PROCEDURE BY-LAW AND CODE OF CONDUCT REVIEW

3 - 33 1. Procedure By-Law

35 - 62 2. Code of Conduct

PROPOSED AMENDMENTS AS SUBMITTED BY MEMBERS OF COUNCIL

63 - 69 1. Proposed Amendments to Procedure By-Law Submitted by Council

71 - 79 2. Proposed Amendments to the Code of Conduct Submitted by Council

PROPOSED AMENDMENTS AS SUBMITTED BY INTEGRITY COMMISSIONER

81 - 88 1. Proposed Amendments Submitted by Paul Watson, Integrity Commissioner
BY-LAW NUMBER 57 OF 2019
OF THE CITY OF SARNIA

"A By-Law to Provide Rules Governing the Proceedings of Council and the Conduct of its Members"

(Re: Procedure By-law)

WHEREAS the Municipal Act, 2001, as amended, requires every municipal Council and local board to adopt a procedural by-law for governing the calling, place and proceedings of Meetings and governing the conduct of their Members;

AND WHEREAS Council may, by by-law, govern the conduct of its members;

AND WHEREAS Council deems it expedient to pass such a by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF SARNIA ENACTS AS FOLLOWS:
Table of Contents

1. Interpretation ................................................................. 3
2. General Provisions ............................................................ 5
3. Roles of Chair and Members .............................................. 6
4. Prolonged Absence ............................................................. 7
5. Direction to Staff ............................................................. 8
6. Location of Meetings ....................................................... 8
7. Open Meetings ............................................................... 8
8. Closed Meetings ............................................................. 11
9. Minutes ........................................................................ 14
10. Ad Hoc Committees ......................................................... 14
11. Proceedings ................................................................. 15
12. Acting Mayor ................................................................. 17
13. Order of Business .......................................................... 18
14. Delegations ................................................................. 20
15. Conduct of Debate ......................................................... 24
16. Motions ................................................................... 26
17. Reconsideration .............................................................. 29
18. By-Laws .......................................................... 30
19. Adjournment ................................................................. 30
20. Repeal .................................................................. 30
1. Interpretation

1.1 In this By-law:

(a) “Acting Mayor” means the Councillor appointed by Council to act in the absence of the Mayor in accordance with this By-Law.

(b) “Chair” means the person presiding at a Meeting, and includes the Mayor, Acting Mayor, or Committee Chair while presiding at a Meeting or such other person as may be authorized to preside in their absence.

(c) “City” means The Corporation of the City of Sarnia.

(d) “City Clerk” means the Clerk of The Corporation of the City of Sarnia.

(e) “Closed Meeting” means a Meeting or part of a Meeting of Council not open to the public in accordance with the Municipal Act, 2001, as amended.

(f) “Committee” means any advisory or other committee, subcommittee or similar entity of which at least 50% of the members are also members of Council or a Local Board.

(g) “Council” means the Municipal Council of The Corporation of the City of Sarnia.
(h) "Holiday" means any holiday as defined in the Employment Standards Act, or any day proclaimed by the Head of Council as a Civic Holiday.

(i) "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.

(j) "Mayor" means the head of the Council of The Corporation of the City of Sarnia as well as Chief Executive Officer of the Municipality

(k) "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.

(l) "Member" means a member of the Municipal Council of The Corporation of the City of Sarnia, including all Councillors and the Mayor.
2. General Provisions

2.1 In all proceedings held or taken in Council of the City, including special Meetings and, except as otherwise provided, in any closed Meeting of the Council, the rules set out in this by-law shall be observed and shall be the rules of the order and conduct of business.

2.2 If not provided in this by-law, resort shall be had to Robert’s Rules of Order (latest edition) for guidance on the question, in the absence of which the decision of the Chair shall be final (subject to an appeal at the time of the ruling by a majority of Council Members present).

2.3 No standing rule or order of Council may be suspended except by two-thirds vote of the whole number of Members of Council in attendance.

2.4 Unless a contrary intention appears, in this By-Law, words in the singular include the plural and words importing masculine gender include the feminine.

2.5 All Members, except the Mayor, are to be addressed as “Councillor”. The Mayor shall be addressed as “Mayor ______” or as “Your Worship” or any other title that denotes respect. No titles will appear on the Council nameplates which appear in the Council Chambers with the exception of “Mayor” or “Councillor”, as appropriate.

2.6 While within a Council Meeting, the Members shall:
(a) Send or receive electronic communication of a personal nature only in the event of emergencies;
(b) Access the internet during a Council Meeting only to access Council agenda package information or any other information that is germane to the agenda package;
(c) Refrain from all other forms of electronic communication; and
(d) Set all electronic devices to silent.

3. Roles of Chair and Members

3.1 It is the Role of the Mayor:

(a) To act as Chief Executive Officer of the Municipality;
(b) To preside over Council Meetings so that its business can be carried out efficiently and effectively;
(c) To provide leadership to the Council;
(d) To represent the Corporation at official functions;
(e) To carry out the duties of the head of Council under any Act.

3.2 As Chief Executive Officer of the Corporation, the head of Council shall:

(a) Uphold and promote the purposes of the Municipality;
(b) Promote public involvement in the Municipality’s activities;
(c) Act as the representative of the Municipality both within and outside the City and promote the City locally, nationally and internationally; and
(d) Participate in and foster activities that enhance the economic, social and environmental well-being of the City and its residents.
3.3 It is the Role of Council:

(a) To represent the public and consider the well-being and interests of the City;
(b) To develop and evaluate the policies and programs of the Municipality;
(c) To determine which services the city provides;
(d) To ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
(e) To ensure the accountability and transparency of the operations of the Corporation, including the activities of the senior management of the Corporation
(f) To maintain the financial integrity of the Corporation; and
(g) To carry out the duties of Council under any Act.

4. Prolonged Absence

4.1 The office of a Member becomes vacant if the member is absent from the Meetings of Council for three successive months without being authorized to do so by a resolution of Council.

4.2 Section 4.1 does not apply to vacate the office of a Member if the absence is a result of the member's pregnancy, the birth of the member's child or the adoption of a child by the member.
5. Direction to Staff

5.1 No Member shall direct, request any reports, or interfere with the performance of any work being carried on by an employee of the City. Direction, including reports, may be requested by resolution of Council.

6. Location of Meetings

6.1 Regular meetings of Council shall be held in the Council Chambers or other Committee room at Sarnia City Hall, 255 Christina Street North, Sarnia.

6.2 Other meetings may be held at any convenient location within the City or within an adjacent municipality at the call of the Chair in accordance with the requirements of this Procedure By-law.

7. Open Meetings

7.1 The first Meeting in a new term of Council shall be held no later than 31 days after term commences at such a time as called by the City Clerk in consultation with the Mayor.

7.2 Council shall approve an annual Meeting schedule and meet in accordance with the approved Council Meeting schedule for regular Council Meetings.

7.3 Corporate Priorities/Strategic Planning Meetings will be scheduled in the yearly schedule of Meetings or may be held at
the call of the Chair or of the City Clerk upon receipt of a petition of a majority of Members of Council.

7.4 Special Meetings may be called by the Chair at any time and may be open or closed as the Municipal Act, 2001 or this by-law allows.

7.5 The City Clerk shall call a special Meeting upon receipt of a petition of a majority of Members of Council setting forth the purpose and time for the Meeting.

7.6 The first Meeting of each month shall be opened with a Moment of Silent Reflection following the National Anthem.

7.7 If a Monday designated for the holding of a Council Meeting falls on a public holiday or on a day when City Hall is closed for business, Council shall meet at the designated hour on the first day following which is not a public holiday.

7.8 Any person directly affected by a report or correspondence on a Council agenda, who may wish to address Council on that topic, may be provided with a copy of the report or correspondence when available. Staff shall provide a copy to Members in advance of circulation to the person.

7.9 All regular Meetings shall commence at 4:00 p.m., recess at 6:00 p.m. for up to 30 minutes as determined by a majority of Council, or as close as practicable thereto, and adjourn at no later than 9:00 p.m. These times may be adjusted to accommodate a Public Meeting.
7.10 In the event that the business of the Meeting appears to be nearing completion by or shortly after 6:00 p.m., and there are no delegations to be heard after 6:00 p.m., the Meeting may continue without recess and be adjourned at the appropriate time thereafter.

7.11 Agendas for Meetings, with written material, if any, will be forwarded to Council on the Thursday preceding a Meeting.

7.12 Agendas for Council Meetings shall be published on the Thursday prior to the Meeting after being delivered to Members.

7.13 Public notice of all Meetings shall be provided in accordance with the City of Sarnia Notice Policy. In addition to the approved Meeting schedule, notices of Meeting shall be placed in the Civic Corner in a local newspaper whenever possible, the City website, and the Notice Board at City Hall.

7.14 Notwithstanding any other provision of this By-law, an emergency Meeting may be held, without written notice, to deal with an emergency situation, provided that an attempt has been made by the City Clerk to notify the members about the Meeting as soon as possible and in the most expedient manner available. No business except business dealing directly with the emergency situation shall be transacted at an emergency Meeting.

7.15 Any regular Meetings of Council may be postponed or cancelled:

(a) By the Chair through a notice to the City Clerk. The City Clerk shall forward the notice to each Member at least 72 hours prior to the date of the Meeting; or
(b) By a special motion of Council passed by the majority of Members.

7.16 Meetings shall be open to the public except as allowed under section 239(2) of the Municipal Act, 2001.

7.17 No more than one regular Meeting of Council shall be called, unless an emergency arises, of the outgoing Council following the election of a new Council.

7.18 Public Meetings are to take place in the Council Chambers when possible to allow for seating.

8. Closed Meetings

8.1 Council may convene in closed session if the subject matter being considered falls within an exception listed in section 239(2) of the Municipal Act, 2001, SO 2001, c 25, as amended.

8.2 No use of recording functions of devices of any kind are allowed while within a closed session Council Meeting except those operated by the municipality. Any recordings of closed sessions will not form an official record and will only be used if deemed necessary during an official investigation.

8.3 Closed Meetings of Council shall commence immediately prior to regular Meetings, except for urgent matters which may be considered during regular or special Meetings.
8.4 Prior to moving into a closed session for one of the reasons listed in section 239(2) of the Municipal Act, a motion shall be passed in public session stating the fact of the holding of the closed Meeting and the general nature of the matter to be considered at the closed Meeting.

8.5 At the beginning of each closed Meeting of Council, the Chair shall ask whether any Member wishes to make a motion to remove any closed Meeting agenda item to a public Meeting.

8.6 A Meeting may be closed to the public during the taking of a vote if the vote is for a procedural matter or for giving direction or instruction to officers, employees or agents of the City or Local Board or Committee of either of them or persons retained by or under a contract with the municipality or Local Board. Where a vote is taken for any purpose, and a Member requests immediately prior or immediately subsequent to the taking of the vote that the vote be recorded, each Member present, except a Member who is disqualified from voting by any Act, shall announce or indicate by hand his vote openly and an abstention shall have the same effect as a "no" vote and the City Clerk shall record it as such.

8.7 Upon completion of closed Meetings of the Council, the decisions of the Council with respect to any of the above enumerated items, and directions to City administration in accordance therewith, shall then be reported publicly by Council to the extent that the public interest permits.
8.8 The response of Members to enquiries about any matter dealt with by Council at a closed Meeting, prior to it being reported publicly, shall be "no comment", or words to that effect.

8.9 The release of any information about matters dealt with by Council at a closed Meeting shall be by the Chair or his delegate only.

8.10 Notwithstanding Section 7.9, upon the public reporting of any closed Meeting agenda item, any individual Members may express their own personal position on the item, but shall not refer to or discuss the specific positions or opinions (written or verbal) of other Members or of City Staff.

8.11 Agendas or any items thereon for consideration by Council at a closed Meeting shall not be released to the public.

8.12 City Council shall not hear delegations or meet with any person or representative of any organization while in closed session. However, any written request or information may be provided to Council for consideration at a closed Meeting. If Council is acting as an appeal body this section does not apply.

8.13 Notwithstanding Section 7.12, Council may hear from City staff or anyone retained by the City.

8.14 Closed Meetings of Council will commence in advance of the regular Council Meeting at a time that the City Clerk, in
consultation with the Chair, determines will best accommodate the closed meeting agenda.

9. Minutes

9.1 The City Clerk shall prepare minutes of all Council Meetings which shall record:

(a) The place, date and time of Meeting;
(b) The name of the Chair and the attendance of the members;
(c) Any pecuniary interest that has been declared;
(d) The resolutions of Council passed at the Meeting;
(e) The proceedings of Council without note or comment;
(f) The time of adjournment.

9.2 The minutes of each Meeting of the Council shall be presented to the Council at the next regular Meeting for approval.

10. Ad Hoc Committees

10.1 Ad Hoc Committees of Council may be appointed by Council at any time, for consideration of special matters, and such committees shall be subject to this By-Law so far as applicable.

10.2 The Mayor, or in his absence the Acting Mayor, shall be an ex officio Member of all Ad Hoc Committees of Council.
11. Proceedings

11.1 A quorum consists of a majority of the whole number of Members of Council.

11.2 The Mayor, or in his absence, the Acting Mayor, shall take the chair and call the Members to order as soon as there is a quorum present at the time appointed to commence the Meeting.

11.3 If a quorum is not present within 15 minutes after the time appointed, the City Clerk shall record the names of the Members in attendance and the Meeting shall stand adjourned until the time appointed for the next Meeting.

11.4 If neither the Mayor nor the Acting Mayor are present within 15 minutes after the time appointed to commence the Meeting:

11.4.1 The City Clerk shall call the Members to order and determine if a quorum is present;

11.4.2 The Members present shall appoint one from among them as the Chair, who shall preside over the Meeting and, until the arrival of the Mayor or Acting Mayor, has all the rights and powers of the Mayor; and

11.4.3 Upon the arrival of the Mayor or Acting Mayor, the acting Chair shall immediately relinquish the chair.
11.5 The Chair, except where he is disqualified from voting by reason of interest or otherwise, may vote with the other Members on all questions.

11.6 Any question on which there is a tie vote is deemed to be a negative vote.

11.7 The Chair shall:

(a) Preside at all Meetings
(b) Preserve order and decorum;
(c) Decide questions of points of order, subject to an appeal to Council at the time of the ruling and, if requested, cite the rule or authority applicable; and
(d) Announce the business before Council according to the order of business.

11.8 Members of the public attending shall respect the decorum of Council and refrain from public outbursts, shouting, or behavior intended to disrupt the debate, discussion and/or general proceedings of the Council. The Chair may request that a member(s) of the public vacate the Council Chambers or meeting room if their behavior is deemed to be disruptive to the business at hand. The Chair may unilaterally suspend the meeting until order is restored in the Council Chambers.

11.9 If the Chair desires to take part in the debate, he shall appoint a Member to act as presiding officer until he
resumes the chair, and leave the chair for the purpose of participating in the debate.

12. Acting Mayor

12.1 At the Inaugural Meeting, Council shall appoint the Councillor who received the most votes during the most recent municipal election as Acting Mayor for the first year of the term.

12.2 Council shall appoint a new "Acting Mayor" on an annual basis, appointing next the Member who received the second highest number of votes in the municipal election, followed by the Member who received the third highest number of votes, and so on for all Members with the interest and willingness to serve in the "Acting Mayor" role.

12.3 The Acting Mayor is appointed to act in the place of the Mayor to preside at meetings when the Mayor is absent, refuses to act, or the office is vacant. While so acting the Acting Mayor has all the powers and duties of the Mayor with respect to the role of presiding at meetings.

12.4 If the Acting Mayor does not wish to chair, then the duty shall be assigned to Councillors on a rotating basis in the order of seniority, with a tie in seniority decided by the number of votes received in the previous municipal election.
13. Order of Business

13.1 The order of business is as follows:

(a) 4:00 p.m. Regular Meeting commences;
(b) Report from Closed Council Meeting, if any;
(c) Disclosures of pecuniary interest (direct or indirect);
(d) Award ceremonies, if any;
(e) Public Meeting(s) in accordance with the Planning Act;
(f) Delegations;
(g) Reports/Correspondence;
(h) Notices of Motion;
(i) Adoption of Minutes;
(j) Inquiries, Information and Urgent Matters;
(k) Routine Approvals, Action and Information;
(l) Civic Reports;
(m) By-Laws;
(n) Adjournment

13.2 If Council has scheduled a public Meeting other than a public Meeting as defined by the Planning Act or another statute, then Council shall suspend the Council Meeting at 5:00 p.m. and initiate the public meeting. Council shall formally close the public meeting at its conclusion and reopen the Council Meeting following a nutrition break. In all other cases recess shall proceed in accordance with Section 6.5.
13.3 Matters of Inquiries, Information or Urgent Matters shall be limited to a 5 minute presentation by any member;

13.4 Members disclosing any pecuniary interest under Section 12.1(c) in accordance with the Municipal Conflict of Interest Act, shall:

(a) do so in writing and file such written disclosure with the Clerk prior to the commencement of a Meeting where the matter in which the conflict of interest that arises is discussed; and

(b) be excluded from receiving any written reports or other closed Meeting material respecting any matter in which such member has made such a disclosure.

13.5 The City Clerk has the following responsibilities with respect to requests and correspondence to Council:

(a) Requests from municipalities, municipal associations, other organizations, and interest groups for endorsement of resolutions and policies should be reviewed by the City Clerk and a list prepared for circulation with each Council agenda. If a member of Council so requests, the correspondence will be placed on the Council agenda as a correspondence action item.

(b) The incoming correspondence will be kept on file in the City Clerk’s Office and upon receipt each correspondence item will receive a response outlining the City’s process for considering resolutions.
13.6 Staff-led public Meetings are conducted on many issues within the municipality. A summary of the public input at these staff-led public Meetings is to be provided to Council at the time of the report on the issue is presented to Council.

14. Delegations

14.1 Delegations will be scheduled by the City Clerk. The City Clerk will attempt, wherever possible and subject to both the length of the business and the order of business, to accommodate any prospective delegate;

14.2 Any person desiring to address Council as a delegate shall notify the City Clerk not later than 12:00 noon of the Wednesday prior to the Meeting for the request to be listed on the agenda. The Chair may grant a late request to address Council by providing instructions to the City Clerk.

14.3 Any person desiring to address Council shall file with the City Clerk contact information with respect to the presenter together with a letter or brief outlining his proposal or request. The letter or brief shall be delivered to the City Clerk in time for inclusion in the agenda. The City Clerk or Chair may ask for additional information from the delegate, if it is deemed necessary in order to give Council a clear understanding of the issue to be discussed.
14.4 The Clerk shall review the outline or presentation material provided and determine if the subject matter and nature of the delegation's request falls within the jurisdiction of Council.

14.5 The Clerk may refuse or postpone a delegation when there has been or will be at least one (1) public Meeting held at which the public was or will be provided the opportunity to make formal presentations on that subject matter.

14.6 Where the matter falls outside of the scope of responsibility of Council, the Clerk may notify the person(s) that the presentation should be properly referred to the most appropriate Municipal Committee, Local Board, Commission, Agency or Provincial or Federal Government Ministry for consideration.

14.7 The Clerk may refuse a delegation that is not permitted under this by-law if the subject matter has been before or is to be considered by the Committee of Adjustment or other committees of council, or has previously been decided by Council.

14.8 In the event that a delegation request is refused, the Clerk's Office shall provide to the person(s) in writing the reasons for the refusal with a copy to Council.
14.9 A delegation that has been refused by the Clerk has the right to make a written appeal to Council, and Council’s decision shall be final.

14.10 No one except a Member or appointed City official shall be allowed to:

(a) Come within the bar of the Council Chambers during the sittings of Council; or

(b) Address Council without giving prior notice in accordance with this section;

except with the permission of Council granted on a majority vote of the members present.

14.11 Where background information is provided to Council by City administration with respect to items for which there is a delegation, such information shall be also furnished to the delegation;

14.12 Delegations are limited to 10 minutes. Any person or group permitted to address Council shall be limited to a maximum of 10 minutes, not including the time required to respond to questions of Council, except in the case of statutory public hearings where procedural rules or guidelines are otherwise set forth.

14.13 Any person who wishes to address Council at the Public Input and Grants Session Meeting in regards to the proposed draft budget and who has not previously registered with the Clerk will be given an opportunity to
register with staff up to 15 minutes prior to the start of the meeting and will be limited for a maximum of five (5) minutes.

14.14 Any person seeking to show an electronic presentation for Council at a Meeting shall be required to furnish same to the City Clerk sufficiently in advance of the Meeting to permit the City Clerk to view same in its entirety and make any recommendations to Council the City Clerk deems necessary in consequence thereof, which may include a recommendation that such presentation not be shown publicly, or that the showing of such presentation be postponed either to a time certain, or indefinitely.

14.15 The following are not permitted to address City Council, nor will a brief respecting such matters be listed on a Council agenda, although a written brief may be distributed for information purposes to Council by the City Clerk:

(a) Any person requesting to address City Council with respect to a labour management dispute or issue;
(b) Any affected bidder, or representative of an affected bidder, requesting to address City Council about the awarding of a tender;
(c) Any person requesting to address City Council with respect to a claim, or potential claim, against the City;
(d) Any person requesting to address City Council on litigation or potential litigation, including matters which are before and under the jurisdiction of any court or any
administrative tribunals affecting the municipality unless the matter is referred to Council by the said administrative tribunal or court; and

(e) Any person promoting a candidate nominated for an upcoming provincial, federal, local municipal or local school board election.

14.16 Delegations shall not:

(a) Speak disrespectfully of or to any person;
(b) Use offensive words;
(c) Speak on any subject other than the subject for which they have received approval to address Council;
(d) Disobey a decision of Council;
(e) Enter into cross debate with other deputations, City staff, or Council Members.

15. Conduct of Debate

15.1 When speaking to any question or motion, Members shall address the Chair;

15.2 When more than one Member signifies an intention to speak, the Chair shall designate the order of speaking and the Member who has the floor;

15.3 Every Member present when a question is put shall vote thereon, unless precluded from participating in discussion and from voting thereon by The Municipal Conflict of Interest Act;
15.5 Any Member may require a question or motion under discussion to be read at any time during debate thereof, but not so as to interrupt a Member;

15.6 Questions may be put to the Chair at any time, or through him or by him on any matters connected with Council or the Corporation but no argument or debate is to be made on such question except in so far as is necessary to state and answer same;

15.7 No Member shall:

(a) Speak disrespectfully of any member of Council or any other person;
(b) Use indecent, offensive or insulting language;
(c) Speak to issues of no importance to the question in debate;
(d) Speak more than three times to the same question, except to explain any material portion of his speech which may have been interpreted incorrectly and, in so doing, he shall not introduce any new matter. The mover of a motion may have the final rebuttal. A Member may be permitted to speak more than three times to the same question with leave of Council as granted by a majority vote of Members present after all other Members so desiring have spoken;
(e) Resist the rules of Council; or
(f) Disobey the decision of the Chair or of Council on questions of order or practice or interpretation of the rules;
15.8 A Member who is called to order shall immediately cease to speak. A Member persisting in a breach of this By-Law may be ordered to leave the Council Chamber by the Chair;

15.9 No Member will be permitted to retake his seat at any Meeting after being ordered to leave the Council Chambers until he has apologized to Council;

15.10 No Member shall speak to any question or in reply in accordance with 14.7(d) above for longer than 5 minutes;

15.11 When the Chair is putting the question no Member shall leave his seat, or make any noises or disturbances.

16. Motions

16.1 Notices of Motion shall be given by a Member in writing and delivered to the City Clerk prior to noon of the Tuesday preceding the date of the Council Meeting at which the notice is to be placed on the agenda. The request shall contain a formal motion in addition to an explanation in support of the motion.

16.2 A Member may introduce a motion without notice as granted by a majority of Members present;

16.3 All motions shall be moved and seconded before being discussed or debated or put from the Chair;
16.4 After a motion is seconded, it may be withdrawn by the mover or seconder at any time before decision with the permission of Council, which permission will be implied unless stated to the contrary by the majority of Members present;

16.5 When a question or motion is under consideration, no further motion shall be made unless it be a motion to defer or to amend.

16.6 A motion to defer the question is debatable and shall include instructions respecting the terms upon which the question is to be postponed;

16.7 A motion to lay a question on the table shall not be debatable. If the motion contains instructions regarding when the question shall be taken from the table, then the Chair shall treat the motion as a motion to defer.

16.8 An amendment to a motion may be made, provided it is not contrary to the intention of the main motion;

16.9 Only one motion to amend an amendment to the question will be allowed and any further amendment must be to the main question;

16.10 No more than two amendments may be outstanding at any one time;
16.11 With the approval of the mover and seconder, a substitute motion is sometimes preferable to use in order to save the time of the Meeting;

16.12 Where the question under consideration contains separate propositions they shall, at the request of any Member of Council, be put separately;

16.13 Amendments shall be put to the vote in the reverse order to that in which they are moved and every amendment shall be decided or withdrawn before the main question or motion is put to the vote;

16.14 If the Chair is of the opinion that a question or motion is contrary to these rules, he shall so inform the Member, and shall cite the rule or authority applicable in ruling the matter out of order;

16.15 After the question is put, no member shall speak to the motion nor shall any other motion be made until the result of the vote has been declared;

16.16 Where a vote is taken for any purpose, and a Member requests immediately prior or immediately subsequent to the taking of the vote that the vote be recorded, each Member present, except a Member who is disqualified from voting by any Act, shall announce his vote openly and any failure to vote by a Member who is not disqualified shall be deemed to be a negative vote and the City Clerk shall record it as same. A recorded vote
may not be requested if the Members have moved to another item on the agenda.

16.17 No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect.

17. Reconsideration

17.1 No report or motion shall be reconsidered within the term of Council, except with the permission of Council granted upon a majority vote of the Members present;

17.2 No report or motion shall be reconsidered at the same Meeting except upon the motion of a Member who voted with the majority upon the original question;

17.3 No motion or report shall be reconsidered more than once at any Meeting;

17.4 No motion to reconsider is necessary if no position has been adopted;

17.5 A motion to reconsider is not debatable, although the mover of the motion may, in writing, express his rationale for the motion to reconsider, without debating the merits of the issue to be reconsidered;

17.6 When a motion to reconsider a matter is adopted, the matter will not be discussed until the following regular Meeting of Council unless otherwise directed by Council in accordance with Section 2.3.
17.7 The effect of a motion to reconsider is an indication that Council is willing to consider the matter again, and does not eliminate the previous decision, unless a motion to that effect is adopted by Council. In the event that a motion to reconsider is adopted, City staff shall take no further action on the course set by the original motion until the matter is actually considered again.

18. By-Laws

18.1 Every By-law shall be introduced and shall receive three readings before it is finally passed.

18.2 A By-Law shall be deemed to have been read upon the title or heading printed in the Agenda being read, or being taken as read.

19. Adjournment

19.1 A motion to adjourn the proceedings of Council shall always be in order and shall be decided without debate, but no second motion to adjourn shall be made until after some intermediate proceeding of the Council.

20. Repeal

20.1 By-Law No. 23 of 2015 is hereby repealed;

20.2 By-Law No. 49 of 2015 is hereby repealed;
20.3 The short title of this By-Law shall be “The Procedure By-Law”

20.4 This By-Law shall come into force and effect upon finally being passed.

By-Law Read a First, Second and Third time this 15 day of April, 2019

Mike Bradley
Mayor

Dianne Gould-Brown
City Clerk
BY-LAW NUMBER 139 OF 2016
OF THE CITY OF SARNIA

A By-Law to Establish a Code of Conduct for Council

(Re: Council Code of Conduct)

WHEREAS Section 223.2 (1) of the Municipal Act, 2001, authorizes the municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality.

AND WHEREAS Council may, by by-law, govern the conduct of its members;

AND WHEREAS Council deems it expedient to pass such a by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of Sarnia enacts as follows:

1. The Code of Conduct for Council is hereby adopted in the general form attached to this By-Law.

2. By-Laws 28 of 2015 and 3 of 2016 of the City of Sarnia are hereby repealed.

3. This By-Law comes into force and effect upon finally being passed.
By-Law Read a First, Second and Third time this 12 day of December, 2016

Mike Bradley
Mayor

Dianne Gould-Brown
Acting City Clerk
1.0 Policy Statement

A written Code of Conduct reinforces the City of Sarnia’s Accountability and Transparency Policy and other relevant legislation within which all members of Council, local boards and Advisory Committees must operate. It ensures that those members share a common integrity base and through adherence to its principles, the Code of Conduct serves to enhance public trust.

2.0 Key Principles

The key principles that underline the Code of Conduct are as follows:

a) All members to whom this Code of conduct applies shall serve in a conscientious and diligent manner;

b) Members shall be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both real and apparent;

c) Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;

d) Members are responsible for making honest statements and no member shall make a statement when they know that statement is false, or with the intent to mislead other members or the public; and

e) Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature and Sarnia City Council.
3.0 Roles and Responsibilities

This Code of Conduct operates along with and as a supplement to the existing statutes governing conduct. There is Federal and Provincial legislation that govern the conduct of members of Council, those being:

- The Criminal Code of Canada;
- The Municipal Conflict of Interest Act, as amended;
- The Municipal Elections Act, 1996, as amended;
- The Municipal Freedom of Information and Protection of Privacy Act; and
- The Municipal Act, 2001, as amended
- The Human Rights Code
- The Occupational Health and Safety Act (Violence and Harassment in the Workplace) 2009

The Municipal Act, 2001 prescribes the following as the roles of a Municipal Council, the Head of Council and the Head of Council as Chief Executive Officer:

3.1 It is the role of Council:

a) To represent the public and to consider the well-being and interests of the municipality;
b) To develop and evaluate the policies and programs of the municipality;
c) To determine which services the municipality provides;
d) To ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
e) To ensure the accountability and transparency of the operations of
the municipality, including the activities of the senior management of the municipality;
f) To maintain the financial integrity of the municipality; and
g) To carry out the duties of council under this or any other Act.

3.2 It is the role of the Head of Council:

a) To act as chief executive officer of the municipality;
b) To preside over council meetings so that its business can be carried out efficiently and effectively;
c) To provide leadership to the council;
d) To provide information and recommendations to the council with respect to the role of council described in Sections 224.(d) and (d.1) of the Municipal Act, 2001;
e) To represent the municipality at official functions; and,
f) To carry out the duties of the head of council under this or any other Act.

3.3 As Chief Executive Officer of a municipality, the Head of Council shall:

a) Uphold and promote the purposes of the municipality;
b) Promote public involvement in the municipality's activities;
c) Act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and,
d) Participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

4.0 Definitions

"Code of Conduct" - shall mean the City of Sarnia Code of Conduct for
Members of Council, Local Boards and Advisory Committees.

"Complaint" - shall mean a purported contravention of the Code of Conduct.

"Frivolous" - shall mean of little or no weight, worth, or importance; not worthy of serious notice.

"Good Faith" - shall mean accordance with standards of honesty, trust, sincerity.

"Integrity Commissioner" - shall mean the Integrity Commissioner appointed by the Council of the City of Sarnia to provide independent and consistent complaint investigation and resolution, respecting the application of the Code of Conduct.

"Immediate Relative" - shall mean a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law as well as step-relationships; spouse shall mean the person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage.

"Private Advantage" - for the purposes of the Code of Conduct private advantage does not include a matter:

a) That is of general application or considered to be an interest in common generally with the electors within the jurisdiction of an area; or

b) That concerns the remuneration or benefits of a member of Council.

"Vexatious" - shall mean instituted without sufficient grounds and serving only to cause annoyance to the defendant; troublesome; annoying: a vexatious situation.
5.0 Application

The Code of Conduct shall apply to all members of Council.

6.0 Business Relations

No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the City except in compliance with the terms of the Municipal Conflict of Interest Act. A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

This does not prohibit activities in which a member would normally engage on behalf of constituents in accordance with the duties of their office.

7.0 Conduct at Meetings

At all meetings members shall conduct themselves with decorum in accordance with the provisions of The City of Sarnia Procedure By-Law. Respect for delegations, fellow members and staff requires that all members show courtesy and not distract from the business of the City during presentations and when other members have the floor.

8.0 Conduct of a Political Nature

No member shall use City facilities, equipment, supplies, services, or property for his/her election or re-election campaign. No member shall undertake campaign-related activities on City property. No member shall use the services of City employees for his/her election or re-election campaign, during hours in which the employees are in the paid employment of the City.
9.0 Conduct Respecting Staff

Mutual respect and cooperation are required to achieve the Council’s corporate goals and implement the Council’s strategic priorities through the work of staff.

Employees have an obligation to recognize that members of Council have been duly elected to serve the residents of the City of Sarnia and respect the role of Council in directing the actions of the City.

Employees serve Council and work for the municipal corporation under the direction of the City Manager. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Members have no individual capacity to direct members of staff to carry out particular functions.

Inquiries of staff from Members should be directed to the City Manager or the appropriate senior staff as directed by the City Manager.

Only Council as a whole and no single member has the authority to direct staff, approve budget, policy, committee processes and other such matters, unless specifically authorized by Council.

Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the City.

Members of Council voicing their personal opinion on a matter, either within or without Council Chambers, shall ensure their opinion relates to the matter
at hand and shall not make any negative comments or insinuations about staff or other Members of Council. Press releases, interviews, social media, and any other communications with the media and the public shall focus on policies and initiatives, not individuals. Members shall accurately communicate the ideas in reports as well as decisions of Council even if they disagree with the report or the decision.

Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. Similarly, Employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed in their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence Employees in the performance of such duties and obligations.

Certain Employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person’s duties, including the duty to disclose improper activity.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Code of Conduct and include dealing with constituents and the general public, participating as committee members, participating as Chairs of Committees, and
participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with Council.

10.0 Conduct while Representing the City

Members shall make every effort to participate diligently in the activities of the agencies, boards, and committees to which they are appointed.

11.0 Confidential Information

Pursuant to Section 239 of the Municipal Act, 2001, where a matter discussed at a closed meeting remains confidential; no member shall disclose the content of that matter, or the substance of the deliberations of a closed meeting except as allowed in the Procedure By-Law. Members shall not permit any persons, other than those who are entitled thereto, to have access to confidential information. Members shall not disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office, except when required to do so by law.

Particular care should be exercised in ensuring the confidentiality of the following types of information:

a) the security of the property of the municipality or local board;
b) personal matters about an identifiable individual, including municipal or local board employees;
c) a proposed or pending acquisition or disposition of land by the municipality or local board;
d) labour relations or employee negotiations;
e) litigation or potential litigation, including matters before
administrative tribunals, affecting the municipality or local board;
f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
h) items under negotiation, or personnel matters;
i) information that infringes on the rights of others (i.e. sources of complaints where the identity of a complainant is given in confidence);
j) price schedules in contract tenders or Request for Proposal submissions if so specified;
k) information deemed to be "personal information" under the Municipal Freedom of Information and Protection of Privacy Act;
l) statistical data required by law not to be released (i.e. certain census or assessment data); and
m) any and all statements that have been provided in confidence

The above list is provided as an example and is not exclusive. Requests for information will be referred to appropriate staff to be addressed as either an informal request for access to municipal records, or as a formal request under the Municipal Freedom of Information and Protection of Privacy Act.

Members of Council shall not access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by council policy.

Members are only entitled to information in the possession of the City that is relevant to matters before the Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen. As one example, no member shall have access to documents or receive any
information related to a particular procurement process while the process is ongoing.

12.0 Discreditable Conduct

Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, disability, sexual orientation, marital status, or family status and any other grounds identified under the Ontario Human Rights Code.

All members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies, as does Policy J-01 (Workplace Harassment Policy).

13.0 Failure to adhere to Council Policies and Procedures

A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Sarnia City Council. More generally, members are required to observe the terms of all policies and procedures established by Council. However, this provision does not prevent a member from requesting that Council grant an exemption from a policy, other than this Code of Conduct.

14.0 Gifts and Benefits

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his/her duties of office, unless permitted by the exceptions listed below. Notwithstanding the exceptions listed, no member shall accept monies or any instrument that
can be converted into monies unless authorized by law. For these purposes, a fee or advance paid to, or a gift or benefit provided by a third party with the member's knowledge to a member's spouse, child (who is under the age of 18 years), is deemed to be a gift to that member.

The following are recognized as exceptions:

a) compensation authorized by by-law;
b) 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;
d) services provided without compensation by persons volunteering their time;
e) a suitable memento of a function honouring the member;
f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them; and, by the Federal government or the government of a foreign country;
g) food, beverages and/or admission fees provided for banquets, receptions or similar events, if:
   i. attendance is resultant to protocol or social obligations that accompanies the responsibility of office; and
   ii. The person extending the invitation or a representative of the organization is in attendance;
h) communication to the offices of a member, including subscriptions to newspapers and periodicals.

In the case of categories (b) (e) (f) (g) and (h), if the value of the gift or benefit exceeds $100, or if the total value received from any one source over any 12 month period exceeds $100 the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement
with the City Clerk.

The disclosure statement must indicate:

- a) The nature of the gift or benefit;
- b) Its source and date of receipt;
- c) The circumstances under which it was given or received;
- d) Its estimated value;
- e) What the recipient intends to do with the gift; and,
- f) Whether any gift will at any point be left with the City. All disclosure statements shall be a matter of public record.

15.0 Improper Use of Influence

No member shall use the influence of his/her office for any purpose other than for the exercise of his/her official duties. No member shall seek or obtain by reason of his/her office any personal privilege or private advantage with respect to City services not otherwise available to the general public and not consequent to his/her official duties.

Examples of prohibited conduct are the use of one's status to improperly influence the decision of another person to the private advantage of oneself, or one's immediate relative, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member’s supposed influence in return for present actions or inaction.

No member shall use for personal purposes any City property, equipment, services, supplies or services of consequence other than for purposes connected with the discharge of City duties or associated community
activities of which City Council has been advised. No member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties. No member shall obtain financial gain from the use of City developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the City of Sarnia.

16.0 Complaint Protocol

The complaint protocol shall not retroactively apply to any alleged transgressions occurring prior to the date on which the Code of Conduct was formally adopted by Council.

17.0 Integrity Commissioner

Pursuant to Section 233 of the Municipal Act, 2001, the City of Sarnia shall appoint an Integrity Commissioner who reports to Council and is responsible for performing the following duties in an independent and consistent manner:

17.1 Complaint Investigation: having the power to assess and investigate formal written complaints respecting alleged contraventions of the Code of Conduct;

17.2 Complaint Adjudication: determining whether a member of Council or local board has in fact violated a protocol, by-law or policy governing their ethical behaviour; with the final decision making authority resting with Council as to whether the recommendation(s) of the Integrity Commissioner are imposed; and,

17.3 Annual Reporting: providing Council, through the City Clerk, with an
annual report on findings of complaint cases.

17.4 Advice to Council Members or Council as a Whole: Any member of Council who wishes to contact the Integrity Commissioner for advice must provide a written request to the City Clerk who will forward the request to the Integrity Commissioner.

18.0 Informal Complaint Procedure

Individuals (for example, municipal employees, members of the public, members of Council or local boards) or organizations, who have identified or witnessed behaviour or an activity by a member of Council, local board or advisory committee that they believe is in contravention of the Code of Conduct could address the prohibited behaviour or activity themselves as follows:

a) advise the member that their behaviour or activity appears to contravene the Code of Conduct;

b) encourage the member to stop the prohibited behaviour or activity;

c) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;

d) if applicable, confirm to the member that you are satisfied with the response you received; or advise the member of your dissatisfaction with the response;

e) consider the need to pursue the matter in accordance with the formal complaint procedure, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. A person is not required to undertake the informal complaint procedure prior to pursuing the formal
19.0 Formal Complaint Procedure

19.1 Application

All the provisions of this Section apply to a request for an inquiry by an individual or an organization other than a local board or Council as a whole.

Individual members of Council or individual members of a local board are not precluded from filing a formal written complaint.

19.2 Complaint

A request for an investigation of a complaint that a member has contravened the Code of Conduct (the "complaint") shall be in writing.

All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).

A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code of Conduct and includes a supporting affidavit (sample attached as Appendix 'A') that sets out the evidence in support of the complaint.

Any commissioners for taking affidavits are authorized to take the supporting affidavit.

19.3 File with City Clerk

The request for an investigation shall be filed with the City Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance of the Code of Conduct; and not covered by other legislation or
other Council policies as described in Section 3.

19.4 Deferral

If the complaint does not include a supporting affidavit, the Integrity Commissioner may defer the classification until an affidavit is received.

If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall instruct the City Clerk to advise the complainant in writing as follows:

If the complaint on its face is an allegation of a criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that if they wish to pursue any such allegation, they must pursue it with the appropriate police force;

If the complaint on its face is with respect to non-compliance with the Municipal Conflict of Interest Act, the complainant shall be advised to review the matter with their own legal counsel;

If the complaint on its face is with respect to non-compliance with the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be advised that the matter will be referred to the city Clerk for review;

If the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and,

In other cases, the complainant shall be advised that the matter, or part of
the matter, is not within the jurisdiction of the Integrity Commissioner to
process, with any additional reasons and referrals as the Integrity
Commissioner considers appropriate. For example, a complaint regarding a
member of Sarnia City Council relating to their actions while serving on
County Council would not be within the jurisdiction of the Integrity
Commissioner, as the County of Lambton is a separate level of government;
and the Integrity Commissioner will advise accordingly.

19.5 Reports

The Integrity Commissioner may report to Council or a local board that a
specific complaint is not within the jurisdiction of the Integrity
Commissioner.

The Integrity Commissioner shall report annually to Council on complaints
not within the jurisdiction of the Integrity Commissioner, but shall not
disclose information that could identify a person concerned.

Should no complaints be received within a calendar year, the City Clerk shall
report to Council accordingly and no annual report shall be made by the
Integrity Commissioner.

19.6 Refusal to Conduct Investigation

If the Integrity Commissioner is of the opinion that the referral of a matter
to him or her is frivolous, vexatious or is not made in good faith, or
that there are no grounds or insufficient grounds for an investigation, the
Integrity Commissioner shall not conduct an investigation, or, where that
becomes apparent in the course of an investigation, terminate the
investigation.

Complaints referred that are repetitious in nature, not germane to the Code
of Conduct, deemed frivolous, vexatious, or without substance in the opinion
of the Integrity Commissioner; shall not be advanced to an investigation stage.

Other than in exceptional circumstances, the Integrity Commissioner will not report to Council or a local board on any complaint described above except as part of an annual or other periodic report.

19.7 Investigation

If a complaint has been classified as being within the Integrity Commissioner's jurisdiction, the Integrity Commissioner shall investigate and may attempt to settle the complaint.

19.8 Public Inquiries Act

Under Section 223.4(2) of the Municipal Act, 2001, the Integrity Commissioner may elect to investigate a complaint by exercising the powers of a commission under Parts I and II of the Public Inquiries Act.

When the Public Inquiries Act applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this complaint protocol, but, if there is a conflict between a provision of the complaint protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.

19.9 Complaint - Gifts and Benefits

Upon receiving a formal written complaint, not deemed to be frivolous or vexatious, that a gift or benefit was received contrary to the conditions set out herein, the Integrity Commissioner shall examine the disclosure statement to ascertain whether the receipt of the gift or benefit might, in his/her opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes
that preliminary determination, he/she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt of the gift or benefit was inappropriate, he/she may recommend that Council direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit the value of the gift or benefit already consumed to the City; or such other action as the Integrity Commissioner deems to be appropriate.

19.10 Opportunity to Comment

The Integrity Commissioner will proceed as follows, except where otherwise required by the Public Inquiries Act:

a) serve the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation be filed within ten days; and

b) serve the complainant with a copy of the member's written response with a request that the complainant provide a written reply within ten days.

If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in Section 223.4(2) of the Municipal Act, 2001 and may enter any municipal or local board work location relevant to the complaint for the purposes of investigation and settlement.

The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any member unless the member has had 10 days’ notice of the basis for the proposed finding and any recommended
sanction and an opportunity to respond in writing, within the same said 10 days, to the Integrity Commissioner on his/her findings and any recommended sanction.

19.11 Interim Reports

The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of delay, interference, obstruction or retaliation encountered during the investigation; or as otherwise deemed necessary by the Integrity Commissioner.

19.12 Final Report

The Integrity Commissioner shall report the general findings of his/her investigation to the complainant and the member no later than 90 days after the making of the complaint. That report shall indicate when the Integrity Commissioner anticipates presenting his/her recommended corrective action(s) for Council's consideration.

Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings, and/or recommended corrective action(s).

Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council or the local board except as part of an annual or other periodic report.

19.13 Lawful Recommendations

Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.

Section 223.3 of the Municipal Act, 2001 authorizes Council to impose either
of two penalties on a member of Council or local board following a report by the Integrity Commissioner that, in his/her opinion, there has been a violation of the Code of Conduct:

   a) a reprimand; or

   suspension of the remuneration paid to the member in respect of his or her services as a member of Council or local board, as the case may be, for a period of up to 90 days.

The Integrity Commissioner may also recommend that Council or a local board take the following actions:

   a) Removal from membership from an advisory committee or local board;
   b) Removal as Chair of a Committee or local board;
   c) Repayment or reimbursement of moneys received;
   d) Return of property or reimbursement of its value; or
   e) A request for an apology to Council, the complainant, or both

19.14 Member not Blameworthy

If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

19.15 Report to Council

The City Clerk shall process the Integrity Commissioner's report for the next meeting of Council. Said report shall remain confidential until the matter has received complete and final disposition by the Integrity Commissioner.
and has been reported out to the members of Council through the City Clerk.

19.16 Duty of Council/ Local Board

Council shall consider and respond to the report within 90 days after the day the report is laid before it.

19.17 Confidentiality

A complaint will be processed in compliance with the confidentiality requirements in Section 223.5 of the Municipal Act, 2001, which are summarized in the following subsections:

a) The Integrity Commissioner and every person acting under her/his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Section 223.5(1) of the Municipal Act, 2001.

b) Pursuant to Section 223.5(3) of the Municipal Act, 2001, this Section prevails over the Municipal Freedom of Information and Protection of Privacy Act.

c) If the Integrity Commissioner reports to the municipality his/her opinion about whether a member of Council or advisory committee has contravened the applicable Code of Conduct, the Integrity Commissioner may disclose in the report such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

d) The municipality and each local board shall ensure that reports received from the Integrity Commissioner by the municipality or by the board, as the case may be, are made available to the public upon the matter being reported out to the members of Council. Neither the
Integrity Commissioner nor any person acting under the instructions of the Integrity Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this Part.

e) if the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the Criminal Code of Canada, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council through the City Clerk.

19.18 Integrity Commissioner Vacancy

Should the office of Integrity Commissioner become vacant, the Code of Conduct remains in effect and all members shall abide by the provisions set out therein. When a vacancy occurs, all formal complaints shall be held in abeyance until such time as a new Integrity Commissioner has been appointed; or an interim measure enacted to enable the complaint to be addressed within a reasonable amount of time. For example the City could engage the services of an Integrity Commissioner from another local municipality as a potential interim measure.

19.19 Reprisals and Obstructions

Members shall respect the integrity of the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.
APPENDIX ‘A’

FORMAL COMPLAINT PROCEDURE

AFFIDAVIT

Please note that signing a false affidavit may expose you to prosecution under Sections 131 and 132 or 134 of the Criminal Code, R. S. C. 1985, c. C-46, and also to civil liability for defamation.

AFFIDAVIT OF [full name]

I, [full name], of the [City, Town, etc.] of [municipality of residence] in the Province of Ontario MAKE OATH AND SAY [or AFFIRM]:

1. I have personal knowledge of the facts as set out in the affidavit, because

[insert reasons e.g. I work for...I attended a meeting at which ... etc.]

2. I have reasonable and probable grounds to believe that a member of Sarnia City Council or local board, [specify name of member], has contravened section(s) [specify section(s)] of the Code of Conduct. The particulars of which are as follows:

[Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space, please use the attached Schedule A form and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc. and attach them to this affidavit.]

1. This affidavit is made for the purpose of requesting that matter be reviewed and for no other purpose.

SWORN [or AFFIRMED] before me on this _____

day of ________, _______.

[Signature of Commissioner]  
A Commissioner for taking affidavits etc.
September 24, 2019

Sarnia City Council
City Hall
SARNIA, ON

Dear Members of Council:

RE: PROCEDURE BY-LAW FOR COUNCIL

One suggested change to the current Procedure By-law is as follows:

14. Delegations

14.12

Delegation are limited to 10 minutes. Any person or group permitted to address Council shall be limited to a maximum of 10 minutes, not including the time required to respond to questions of Council, except in the case of statutory public hearings where procedural rules or guidelines are otherwise set forth.

Addition:

When there is more than one delegation on an issue, with the same organization or like-minded individuals or groups speaking that the first speaker has up to ten (10) minutes to speak, as currently outlined in the by-law, but any subsequent speaker would have up to five (5) minutes.

Thank you for your consideration of this matter.

Yours sincerely,

Mike Bradley
Mayor of Sarnia
PROCEDURAL By-LAW Review

1. Interpretation
1.1 (f) Committee means any advisory or other committee, subcommittee or similar entity of which at least 50% of the members are also members of Council or a local Board. But, we are not currently following this by-law item. Council Committees are not supposed to be chaired and/or run by staff; the current by-law item states that at least 50% of councillors are members of these committees, but that isn’t so, either! We should either adopt it as written and follow it, or rewrite it and get council approval.

2. General Provisions
2.4 Unless a contrary-intention appears, in this by-law, words in the singular include the plural and words importing masculine gender include the feminine. DELETE this by-law item altogether – it is not needed. A simple remedy is a global replacement (throughout all documents) to replace all instances of his/her with THEIR, and replace every ‘singular’ use of a noun with a dual method, i.e., office(s), meeting(s), agenda(s) etc.
2.5 Re: titles of address denoting respect…..etc. What is the point of rules and standards if we do not enforce them? This is very important, so how can we enforce this?
2.6 Re: a) b) c) and d) – Once again, how do we enforce these 4 by-law items?

4. Prolonged Absence
4.3 ADD: Section 4.1 does not apply, to vacate the office of a Member, if absence is due to illness or surgery.

5. Direction to Council
CHANGED last word of title (from Staff to Council)

6. Location of Meetings
6.1 Regular (ADD Public) meetings of Council shall be held in the Council Chambers (DELETE or at other committee room) at City Hall, 255 Christina Street North, Sarnia. (ADD In-camera meetings shall be held in Committee Room #2, main floor, City Hall).

7. Open Meetings
7.2 ADD Mayor and Council shall approve………etc.
7.9 All regular (ADD public) meetings……etc.
7.12 a) Agendas for Council Meetings etc
    (b) ADD Agenda content to be established by the Mayor, in consultation with the CAO and City Clerk.
    (c) ADD Mayor should receive all Agenda Reports before the meeting to be able to discuss with appropriate personnel and advise Council.
7.13 Public Notice of all Meetings shall be (ADD available in the newspaper’s Civic Corner, on the radio, on the City’s website, and the Notice Board at City Hall).
7.15  
   (a) CHANGE to The Mayor gives notice to CAO and City Clerk….. etc.
7.17 ADD/REWRITE There shall be no further Meetings of outgoing Council following the election of a new Council.
7.18 SHORTEN to Public Meetings are to take place in Council Chambers.

8. Closed Meetings
8.2 …investigation (ADD these audio recordings are kept under secure lock and key by the City’s Director of Legal Services and the only people with access to them, are ??)
8.7 DELETE to the extent that the public interest permits.
8.14 ….at a time that the (DELETE City Clerk) (ADD Mayor, in consultation with the (DELETE Chair) (ADD CAO and Clerk) determines etc.

9. Minutes
9.1  
   (d) REWRITE The resolutions of Council – carried and defeated at the Meeting;
   (g) ADD The Highlights document, produced the same night as the Regular Council Meetings, will include all motions presented, whether carried or defeated.

11. Proceedings
11.6 Any question on which there is a tie vote, ADD including the Mayor’s vote, is deemed to be a negative vote.

13. Order of Business
13.1  
   (a) 4.00 p.m. Regular ADD Public Meeting commences;
13.2 DELETE last sentence as it refers to Section 6.5 and Section 6 only goes up to 6.2.
13.5  
   (a) and a ADD complete list prepared of… etc.

14. Delegations
14.2 CHANGE last sentence to read: The Chair may grant a late request to address Council.
14.8 …..reasons for the refusal with a copy to ADD Mayor and Council.
14.9 ………make a written appeal to ADD Mayor and Council, and DELETE Council ADD their decision shall be final.
14.10  
   (b) ….with the permission of ADD Mayor and Council etc
14.11 ….is provided to ADD Mayor and Council etc.
14.12 Delegations are limited to 10 minutes. **ADD** If more than 2 people are speaking on the same topic, they will be limited to 5 minutes each. Any person or group etc.…. 

15. **Conduct of Debate**  
15.9 **CHANGE** his seat to *their* seat and **CHANGE** he has to *they* have etc…. 

16. **Motions**  
16.1 **CHANGE** Tuesday to *Wednesday*…..etc.  
16.2 as granted by **CHANGE** the Mayor or Acting Mayor. 

17. **Reconsideration**  
17.1 **CHANGE** to Mayor and Council  
17.5 **CHANGE** his rationale to *their* rationale….etc.  
17.6 **CHANGE** to Mayor and Council  

By-Law Read a First, Second and Third time this **30th day of September, 2019**
As per your request. I spoke with Councillor Brian White about putting forward these minor amendments for both the Code of Conduct/Procedural by-law for the Monday September 30th, 2019 meeting. As I previously informed you I will not be present for this meeting.

The changes are:

**Procedural By-Law #57:**

- Amend 7:11 Change to Wednesday
- Amend 7:12 Change to Wednesday
- Amend 14:2 Change to Tuesday

**Code of Conduct:**

- Amend 14:0 Change Dollar value to $200.00 to be consistent with County of Lambton
- Amend 17:4 Eliminate Written Request to City Clerk

Many Thanks,

Mike Stark
Sarnia City/County Councillor
September 24, 2019

Sarnia City Council
City Hall
SARNIA, ON

Dear Members of Council:

RE: BY-LAW TO ESTABLISH A CODE OF CONDUCT FOR COUNCIL

By way of introduction I brought forward to Council in 2014/2015 the establishment of a Code of Conduct for Council. The basic premise of the Code of Conduct is fine; however, it needs to be tweaked to deal with some issues and concerns which have risen since it was established.

2.0 Key Principles

d) “Members are responsible for making honest statements and no member shall make a statement when they know that statement is false, or with the intent to mislead other members or the public.”

People are people and I do not know why this would remain in the Code of Conduct given that it is an interpretation of others about statements being made.

9.0 Conduct Respecting Staff

“Members of Council voicing their personal opinion on a matter, either within or without Council Chambers, shall ensure their opinion relates to the matter at hand and shall not make any negative comments or insinuations about staff or other Members of Council. Press releases, interviews, social media, and any other communications with the media and the public shall focus on policies and initiatives, not individuals. Members shall accurately communicate the ideas in reports as well as decisions of Council even if they disagree with the report of the decision.”
I think this paragraph is both unfair to Councillors, to the public and to the right of free speech. If there are seven people who witness an accident there are seven different versions of that accident.

This section also continues on to talk about the staff conduct and I believe Sarnia City Council should adopt the same approach as London City Council where at the top staff level any issue involving the management group is reviewed by a third party, not by the people to whom they report. And in the case the CAO and the HR person, in London, the HR person does not report on the CAO and vice-versa because of an inherent conflict of interest. This by-law is readily available to bring about that change.

You will also note in general across the Province the Staff Code of Conduct does not reflect the same standards and processes that apply to the elected Members of Council.

19.2 Complaint

I would recommend to Council, as a matter of policy, all affidavits and support documents for any code of conduct complaint against a Member of Council that Council instruct the CAO that no City Staff Member, who is a Commissioner, should take Affidavits on Code of Conduct complaints. It is an inherent conflict with Members of Council by doing so. There are many others in the community who could take the affidavits.

19.10 Opportunity to Comment

a) “serve the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation be filed within ten days; and

b) serve the complainant with a copy of the member’s written response with a request that the complainant provide a written reply within ten days.”

This issue was raised with the Integrity Commissioner that there be a change from 10 days’ notice to respond to an allegation to 20 business days. The same principle would apply in Section b) to the complainant.

I would recommend the 10 days’ notice be changed to 20 days’ notice.

I would also recommend a change be made that, when a complaint is dismissed as being frivolous or vexatious or for other reasons, the individual with whom the complaint has been filed against, would have the right to automatically waive confidentiality so the public is aware of the nature of the complaint. This situation has arisen in Sarnia and across the Province where the complainant has released the information publicly and, under the Code
of Conduct, if an investigation is occurring, the Member of Council is in violation if they acknowledge or respond publicly to the complaint.

Thank you for your consideration of this matter.

Yours sincerely,

Mike Bradley
Mayor of Sarnia
CODE of CONDUCT

3.1 It is the role of Council
   (a) wellbeing is one word

8.0 Conduct of Political Nature
   Second and fourth lines, CHANGE his/her election to their election in both instances.

14.0 Gifts and Benefits
   CHANGE his/her duties to their duties

15.0 Improper Use of Influence
   First, third, fifth, eighteenth and nineteenth lines, CHANGE his/her to their in each instance.

17.0 Integrity Commissioner
   17.2 …. resting with ADD Mayor and Council…..etc.

   17.4 … for advice must CHANGE to approach the Integrity Commissioner, directly.

19.0 Formal Complaint Procedure
   19.2 Complaint: 2nd para, CHANGE to all written complaints shall be signed by a Notary of the Public

19.3 File with City Clerk
   DELETE this By-law item 19.3 altogether

   NEW 19.3 Communications with Integrity Commissioner
   Communications will remain between the Integrity Commissioner and the person filing the complaint until the Integrity Commissioner has made a decision on whether or not to proceed with an investigation. The appropriate personnel will then be copied on communications but only as and if necessary. Confidentiality will be respected at all times. If any of the complaint content and, or names, is released to the media without authorization, the Integrity Commissioner will instantly dismiss the complaint.

19.4 Deferral
   Second para, last sentence CHANGE to the Integrity Commissioner shall instruct the complainant as follows:
   Fifth para, last sentence, CHANGE to the complainant shall be advised accordingly.
19.5 Reports

CHANGE to Should no complaints be received within a calendar year, the Integrity Commissioner will report to the Mayor and Council accordingly and no official annual report will then be required for that year.

19.9 Complaint – Gifts and Benefits

All instances of his/her CHANGE to they

19.10 Opportunity to Comment

a) and b) and fourth para CHANGE all instances to 30 days

19.11 Final Report

First line and fourth lines, CHANGE his/her to their

Second para, CHANGE to Mayor and Council

19.13 Lawful Recommendations

Second para CHANGE his or her services to their services

19.15 Report to Council

CHANGE first sentence to….The Integrity Commissioner will submit his report to the Mayor for the next meeting of Council.

CHANGE last sentence of para to reported out to members of Council, from the Integrity Commissioner, through the Mayor.

19.17 Confidentiality

(a) and (c) CHANGE his/her to their

(e) CHANGE last sentence to end as….report the suspension to Council through the Mayor.

19.18 Integrity Commissioner Vacancy

CHANGE second sentence to When a vacancy occurs, an interim measure will be enacted to enable the complaints to be addressed within a reasonable amount of time.

19.19 Reprisals and Obstructions

Sixth line, CHANGE his/her to their.

APPENDIX ‘A’

Bottom left-hand side of page, CHANGE to Signature of Notary of the Public for taking affidavits, etc.

MGB – Sept 25th., 2019
As per your request, I spoke with Councillor Brian White about putting forward these minor amendments for both the Code of Conduct/Procedural by-law for the Monday September 30th, 2019 meeting. As I previously informed you I will not be present for this meeting.

The changes are:

**Procedural By-Law #57:**
- Amend 7:11 Change to Wednesday
- Amend 7:12 Change to Wednesday
- Amend 14:2 Change to Tuesday

**Code of Conduct:**
- Amend 14:0 Change Dollar value to $200.00 to be consistent with County of Lambton
- Amend 17:4 Eliminate Written Request to City Clerk

Many Thanks,

Mike Stark  
Sarnia City/County Councillor
The following are high level points for discussion relative to the code of conduct:

- With reference to Councillor Stark’s earlier remarks, we need to minimize the opportunity for the code to be used as a weapon, to be used as a tool for a political vendetta, or to be used as a punishment for winning an election over an opponent. This could involve the following code changes:
  - Confidentiality should not be honoured for vexatious complaints, the tax payers deserve know who is costing the City money for unsubstantiated allegations
  - Raising the cost for the filing of a complaint could help discourage frivolous complaints.
  - Some sort for additional process to ensure accountability for repetitive frivolous complainants, there is not an endless pot of taxpayer money for disingenuous individuals

- If we don’t instill discipline in the process, the code becomes another way for certain members of the public to continuously undermine and taunt elected representatives. This will only discourage people from entering politics in the future given fear of harassment and intimidation tactics.

- As a general rule, Councillors need to have the right to state their honest opinion on a matter publically and to the Media, there should be the freedom to agree to disagree without concern of a code violation

- Timelines should be extended to ensure appropriate time is available for a response to a complaint, ten days can be too limited in certain circumstances

- Committee members that break the code are not subject to any sort of financial penalty. There have been many cases where committee members have broken the code and councillors have chosen not to pursue an IC complaint out of respect for the taxpayer. If Committee members are found in violation their names and offences should be published as well as they should be removed and banned from serving on any City committee.

Kind Regards,

Bill Dennis

Sarnia City Councillor
To: Mayor and Members of Council
From: Paul Watson, Integrity Commissioner
Date: September 3, 2019
Subject: Sarnia’s Code of Conduct

Recommendation

It is recommended that:

1. Council receive this report for information.

Background

I have been requested to attend a session with the Mayor and Council to answer questions relating to the Code of Conduct for Members of Council.

Comments

I have provided the Mayor and Council with the following material:

<table>
<thead>
<tr>
<th>DOCUMENT</th>
<th>ITEM</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Municipal Conflict of Interest Act, R.S.O. 1990, Chapter M.50</td>
<td>14 – 23</td>
</tr>
<tr>
<td>3</td>
<td>City of Sarnia Code of Conduct for Council</td>
<td>24 – 46</td>
</tr>
<tr>
<td>4</td>
<td>By-Law Number 57 (Procedural Bylaw) of the City of Sarnia</td>
<td>47 – 77</td>
</tr>
</tbody>
</table>
N.B. Reference below to page numbers will refer to page numbers in the brief referred to above.

**Changes to Legislation**

Bill 68, which came into effect on March 1, 2018, amended the Municipal Act as it relates to the requirements for a Council to have a Code of Conduct, and the duties and powers of the Integrity Commissioner.

**Key Changes:**

(a) All municipalities have must have an Integrity Commissioner, or share one with another municipality.

(b) Integrity Commissioner’s may now provide advice under the Conflict of Interest Act as well as the Code of Conduct. There were also changes in the way Council members are required to declare a conflict. This procedure is now set out in the Sarnia Procedural by-law (item 5 above).

**Sarnia Code of Conduct and Procedural By-law “Issues”**

I raise the following issues as I have had to interpret the following provisions in the Sarnia Code of Conduct for Council (“the Code”).

(a) Protecting confidentiality while permitting Mayor and Council to respond publically when a complaint becomes public.

There are restrictions on the Integrity Commissioner when it comes to releasing information that would identify a Complainant.

Section 19.6 of the Code, third paragraph (page 41) provides that when the Integrity Commissioner makes a finding that a complaint is “frivolous, vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for an investigation” or when the above “becomes apparent in the course of an investigation” and the investigation is terminated that “other than in exceptional circumstances the Integrity Commissioner will not report to Council .... Except as part of an annual or other periodic report.”

Section 19.17 of the Code (page 45) also has provisions that requires the Integrity Commissioner to protect the identity of the Complainant.
Strictly speaking, this restriction does not apply to Mayor and Council, however the public release of this information by a member of Council may be contrary to section 19.19 of the Code (page 46) which prohibits "reprisals".

An issue arises when a complaint is received, reviewed and then dismissed by the Integrity Commissioner without proceeding into a formal investigation. The Code does not permit the Integrity Commissioner to report on the complaint other than to note in the annual report that a complaint was received and dismissed. This creates a problem when the complaint has become public, as the Integrity Commissioner cannot comment when questioned by the media or others.

(b) Section 15 (page 35) and definition of Private Advantage (section 4.0) (page 27)

The intention of this provision is prohibit to a "perceived conflict of interest" i.e. – where a member of Council does not have a pecuniary interest in a matter, but may be perceived as having a non-pecuniary conflict of interest.

This might include a situation where a member of Council is trying to influence other Council members to take an action that would provide a benefit to a Councillor’s friend or associate. For example: You lobby for a friend to have free parking outside of his retail store.

Private advantage is also broad enough to prevent a member of Council from voting on a matter where he or she or a family member is an unpaid volunteer for a non-profit organization - i.e. your wife is a volunteer for an organization that is putting on a Canada Day fireworks display for the public and the organization is asking for financial support from the City.

**Recommended Changes**

The following are non-contentious procedural changes that I would recommend.

(i) Sections 17.4 (page 37) and 19.4 (page 39-40) of the Code – I would recommend a change to the Code that would allow the Integrity Commissioner to communicate directly with members of Council and complainants without going through the City Clerk. The Clerk would be advised of decisions related to complaints. This is in fact what the practice is at this time

(ii) Section 19.12 (page 43) of the Code – I would recommend a change to the Code to provide an extension to the time limit that a report has to be completed beyond 90 days. I would recommend an extra 30 days if Integrity Commissioner reports to Council that he needs more time, and additional time after that if Council approves an extension following the application of the Integrity Commissioner.
(iii) That the Code provides that "any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner."

This provision is supportive of section 17.4 (page 37) of the Code and would encourage members of Council to seek out the advice of the Integrity Commissioner any time there was a question of whether or not the Code applied.

(iii) Sarnia Procedural By-law - Paragraphs 15.3 (page 70) and 16.16 (page 74) should confirm that a declaration of a "conflict of interest" pursuant to the Code of Conduct is grounds for not voting on a matter. This would ensure that the same rules apply to the Code as apply to the Conflict of Interest Act.

Other

I have included page 70 of the brief to include the regulation that sets forth the minimum requirements of a Code of Conduct.

Prepared by:

Paul Watson
Integrity Commissioner
To: Mayor and Members of Council
From: Paul Watson, Integrity Commissioner
Date: September 30, 2019
Subject: Sarnia’s Code of Conduct

Recommendation

It is recommended that:

Council receive this report for information.

Background

I have been requested to comment on the “Proposed Amendments to the Code of Conduct Submitted by Council”.

Comments

I will direct my comments by reference to the comments made by the Mayor and Council that were forwarded to me (starting at page 71 of 84 pages being the letter from the Mayor to Members of Council dated September 24, 2019).

Mayor Bradley

Paragraph 9

The only restriction on the wording of this section is the requirement in Ontario Regulation 55/18 (Codes of Conduct -- Prescribed Subject Matters) that the following is a required subject matter in a Code of Conduct:

“1(2) Respectful conduct, including conduct toward officers and employees of the municipality or local board, as the case may be.”

19.2 Complaint

There is no requirement that the complaint be by way of a sworn affidavit. Many municipalities initiate the process with a “Complaint form” that is signed and dated but not sworn.
19.10 Opportunity to Comment

If the period to respond is increased to 20 days, or 30 days as suggested by Councillor Bird, then I recommend that the time for the Integrity Commissioner to investigate and report be extended. The Integrity Commissioner would not actively proceed to investigate a complaint until the response is received from the member of Council. I would suggest the following change to paragraph 19.12:

"19.12 Final Report

The Integrity Commissioner shall report the general findings of his or her investigation to the complainant and the member no later than 90 days after receiving the written response from the member whose conduct is in question as provided for in paragraph 19.10 (a)."

In addition I would recommend that the Integrity Commissioner be permitted to extend the time period for completing a report as set forth in my “Recommended Changes” (ii) at page 3 of my report to Council dated September 3, 2019.”

Councillor Bird

Paragraph 19.2

The reference to a “Notary of the Public” should be “Notary Public”. In Ontario, all lawyers are appointed as Notary Public’s when they are called to the Bar. All lawyers are also “Commissioners for swearing affidavits”. A lawyer can swear a document in his or her capacity as a Notary Public but normally swears documents in his or her capacity as a Commissioner as this process is less formal (no red seals, etc.). Non-lawyers such as law office staff and certain government clerks can also apply for and be issued the authority to act as a Commissioner for swearing affidavit.

I would not recommend that a complaint to the Integrity Commissioner would have to be sworn before a Notary Public. See my comments above in response to Mayor Bradley’s suggestions.

Paragraph 19.3

If Mayor and Council wish to make this change, the concern that I have is that it is very difficult for the Integrity Commissioner to determine if “the complaint content and, or names, is released to the media without authorization”. Unless the media report names the individual who released the information to the media, or unless the reporter is willing to provide this information, or unless the person who released the information admits this to the Integrity Commissioner, it is not certain where the information came from. This might lead to an investigation as to who released the information which would start to highjack the process.
I would also recommend that the Integrity Commissioner maintains the authority to determine whether or not to dismiss a complaint in these circumstances. It may be a serious complaint that merits investigation regardless of the improper release of information.

Paragraph 19.10 Opportunity to Comment

See my comment above regarding Mayor Bradley’s recommendation.

I would recommend continuing the current provision giving the complainant 10 days to respond. The complainant has already initiated the complaint and should not need more than 10 days to respond. The complainant will also likely be interviewed by the Integrity Commissioner. Thirty days to respond will slow the process down considerably.

Paragraph 19.15 Report to Council

Who in the Municipality the Integrity Commissioner reports to is a procedural matter. In most municipalities it is the administration (usually the City Clerk) who prepares the agenda. If this is the role of the Mayor in Samia, then the report could go to the Mayor.

There is another consideration. If the Mayor is the member being complained of, he or she may be in a conflict of interest in receiving the report before administration and Council.

Paragraph 19.17 Confidentiality

Same comment as in 19.15 above.

Appendix “A”

Same comment as in 19.2 above.

Councillor Stark

I would support these recommendations.

Councillor Dennis

As these comments are not directed to specific changes in the wording of the Code of Conduct I will not comment.
Other

I would be prepared to review any word changes to the Code that are proposed.

Prepared by:

[Signature]

Paul Watson
Integrity Commissioner