

Type of Decision									
Meeting Date	Friday, Nov. 18, 2011				Report Date	Monday, November 7, 2011			
Decision Required	X	Yes		No	Priority	x	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Cost of Investigator/Mediator Report 18/11/11/1102									

Subject: Information for Council consideration as per its direction from resolution #04/11/11/008 from the meeting of November 4, 2011.

RECOMMENDATION: That Council make a determination considering the municipal policy, existing legislation and the costs to the Municipality.

WHEREAS the Clerk has requested that Council follow its policy and have an external entity investigate the harassment complaints filed in October of 2011;

AND WHEREAS Council as an employer has a responsibility to the public and to staff to undertake impartial and independent investigation into allegations;

AND WHEREAS Council has requested that the costs of investigations be determined prior to committing to any action;

AND WHEREAS it has been found that investigators/mediators may be obtained for as little as \$175 per hour or as much as \$300 per hour;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria hereby authorizes the Clerk to hire an investigator/mediator to look into the allegations and complaints as filed by the Clerk and work towards settling these issue in a timely manner.

BACKGROUND/EXECUTIVE SUMMARY: Council as an employer has an obligation under the Occupational Health and Safety Act and its own internal policy to protect workers in their work environment from workplace hazards including harassment.

Report 21/10/11/1102 dated October 21, 2011 and supplementary information provided prior to that meeting contained a substantial amount of background information including legal definitions, legal precedent and information from the OHSA and Ministry of Labour sites.

Report 04/11/11/1101 dated November 4, 2011 provided objective advice based on legislation and policy. The letter to Mr. McKechnie and the ad in the paper was a positive step in addressing the situation however; internal policy has not been followed.

Contrary to municipal policy Council chose to discuss, defer and dismiss complaints made against it and others. Council has not collectively had proper training to complete workplace harassment investigations nor are the members impartial. An investigation was not completed. For these reasons Council's actions may be putting this municipality in a place of potential liability as has been expressed by Councillor Gibson on more than one occasion.

Being in public administration one requirement is to separate personal views from the performance of employment duties. Staff have completed due diligence and objectively informed Council of its legal obligations.

The same steps would be taken if a claim had been filed by any member of the public, Council or staff. In completing the obligations of employment staff have obtained advice from various legal and ministry sources and have provided Council with objective advice.

The choices made and actions taken by Council have resulted in the situation in which this municipality finds itself now. Obligations to employees, the public, internal policies and external legislation need to be taken seriously.

As per policy, the complaints filed should have been received and immediately sent to the Municipal Solicitor for his recommendation and resolution by staff instead of being referred to Council. Investigating Harassment or Code of Conduct complaints is not the responsibility of Council especially when its own members are respondents.

As Mr. Instance has stated in his fax dated November 16, 2011 that he has no experience or training in investigating these types of complaints and no longer wishes to be involved in labour law issues, someone trained in these matters should be hired.

In the name of good government, Council should make a statement to staff and residents that it is professional, fair and willing to meet its legal obligations objectively looking out for the interests of staff and the general population.

Documents entitled "When to Hire an External Investigator" and "Conducting a Harassment Investigation, The Do's and Don'ts" have been attached for further consideration.

FINANCIAL IMPLICATIONS/BUDGET IMPACT: The cost of an independent mediator or investigator was estimated at 40 hours X various hourly rates of \$175 - \$300 (\$7,000 - \$12,000).

POLICY IMPACT: Council has had the opportunity to follow municipal policy on October 21 and November 4, 2011. Ignoring complaints of harassment is contrary to good government, municipal policy and the OHSa provincial legislation.

OTHERS CONSULTED: Sloane Gagnon and Alain Chenard, the Public Services Health & Safety Association; Ministry of Labour; Bill Instance; Chris Rootham, Nelligan, O'Brien & Payne; Roger Beaudry, APTUS Conflict Solutions; Diane Mason, HR Proactive Inc.; Jason Mandlowitz, HicksMorley; Ruth Morin, Treasurer/Deputy Clerk;

Roger Beaudry – (junior for as little as \$175) – personally -\$300 – no way to estimate time, too many unknown factors;
Diane Mason - \$250 - \$300 – average time 40 hours;
Bill Instance has informed me that there are no sources in the area and has referred us to a labour lawyer for further advice;

Approved and Recommended by the Clerk

Melinda Reith,
Municipal Clerk

Melinda Reith