

TOWN HALL
Town of The Blue Mountains
32 Mill Street, P.O. Box 310
Thornbury, ON N0H 2P0

MEMORANDUM
OFFICE OF THE INTEGRITY COMMISSIONER

October 6, 2020

TO: Chairs of Local Boards and Committees

FROM: Suzanne Craig, Integrity Commissioner

In my capacity of the Integrity Commissioner for the Town of The Blue Mountains, I provide the following general guidance and Terms of Reference for Members of Town Local Boards and Committees who have been appointed by Council.

Section 223.2 of the *Municipal Act* states that "A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards." This particular section does not provide guidance on what is considered a local board. Accordingly, the operative definition is the one set out in section 1 of the *Act*. This definition states that "local board" means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority; ("conseil local").¹

The Council Code of Conduct states that its rules apply to Members of the Council, as well as Members of Town Local Boards and Committees.

Rule 1 prohibits members from the improper use of the influence of their office, which includes pecuniary interests and private interests or biases. This rule of the Code intends that Members of Town Local Boards and Committees, though voluntary in their roles, will have a common understanding that they will not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual.

Members of the public appointed to Local Boards and Committees are appointed at the pleasure of Council. They do not hold office nor do they represent a constituency within the community. Members of the public appointed to Local Boards and Committees must respect both the word and spirit of the Code of Conduct for Members of Council (the "Code").

¹ The Town Council Code of Conduct sets out that *Local Board* means a local board established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities but does not include The Blue Mountains Police Services Board or The Blue Mountains Public Library Board, a school board, a hospital board or a conservation authority.

Local Boards and Committees operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council. No Local Board and Committee member may act beyond the mandate of the Local Board and Committee granted by Council. They must not undertake, direct discussions with residents, hold informal meetings or communications to Council outside the statutory approved processes, including the *Planning Act*.

The Chair has duties that include the following:

- Acts as representative of the Board as a whole
- Develops agendas for the meeting in cooperation with the Administrator or the Town Clerk's staff;
- Serves as the Administrator's primary point of contact, providing direction and accountability.
- Cannot override the direction of the Board

Where individual Members of a Local Board or Committee, or the Board or Committee as a whole, would like to comment on a matter, such as a *Planning Act* application, that will be before Council, this should only be done through the official approved Council process or relevant statutory process.

In performing the duties of the Board or Committee, Members must adhere to the planning and procurement laws, the Code and the Town's Procedural By-law. Members commit to uphold the democratic, professional and ethical values enshrined in the governing legislation and policies of the jurisdiction within which they have been appointed.

It is important that the Town's appointed Local Board and Committee members do not step outside of their official roles to grant or to be perceived to have assisted themselves, private entities or persons in their dealings with the Town where this would result in preferential treatment to the entities or persons. Some examples of guidelines to follow to avoid a real or perceived conflict of interest in any planning or procurement process would include the Members:

- avoiding participation in procurement actions or the planning process outside of the established statutory process, the non-adherence to which would place the Member in a real, potential or apparent conflict of interest with his or her official duties due to the Board and Committee;
- prohibiting the appearance of collusion in the bidding process for contracts for the performance of work, the supply of goods or the rendering of services by separating the phases of the process and distinguishing those who participate in the development of the call documents, the submission of bids and the evaluation of the vendors;
- prohibiting the participation in the bidding process of any vendor with a real or perceived conflict of interest that may give them an unfair advantage in bidding on Town contracts (wearing two hats).

Further, the *Municipal Act, 2001* also requires that local boards and committees have a procedure by-law, including public notice of meetings, as well as “adopt and maintain” policies with respect to: sale and other disposition of land; hiring of employees; and, procurement of goods and services.

Local Board and Committee Members (and also Members of Council) are required under the Code to avoid having a closed mind. As a result, Local Board and Committee Members should avoid making public statements in their personal capacity on matters for which they may be required to make recommendations in their official capacity as a Local Board or Committee Member. By stating a position on a matter in one’s personal capacity, the individual who is also a Local Board or Committee Member, has in effect, identified an entrenched position that may be viewed as a reasonable apprehension of bias. Local Board and Committee Members, in fulfillment of the official duties, are required to step away from prejudgment and consider all relevant facts brought before Local Board and Committees for recommendation.

Finally, Local Boards and Committees as a whole, should only provide its comments on the planning process, in accordance with the rules of the *Planning Act*. This means that as part of the planning process, which includes an opportunity to receive the public’s input through their participation at public meetings, the Local Committees and Boards should not deviate unilaterally from this process and access the ear of Council through a process not established by the *Planning Act*.

The Office of the Integrity Commissioner is available as a resource to Local Board and Committee Members to assist in an understanding of the application of the rules of the Code of Conduct, as well as, *Municipal Conflict of Interest Act* provisions. The contact information for the Office is:

Suzanne Craig, Integrity Commissioner

519-599-3131 ext. 425

[Redacted signature area]

Sincerely,

"Suzanne Craig"

Suzanne Craig
Integrity Commissioner