

THE GOLDILOCK DILEMMA

HOW ETHICAL LEADERSHIP CAN CHANGE THE
FACE OF LOCAL GOVERNMENT

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Is Ethical Leadership Still Important?

- <http://www.youtube.com/watch?v=OLyV41kcNv8>
- Are Ethics definable?
 - Cultural/Societal Traditions and Values
 - Personal Experience
 - Law
 - Modern Definition of Ethics: *“the rules of conduct recognized in respect to a particular class of human action as it applies to a corporation, profession, institution or group.”*

Public Trust

- Public is the ultimate decision-maker
- Trust is built on three important concepts:
 - Mutuality
 - Balance of Power
 - Trust Safeguards
- Mutuality: *“State of Affairs where multiple parties seek to pursue courses of action deemed to be of shared benefit.”*
- Individual wish vs. Community wish – Local Governments are structured to act for the shared interest of the community. The *Community Charter* defines local government as the Council or the Regional Board

Public Trust (2)

- Balance of Power – *“Equilibrium of power sufficient to discourage one party from imposing its will on or interfering with the interests of another.”* - The law in BC is that one individual Council member cannot make decisions for the local government in a vacuum. The only decision is that of the majority of a Council in a regularly constituted meeting.
- Trust Safeguards – *“Mechanisms for balancing power securing a clear mandate for fairness and reparations, and encouraging both the members of an organization and its external stakeholders to challenge the organization to live up its stated values.”*
 - Law
 - Council Vision (Corporate Plan)
 - Ethical Policies and Code of Ethics

Role Clarification – Elected Officials

- Elected Officials/Council – Determine the Local Government policies and provide the general direction for the community. In other words elected officials responsibilities are:

- Formulate Policy (Policy Decision-Making and Direction Setting)
- Define the vision (Strategic Planning)
- Interface with their constituents (Public Interface and Communication Leadership)

These responsibilities are achieved on the basis of the following principles:

- Accountability
- Transparency
- Delegation

Role Clarification – Appointed Officials

- Appointed Officials' Role is the actual work of providing local services to the community. The responsibilities of appointed officials are:

- Implement policy decisions (Executive Leadership)
- Provide advice to the decision-makers/Board/Council (Technical and Political Support)
- Run the day-to-day operations of the local government (Operational Management)

These responsibilities are achieved on the basis of the following principles:

- Accountability
- Transparency
- Delegation

Ethical Issues in Local Government

- **Role misunderstanding and mixing** – Elected official(s) want to do staff job or staff want to make Council job – This is a “mortal sin” in local government.
- **Conflict of Interest** – an Elected Official has a direct or indirect pecuniary interest in a matter under consideration.
- **Inside Influence** – when a member of council uses his or her office to attempt to influence a decision of the municipality.
- **Outside Influence** – when a member of council uses his or her office to attempt to influence a decision of any other person or body.
- **Gifts** – when a member of council directly or indirectly accepts a gift, fee or personal benefit that is connected in some way to his or her performance as an elected official.

Ethical Issues in Local Government (2)

- **Contracts** – Sec. 107 of the *Community Charter* requires public disclosure of any contract in which an existing council member, or a person who was a council member during the previous six months, has a direct or indirect pecuniary interest. This requirement applies to contracts between the municipality and the specific member or former member, as well as to contracts between the municipality and persons or companies with whom the member or former member is connected.
- **Use of Insider Information** - Section 108 of the *Community Charter* restricts existing or former council members from using information that was obtained during the member's time in office and which is not available to the general public, for personal gaining or interest.

Regulatory Tools

- Declaration of Conflict of Interest (Sec. 100 of the *Community Charter*):
 - Before an item is discussed
 - Consult with the CAO
 - Seek a legal opinion
 - When in doubt, declare
 - In broad terms, a council member has a non-pecuniary conflict of interest if:
 - the member's interest in the matter is immediate and distinct from the public interest;
 - it can be reasonably determined that the member's private interest in the matter will influence his or her vote on the matter;
 - the member, or one of his or her relations or associates, stands to realize a personal benefit from a favourable decision on the matter; and
 - the potential benefit to the member is not financial in nature.

Regulatory Tools (2)

- Court Order to Achieve Quorum:
 - The Supreme Court may order that all or specified council members may discuss and vote on the matter, despite the concerns of conflict, and set any conditions it deems appropriate on the participation of council members.
- Restrictions on Accepting Gifts (Section 105 of the *Community Charter*):
 - A council member must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of the duties of office.
 - Exceptions:
 - a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,
 - compensation authorized by law, or
 - a lawful contribution made to a member who is a candidate for election to a local government.

Regulatory Tools (3)

- Disclosure of Gifts (Section 106 of the Community Charter):
 - a council member receives a gift or personal benefit referred to in section 105 (2) (a) that exceeds \$250 in value, or
 - the total value of such gifts and benefits, received directly or indirectly from one source in any 12 month period, exceeds \$250.
- Penalties:
 - Disqualification from office until the next Municipal Election
- Application to Court for Declaration of Disqualification:
 - A municipality, by a 2/3 vote of council, or
 - 10 or more electors of the municipality may make the application to the Supreme Court to have a person disqualified.
 - An application under this section may only be made within 45 days after the alleged basis of the disqualification comes to the attention of those making the application.

Code of Ethics/Code of Conduct

- In Summary, in case of public decision-making, ethics usually fall into two main categories: a) fairness of process; and b) accountability in financial spending.
- Watchdogs:
 - Office of the Ombudsperson
 - FOI Commissioner
 - Auditor General for Local Government
- Local Government Code of Ethics: the best tool to elevate and keep public trust. It shows the commitment of a local government to:
 - a fair, transparent and accountable process by defining what is acceptable behavior and what is not; and more importantly
 - what core values and principles are at the basis of its processes and relationships.

Code of Ethics/Code of Conduct (2)

- Tips for crafting successful Codes of Conduct:
 - the code should apply to everyone in the organization, with no exceptions as to circumstances or issues.
 - consistent throughout the organization, both inside the local government organization and also in relation to external organizations and the citizens at large.
 - should clearly be an inclusive process and not a top-down approach.
- good local government leaders should adopt a code of ethics as a way of establishing a policy on accountability and transparency.

Conclusion

Leadership and ethics are inseparably connected in the public sector. This is even truer in local government due to the proximity between government and constituents. The ability to gain and maintain public trust is a leadership skill that can only be achieved through integrity by using proper ethical tools and trust safeguards such as a Code of Ethics or Code of Conduct, a careful interpretation and application of ethical regulations as legislated in the Community Charter and a consistent approach to public engagement not only when required by the law but also when the issues are better understood through public discussion and feedback. Failing to apply these principles will result in dysfunctional government and community distrust.

Resources

- Community Charter:
http://www.bclaws.ca/Recon/document/ID/freeside/03026_00
- Levine, Gregory J. "Municipal Ethics Regimes." Municipal World, Union, Ontario.
- Arthur W. Page Society and Business Roundtable Institute for Corporate Ethics. Special Report: The Dynamics of Public Trust in Business – Emerging Opportunities for Leaders – A Call to Action to Overcome the Present Crisis of Trust in Business. 2009 -
http://www.darden.virginia.edu/corporate-ethics/pdf/public_trust_in_business.pdf

Q&A

- THANK YOU ALL – LET'S HEAR SOME QUESTIONS
- For more information or to receive a copy of the Lecture on Ethics from Alberto please write to adefeo@lakecountry.bc.ca