

Type of Decision									
Meeting Date	Friday, January 30, 2015				Report Date	Tuesday, January-27-15			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	X	Information Only			Type of Meeting	X	Open		Closed
<p>Review of Council Code of Conduct - Report #30/01/15/1203</p>									

Subject:

A first of term review of the Council Code of Conduct.

RECOMMENDATION:

That Council consider the suggested amendments and provide direction for staff modifications for approval at the next meeting.

WHEREAS Council has considered recommendations of staff;

AND WHEREAS Council has reviewed the Council Code of Conduct and provided input on the final version;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby direct staff to implement discussed recommendations in a new document to be provided for approval at a subsequent meeting of Council.

BACKGROUND/EXECUTIVE SUMMARY:

Certain by-laws and policies should be reviewed by Council at least once per term. The Council Code of Conduct is one such policy.

Staff have recommended modifications based on issues and challenges since the last review. Council is required to review the document and recommendations and provide input to staff for preparation of a final document.

Options/Discussion:

Financial Considerations/Budget Impact:

Policy Impact:

Others Consulted:

Approved and Recommended by the Clerk

Melinda Reith,
Municipal Clerk



MUNICIPAL CODE OF CONDUCT for MEMBERS OF COUNCIL

My copy



FOR THE UNITED TOWNSHIPS OF HEAD, CLARA & MARIA

1. STATEMENT OF PRINCIPLE

- 1.1. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate encouraging high standards of conduct on the part of all municipal officials. The public is entitled to expect the highest standards of conduct from members that it elects to local government. In turn, adherence to these standards will protect and maintain the municipality's reputation and integrity.
- 1.2. Members of Council must serve and be seen to serve their constituents in a conscientious and diligent manner.
- 1.3. Members of Council must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- 1.4. Members of Council are expected to perform their duties in office and arrange their private affairs, in a manner that promotes public confidence and will bear close public scrutiny; They are representatives of the Municipality 24/7;
- 1.5. Members of Council must recognize and respect that their actions within this government are taken in as transparent and accountable a manner as possible; and
- 1.6. Members of Council shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, applicable Federal laws and municipal policy, procedures and by-laws as adopted by this Council.
- 1.7. Every Member of Council shall perform the duties of their position and act following the statements sworn within their declaration.

2. DEFINITIONS

- 2.1. In this Code of Conduct:
 - 2.1.1. "child" means a child born within or outside marriage and includes an adopted child and a person whom a member has demonstrated a settled intention to treat as a child of his or her family;
 - 2.1.2. "Council" means the Council of the United Townships of Head, Clara & Maria;
 - 2.1.3. "civil" means sufficiently observing or befitting accepted social usages; not rude;
 - 2.1.4. "information" includes a record or document;

2.1.5. "Employee(s)" means direct employees of the Corporation of the United Townships of Head, Clara & Maria whether full-time, part-time, contract (including employees of staffing agencies) or casual (including students and volunteers). It also includes appointees to Municipality advisory boards and committees, unless those boards and committees have separate corporate existence.

2.1.6. "member" means a member of the Council, unless the context otherwise requires;

2.1.7. "Municipality Property" includes real property (such as land or interests in land), personal property (such as goods and equipment), and other property interests of any kind.

2.1.8. "parent" means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;

2.1.9. "person" includes a corporation, partnership, association and any other entity, as the context allows;

2.1.10. "spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage;

3. CONDUCT AT MEETINGS

3.1. Every member shall conduct himself or herself properly and in a civil manner at council, committee and other meetings, and in accordance with the provisions of the Procedure By-law, this Code of Conduct and other applicable law.

3.2. Council Members shall make every effort to participate diligently in the activities of the committees, agencies, boards, and commissions to which they are appointed.

3.3. Members of Council shall encourage public respect for the Municipality and its by-laws and policies.

3.4. Every Member of Council while on Municipal business shall maintain a professional demeanor while not limiting expressions of taste and individuality. Attire is a reflection of professionalism and that of the Municipality. Members of Council should dress appropriately to conduct municipal business and, more specifically, to reflect their position within the Municipality.

4. CONDUCT RESPECTING OTHERS

4.1. Every member of Council has the duty and responsibility to treat members of the public, one another and staff respectfully, appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.

4.2. A member shall not use indecent, abusive or insulting words or expressions toward any other member, any member of staff or any member of the public.

4.3. A member shall not speak in a manner that is discriminatory to any individual, based on that person's race, ancestry, place of origin, creed, gender, intelligence, employment, sexual orientation, age, colour, marital status or disability.

5. CONDUCT RESPECTING STAFF

- 5.1. Under the direction of the senior municipal administration, and in accordance with the decision of Council, municipal staff are required to serve the municipal corporation as a whole. Every member of Council shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any member or faction of the council. Accordingly, no member shall maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff. Every member shall show respect for staff, and for their professional capacities and responsibilities.
- 5.2. No member shall compel any member of staff to engage in partisan political activities, or subject any member of staff to threat or discrimination for refusing to engage in any such activity.
- 5.3. No member shall use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that person's duties, including the duty to disclose improper activity.

6. GIFTS AND BENEFITS

- 6.1. For the purposes of this Code, a gift or benefit provided, with the member's knowledge, to a member's spouse, child or parent, or to his or her staff, that is connected directly or indirectly to the performance of the member's duties, is deemed to be a gift or benefit to that member.
- 6.2. No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted under one or more of the exceptions listed below.
 - 6.2.1. A gift or benefit of the kind that normally accompanies the responsibility of office and is received as an incident of protocol or social obligation or honouring the member;
 - 6.2.2. Service provided without compensation by a person volunteering his or her time;
 - 6.2.3. Food and beverages consumed at a banquet, reception or similar event, if attendance by the member is for a legitimate municipal purpose;
 - 6.2.4. A sponsorship or donation for a community event organized or run by a member, or a third party on behalf of a member, subject to the limitations set out in any applicable municipal policy;
- 6.3. If the value of the gift or benefit exceeds \$300 or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$300 the member shall file, within 30 days of receipt of the gift or benefit, or of reaching the annual limit, a disclosure statement with the municipality or its Integrity Commissioner if one has been appointed.
- 6.4. Every disclosure statement filed under this Code shall be made a public record.
- 6.5. Upon receiving a disclosure statement, the Integrity Commissioner, or other responsible municipal official, shall examine it to ascertain whether the receipt of the gift or benefit might, in his or her opinion, constitute a contravention of this Code or create a conflict between a private interest and the public duty or responsibilities of the member. In the

event that the Integrity Commissioner makes such a determination, he or she shall call upon the member to justify receipt of the gift or benefit.

- * 6.6. Should the Integrity Commissioner or other municipal official determine that receipt of any gift or benefit was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit the value of any gift or benefit already consumed, to the municipality.

7. CONFIDENTIAL INFORMATION

- 7.1. In this Code, "confidential information" includes any information in the possession of, or received in confidence by, the municipality that the municipality is prohibited from disclosing, or has decided to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act*, or any other law.
- 7.2. "Confidential information" also includes:
- 7.2.1. information of a corporate, commercial, scientific or technical nature received in confidence from third parties;
 - 7.2.2. personal information;
 - 7.2.3. information that is subject to solicitor-client privilege;
 - 7.2.4. information that concerns any confidential matters pertaining to personnel, labour relations, litigation, property acquisition, the security of the property of the municipality or a local board; and
 - 7.2.5. any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order.
- 7.3. No member shall disclose, release or publish by any means to any person or to the public any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so.
- 7.4. No member shall use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body.
- 7.5. A matter, the substance of a matter, and information pertaining to a matter, that has been debated or discussed at a meeting closed to the public, shall be maintained as confidential, unless authorized by the Council or legislation to be released, generally or subject to conditions, and such are complied with. No information pertaining to such a matter, the manner in which it was dealt with at the meeting, or any part or description of the debate, shall be disclosed unless authorized by the council or otherwise by law.
- 7.6. A member may disclose the content of any matter referred to in the preceding paragraph or the subject-matter of deliberations, at an in camera meeting, only after the Council or committee lawfully and knowingly discussed the information at a meeting that is open to the public or releases the information to the public.
- 7.7. Without limiting the generality of the foregoing, no member shall, without lawful authority, disclose, or make personal use of, any of the following types of confidential information:

7.7.1. Information concerning litigation, negotiation or personnel matters;

- 7.7.2. Information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of the complainant is given in confidence);
- 7.7.3. Price schedules in any contract, tender or proposal document while such remains a confidential document (these may be divulged after the fact);
- 7.7.4. Information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*; and
- 7.7.5. Any other information or statistical data required by law not to be released.

7.8. No member of Council shall obtain access, or attempt to gain access, to confidential information in the custody of the municipality except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by council or otherwise by law.

8. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES

8.1. No member of Council shall use, or permit the use of, municipal land, facilities, equipment, supplies, services, staff or other resource, including any municipally-owned information, website, Council transportation delivery service or funds allocated for member of Council expenses, for any purpose or activity other than the lawful business of the municipal corporation.

8.2. No member shall seek or acquire any personal financial gain from the use or sale of confidential information, or of any municipally-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copyrighted, of which property remains exclusively that of the municipality.

9. CONDUCT OF ELECTION CAMPAIGN

9.1. Every member shall comply with all applicable requirements of the *Municipal Elections Act, 1996*.

9.2. No member shall use confidential information, facilities, equipment, supplies, services or other resources of the municipality, including any Municipal newsletter or website linked through the municipality's website, for any election campaign or campaign-related activity.

9.3. No member shall undertake campaign-related activities on Municipal property during regular staff working hours unless authorized by the municipality.

9.4. No member shall use the services of any person for election-related purposes during hours in which that person receives any compensation from the municipality.

10. NO IMPROPER USE OF INFLUENCE

10.1. No member of Council shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes.

10.2. No member of Council shall use his or her office or position to influence or attempt to influence the decision of any other person, for the member's private advantage or that of the member's parent, child, spouse, staff member, friend or associate, business or otherwise.

*unless provided to
all candidates
in an equitable
manner.*

- 10.3. No member shall attempt to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties.
- 10.4. No member shall hold out the prospect or promise of future advantage through the member's supposed influence within Council, in return for any action or inaction.
- 10.5. For the purpose of this provision, "private advantage" does not include a matter:
- 10.5.1. That is of general application;
 - 10.5.2. That affects a member of council, his or her parents, children or spouse, staff members, friends or associate, business or otherwise as one of a broad class of persons; or
 - 10.5.3. That concerns the remuneration or benefits of a member of Council.
- 10.6. This provision does not prevent a member of Council from requesting that Council grant a lawful exemption from a policy.

11. NON-COMPLIANCE WITH THIS CODE OF CONDUCT – SANCTIONS

- 11.1. A member found by Council to have contravened any provision of this Code, is subject to one or more of the following consequences imposed by council, as follows:
- 11.1.1. *The Municipal Act, 2001* authorizes the Council, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the Code of Conduct, to impose upon the offending member of Council:
 - 11.1.1.1. A reprimand;
 - 11.1.1.2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.
 - 11.1.2. The Integrity Commissioner may also recommend that Council or a local board take one or more of the following actions:
 - 11.1.2.1. Removal from membership on a committee or local board;
 - 11.1.2.2. Removal as chair of a committee or local board;
 - 11.1.2.3. Repayment or reimbursement of monies received;
 - 11.1.2.4. Return of property or reimbursement of its value;
 - 11.1.2.5. Request an apology to Council, the complainant, or both; or
 - 11.1.2.6. Any other or additional action deemed by Council to be appropriate, and which is within its power to take.

12. NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE

- 12.1. Every member of Council must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it, and shall co-operate in every way possible in securing compliance with its application and enforcement.
- 12.2. Any reprisal or threat of reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person is prohibited.

- 12.3. It is a violation of the Code of Conduct to obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective.

13. STATUTES REGULATING THE CONDUCT OF COUNCILLORS

- 13.1. In addition to this Code of Conduct, the following Ontario legislation also governs the conduct of members of Council:

- 13.1.1. *The Municipal Act, 2001*, as amended;
- 13.1.2. *The Municipal Conflict of Interest Act*;
- 13.1.3. *The Municipal Elections Act, 1996*; and
- 13.1.4. *The Municipal Freedom of Information and Protection of Privacy Act*.

- 13.2. The *Criminal Code* of Canada also governs the conduct of members of Council.

- 13.3. A member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* of Canada or being found to have failed to comply with the *Municipal Conflict of Interest Act*, whether or not the conduct in question involves contravention of the Municipal Code of Conduct.

- 13.4. In the case of any inconsistency between this Code and a Federal or Provincial statute or regulation, the statute or regulation shall prevail.

14. GENERAL APPLICATION OF THIS CODE

- 14.1. Complaints made under this code are to be submitted to the Municipal Clerk on the complaint form provided on the municipal website.

- 14.2. Any submissions or written comments together with the personal information of the complainant made to the Municipality under this or any other process will become part of the public record and may be reproduced, recorded and/or reported on line. There is no promise of confidentiality provided to the complainant under this process; it is open and transparent.

- 14.3. The content of the complaint is not to be made public or provided to members of Council but instead is to be forwarded to the municipal Integrity Commissioner for investigation and report.

- 14.4. Upon receiving a formal complaint under the Council Member Code of Conduct, if an Integrity Commissioner has not already been appointed by Council; the Clerk shall research individuals and firms qualified to act as an Integrity Commissioner and prepare a report to Council for their consideration. At that time, Council will choose an Integrity Commissioner by resolution to act upon the complaint received.

- 14.5. It is the intent of this policy to have the process of investigation started within 15 working days of the complaint being filed with the Clerk.

- 14.6. It is incumbent on the Municipal Clerk to contract with the Integrity Commissioner and to keep all complaints and allegations confidential until proven and decided by the

Integrity Commissioner at which time the report is to be made public as per *the Municipal Act*.

- 14.7. Any report will first be reviewed by Council at a meeting open to the public prior to it being published.
- 14.8. Complaints that are considered frivolous and vexatious by the Clerk will not be subjected to the costs of investigation. In this instance "frivolous" means "not having any serious purpose or value" and "vexatious" means "annoying or harassing".

Borrowed substantially from the Model Form of Code of Conduct for Members of Council by George H. Rust-D'Eye, WeirFoulds LLP in the ONTARIO MUNICIPAL LAW: A USER'S MANUAL – 2012 and combined with the existing Municipal Code of Conduct.