



Wishart
LAW FIRM LLP

Expertise for Municipalities

Getting on the Same Page

Preparing for Council Orientation





CHALLENGE



The Rules of the Game

Presentation Overview

- The “MUSTS”
- The “SHOULDSDS”
- Techniques for Providing Council Orientation
- Preparing Staff for a New Council



The “MUSTS”

- Governing Legislation

- *Municipal Act*
- *Municipal Conflict of Interest Act*
- *Occupational Health and Safety Act*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Planning Act*
- *Building Code*

The Top 5 List

1. Role & Responsibility
2. Protection under S. 448 of the *Municipal Act*
3. Conflict of Interest
4. Protected Information
5. Decision Making Authority



Role & Responsibility



- Role of Council – S. 224 *Municipal Act*
 - Difference between governance and administration/management
 - Policy versus doing
 - You don't drive the grader
 - You decide how often the grader goes out
 - Council as a whole can make decisions at a duly convened Council Meeting
 - A single member of Council cannot make decisions for all of Council
 - Council's decisions are recorded in by-laws, resolutions, policies
 - Compliance with Provincial and Federal Laws, Regulations,



Protection under S. 448 of the *Municipal Act*

- Members of Council cannot be sued personally for actions within their role and carried out in good faith
 - Don't tell the plow truck driver to plow this road now
 - Don't drive the plow truck yourself
 - Breaching Legislation
 - *MCOIA*
 - *MFOIPPA*
 - *OHSA*



Conflict of Interest

- Only a member of Council can determine if they have a pecuniary interest
 - Not the Clerk's Role to advise
 - Not an individual member of Council's Role to demand another Councillor declare a conflict
 - Only a judge can determine if there is a conflict
 - Councillors are advised to get a legal opinion from their own lawyer – not the role of the municipal lawyer
 - anyone wanting to challenge must make an application to the court – no later than 6 weeks after being aware
 - Member of a Body and Common Interest
 - Changes March 1, 2019 – Integrity Commissioner
 - Advice, Education, Investigation, Application to Court



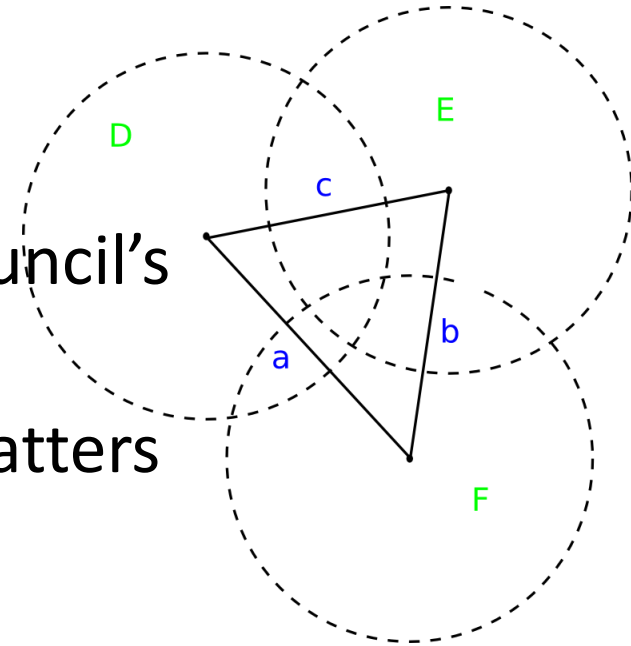
Protected Information

- Definition of a municipal record
 - As an example Correspondence, sound recordings, any other documentary material (emails, handwritten notes, etc.)
- What information is Confidential
 - Closed Session discussions
 - Personnel Records
 - Wages
 - Overtime
 - Property Files/Tax Information



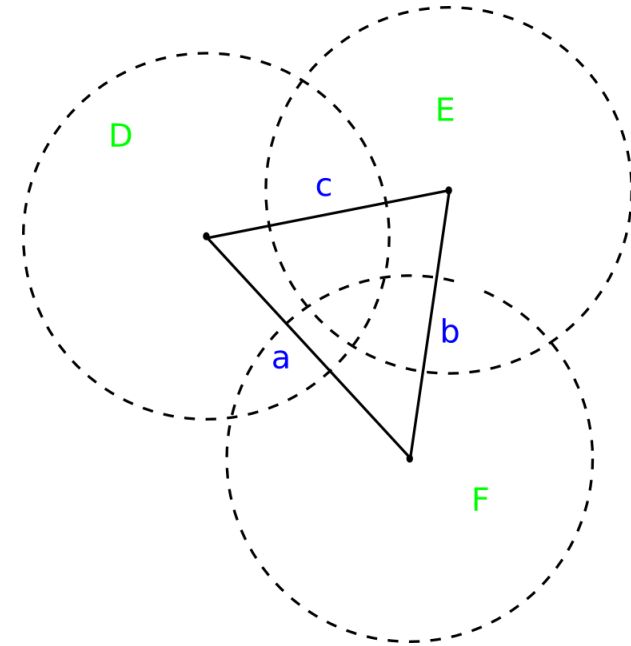
Decision Making Authority

- Section 11 of the *Municipal Act* spells out Council's decision making authority
- May pass by-laws respecting the following matters
 1. Governance Structure
 2. Accountability & Transparency
 3. Financial Management
 4. Public Assets
 5. Economic, social and environmental well-being
 6. Health, safety and well-being of persons
 7. Services authorized to provide
 8. Protection of persons and property, including consumer protection



Decision Making Authority

- Section 11 (3) of the *Municipal Act* spells out Council's spheres of jurisdiction
 1. Highways, including parking and traffic on highways
 2. Transportation systems, other than highways
 3. Waste Management
 4. Public Utilities
 5. Culture, parks, recreation and heritage
 6. Drainage and flood control except storm sewers
 7. Structures, including fences and signs
 8. Parking, except on highways
 9. Animals
 10. Economic Development services
 11. Business Licensing





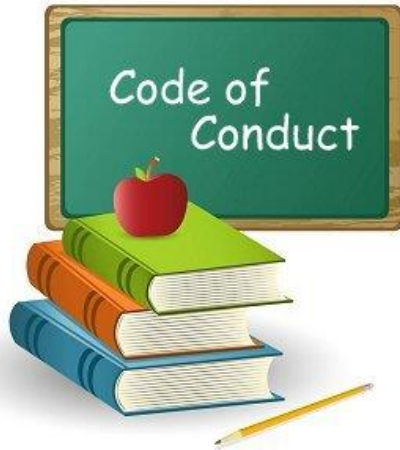
CHALLENGE



The word "CHALLENGE" is rendered in large, 3D block letters. Each letter is held up by a small, white, stylized human figure. The letters are color-coded: 'C' is red, 'H' is orange, 'A' is yellow, 'L' is yellow, 'L' is yellow, 'E' is yellow-green, 'N' is green, 'G' is green, and 'E' is green. The figures are standing on a white surface, and the letters are reflected below them.

The “MUSTS”

- By-Laws, Municipal Policy



- *Code of Conduct*
- *Procedural By-law*
- *Workplace Harassment Policy*
- *Accountability and Transparency By-law*
- *Remuneration By-law*
- *Complaints Policy/Process*
- *Official Plan*
- *Zoning By-law*
- *Strategic Plan*
- *Asset Management Plan*

The “MUSTS”

- Mandated vs Discretionary Services
- *Those the Province requires you to have*
- *Those that you can choose provide*
 - *Provincially Governed*
 - *Municipally Governed*

Mandatory Services

- Tax Collection
- Chief Building Officer – Inspections
- Policing
- Emergency Management
- Health Prevention
- Social Services
- Social Housing
- Fire Prevention



Discretionary Services

- Provincially Governed
- Library
- Building Code
- Road Maintenance (minimum Maintenance Standards)
- Drinking Water
- Wastewater
- Long-Term Care
- Municipally Governed
- Fire Protection
- Streetlights
- Recreation Facilities
 - Arenas
 - Pools
 - Beaches
 - Boat launches
 - Trails
 - Playgrounds
- Animal Control
- Garbage Collection



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The “SHOULD”S”

- Municipal Information
(Municipality Specific)
- 2017 Financial Statement
- 2018 Budget
- Community Engagement Strategy
- Social Media Policy
- Council Specific Policies
- Latest Newsletter
- CAO Job Description

The “SHOULD”S”

- Other Information
- How to Chair a Meeting and the Role of the Head of Council
- Political Advocacy
- Municipal Associations
- AMO
- FONOM
- DSSABs
- Local Boards



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Techniques for Providing Council Orientation

- Binders
 - Paper Vs Electronic
- Web portals/IPads
- Books – Cuff etc.
- Fact sheets
 - Q & A
 - Special topics
- YouTube Videos
- Training
 - In Person
 - Third Party Training
 - Swap with your Neighbour
- Keep it Simple
- Do something unexpected
 - “interview” each member individually get to know them

Training should be Ongoing

- Develop a Strategy
- Have Refreshers



Preparing Staff for a New Council

- Role Refresher
- Preparing to Present to Council
 - What topics to cover
 - How to present
- How to deal with Council's Questions
 - At orientation
 - Every day





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