



Council Orientation

Melancthon Township

April 7, 2022

Ministry of Municipal Affairs and Housing
Municipal Services Office - West

Disclaimer

- These slides are provided by the Ministry of Municipal Affairs and Housing for convenience only.
- The slides should not be relied on for legal or official purposes and are not meant to replace provincial legislation.
- As local facts and circumstances are variable, users may wish to consider obtaining their own legal advice when particular legal issues arise.
- For more specific information, please refer to the relevant legislation and regulations which can be found online at: www.ontario.ca/laws

Focus of the Presentation

1. Role of Council, Councillor and Staff
2. Accountability and Transparency

Section 1: Roles of Council, Councillor, and Staff

Council and Staff Roles

Council

Represent the public and to consider the well-being and interests of the municipality



Councillor

Plays several roles including representative, policymaking and stewardship role in the municipality



Head of Council

Act as Chief Executive Officer of the municipality and provide leadership to council

CAO and Staff

Implement council's decisions and establish administrative practices and procedures



Role of Council

- Section 224 of the *Municipal Act, 2001*
- 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
 - ensure that administrative and controllership policies, practices and procedures are in place to implement the decisions of council
 - ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality
 - maintain the financial integrity of the municipality
 - carry out the duties of council under the *Municipal Act, 2001* or any other Act

Role of Council (cont'd)

- It is also the role of council to:
 - conduct meetings
 - pass bylaws
 - Develop policies with respect to:
 - accountability and transparency
 - notice
 - delegation of authority
 - hiring
 - disposition and sale of land
 - procurement of goods and services
 - relationship between council and staff
 - protection of tree canopy and natural vegetation
 - pregnancy and parental leaves



Role of Head of Council

- Section 225 of the *Municipal Act, 2001*
- It is the role of head of council to:
 - act as the chief executive officer
 - preside over council meetings “so that its business can be carried out efficiently and effectively”
 - provide leadership to the council
 - provide information/recommendations to council on policies, practices, procedures, to ensure transparency and accountability
 - represent the municipality at official functions
 - carry out the duties of the head of council under the *Municipal Act, 2001* or any other Act

Role of Head of Council (cont'd)

- As the chief executive officer of the municipality, the head of council shall:
 - uphold and promote the purposes of the municipality
 - promote public involvement
 - act as the representative and promote the municipality locally and elsewhere
 - participate in and foster activities that enhance the economic, social and environmental well being of the municipality and its residents

Staff Role

- The *Municipal Act, 2001*, sets out the role of the officers and employees of the municipality as follows:
 - implement council's decisions and establish administrative practices and procedures to carry out council's decisions
 - undertake research and provide advice to council on the policies and programs of the municipality
 - carry out other duties required under the *Municipal Act*, or any Act and other duties assigned by the municipality
- Some officers of the municipality have statutory obligations

Clerk

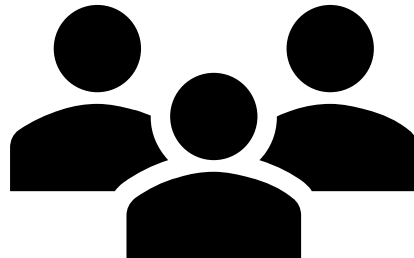
Treasurer

Chief
Building
Official

Fire Chief

Role of the Chief Administrative Officer

- The *Municipal Act, 2001* sets out the role of the chief administrative officer (CAO).
- The CAO is 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; and
 - performing such other duties as are assigned by the municipality.



Section 2: Accountability and Transparency

Accountability and Transparency

- The *Municipal Act, 2001* requires municipalities to have policies related to:
 - sale and other disposition of land
 - hiring of employees
 - *the relationship between council and municipal officers and employees**
 - procurement of goods and services
 - the circumstances in which the municipality shall provide notice to the public and, the form, manner and times notice shall be given
 - delegation of its powers and duties
 - *protection of the tree canopy and natural vegetation in the municipality**
 - *pregnancy leaves and parental leaves of members of council **



* *The requirement for council to develop these policies comes into effect on March 1, 2019.*

Codes of Conduct

- Effective March 1, 2019 municipalities will be required to adopt a code of conduct for members of council and certain local boards
 - Mandatory subject matters that must be included: gifts, benefits and hospitality; respectful conduct; dealing with confidential information; and use of municipal or local board property/equipment
- Considerations when developing and reviewing codes of conduct:
 - working with local boards when developing local board codes of conduct
 - reviewing and updating existing codes of conduct, including consulting with the Integrity Commissioner
 - establishing standards of respectful conduct – what is considered to be harassment or bullying?
 - establishing a local process for handling complaints about a councillor's conduct
 - work with the Integrity Commissioner to establish an accessible and open complaints process for codes of conduct
 - review how the code fits with the other aspects of the local accountability regime (e.g. an existing council-staff relations policy)

Accountability Officers

- To help ensure integrity and accountability in public office, the *Municipal Act, 2001* allows municipalities to pass by-laws to establish:



A municipal
Ombudsman



An Auditor
General



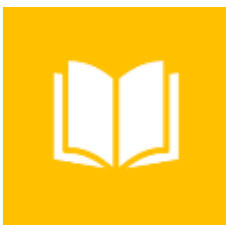
A lobbyist registry
and registrar



A code of conduct for
council and local
board members

- Effective March 1, 2019 municipalities will be required to ensure that the public has access to an Integrity Commissioner

Municipal Conflict of Interest



The Municipal Conflict of Interest Act

sets out what may be regarded as a primary set of ethical rules for council and local board members

- These rules apply, with some exceptions, to council and local board members if they have a pecuniary (financial) interest in a matter that is before a council (or a local board) at a meeting

Municipal Conflict of Interest

- The legislation requires a member with this kind of interest – again with certain exceptions – to, among other things:
 - **disclose the interest** and its general nature before the matter is considered at the meeting
 - **not take part** in the discussion or voting on any question in respect of the matter
 - **not attempt to influence** the voting before, during, or after the meeting; and
 - **immediately leave** the meeting, if the meeting is closed to the public
- Potential penalties for contravention of the Act include removal from office. The courts decide whether or not a contravention of the Act has taken place



Municipal Conflict of Interest (Continued)

- As of March 1, 2019, the MClA will:
 - generally prohibit members of council or of a local board from using their office to attempt to influence decisions or recommendations being considered by municipal or local board employees if the member has a pecuniary interest in the matter
 - require a member who discloses a pecuniary interest at a meeting to file a written statement of their interest
 - require municipalities and local boards to establish and maintain a registry of statements and declarations of interests of members; must be available to the public
 - include a broader range of penalties for contraventions

Municipal Conflict of Interest (Continued)

- As of March 1, 2019, under the *Municipal Act, 2001*, Integrity Commissioners will have a new responsibility:
 - could investigate a complaint concerning an alleged contravention of MCIA rules
- After completing an investigation, the Integrity Commissioner could decide to apply to a judge for a determination as to whether the member contravened the MCIA
 - person who made the complaint may apply to a judge (as long as certain conditions are met) if the Integrity Commissioner does not

Ontario Ombudsman



Since **January 1, 2016**, the Ontario Ombudsman has a role with respect to municipalities.

- may investigate municipalities on complaints or on own initiative
- they cannot compel municipalities to take action
- may make recommendations to council and the municipality as part of their report
- municipality determines whether and how to address any recommendations made by Ombudsman
- Ontario Ombudsman does not replace and locally established complaint mechanism or act as Integrity Commissioner for municipalities

Privacy and Confidentiality

- The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) is the primary statute for privacy and confidentiality
 - Sets out rules for collection, use and disclosure of personal information
 - Regulates confidential information of other kinds (in addition to personal information)
- Other statutes and laws including local by-laws also regulate personal and other kinds of confidential information
- Councillors may have responsibilities if receiving confidential information in the course of their duties (e.g. protecting and safeguarding the information)
 - check with municipal staff about appropriate measures and the municipality's practices (e.g. providing for physical security)

Helpful Considerations – Section 2

- Familiarize yourself with:
 - municipal policy manuals
 - municipality's code of conduct for council members
 - changes to local accountability and frameworks, starting March 1, 2019
 - Municipal Conflict of Interest Act
 - role of the Ontario Ombudsman
 - protection of personal privacy and other confidentiality issues



Questions



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