

ADVISORY BULLETIN

REGARDING FUNDRAISING FOR THIRD-PARTY ORGANIZATIONS

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THE IMPORTANCE OF COMMUNITY ENGAGEMENT

- [1] As elected officials, Members of Council are seen by members of the public as community leaders. Members' words and actions carry significant influence. Members seek to utilize their office for the betterment of their Wards and the City of Windsor more generally. From time to time, third-party organizations seek the assistance of Members in order to increase their profile within the community and to extend the reach of their fundraising activities. These third parties, essentially, want Members to use the influence of their office to assist the party in reaching their fundraising goals.
- [2] It is important that Members maintain a level of community engagement throughout their term. Within the scope of their official duties, Members should be able to highlight the good work done by organizations within the community and take an active role in community-building.
- [3] However, Members must be cognizant of the influence their actions can have. Consequently, it is of paramount importance that Members act in accordance with the **Code of Conduct**. Particularly where fundraising is concerned, Members must be diligent in ensuring that they do not violate any ethical standards.

POTENTIAL ETHICAL ISSUES WITH FUNDRAISING

- [4] It is important to realize that Members, and the offices they hold, carry a significant amount of weight and influence. As noted above, Members may use their influence to accomplish many worthwhile goals within the bounds of their official duties. However, Members are also obligated to wield this influence responsibly and to do so in a way that comports with the standards of integrity set out in the **Code of Conduct**.

- [5] Fundraising activities, including the solicitation of donations, can create ethical difficulties for Members in at least two respects. First, the involvement of a Member of Council in a community organization’s fundraising efforts may give the appearance of special treatment or favouritism for the organization in question. Second, these fundraising activities may create the appearance, or even the expectation, of a *quid pro quo*, so to speak, for those donors who might have matters coming before Council.
- [6] To put it more simply, if citizens or residents are approached by a Member as part of a fundraising campaign, they may feel pressure to donate in order to preserve the goodwill of the Member in any potential future dealings with the City. Alternatively, in dealing with City matters, the Member may feel pressure to act in accordance with a donor’s wishes, particularly if the donor has made an especially generous gift.
- [7] Members must also be mindful that the appearance of impropriety may carry negative implications for the organization for which the Member is raising funds. An association with such negative conduct can diminish the organization’s goodwill and stature within the community, possibly damaging its future work.
- [8] This **Advisory Bulletin** does not pertain to fundraising for election-related activity, which is governed by Rule 11 of the **Code of Conduct** and sections 88.8 to 88.18 of the *Municipal Elections Act, 1996*.

FUNDRAISING AND THE CODE OF CONDUCT

- [9] One of the Key Principles enumerated in Article III of the **Code of Conduct** is that *“Members of Council 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 apparent and real”*. This overarching principle provides the reasoning why a Member’s participation in third-party fundraising must be treated with caution: Members are to avoid even the appearance of a conflict of interest and must always use (and be seen by the public as using) the influence of their office properly and appropriately.
- [10] Rule 8, and its accompanying Commentary, lays out the principle that a Member shall not *“..use the influence of their office for any purpose other than the exercise of their official duties”*. Members must take care to ensure that they only use the influence of their office within the scope of their duties as a Member of Council – promoting private philanthropy and soliciting donations on the behalf of a particular organization do not fall within the official duties of Members of Council and must, therefore, be avoided.

- [11] In an investigation of the conduct of then-Toronto City Councillor Rob Ford, Toronto Integrity Commissioner Janet Leiper noted that “*Where a Councillor asks someone to give money to a personal cause in his or her role as Councillor and underlines that role by putting the request in an official format, that is, on Councillor letterhead, **this is a use of the influence of office for a cause that is not part of the Councillor’s public duties***”. [City of Toronto. “*Investigation Report Regarding the Conduct of Rob Ford*”, August 2010. Emphasis added.]
- [12] In a 2016 investigation of the conduct of another city councillor, Toronto Integrity Commissioner Valerie Jepson expanded on this principle, noting “*...there is no permissible time for Members of Council to be involved in soliciting donations of any kind....the perception of improper influence can cause harm to public confidence in Council equal to actual improper influence*”. [City of Toronto. “*Investigation Report Regarding the Conduct of Councillor Mark Grimes*”, July 2016.]
- [13] The reasoning provided in both investigations is sound and reflects the best practices for Members contemplating involvement with third-party fundraising. Regardless of whether the solicitation of donations is active (such as meeting with individuals to secure donations) or passive (sending a letter on the Member’s official letterhead), fundraising for third-party organizations does not fall within a Member’s official duties and, therefore, must be avoided by Members in adherence with Rule 8 of the **Code of Conduct**.
- [14] Additionally, Rule 6.1 of the **Code of Conduct** states that Members shall not “*...participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not applicable to every other individual member of the public*”. Doing so may create a conflict of interest, or the appearance of a conflict of interest, which may expose them to litigation pursuant to the *Municipal Conflict of Interest Act*. To avoid this, Members must take care to provide an equal level of treatment to all groups seeking any assistance, while still ensuring that their conduct does not inappropriately use the influence of their office. Members are required to strictly comply with the conflict of interest provisions in Rule 6 of the **Code of Conduct**, as well as the *Municipal Conflict of Interest Act*, at all times.
- [15] This interpretation of the **Code of Conduct** does not prohibit Members from attending events hosted by organizations or from making remarks at such events that discuss the positive work that the organization does in the community and the importance of their

mission. However, any solicitation of donations (whether active or passive) while participating in such events would constitute a violation of the **Code of Conduct**.

- [16] If fundraising for city projects is authorized by a Resolution of Council or existing By-law, Members are permitted to engage in such activities as contemplated by the resolution or By-law. Even in such instances, Members must avoid the improper use of the influence of their office, as well as avoid the provision or appearance of the provision of special treatment to any particular individual or organization.
- [17] Members of Council, other than the Mayor, do not serve the City of Windsor on a full-time basis. Many Members hold occupations separate from their Council duties. An ethical dilemma may occur if the Member's occupation involves fundraising within the community. If an individual, corporation, association, or organization with which the Member has had a previous fundraising relationship is conducting business with the City and is appearing before Council, there may be the appearance of either a *quid pro quo* relationship or special treatment. In these circumstances, Members should consider declaring a conflict of interest. Further, Members with such occupations should declare this to the Integrity Commissioner as well as disclose the receipt of any donations exceeding five thousand dollars (\$5,000) received in the course of their ordinary occupational duties.
- [18] Finally, Members should be sensitive to the impact of their fundraising activities within the four walls of City Hall. Some members of staff or the administration may feel pressured to contribute to a Member's cause or causes if he or she is actively seeking donations; it puts the staff in a difficult position when this occurs.

FURTHER INFORMATION

This Advisory Bulletin is intended to provide general information. To rely on the advice of the Integrity Commissioner with respect to specific situations, Members of Council must seek written advice consistent with the provisions of Rule 19 of the **Code of Conduct**. If you have any questions or wish to seek written advice on this matter, please contact:

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