

MUNICIPAL SYMPOSIUM
CONFLICT OF INTEREST
MAY 7, 2016

Agenda

- Training Ground Rules;
- Housekeeping;
- Parking Lot;
- Objective;
- Group Activity;
- Conflict of Interest;



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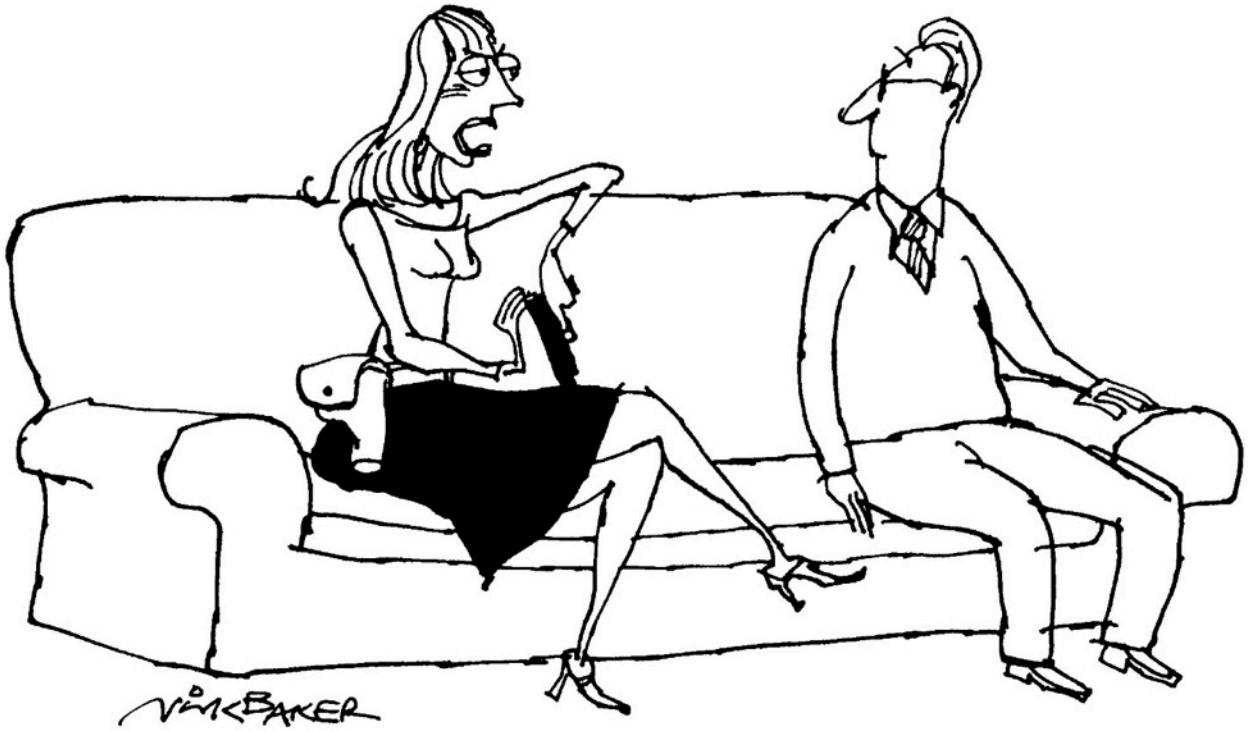
Agenda

- Responsibilities – Councillors and Council;
- Disclosure Statements;
- Administrator's Role;
- Potential Improvements;
- Q and A; and
- Conclusion.



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Training Ground Rules



"Before we get too deeply involved, I feel we should establish certain ground rules, Jeremy."

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Training Ground Rules

- Actively participate and state your opinion honestly so that everyone can benefit from frank discussion.
- Let one person speak at a time to ensure that quieter voices are heard in both small and larger groups.
- Make comments to the whole group and don't participate in side conversations.

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Training Ground Rules

- Discuss ideas or opinions, not person expressing them.
- Ask questions freely at any time.
- Have phones on vibrate and only take urgent calls during the training session.

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Housekeeping



“Right, moving on to the housekeeping...”

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Housekeeping

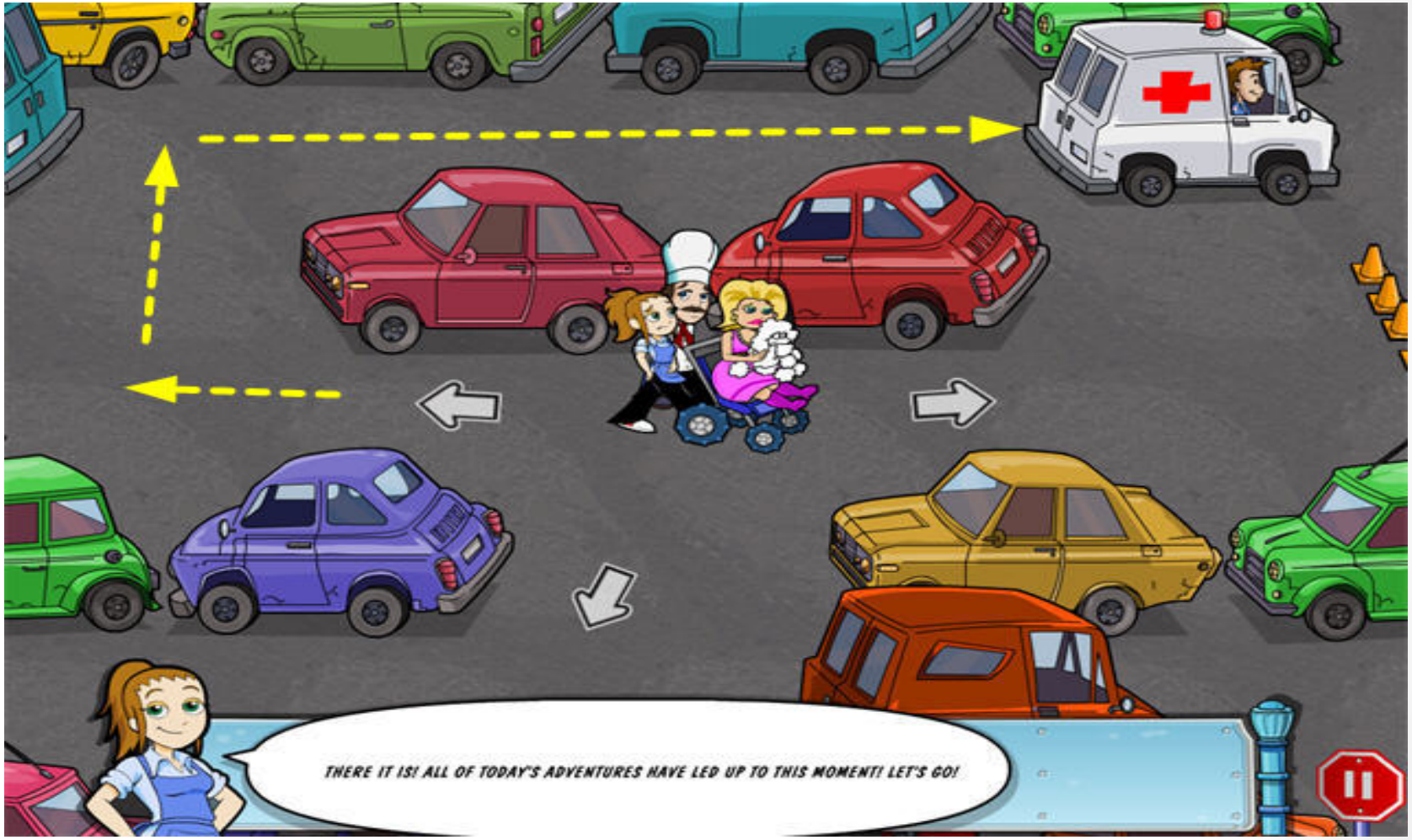
Workshop:10 to11am

One Small Group Session

Washroom locations

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Parking Lot



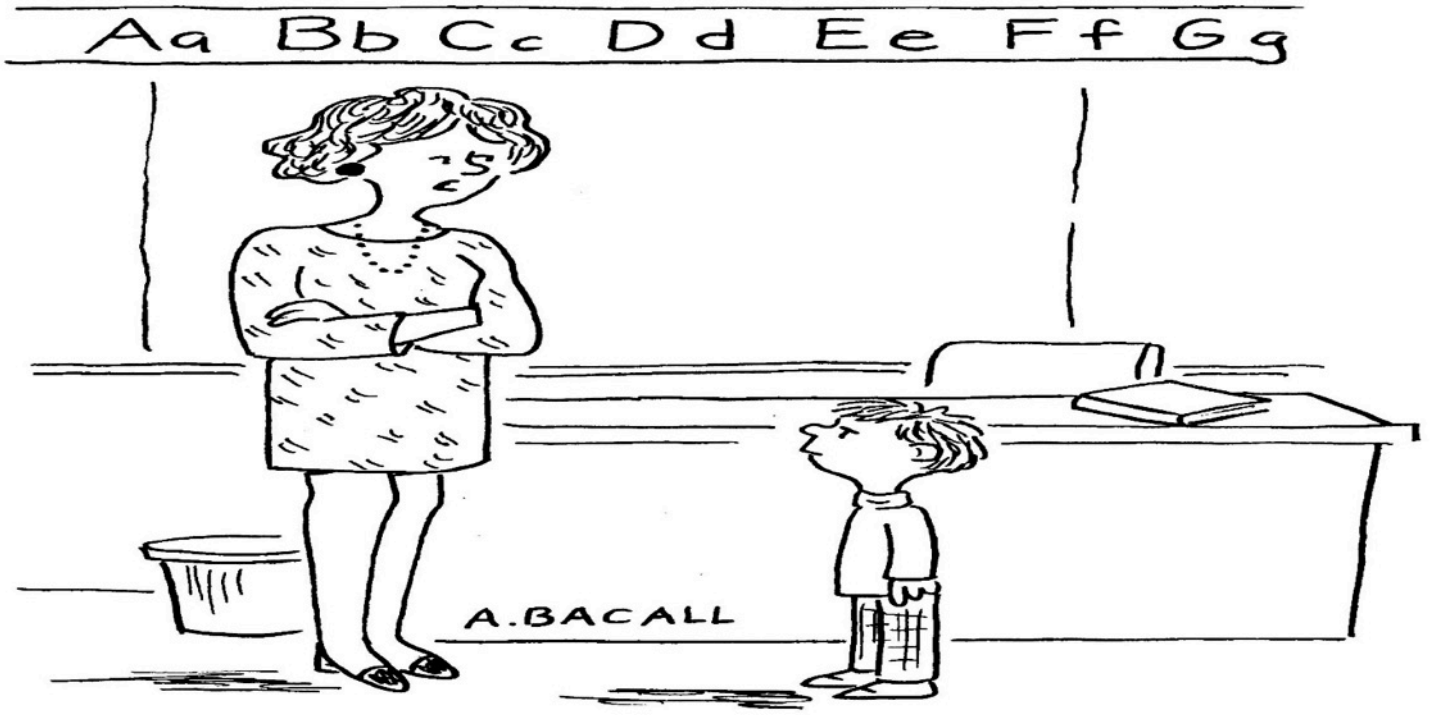
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Parking Lot

- Anything not included in the Agenda may be raised.
- These subjects will be discussed during the Q and A.
- Any issues for which answers are not available, information will be obtained and provided.

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Objective



"My objective is to have each student become more insightful, compassionate, introspective, and empathetic. In your case I will settle for quiet."

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Objective

- To provide an overview of:
  - Conflict of Interest;
  - Responsibilities: Councillors, Council, Administrator **(CAO, Town Manager, Town Clerk/Manager or Town Clerk);**
  - Disclosure Statements; and
  - Potential improvements to existing provisions of Conflict of Interest Legislation.

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Group Activity Instructions

- Small Discussion Groups.
- Introductions.
- Choose Facilitator to coordinate discussions.
- Choose a spokesperson to report results.

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First Group Activity Instructions

- Each group is required to prepare a response to the following:
  - What changes, if any, would you propose to improve the current provisions of Conflict of Interest Legislation?

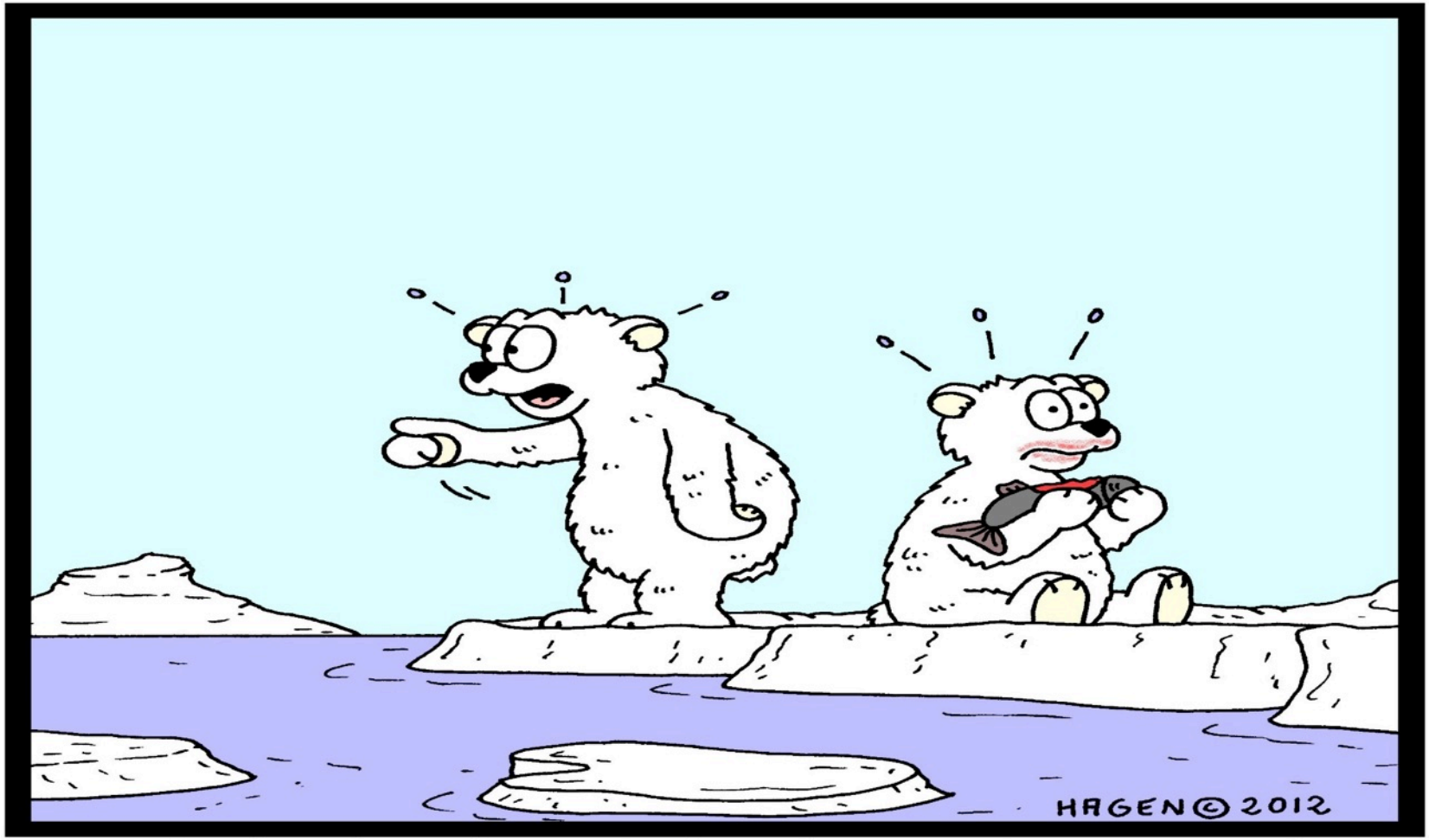
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First Group Report



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Icebreaker



Uh oh, there's an icebreaker coming our way!

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Icebreaker

- An English professor wrote the following on the blackboard and directed his students to punctuate it correctly:

“Woman without her man is nothing”

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Icebreaker

- The men wrote:
  - **"Woman, without her man, is nothing."**
- The women wrote:
  - **"Woman! Without her, man is nothing."**

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Conflict of Interest



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Conflict of Interest

- A Conflict of Interest **(M Act S 207 – 210)** exists if:
  - A Councillor has a monetary interest distinct from that arising from his or her function as a Councillor;
  - A Councillor has a direct or indirect monetary interest;
  - Relative of Councillor **(father, mother, spouse, cohabitating partner, sister, brother, child, step-child, ward, in-laws {mother, father, sister, brother})** has a monetary interest; or

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Conflict of Interest

- A Conflict of Interest exists if:
  - A company or association of persons, with which a Councillor is associated as an officer, employee or agent, has a monetary interest.
- Monetary interest is an interest or benefit:
  - consisting of money, exacted in money, relating to money, or, of which money is the object;

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Conflict of Interest

- Monetary interest is an interest or benefit:
  - capable of being measured by its financial cost, benefit, advantage or disadvantage; or
  - affecting or potentially affecting a person's financial position or his or her assets or assets' value.

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Conflict of Interest

Councillor's Responsibility:



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Conflict of Interest

- Councillor's responsibility:
  - Councillors must know what monetary interest he or she has (**or his/her relatives**) that would or may constitute a conflict of interest;
  - ***Councillors must disclose*** interest and nature of interest in matter before Council or committee ***before formal discussion of that matter commences;***

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Conflict of Interest

- Councillor's responsibility:
  - Once a conflict has been declared, a Councillor ***must leave the meeting*** while the matter in question is being discussed and the vote is taken; and
  - If Councillor is unsure conflict exists, disclose all relevant information and request Council to decide. Councillor must ***abide by Council's decision.***

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Conflict of Interest

Council's Responsibility:



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Conflict of Interest

- Council's responsibility:
  - To decide whether or not a Councillor has a conflict on a matter when requested;
  - Council's decision is final!
  - Perceived conflict of interest does not constitute actual conflict of interest;
  - Thoroughly investigate allegation of conflict of interest;

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Conflict of Interest

- Council's responsibility:
  - Declare a Councillor's seat vacant when it is clearly established that the Councillor:
    - failed to disclose a Conflict of Interest or
    - discussed or voted on a matter in which they had a Conflict of Interest.

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Conflict of Interest

- Council responsibilities:
  - Couple of questions:
    - How many Councils have held a meeting to review disclosure Statement this year?

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Conflict of Interest

- Council's responsibility:
  - Review annually **(by April 1st)** in a privileged Council meeting the Conflict of Interest Disclosure Statements filed by Councillors and senior staff; and
  - While its not legislatively required, it would be appropriate for any member of Council to alert a fellow Councillor of any potential conflict of interest.

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Penalty if Councillor's seat is declared vacant:



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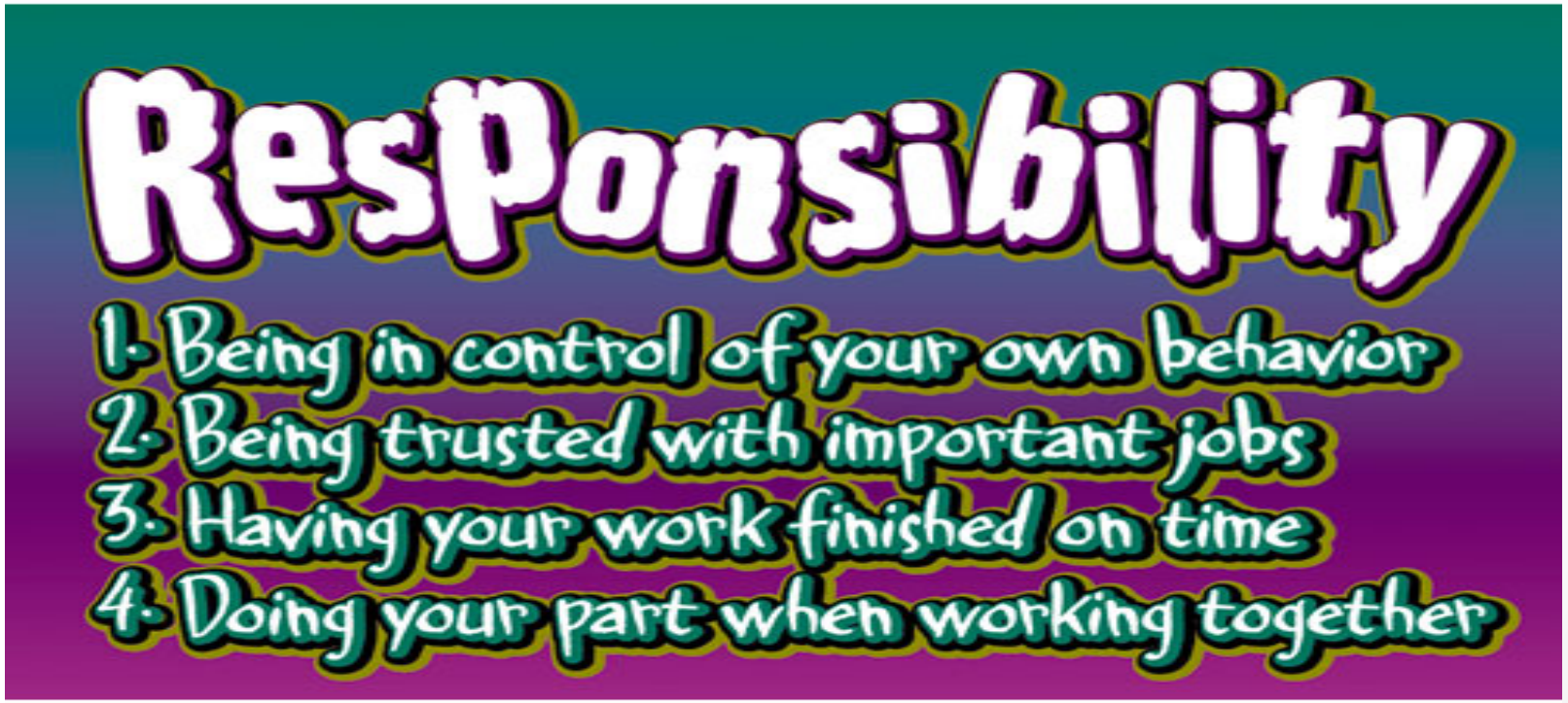
Conflict of Interest

- Penalty if Councillor's seat is declared vacant:
  - A Councillor may not seek re-election for a period of two **(2)** years after his/her seat is vacated.

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Councillor's Responsibilities (Disclosure Statements):



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Conflict of Interest

- Councillor's Responsibilities (Disclosure Statements):
  - File an annual Conflict of Interest Disclosure Statement:
    - Within sixty **(60)** days of Councillor's election and
    - by March 1st in each subsequent year of the Councillor's term **(how many have done so in 2016?)**
    - Within sixty **(60)** days of any change

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Disclosure Statement:



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- Disclosure Statements must include:
  - Real property or interest in real property within the municipality;
  - Corporations in which Councillor holds 10% or more shares;

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- Disclosure Statements must include:
  - Partnerships and sole proprietorships in which the Councillor holds 10% or more interest; and
  - Businesses located within municipality owned by the Councillor.

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Administrator's Role:



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Conflict of Interest

- Role of the Administrator:
  - File a disclosure statement within sixty **(60)** days of hire or change occurring and by March 1st thereafter (**applicable to Clerk, Manager, Treasurer and Dept. Heads**);
  - Retain Disclosure Statements and remind Councillors and Department Heads of the deadline for filing such statements and requirement for annual review;

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Conflict of Interest

- Role of the Administrator:
  - Provide Councillors copies of Disclosure Statements;
  - Alert Councillors of any potential conflict of interest; and
  - Ensure that a separate list of invoices is provided to Council where Councillors are in a conflict of interest and advise Councillors of such situations.

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Conflict of Interest

Summary:



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Conflict of Interest

- Summary:
  - Beware of Conflict of Interest situations and obligations;
  - Learn the specifics of conflict of interest and when you are in conflict;
  - When in doubt, ask Council;

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Conflict of Interest

- Summary:
  - If you are in conflict, don't participate in any discussion and leave the room;
  - Disclosure Statements must be filed; and
  - Council's decision is FINAL!

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Conflict of Interest Potential Improvement



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Conflict of Interest Potential Improvement

Current Situation



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Conflict of Interest
Potential Improvement

- Current situation:
  - An allegation of Conflict of Interest by any individual or fellow Council requires a motion by a Councillor.
  - Council must investigate, decide whether there is a Conflict of Interest, and declare Councillor's seat vacant on a motion approved by a majority vote, if they believe that a Councillor is in conflict.

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Conflict of Interest Potential Improvement

- Current situation:
  - When allegation of Conflict of Interest occurs it is extremely difficult, if not impossible, to establish the healthy working relationship required to be a successful Council, in particular, where there is no conflict or Council's decision that there was a Conflict of Interest is subsequently overturned by the Court.

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Conflict of Interest Potential Improvement

- Current situation:
  - In practice, a Council is expected to be the police **(investigator),** judge and jury **(listen to the evidence and decide whether a Councillor is in Conflict of Interest),** and declare his or her seat vacant.

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Conflict of Interest Potential Improvement

Proposed Improvements:



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Conflict of Interest
Potential Improvement

- Proposed Improvements:
  - There has to be better way.
  - We have a model that works well for Council's decisions on Development Regulations – Appeal Boards.
  - Anyone aggrieved by actions of Council pertaining to Development Regulations **{U & RPA - S. 42(1)}** can appeal such decisions to those Appeal Boards.

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Conflict of Interest
Potential Improvement

- Proposed Improvements:
  - Such a process provides an opportunity for both parties to present their positions to an independent body for an unbiased decision.
  - Such decisions are appealable to the court based on a question of law or jurisdiction.

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Conflict of Interest
Potential Improvement

- Proposed Improvements:
  - There is only one penalty for a Conflict of Interest situation – a Councillor's seat is declared vacant.
  - Why not create a similar appeal board process for all allegations of Conflict of Interest situation.
  - Process removes potential hard feelings from Conflict of Interest allegations **(process not handled by Council).**

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Conflict of Interest
Potential Improvement

- Proposed Improvements:
  - Amend legislation to provide an appeal board type of process to levy range of penalties up to declaring a Councillor's seat vacant.

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Conflict of Interest Potential Improvement

- Proposed Improvements:
  - Penalties could include Conflict of Interest training, suspension with or without remunerations for a specified number of Council meetings, or that the Councillor's seat be declared vacant, depending upon severity of Conflict of Interest infraction.

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Conflict of Interest
Potential Improvement

- Proposed Improvements:
  - This process will remove a major problem from Council and provide an unbiased, independent process for allegations of Conflict of Interest.
  - This process will remove a major impediment to an harmonious relationship within individual Councils.

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Q and A



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Conclusion
Information on LW Consulting



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Conclusion
Information on LW Consulting

- Partnership: Gerard Lewis, Keith Warren and Stephen Wheeler):
  - Feasibility studies/municipal organization review.
  - Priority setting facilitation/strategic planning.
  - Commissioner: Town Plans/Property Tax Assessment.
  - Development of policies, procedures and bylaws.
  - Recruitment and selection of municipal staff.
  - Collective bargaining.

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Conclusion
Contact Information

- **Gerard Lewis, MMC**
- **709-730-4514**
- **Email: lewis.gerard@bellaliant.net**
- **Keith Warren**
- **709-730-1495**
- **Email: keithewarren@bellaliant.net**
- **Stephen Wheeler**
- **709-764-6715**
- **Email: stephen@nathan-james.ca**

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