

# **THE STRUCTURE AND PRINCIPLES OF EFFECTIVE MUNICIPAL GOVERNMENT**

A PRESENTATION TO COUNCIL BY THE MUNICIPALITY OF BROCKTON'S  
INTEGRITY COMMISSIONER

January 26, 2021

H.G. Elston  
Integrity Commissioner for the Municipality of Brockton  
[commissioner@haroldelston.com](mailto:commissioner@haroldelston.com)

# TOPICS

- I. Overview
- II. Roles and Responsibilities
- III. Meetings
- IV. Integrity Commissioner's Report
- V. Collingwood Inquiry

# OVERVIEW

- Municipal governance in Ontario is a rules-based system.
- The essential powers and obligations of municipalities and members of council are established in the *Municipal Elections Act, 1996*, the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.
- Council's are to govern as a whole, in a transparent and accountable way, free from conflicts and bias, in a respectful and honest manner.
- There is a clear division of duties between elected officials and members of staff, which must be respected for municipal governments to be effective.
- Maintaining the public trust is paramount.

# THE ROLE OF COUNCIL

It is the role of Council to:

1. Represent the public and consider the well-being and interests of the Municipality;
2. Develop and evaluate the policies and programs of the Municipality;
3. Determine which services the Municipality provides;
4. Ensure the accountability and transparency of the operations of the Municipality; and
5. Maintain the financial integrity of the Municipality.

# THE ROLE OF HEAD OF COUNCIL

It is the role of the Head of Council to:

1. Act as the Chief Executive Officer of the Municipality;
2. Preside over Council meetings, so that its business can be carried out efficiently and effectively;
3. Provide leadership to the Council;
4. Represent the Municipality at official functions; and
5. Provide information/recommendations to Council with respect to the role of council respecting accountability and transparency and the administrative policies, practices and procedures in place to implement the decisions of Council.

As Chief Executive Officer, it is the role of the Mayor to:

1. Uphold and promote the purposes of the Municipality;
2. Promote public involvement in the Municipality's activities;
3. Act as the representative of the Municipality and promote it locally, nationally and internationally; and
4. Participate in and foster activities that enhance the economic, social and environmental well-being of the Municipality and its residents.

# THE ROLE OF STAFF

It is the role of the officers and employees of the municipality to:

1. To implement council's decisions and establish administrative practices and procedures to carry out council's decisions;
2. To undertake research and provide advice to council on the policies and programs of the municipality; and
3. To carry out other duties required under this or any Act and other duties assigned by the municipality.

# THE ROLE OF A COUNCILLOR

Municipal Act contains no specific job description or authority for Members of Council, however, Ontario's Municipal Councillor's Guide says Councillor's have three main roles:

1. A representative;
2. A policy-maker; and
3. A steward.

Councillors are public officials, with no management powers.

# THE INTEGRITY COMMISSIONER

- Is independent
- Undertakes confidential inquiries
- Reports to Council in open session
- Applies the Code of Conduct and other ethical rules
- Applies the MCIA
- Provides advice on Code and MCIA matters to Members
- Provides education to Members, the municipality and the public

# MEETINGS

- Section 238(1) of the *Municipal Act, 2001* defines “meeting”:
- “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 of members 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.

# INTEGRITY COMMISSIONER'S REPORT

- In my tenure as your Commissioner, I received three requests for advice and one complaint against a Member of Council, which was dismissed.
- Nature of advice included conflicts of interest and the Code of Conduct

# COLLINGWOOD INQUIRY

- Section 274 of *Municipal Act, 2001* – Investigation by Judge
- Investigate breach of trust, inquire into any matter connected to good government or conduct of any part of the public business
- Collingwood Inquiry - Justice Marrocco's Report
- Findings on two multi-million dollar transactions (sale of power company and dome over facilities) summarized as: *undisclosed conflicts, unfair procurements, and lack of transparency stained both transactions, leading to troubling concerns*
- 306 recommendations in almost 1,000 pages

## COLLINGWOOD INQUIRY cont'd

- Significantly enhanced role for Integrity Commissioner (5-year term)
- Councillors to annually disclose all private financial interests, in a manner similar to provincial and federal elected officials
- Conflict of interest and Codes of Conduct applicable to staff
- Expanded provisions on gifts, favours, benefits, hospitality and trips, disclosure of confidential information
- Rules restricting former Councillors and staff from accepting employment or lobbying (1 year)
- New, much broader definition of “family”

## COLLINGWOOD INQUIRY, cont'd

- Refining roles of Mayor and CAO (6-year term)
- Mayor not able to bind municipality and clear separation between elected representatives and impartial public service
- 84 recommendations on procurement of goods and services (competitive, open, honest)
- Council's role to be minimal in procurement
- Stronger rules for lobbyists (36 recommendations)
- Introduction of “disqualifying” and “non-disqualifying” interests

# THANK YOU AND QUESTIONS