



Newfoundland Labrador

Municipal and Intergovernmental Affairs

Can I Do That?

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Session Process

- Questions: What councillors can or cannot do
- Response: Yes or NO & Why
- Discuss correct answer
- Discuss some *Golden Rules*

Taking a Position on Issues

Can I take a different position on matters & issues:

- Before a council meeting?
 - During a council meeting?
 - After a council meeting?
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- If you think **YES** . . . Why?
 - If you think **NO** . . . Why not?

Answer . . . Yes

- ***Before Meetings:*** You have a responsibility to become informed on matters coming before council
- ***During meetings:*** It is your responsibility to:
 - Take a position on all matters
 - Communicate your position in a reasonable way
 - Listen with an open mind & respect the positions of others
 - Vote on the issues as required

Answer cont'd

- ***After meetings:*** Publicly support the decisions of council, even if you voted against a motion
- Implications of not supporting the majority decision:
 - Leads to conflict & animosity
 - Creates a dysfunctional council
 - Can damage council / community relations

Golden Rule

- Familiarize yourself with the issues
- Listen to & respect the views of others
- Seek compromise with those of differing views
- Publicly show support for & solidarity with council when decisions are made

Making Commitments

Can I, as an individual, commit council to a decision or action?

- If you think **YES** . . Why?
- If you think **NO** . . . Why not?

Answer . . . No

- No member of council (not even the mayor) can make a commitment on behalf of council
- Only council, as a whole, can do this
 - By majority vote or 2/3 majority vote, if required, in a regular council meeting

Answer *cont'd*

Implications:

- Financial & legal implications for council **AND** councillors
- Individual councillors can potentially be held liable for making commitments without council authority

Golden Rule

- Don't make promises you may not be able to keep
- Ensure that all commitments have received prior approval of council in the proper manner

Conflict of Interest

Can I avoid getting caught in the conflict of interest trap?

- If you think **YES** . . Why?
- If you think **NO** . . . Why not?

Answer . . . Yes

- Learn the rules for determining if you are in conflict
 - *Municipalities Act, 1999*, sections 2(o) & 206-209
- Follow the rules, as required

Conflict of Interest - Definition

A councillor is in conflict of interest when:

- He or she has a monetary interest in a matter distinct from an interest arising from his or her function as a councillor
- He or she has a direct or indirect monetary interest in a matter

Conflict of Interest - Definition

A councillor is in conflict of interest when:

- A Councillor's relative has a monetary interest

Who is a **relative**?

- ✓ Parent (includes in-law)
- ✓ Sibling (includes in-laws)
- ✓ Child (includes step-child)
- ✓ Ward
- ✓ Spouse (includes cohabitating partner)

Conflict of Interest- Definition

A councillor is in conflict of interest when:

- A company or association of persons, with which a Councillor is associated as an officer, employee or agent, has a monetary interest

Monetary Interest - Definition

- The Act defines monetary interest as being an interest or benefit:
 - consisting of money, exacted in money, relating to money, or of which money is the object
 - 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

Councillor Responsibility Conflict of Interest

Councillors must:

- know what monetary interest he or she has (or his/her relatives) that would or may constitute a conflict of interest
- **disclose** his or her interest and the nature of the interest in a matter before the Council or committee ***before formal discussion of that matter commences***

Councillor Responsibility Conflict of Interest

- Once he or she has declared a conflict of interest, the councillor *must leave the meeting* while the matter in question is being discussed and voted on
- If the councillor is unsure that a conflict of interest exists, he or she discloses all relevant information & requests that council decide. The councillor must then *abide by the decision of Council*

Council's Responsibility Conflict of Interest

- To decide whether or not a councillor has a conflict of interest on a matter, when requested to do so by that councillor

Council's decision is final!

- To thoroughly investigate any allegation of conflict of interest

Council's Responsibility Conflict of Interest

- To 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 he or she had a conflict of interest
- A councillor may not seek re-election for two years after his/her seat is vacated

Council's Responsibility Conflict of Interest

- To review annually, in a privileged council meeting, the conflict of interest disclosure statements filed by councillors & senior staff

Conflict of Interest Disclosure Statement

Councillors must . . .

- File an annual conflict of interest Disclosure Statement
 - within 60 days of the Councillor's election
 - by March 1st in each subsequent year of the councillor's term

What to Include in Disclosure Statement

- Real property or an interest in real property within the municipality
- Corporations in which the councillor holds 10% or more shares
- Partnerships & sole proprietorships in which the councillor holds 10% or more interest
- Businesses located within the municipality owned by the councillor

Golden Rule

- Learn the specifics of conflict of interest & when you are in conflict
- If you are in conflict, don't participate in any discussion & leave the room
- Ask council to help you decide when you are unsure

Staff Related Issues

Can I, as an individual councillor,
give directions to the staff?

- If you think **YES** . . Why?
- If you think **NO** . . . Why not?

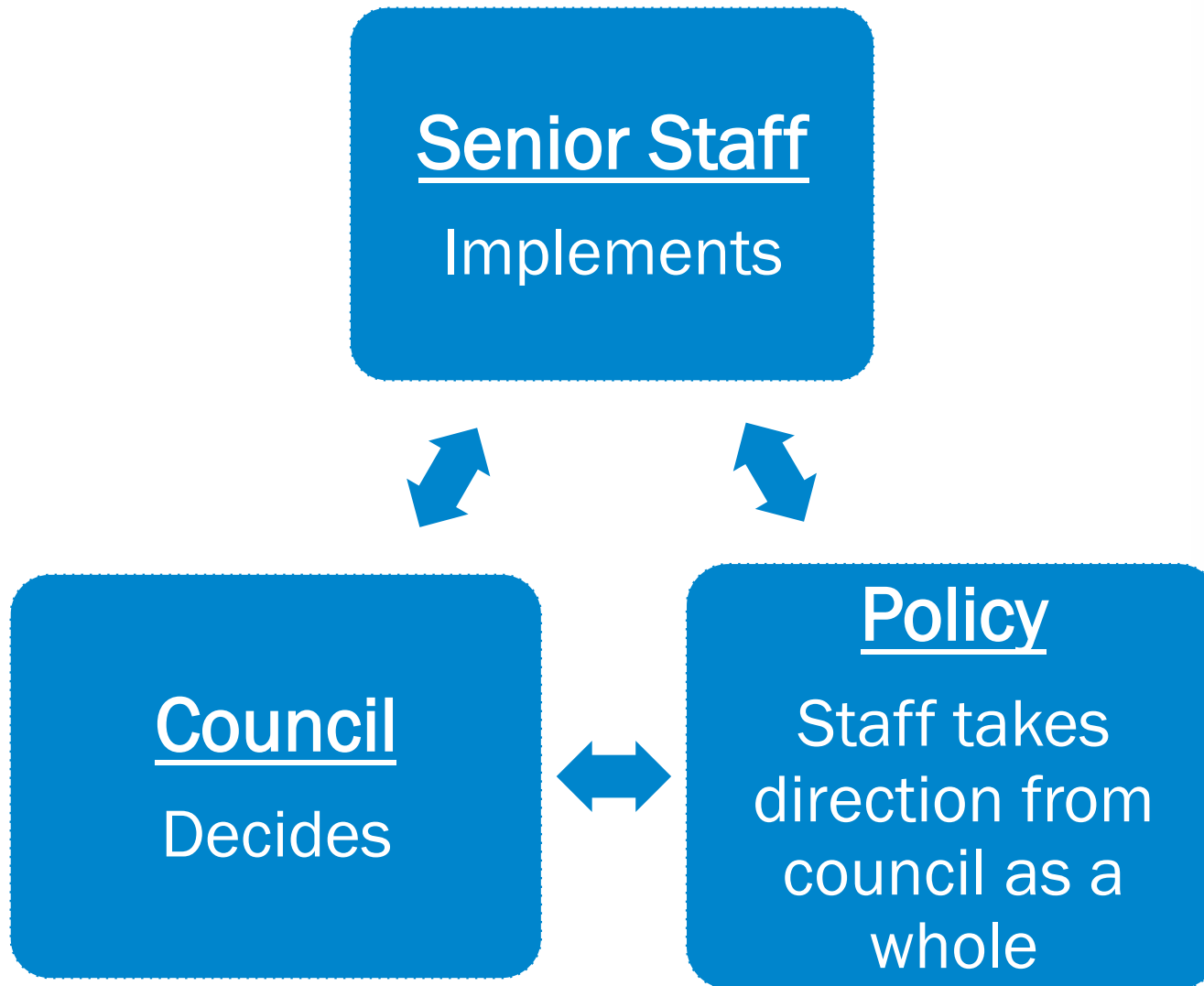
Answer . . . No

- Staff must be given direction by Council

Implications if you give directions:

- Staff may feel intimidated
- May lead to operational confusion
- May lead to confusion & conflict
 - between council & staff
 - between councillor & council

How It Should Work



Golden Rule

- *Take the ideas, issues & concerns that you would like to see staff address to the council*
 - If council supports you, it will develop & adopt policies & procedures to handle these issues
 - Council will direct staff to implement

Staff Related Issues

Can I take the responsibility upon myself to hire, dismiss or suspend staff?

- If you think **YES** . . Why?
- If you think **NO** . . . Why not?

Answer . . . No

- Only council has the authority to hire, dismiss or suspend employees

HOWEVER:

- A Town Manager may hire, dismiss or suspend employees below the Dept. Head level
 - The Town Clerk is a Department Head

Golden Rule

- *If you have issues or concerns about staff performance, behaviour or other staff related problems, make your concerns & evidence known to council in a **Privileged Meeting***

NEVER discuss personnel or personnel issues in a public meeting!

Golden Rule cont'd

- If council agrees that there are grounds for concern they will set the course of action
- If staff changes or interventions are required, council **must** follow the *Municipalities Act, 1999*:
 - To hire – Sections 53, 59, 63
 - 2/3 majority for Manager and Clerk
 - Simple majority for Dept. Heads
 - To suspend - Section 67
 - 2/3 majority of councillors in office
 - To dismiss – Section 68
 - 2/3 majority of councillors in office

Council Office Related

Can I have access to the council office at any time I want?

- If you think **YES** . . Why?
- If you think **NO** . . . Why not?

Answer . . . No

While it is recognized that many Town/City Halls have multi-purpose uses:

- Councillors, like the public, should not have access:
 - to the council office areas where the official records of the town are kept
 - to the offices of the manager, clerk & dept. heads

Golden Rule

- Always protect the security of the council office, including the municipal records & the contents of the council offices
 - Managers, clerks & dept. heads should have their own secured space
 - Councillors should never have keys to the secured space
 - All records should be stored in a secure way
 - Council office should be separate from other public & council space, if possible (council chamber, meeting rooms, etc.)

Council Office Related

Can I have access to any & all of the council records at any time?

- If you think **YES** . . Why?
- If you think **NO** . . . Why not?

Answer . . . No

- Councillors can have access to public records as outlined in Section 215 of the *Municipalities Act, 1999*
 - During business hours
 - Without interfering with work of staff
 - Under the supervision of the clerk or delegated employee (**records may not be removed**)
- Other records, subject to council policy

Golden Rule

- Councillors should have access to records, other than public records, under the following circumstances:
 - A good reason
 - Necessary for performance as a councillor
 - Subject to the approval of council's "Access to Records" policy

Voting Related

Can I refuse to vote on a council motion?

- If you think **YES** . . Why?
- If you think **NO** . . . Why not?

Answer . . . No, Unless ...

- Conflict of interest is declared
- You received support by a majority vote of councillors to allow you to abstain

Note: Person making the request to abstain cannot vote on the motion to abstain

Implications of refusing to vote:

- Council seat is automatically vacated

Golden Rule

- Take a position on all issues before council (unless in conflict of interest as defined by the *Municipalities Act, 1999*)
- Vote in accordance with the provisions of the Act

Conclusion

- Understand your role & responsibility
- Respect your fellow councillors & staff
- Work together as a team