

OFFICE OF THE INTEGRITY COMMISSIONER
MUNICIPALITY OF CHATHAM-KENT

memorandum

November 14, 2025

TO: Mayor and Members of Council

FROM: Suzanne Craig, Integrity Commissioner

Re: Municipality of Chatham-Kent Code of Conduct Information Bulletin:
Accuracy and Council Member Public Comments

I am writing to the Mayor and Members of Council with this Information Bulletin in exercise of my advice and education function as Integrity Commissioner for the Municipality of Chatham-Kent. In anticipation of the upcoming Council Training Session on November 17, 2025, I have decided to provide information to Members of Council, through this Code of Conduct Information Bulletin, with a view to assisting Members in better understanding the application of the rules of the Code of Conduct for Members of Council (the “Code”). In particular, this Information Bulletin relates to Conduct at Council and Committee Meetings, as well as the rule regarding Traditional Media and Social Media Communications.

Relevant Code of Conduct Rules:

As set out in the Office of the Integrity Commissioner Information Bulletin of October 2025, I would like to reiterate at this time that the Code does not prohibit Council Members from expressing dissent or debating matters for which they disagree with Council Member colleagues or staff. However, a Council Member’s dissent, in any communication, must be expressed within the bounds of respectful discourse with a good faith attempt to check facts to ensure that the substance of their communications is true.

13. Conduct at Council and Committee Meetings

13.1 During Council meetings, members shall show respect and conduct themselves with decorum and mutual respect at all times during presentations by staff, public and fellow members.

13.2 Decorum will include, showing respect for deputations and for fellow members and staff, showing courtesy, respect and not distracting from the business of Council during presentations and when other members have the floor to speak.

13.3 Members must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect.

13.4 Members may not make statements known to be false or make a statement with the intent to mislead Council or the public.

14. Traditional Media and Social Media Communications

14.1 Members shall respect that the Mayor is the official spokesperson for Council and all positions of same for both traditional and social media communications, unless otherwise provided for (as per the stipulations of the Acting Chair by-law or other informal arrangement made from time to time).

14.2 Members will accurately communicate the decisions of Council even if they disagree with the decision, so that there is respect for and integrity in the decision-making processes of Council.

14.3 Members may state that they did not support or voted against a decision of Council but should refrain from making disparaging comments about other Members and the process whereby the decision was undertaken.

14.4 Aspects of this Code applying to communications with the traditional media and public shall also apply to communications using social media. Members shall express themselves on social media respectfully, in an open, transparent and publicly accountable manner and in accordance with the principles set out in the Code.

14.5 Members shall be mindful that social media use does not excuse them from their obligations under this Code, regardless of if a disclaimer is posted that views expressed therein are only personal opinions and not those of Chatham-Kent.

14.6 Members shall not use Chatham-Kent's property or intellectual property in social media posts that are unconnected to Municipal business.

14.7 Members shall not engage in campaign activities on social media accounts which use their official title, or from which they conduct official business of Chatham-Kent

14.8 Members shall consider their public obligations to engage in dialogue with those who may disagree with them; however, Members are not obligated to accept abuse, bullying, harassment, trolling, threatening behaviour or conduct

that violates the law by anyone on social media (including fellow Members). When facing abuse on social media, Members should seek guidance from staff and the Integrity Commissioner, report to the social media platform, or, in extreme cases, advise appropriate legal authorities about individuals who are engaging in any of the behaviour noted above. The Integrity Commissioner may be relied upon for advice in these instances prior to any such action being taken. Members must be careful not to block the public from having access to the social media accounts they use to perform their duties of office, simply because those users express criticism of the Member's Conduct or disagree with their stated positions.

Commentary: The content of any Member's communications, regardless of method of communication, shall be accurate, honest and respectful of other persons, including other Members, Staff and the public.

The Role of the Integrity Commissioner:

The Code of Conduct belongs to Council and is a living document that may change over time with changes to the *Municipal Act* or the *Municipal Conflict of Interest Act*. The Code represents Council's commitment and an outward demonstration of an agreement to abide by standards of ethical behaviour contained therein.

Codes of Conduct at the municipal government level, are conduct rules that politicians agree to abide by as they carry out their public duties. Too often Members of Council see the rules of the Code as an impediment to carrying out their representative role. This is not the case. When elected officials fail to follow the rules, the enforcement of Code rules is applied by Integrity Commissioners who receive complaints, investigate and report to Council with recommended penalties. Under the *Municipal Act*, this is how elected officials are held accountable in between the time when the electors hold them most accountable, at the ballot box.

At the municipal level of government in Ontario individual Members carry out official activities and make public statements, in a way that will foster and enhance respect for government and Council decisions. Code complaints that are frivolous or vexatious will be screened out and not investigated by the Integrity Commissioner. This means that during the preliminary classification, if the Integrity Commissioner determines that a complaint is simply the reaction of someone who is offended or frustrated by a remark of a Member, the Integrity Commissioner will not investigate. The Integrity Commissioner does not "go after" Members of Council for "their comments" and certainly does not prevent a Member of Council from having and stating their opinion. However, comments, including stating one's opinion, must respect the rules of decency, respect for others' professional reputation and truth enshrined in the Code. As I have stated in Council Education sessions and set out in Code complaint investigation reports, a valid complaint that addresses alleged conduct falling within the ambit of Code rules will generally not be in bad faith or vexatious.

In this year's Divisional Court decision in the juridical review of the Integrity Commissioner of Pickering report, the Court stated that:

The Commissioner properly recognized that freedom of expression is not an absolute, unfettered right: "it is limited by reasonable restrictions, including by requirements to protect the rights and freedoms of other persons." Moreover, while acknowledging the important role that elected representatives play as "conduits for the voices of their constituents," the Commissioner was sensitive to the need not to countenance unlimited and possibly harmful expression by allowing an elected official to justify their position as "merely reflecting the views of her constituents." The Commissioner reasoned that it would be "completely unacceptable for a Councillor to publicly make statements in support of spousal abuse, antisemitism or slavery, regardless of whether these were the ardently-held views of one's constituents."

Councillor Statements of Opinion versus Statements of Fact:

Many situations in a municipality become subject of lengthy deliberations at Council. Some issues can result in divided community positions, and this division is often played out at Council meetings. Democracy allows division as uncomfortable as it may be. Members of Council are not prevented from stating their opinion but should be mindful of the unfairness of labelling opinion as fact. The Supreme Court of Canada has cautioned that it is very difficult to separate fact from opinion: the difference is "vague" and "elusive".¹

The Supreme Court of Canada has also stressed the importance of protecting the expression of beliefs that are out of step with the majority's view – even beliefs that the majority considers to be false. In a decision written by Justice Beverley McLachlin (before she became Chief Justice), the Court outlined as follows the purpose of *Charter* protection of freedom of expression:

The purpose of the guarantee is to permit free expression to the end of promoting truth, political or social participation, and self-fulfilment. That purpose extends to the protection of minority beliefs which the majority regard as wrong or false: *Irwin Toy, supra*, at p. 968. Tests of free expression frequently involve a contest between the majoritarian view of what is true or right and an unpopular minority view. ...Thus, the guarantee of freedom of expression serves to protect the right of the minority to express its view, however unpopular it may be; adapted to this context, it serves to preclude the majority's perception of 'truth' or 'public interest' from smothering the minority's perception.²

The Code does not prevent a Member from making claims or predictions or stating their opinions respectfully. The Code rules do, however, prohibit a Member from making

¹ *R. v. Zundel*, [1992] 2 S.C.R. 731, at 749-751.

² *R. v. Zundel*, at 752-75.

inaccurate claims, including about information in staff reports, and purporting their claims to be fact.

Questions have been raised with my Office relating to statements that were made on October 23, 2025. I remind Members of Council, staff and the public that as Integrity Commissioner, I may only investigate a matter when I receive a formal Code complaint. Thus, my comments in this Information Bulletin are not to be received as a Code determination but rather as examples to provide guidance to Members.

A statement that states as fact that \$7 million in interest expenses was never disclosed to Council” appears to be one’s opinion.

It is my understanding from information received from the municipality that issuing a debenture has always been part of the funding of the project underway with the “Imagine Chatham-Kent” presentation on October 30, 2023. I further understand that since that date, a more detailed financial plan has been presented to Council at each step of the project. Reports to Council since October 21, 2024 have included discussions around debenturing up to \$16,894,000 on a 20 year debenture at an assumed interest rate of 4.5%. The debenture payments are estimated at \$1,298,746 a year or \$25,974,920 total payments. Subtracting the \$16,894,000 would mean \$9,080,920 of interest.

In response to questions about interest charges at the October 20, 2025 meeting, I understand that staff used the analogy of buying a \$50,000 car and either paying cash now or financing over a few years and that the total payments may total \$65,000 over the life of the car loan. I understand that staff communicated that if Council were to so decide, the entire \$17M could be raised as taxes in 2026 and therefore avoiding any interest charges as the project would be fully funded up front.

While I make no comment on the merit of any of the information that I received from the municipality, as I am not a financial expert, the statements made that were brought to my attention, are examples of statements of opinion made during deliberations leading to difficult decisions being made in an environment wrought with disagreement. The diverse stated perspectives, while likely borne of good intentions, do not take away from the fact that the statement that \$7M in interest expenses was never disclosed to Council, is inaccurate.

A second example that I will use to demonstrate the difference between a statement of opinion and a statement of fact is the statement that a \$3 million contingency on top of the \$52.8 million was never previously disclosed to Council.

It is my understanding from the municipality that the total cost of the project was reported at \$52.8M. While I have not investigated this matter, it appears

on its face that there is confusion on the contingency. It is my understanding that several times at the October 20th meeting, staff explained the contingency.

I am advised by the municipality that from Table 2 of the October 20, 2025 report, there are two contingencies included in the \$52.8M cost. First there is \$3.4M in the construction contract that were before Council for approval on the October 20th. Then there is a second overall contingency of \$3,725,850. I am advised by the municipality that if one adds the two together there is \$7,125,850 of contingency already included in the \$52.8M total.

Another example is the statement that \$15-\$20 million for a new Fire Hall is a budget that was never previously disclosed or approved by Council. It is my understanding from information from the municipality that the following are facts:

- For the last decade it has been discussed with Council that Fire Station #1 had to move south of the tracks.
- In the 2023 Budget, Council approved funding for a Fire Master Plan to look at the situation and projected growth and deal with this issue.
- At the June 10, 2024 Council meeting, Dillon Consulting presented the Fire Master Plan and Council endorsed the plan. CK Staff stated that the cost would be approximately \$15M.
- It is correct that as at October 23, 2025, this amount had not been included in a budget.
- However, the 2026 Budget Update delivered to Council on November 5, 2025 does have a \$2M budget for land purchase and design. Once designed and appropriate budget is brought to the 2027 Budget Update, the next Council will have before it the approval of the construction and debenture.

Finally, the statement that the contract has no cap which was never previously disclosed to Council and the statement that Administration now has a blank cheque with taxpayers' money that will not be under \$75 million and likely closer to \$90-100 million, appear to be inaccurate. It is my understanding from the municipality that:

- the contract is described in the report on page 4
- At the meeting, Planning and Legal staff described what a Canadian Construction Document Committee ["CCDC"] contract is in detail.
- It is unclear what is intended by the statement that the contract has no cap as professional staff could not do so.
- It is a stipulated price contract and overall, the project includes \$7.1M of contingencies.

It is unclear what is intended by "Blank Cheque" and this statement appears to be a statement of opinion about professional staff being able to make expenditures without direction from Council. This appears to be inaccurate.

Integrity Commissioner Concluding Comments:

As I have previously stated, the Supreme Court of Canada decision in *Prud'homme v. Prud'homme* was focused on defamation, however this decision provides municipal integrity commissioners with guidance in determining what statements are opinion and captured by the principles of freedom of expression and which statements may run afoul of the Code rules. The Supreme Court stated:

...freedom of expression takes on singular importance, because of the intimate connection between the role of that official and the preservation of municipal democracy. Elected municipal officials are, in a way, conduits for the voices of their constituents: they convey their grievances to municipal government ...**That freedom of speech is not absolute. It is limited by... the requirements imposed by other people's right to the protection of their reputation..., reputation is an attribute of personality that any democratic society concerned about respect for the individual must protect[.]** [emphasis added]

[...]

Accordingly, while elected municipal officials may be quite free to discuss matters of public interest, they must act as would the reasonable person. **The reasonableness of their conduct will often be demonstrated by their good faith, and the prior checking they did , to satisfy themselves as to the truth of their allegations.** [emphasis added]

I encourage Members of Council to avoid inadvertently becoming Code of Conduct “martyrs”, who wear as a badge of honour, the fact that they are being investigated by the integrity commissioner and have been found in contravention of the Code, claiming publicly that their only misstep is expressing their opinion. As the municipality’s Integrity Commissioner, I am a statutory officer, and I take my role as an ethics officer for the municipality, very seriously. I respect all Members of Council and their right to freedom of expression, and I hold all to the highest standards as set out in the Code. I have concerns with any suggestion that my application of the Code rules prevents Members from freely expressing their opinions or that I will “go after” Members who have expressed their disagreement on a matter at Council or otherwise. If and until the Code is in force, I am bound by my statutory obligations to apply the rules of the Code of Conduct and I will only commence and conduct a complaint investigation, if I receive a formal complaint and if I determine that the matter is not frivolous or vexatious and that there are grounds to investigate.

In conclusion, I remind Members that stating one’s opinion without fact-checking accuracy and presenting opinion as fact, is not only conduct that may run afoul of the Code rules, but also may be misleading to the public and result in unfair damage to the reputation of staff.

Council Members are encouraged to seek guidance from the Integrity Commissioner with respect to the application of the Code rules and their public statements and comments.

Suzanne Craig
Integrity Commissioner