

City of Dryden Integrity Commissioner File 2018-03

REPORT ON COMPLAINT

The Complaint

Councillor Norm Bush (the Complainant) alleges that Councillors Mary Trist and Roger Valley (the Respondents) breached the following provisions of City Policy MU-CO-11, Council Code of Conduct:

- 4.3.2 (Impartiality)
- 5.0 (Principles on which this Code of Conduct is based)
- 7.3.1 (Conduct Respecting Staff)

Summary

I have previously found that section 5.0 (Principles) is not a provision that can be breached. I apply that finding here.

I find no breach of section 4.3.2(a) or section 7.3.1.

Applying the impartiality provision in section 4.3.2, I find that because of personal interest the Respondents were not impartial. Ideally, they should not have taken part in decisions affecting the Dryden Fire Fighters' Association ("Association"). However, the language of the Code does not clearly address this situation. Instead of finding a contravention of section 4.3.2, I am recommending that section 4.3.2 be amended.

The Complainant did not rely on the *Municipal Conflict of Interest Act*. In any event, until March 1, 2019, I do not have jurisdiction to consider the *Municipal Conflict of Interest Act*. I therefore did not consider whether the Respondents were in a conflict of interest or should have recused themselves under that Act.

Background

The complaint, related to the Respondents' position on the provision of fire services in Dryden, was received May 8.

As I observed in Joint Report 2018-01 and 2018-02, through late 2017 and early 2018 City Council was exploring various models for providing fire services in the community. This included an examination of whether the City would be most effectively served by a volunteer, paid, or mixed model of firefighting services. I take no position on the various methods because it is not my place to comment on matters of public policy.

It is clear that this debate produced conflict, at times, among City Council, the Dryden Fire Service (“Fire Service”) and the Association.

The complaint is based on the Respondents’ family relationships with members of the Association. The Complainant notes that Councillor Trist’s spouse is a member of the Association and that her brother-in-law, as the designated contact person for the Association, was involved in active advocacy to Council on this issue. The Complainant also states that Councillor Valley’s brother-in-law is a former fire fighter in the community and he has three nephews who belong to the Fire Service. Both Respondents acknowledge these family connections.

The Complainant alleges that both Respondents should have recused themselves on any issue related to the provision of fire services in the community.

The premise of the complaint is that the Respondents’ family relationships with members of the Association raise serious concerns about impartiality and render them incapable of being seen to be acting in the public interest in relation to the Fire Service. In particular, the Complainant states that the Respondents cannot be seen to be acting in an impartial manner in the selection of a fire service model for the community. He further suggests that the Respondents did not support enforcement of City policy against alcohol consumption on City property because of these family relationships.

As discussed in Joint Report 2018-01/2018-02, consumption of alcohol on City property and, in particular, a room dedicated to use by the Association have been matters of controversy in the community. After receiving a legal opinion that alcohol use, especially by fire fighters, on City property presented serious liability risks, the City ended its permissive approach and began to enforce its policy against alcohol consumption. Ultimately, this operational decision by the City staff, supported by a majority of Council Members, led to considerable disagreement between the Council and the staff, on the one hand, and the Association, on the other.

Process Followed

In operating under the Code, I follow a process that ensures fairness to both the individuals bringing complaints and the Council Members responding to the complaints.

The fair and balanced process I normally use is consistent with the requirements of the Code. The process includes the following elements:

- Each Respondent receives notice of the complaint and is given an opportunity to respond.
- Each Respondent is made aware of the Complainant’s name. I do, however, redact personal information such as phone numbers and email addresses.

- The Complainant receives each Respondent's Response and is given an opportunity to reply.
- Each Respondent receives the Complainant's Reply and is free to provide a sur-reply.
- After the Reply stage, I often accept supplementary communications and submissions from the parties, but only on the condition that parties generally get to see one other's communications with me. I do this in the interest of transparency and fairness.

Positions of the Parties

The following is a brief summary of the positions of the parties. The Complainant and Respondents all provided detailed submissions and, in my deliberations, I have taken into account everything provided to me, not just what appears in the summary below.

This section does not contain my findings, which can be found later in this report. Everything in this section of the report is a position taken by the Complainant or one of the Respondents.

Complainant's Position

The Complainant alleges that the Respondents' close family ties to members of the Association make them incapable of impartiality in their official role as Councillors. He alleges that the actions of the Respondents demonstrate that they have been partial to the Association. The following is summary of the Complainant's position about each Respondent.

Complainant's position on Councillor Trist

- Councillor Trist has a direct family relationship with several members of the Association. Councillor Trist's husband is a member of the Association and her brother-in-law is the Association's contact person, tasked with interacting with Council.
- Councillor Trist's family members draw salaries as a result of their work with the Fire Service.
- Councillor Trist tried unsuccessfully to take responsibility for being the City's lead negotiator with the Association.
- Councillor Trist brought a motion related to the Fire Service that (the Complainant feels) a delay tactic intended to benefit the Association.

- Councillor Trist consistently took positions on the Fire Service that were in conflict with those of the staff and the majority of Council Members. These positions were closely aligned with the interests of the Association. She ignored the advice of staff and legal opinions, such as when she was willing to yield on enforcement of the no-alcohol-on-City-property policy.
- Councillor Trist should have recused herself from participating in an official way during the dispute between Council and the Association.

Complainant's position on Councillor Valley

- Councillor Valley has family relationships with several members of the Association. Councillor Valley's brother-in-law is a retired member of the Fire Service and he has three nephews who currently belong to the Fire Service.
- Councillor Valley also took positions that were out of step with the majority of Council Members and of the staff. These positions were aligned with the interests of the Association.
- Councillor Valley corresponded with local reporters about the ongoing situation involving the Fire Service. It appears that he provided this correspondence to members of the Association, but declined to share it with Council.
- Councillor Valley should have recused himself from official participation in the dispute between Council and the Association.

Respondents' Position

One Respondent pointed out that, despite the inclusion of an informal complaint resolution process in the Code, the Complainant never attempted to address his concerns with the other Councillors prior to filing his complaint.

The Respondents both acknowledge their family connections to the Fire Service but point out that in a community of Dryden's size it is very common for individuals to have close relationships with members of the Fire Service.

The Respondents state that prior to the filing of this complaint, the Fire Service had been on the official City Council agenda on six separate occasions. Councillor Trist submitted copies of the minutes of these meetings and highlighted her comments during those meetings. Some of those comments have been reproduced below.

The Respondents disagree that their recommendation of a town hall meeting to help resolve the impasse between the City/Council and the Association was a position necessarily aligned with the interests Association. Instead, they believe it would have

been a valuable exercise to resolve an issue of great public importance within the community.

With respect to their interaction with City staff, Councillor Trist stated that she did not give advice or direction to the CAO regarding this issue and that this is reflected in the minutes. In this respect, she cannot be seen to have improperly interfered with the objectivity or political neutrality of the staff.

Because this was a matter of great importance to the community with serious public safety ramifications, the Respondents felt that finding a mutually acceptable resolution would be the best way to protect the public interest and safety. For example, Councillor Valley was aware of staff recommendations and legal opinions about alcohol consumption on City property, but he nonetheless felt a resolution that worked for both sides was in the best interest of the community. The Respondents believed that a mutually acceptable solution was achievable and that they had an obligation to explore that possibility.

While the Respondents acknowledge that they support the City's volunteer fire fighters, their position is that they do because they respect and appreciate what the volunteers do to keep the City safe.

Not a Municipal Conflict of Interest Act Case

Significantly, the Complainant has not proceeded under the *Municipal Conflict of Interest Act*.

Under section 5 of the *Municipal Conflict of Interest Act*, if a Council Member is present at a meeting where a matter affecting the Council Member's pecuniary interest (which includes the pecuniary interest of a spouse) is being considered then the Council Member must (a) disclose the interest before the matter is considered, (b) not take part in discussion or voting on the matter, and (c) not attempt in any way to influence the voting.

At present the *Municipal Conflict of Interest Act* process does not involve the Integrity Commissioner. Currently I lack jurisdiction to apply the *Municipal Conflict of Interest Act*. (As of March 1, 2019, the legislation will change and an Integrity Commissioner will be able to receive *Municipal Conflict of Interest Act* complaints.)

The *Municipal Conflict of Interest Act* does provide a process (not involving the Integrity Commissioner) to raise allegations that a Council Member has violated section 5. The Complainant has not used this process.

The complaint before me is not based on the *Municipal Conflict of Interest Act*. Even if it were, under the current legislation it is not my place to consider whether the *Municipal Conflict of Interest Act* was contravened.

Among other things, this means that I am not required to consider whether the interests of fire fighters (such as Councillor Trist's spouse) in these matters constitute pecuniary or non-pecuniary interests.

Findings of Fact

The Respondents both have family members who belong to the Association. Councillor Trist's spouse is a member of the Association.

The Respondents took part in Council discussions and votes that related to the Fire Service and the Association without always recusing themselves.

For the reasons that follow, I find that it is not relevant whether (as the Complainant alleges) the Respondents advanced the interests of the Association. It also is not relevant whether (as they maintain) the Respondents were entirely motivated by the public interest.

It is important to note that the Respondents were open and transparent about their family connections and they also declared interests under the *Municipal Conflict of Interest Act* when they thought they were required. The following excerpt from the March 12, 2018, minutes of the Committee of the Whole illustrates both points:

Councillor Trist presented her motion.

In order to heal and mend this community, Council must: 1. Hold a public town hall meeting immediately, to hear the concerns of all sides and get the true facts/information out there, and/or, 2. Immediately re-start conversations with the Dryden Firefighters Association.

She advised that she is the wife of a fire fighter, the sister-in-law of the Association's negotiator and that her father-in-law is a retired fire fighter. She explained pecuniary interest and since this issue is not about money, she felt she had no pecuniary interest and could participate in the discussion. She advised there is strife in the community and that she is recommending holding a town hall meeting so people on both sides of the issue can speak their minds or re-start discussions between Council and the Dryden Firefighters Association immediately. She noted trust needs to be re-built and the City must move past this issue. Councillor Valley agreed a town hall meeting or re-starting the discussions had to be done very quickly, noting this was the first-time members of Council have had the chance to speak publicly on the issue. He noted that with just four (4) of the seven (7) members in attendance, waiting another week to vote on the motion would allow for the other members to get to the Council table to have their say. Councillor Carlucci stated people need to calm down first and he would prefer to see at least six (6) of the seven (7) members involved in the discussions. Councillor MacKinnon stated that the issue didn't have to get where it was. He advised he thought that the two (2) sides had made pretty good headway at their meeting on February 27th, 2018, but quickly learned that hadn't been the case when Council heard back from the Association. Acknowledging that

mistakes had been made on both sides of the issue, he stated the reality is that things are never going to be as they were in the Association Room. Committee directed Councillor Trist's motion be brought forward to the March 19th, 2018 meeting of Council.

Councillor Valley requested unanimous consent from Committee to waive the Notice requirement to add an additional item to the Meeting Agenda for this evening regarding arranging a lease with the Dryden Fire Fighters Association. Committee granted his request.

THAT Council authorize the addition of an item to this evening's agenda. - CARRIED.

Councillor Valley presented his motion.

THAT Council instruct staff to immediately finalize a lease agreement with the Dryden Fire Fighters Association to give them 100% control of the Association Room on the condition that they accept 100% of the liability for what happens in their space.

Councillor Trist declared a conflict of interest with this motion as she said it might involve money and did not participate in the discussion. Councillor Valley could not get a seconder for his motion.

Following this item, all members in the audience left the meeting.

Issues Raised in the Investigation

I have considered the following issues:

Preliminary

- A. Is it possible to contravene section 5.0, "Principles on which this Code of Conduct is based"? Does this section create substantive obligations that Council members must meet?

Analysis and Findings

- B. Did the Respondents breach section 4.3.2(a) by granting anyone special consideration, treatment or advantage?
- C. Did the Respondents otherwise breach section 4.3.2 by failing to show impartiality?
- D. Did the Respondents breach section 7.3.1 by not respecting the role of the staff to serve the City of Dryden in a politically neutral and objective fashion, free from undue influence?

A. Preliminary Issue

Is it possible to contravene section 5.0, “Principles on which this Code of Conduct is based”? Does this section create substantive obligations that Council members must meet?

No.

I addressed this question in Joint Report 2018-01/2018-02, and apply the same finding here. For the reasons outlined in the Joint Report, the statement of principles in section 5.0 cannot be breached and does not create substantive obligations that Council members must meet.

B. Section 4.3.2(a)

Did the Respondents breach section 4.3.2(a) by granting any special consideration, treatment or advantage in matters related to their position on Council to any citizen beyond which is available to any other citizen?

No.

Section 4.3 of the Code consists of two provisions: section 4.3.1 (Integrity) and section 4.3.2 (Impartiality). The Complainant relied on the impartiality section, which states:

4.3.2 Impartiality:

Every Council Member must perform his/her duties in an impartial manner.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (a) No Member of Council shall grant any special consideration, treatment or advantage in matters related to his/her position on Council to any citizen beyond that which is available to any other citizen.

In the next section (issue C), I consider the opening words of section 4.3.2, which refer to an impartial manner. Under this heading (issue B), I am examining only the rule in section 4.3.2(a) against granting special consideration, treatment or advantage.

The Complainant argues that the Respondents granted special consideration, treatment or advantage to the Association because,

- (i) the Respondents' positions were constantly out of step with the positions of most Council Members and,
- (ii) the Respondents' positions were favourable to the Association.

In a democracy, elected representatives are entitled to disagree. The minority on an issue is as entitled to its position as the majority on that issue. A position is not illegitimate – and certainly does not contravene the Code of Conduct – merely because it does not conform to the majority’s opinion. I do not accept point (i) as proof that section 4.3.2(a) was contravened.

Further, under section 4.3.2(a), it does not matter whether the Respondents’ positions were favourable to the Association. As the Supreme Court of Canada has observed, positions taken by elected officials might advance some people’s interests while being adverse to other people’s interests.¹ Consequently, the fact that a position happens to be in the interest of some and not of others does not make the position “special consideration, treatment or advantage ... to any citizen beyond that which is available to any other citizen.”

If the interpretation of section 4.3.2(a) were otherwise then a Council Member would never be able to take a position that is in interests of some and against the interests others. Obviously that cannot be what section 4.3.2(a) means.

In summary, even if point (ii) were correct it does not indicate that section 4.3.2(a) was contravened.

C. Section 4.3.2

Did the Respondents otherwise breach section 4.3.2 by failing to show impartiality?

Because of personal interest the Respondents were not impartial. Ideally, they should not have taken part in decisions affecting the Association. However (for reasons that I will explain), the wording of the Code does not clearly address this situation. Instead of finding a contravention, I recommend that section 4.3.2 be amended.

The following is an excerpt from a portion of the complaint related to Councillor Trist:

Councillor Trist espouses and supports a solution to resolving this issue that is much more closely aligned with the DFFA than those recommended by City staff (Fire Chief and CAO) and the majority of Council. On the surface, one would think that there is nothing wrong with that, it is simply democracy in action with a different point of view expressed by an individual. The impartiality concern raised as a result of Councillor Trist's words and actions are due to the fact that Councillor Trist's husband is a member of the DFFA and her brother-in-law is the designated contact person for the DFFA. Her immediate familial ties clearly raise significant concerns regarding impartiality.

¹ *Odhavji Estate v. Woodhouse*, [2003] 3 S.C.R. 263, 2003 SCC 69, at para. 28.

The opening words of section 4.3.2 require: “Every Council Member must perform his/her duties in an impartial manner.”

“Impartial” and “Impartiality” are not defined by the Code, but the concept is addressed by the common law rules on bias, in particular by the prejudgement (closed-mind) rule and the personal-interest rule.

According to the prejudgement (closed-mind) rule, a municipal Council Member is disqualified by reason of bias if the Council Member has prejudged the matter to be decided to the extent that he or she has a closed mind and is no longer capable of being persuaded.²

The personal-interest rule requires that Councillors refrain from dealing with matters in respect of which they have a personal interest or other interest.³ A disqualifying personal interest (personal interest that that leads to bias or the reasonable perception of bias) may also result from a Councillor’s association with a party or the Councillor’s personal hostility to a party.⁴

On the question of personal interest, the Supreme Court of Canada states that the test is whether a Councillor’s personal or other interest in a matter being decided is so related to the exercise of public duty that a reasonably well-informed person would conclude that the interest might influence the exercise of the public duty.⁵

I find that it is appropriate to use the common law personal-interest rule to interpret “impartial” and “impartiality” in section 4.3.2. On that basis, I find that a Council Member who has a personal interest in a matter is not impartial.

I stress that the personal-interest rule does not depend on a Councillor’s motive – that is, it does not matter whether the Councillor was motivated by personal interest or by public interest. The rule also does not depend on whether a Councillor actually acts in a manner that advances the personal interest. It simply matters that the Councillor participates in decision-making on a matter in respect of which he or she has a personal interest or other interest. For this reason, it is irrelevant whether or not (as they claim) the Respondents were motivated by public interest and whether or not (as the Complainant asserts) the Respondents advanced the interests of the Association.

² *Save Richmond Farmland Society v. Richmond (Township)*, [1990] 3 S.C.R. 1213 at 1124; *Old St. Boniface Residents Assn. Inc. v. Winnipeg (City)*, [1990] 3 S.C.R. 1170 at 1196-1197.

³ *Old St. Boniface Residents Assn. Inc.*, note 2, at 1196. See also: Hon. J. Douglas Cunningham, “Ruling on Conflict of Interest” (July 8, 2010), pp. 6-9, Appendix J, *Report of the Mississauga Judicial Inquiry: Updating the Ethical Infrastructure* (2011), at 377-380.

⁴ *Hutterian Brethren Church of Starland v. Starland (Municipal District)*, 1993 ABCA 76, at para. 36, citing Griffith & Street’s *Principles of Administrative Law*, 4th ed. (1967), at 156-157.

⁵ *Old St. Boniface Residents Assn. Inc.*, note 2, at 1196.

I also note that the personal-interest rule does not depend on the existence of pecuniary interest. A non-pecuniary interest, too, can give rise to disqualifying bias. For this reason, it is irrelevant whether the issues before Council affected pecuniary interests of the Association. (Pecuniary interest is relevant to the *Municipal Conflict of Interest Act*, but that Act is not at issue here.)

Did the Respondents have a personal interest in matters related to the Association? I find that clearly they did. They had family connections to the Association (in one case, a spousal connection). These family relationships gave each Respondent a personal interest in matters related to the Association. I find that a reasonably well-informed person would conclude that these interests might influence the exercise of the Respondents' public duty.

I repeat that the principal claims of each party do not matter to this finding. The Respondents claim they were motivated by the public interest. That does not alter the existence of personal interests. The Complainant claims the Respondents were advancing the interests of the Association. That, too, is irrelevant to whether they possessed personal interests.

Also irrelevant are merits of the various positions taken by Council Members on fire service issues. The issue is here is the effect of personal interest on impartiality, not whether one Councillor's position is better than another's. The Respondents argue that their more conciliatory approach to the impasse would have better advanced the public good. I express no opinion on that point. However, even if the Respondents are correct, that does not change the fact that they had personal interests in the matter.

As noted above, the Respondents were open and transparent about their family connections. The issue is not openness about the relationships giving rise to personal interests. The issue is that the personal interests exist.

It is also clear the Respondents felt that only pecuniary interests should lead to withdrawal from decision-making. While that may be the case under the *Municipal Conflict of Interest Act* (which is not being considered here), it is not the case under the common law personal-interest rule and it is not the case under section 4.3.2 of the Code. When section 4.3.2 refers to "impartiality" it does not limit the rule to only pecuniary interests.

While I find that the Respondents were not impartial, I am not convinced that the wording of section 4.3.2 is adequate to address this situation.

The provision states: "Every Council Member must perform his/her duties in an impartial manner."

This provision addresses the situation where a Council Member has the ability to choose whether to act impartially.

In this case, on the other hand, impartiality lies outside the Respondents' control. Their family relationships are a fact, not a choice. Their personal interests in the matter are a fact, not a choice. Consequently their lack of impartiality does not result from any choice. The lack of impartiality is real, but lies outside their control.

The wording of section 4.3.2 seems to contemplate the situation where a Council Member can control whether or not to act impartially in the performance of duties. This is not such a case.

Instead, this is a case where the lack of impartiality is a given. In such a case, what section 4.3.2 ought to require is a recusal – that is, non-involvement in the decision-making process.

As that is not how section 4.3.2 is worded, I cannot find a contravention.

Instead, I recommend that the first paragraph of section 4.3.2 be amended so that it will clearly cover future situations of this nature. Specifically, the first paragraph of section ought to read as follows:

4.3.2 Impartiality:

Every Council Member must perform his/her duties in an impartial manner. *If a personal or other interest means that a Council Member is not impartial on a matter then the Council Member shall have no involvement in discussion or decision-making on it. This rule is in addition to obligations under the *Municipal Conflict of Interest Act*.*

The last sentence of the proposed addition is a clarification based on the fact that the *Municipal Conflict of Interest Act* does not cover all interests.⁶

D. Section 7.3

Did the Respondents breach section 7.3.1 by not respecting the role of the staff to serve the City of Dryden in a politically neutral and objective fashion, free from undue influence?

No.

Section 7.3.1 is designed to preserve the political neutrality and objectivity of the staff and to protect the staff from undue influence.

⁶ The *Municipal Conflict of Interest Act* does not cover non-pecuniary interests and, where relationships are involved, covers only some pecuniary interests.

The relevant provision of the Code reads as follows:

7.3 Conduct Respecting Staff:

...

7.3.1 Council Members shall be respectful of the role of staff to serve the Corporation as a whole under the overall direction of the Chief Administrative Officer; and to provide advice based on political neutrality and objectivity, free from undue influence.

The “advice” referred to in section 7.3.1 is advice *from the staff*, not advice *to the staff* from a Council Member.

The Complainant states that he does not:

see her (Councillor Trist) providing advice to the CAO or staff that is politically neutral, objective or free from undue influence. The potential is high for undue influence coming from her close familial ties...

I find that the complaint misapprehends the meaning of section 7.3.1. First, when the provision mentions “advice” it means advice *from* the staff not *to* the staff. Second, the staff members, not Council Members, are the ones who must be politically neutral. Third, the fact that a Council Member is not impartial does not mean that any influence the Council Member exercises is “undue influence.”

A breach of section 7.3.1 occurs when a Council Member does something to compromise the political neutrality of the staff, does something to compromise the objectivity of the staff, or exerts undue influence in the staff. I find no evidence that this occurred.

In fact, the evidence indicates that the Respondents respect the principle that the staff takes direction from the CAO and that Council direction comes from Council as a whole, not from individual Councillors.

I find no breach of section 7.3.1.

Names of Parties

According to subsection 223.6(2) of the *Municipal Act*, in a report of this nature I may disclose such matters as in my opinion are necessary for the purposes of the report.

In Joint Report 2018-01/2018-02, in my opinion it was unnecessary for purposes of the report to identify the Complainants.

In this case, where the Complainant is a sitting Council Member who has complained about two other Council Members, I have determined that it is necessary for purposes of the report to identify the Complainant. For this reason I am doing so.

Recommendation

1. I recommend that this report be received.
2. I recommend that Council amend the first paragraph of City Policy MU-CO-11, Council Code of Conduct. Currently it reads:

“Every Council Member must perform his/her duties in an impartial manner.”

I recommend that the first paragraph be amended to read:

“Every Council Member must perform his/her duties in an impartial manner. If a personal or other interest means that a Council Member is not impartial on a matter then the Council Member shall have no involvement in discussion or decision-making on it. This rule is in addition to obligations under the *Municipal Conflict of Interest Act*.”

Respectfully submitted,



Guy Giorno
Integrity Commissioner
City of Dryden

October 18, 2018

APPENDIX 1: RELEVANT PROVISIONS OF CODE OF CONDUCT, MU-CO-11 COUNCIL CODE OF CONDUCT

1.0 POLICY STATEMENT

- 1.1 Attaining an elected position within one's community is a privilege which carries significant responsibilities and obligations. Members of Council (comprised of the Mayor and Councillors) are held to a high standard as leaders of the community and they are expected to become well informed on all aspects of municipal governance, administration, planning and operations. They are also expected to carry out their duties in a fair, impartial, accountable, transparent, open and professional manner.

...

4.0 RESPONSIBILITIES

4.1 Council shall:

- 4.1.1 Make revisions, additions, or deletions to the Code of Conduct as may be justified under the concept of "just cause"; and,
- 4.1.2 Following its review of the information decide on the appropriate action in matters concerning a Councillor's ethical conduct.

4.2 Chief Administrative Officer shall:

- 4.2.1 Provide recommendations to Council on desirable revisions, additions or deletions to the Code of Conduct;
- 4.2.2 Advise of allegations and conduct inquiries relating to unethical conduct by Members of Council;
- 4.2.3 Ensure the administrative controls referred to in the Code of Conduct are in place;
- 4.2.4 Fully inform newly appointed Council Members of the ethical standards they are expected to observe. If requested, obtain clarification of the specific ethical standards the Council member will be required to observe in a particular position; and,
- 4.2.5 Keep Council Members informed, on an ongoing basis, regarding the City's policy on ethical behavior.

4.3 Council Members:

4.3.1 Integrity:

Ultimately, ethical behavior relies on the diligence of the individual. However, since a breach of ethics impacts not only on that Member of Council but also the Corporation, a code of ethics is the means by which the City acknowledges their responsibility in this area. Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (a) Conduct of one's private life or Council activities, which render the Councillor unable to perform his or her duties satisfactorily. The moral standard a Councillor must adhere to will vary with the Councillor's relationship with other Council Members, City employees and the public;
- (b) To knowingly breach the law in the performance of his/her duties or request others to do so; and,
- (c) To intentionally falsify any of the City's records.

4.3.2 Impartiality:

Every Council Member must perform his/her duties in an impartial manner.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (a) No Member of Council shall grant any special consideration, treatment or advantage in matters related to his/her position on Council to any citizen beyond that which is available to any other citizen.

5.0 PRINCIPLES UPON WHICH THIS CODE OF CONDUCT IS BASED

- 5.1 Council Members shall serve and be seen to serve their constituents in a conscientious and diligent manner; and shall act in accordance with his or her Declaration of Office.
- 5.2 Council Members shall be committed to performing their functions with integrity, avoiding the improper use of the influence of their office and any conflict of interest.
- 5.3 Council Members shall perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

- 5.4 Council Members shall act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable as possible to the public.
- 5.5 Council Members shall serve the public interest by upholding both the letter and spirit of:
- 5.5.1 The laws of Parliament, including the Criminal Code of Canada;
- 5.5.2 The laws of the Ontario Legislature including the Municipal Act, 2001, as amended, the Municipal Conflict of Interest Act, the Municipal Elections Act, 1996 and the Municipal Freedom of Information and Protection of Privacy Act; and,
- 5.5.3 The By-Laws and Policies of the City of Dryden.
- 5.6 A Council Member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the Criminal Code of Canada or being found to have failed to comply with the Municipal Conflict of Interest Act, whether or not the conduct in question involves contravention of this Code of Conduct.
- 5.7 In the case of any inconsistency between this Code of Conduct and a Federal or Provincial statute or regulation, the statute or regulation shall prevail.

...

7.0 CONDUCT

- 7.1 Conduct at Meetings:
- 7.1.2 Council Members shall act in accordance with the City of Dryden Procedural By-Law.
- 7.2 Conduct Respecting Others:
- 7.2.1 Council Members shall treat each other, the public and staff appropriately to ensure the work and volunteer environment is free of abuse, bullying, intimidation, discrimination and harassment; and shall act in accordance with the City of Dryden Policy HR-HS-69: Harassment/Bully Free in the Workplace.
- 7.2.2 Council Members shall not use indecent, abusive, or insulting words or expressions towards each other, the public or staff; and shall act in accordance with the City of Dryden Policy HR-HS-70: Violence Free in the Workplace.

7.2.3 Council Members shall not speak or otherwise communicate in a manner that is discriminatory to any individual; or that is discriminatory in regard to any individual based on that person's race, ancestry, ethnic origin, colour, place of origin, creed, citizenship, gender, sexual orientation, same-sex partnership status, age, record of offences, marital or family status, or disability.

7.3 Conduct Respecting Staff:

7.3.1 Council Members shall be respectful of the role of staff to serve the Corporation as a whole under the overall direction of the Chief Administrative Officer; and to provide advice based on political neutrality and objectivity, free from undue influence.

7.3.2 Council Members shall be respectful of staff's professional capacities and responsibilities.

7.3.3 Council Members shall not maliciously or falsely injure or impugn the professional or ethical reputation of a member of staff.

7.3.4 Council Members shall not compel a member of staff to participate in partisan political activities.

7.3.5 Council Members shall not use authority, intimidation, threats or coercion to influence any member of staff.

7.3.6 Council Members shall not interfere with any member of staff in the performance of the staff member's duties, including the duty to disclose improper activity.