

Type of Decision									
Meeting Date	Friday, December 2, 2011				Report Date	Tuesday, November 29, 2011			
Decision Required	X	Yes		No	Priority	x	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Appoint an Integrity Commissioner Report 02/12/11/1103									

Subject: Request for Council to consider the appointment of an Integrity Commissioner to independently investigate and monitor Council activity as an additional method of ensuring accountability and transparency.

RECOMMENDATION: The recent atmosphere around the council table since spring of 2011 has been less than conducive to effectively and efficiently forwarding council business with strained relationships between Council members and Council members and employees. The Municipal Act allows for the appointment of an Integrity Commissioner. The Integrity Commissioner reports to council and performs in an independent manner. His or her role is to perform the functions assigned by council with respect to the application of a code of conduct for members of council and local boards as well as the application of procedures, rules and policies governing the ethical behaviour of members of council and local boards.

WHEREAS the Council of the United Townships of Head, Clara & Maria currently has a Municipal Code of Conduct applicable to staff and Council;

AND WHEREAS members of Council have taken actions that may be perceived to be contrary to the provisions of the Municipal Code of Conduct and the best interests of the municipality as a whole;

THEREFORE BE IT RESOLVED THAT in a move to develop an impartial resolution to the current uncongenial environment an Integrity Commissioner be hired to complete an objective investigation into infractions by members of Council contrary to Municipal Code of Conduct.

BACKGROUND/EXECUTIVE SUMMARY:

This is somewhat additional to but different from the harassment complaint process. Although Council does have a Code of Conduct, there are no authorities for investigation or enforcement. The following is from the Municipal Act concerning an Integrity Commissioner.

“Integrity Commissioner

223.3 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to,

- (a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;
- (b) the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them; or
- (c) both of clauses (a) and (b). 2006, c. 32, Sched. A, s. 98.

Powers and duties

(2) Subject to this Part, in carrying out the responsibilities described in subsection (1), the Commissioner may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

Delegation

(3) The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(5) The Commissioner is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member. 2006, c. 32, Sched. A, s. 98.

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry. 2009, c. 33, Sched. 6, s. 72 (1).

Information

(3) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality or a local board that the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Penalties

[\(5\)](#) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006, c. 32, Sched. A, s. 98.

Same

[\(6\)](#) The local board may impose either of the penalties described in subsection (5) on its member if the Commissioner reports to the board that, in his or her opinion, the member has contravened the code of conduct, and if the municipality has not imposed a penalty on the member under subsection (5) in respect of the same contravention. 2006, c. 32, Sched. A, s. 98.

Duty of confidentiality

[223.5 \(1\)](#) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Exception

[\(2\)](#) Despite subsection (1), information may be disclosed in a criminal proceeding as required by law or otherwise in accordance with this Part. 2006, c. 32, Sched. A, s. 98.

Section prevails

[\(3\)](#) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. A, s. 98.

Report to council

[223.6 \(1\)](#) If the Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned. 2006, c. 32, Sched. A, s. 98.

Report about conduct

[\(2\)](#) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

Publication of reports

[\(3\)](#) The municipality and each local board shall ensure that reports received from the Commissioner by the municipality or by the board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 98.

Testimony

[223.7](#) Neither the Commissioner nor any person acting under the instructions of the Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this Part. 2006, c. 32, Sched. A, s. 98.

Reference to appropriate authorities

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code* (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98.”

Financial Implications/Budget Impact: The use of the services of an Integrity Commissioner will be paid on an as needed basis. In contrast to the need to pay someone to perform this service occasionally, you must consider the time and expense wasted during the past months. An independent outside source would provide an objective opinion free from bias and allow Council members to deal with any decision and move on; hopefully eliminating the “poisoned” and divided culture that currently exists within this workplace.

Policy Impact: Follows the Municipal Act and implements new policy to ensure accountability and transparency in staff and Council conduct.

Others Consulted: MMAH's Municipal Councillor's Guide – 2010;

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

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