Training**

- **Meetings**
- **Policies**
- **Harassment**
- **Water & other personal responsibilities**
- **Finance & Budgeting**



## **Making a Difference**

### **Key Attributes of Successful Municipalities?**

## **Making a Difference**

- ✓ Know each other's roles
- ✓ Know and follow the Procedure By-law and Ethical Codes and Policies
- ✓ Well constructed agendas
- ✓ Comprehensive staff reports
- ✓ All come to meetings prepared
- ✓ No surprises at meetings

## **Making a Difference**

- ✓ **Commit to accountability / transparency**
- ✓ **Create a culture of ongoing training**
- ✓ **Respect and decorum**
- ✓ **Have a well defined relationship with the public**
- ✓ **Public will be watching more closely**
- ✓ **Inappropriate behavior will cost the municipality and you personally**

## **Summing Up**

- **Municipal government is complex and highly regulated**
- **Municipal Powers rest with Council**
- **Understand the role you are elected to fulfill and the role of staff**

**and....**

## Summing up

- **Do your homework**
- **Have fun and don't forget your role is to “set the course”!**

*The content of this presentation is intended to provide a general guide to the subject matter and is not legal advice. Specialist advice should be sought about your specific circumstances.*