

Request for Decision United Townships of Head, Clara & Maria Council

Type of Decision									
Meeting Date	Friday, December 12/19, 2017				Report Date	Friday, December 18, 2017			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	X	Information Only			Type of Meeting	X	Open		Closed

Employee Code of Conduct Complaint Investigation Report - Report #12/12/17/1301

Subject:

Review of the Investigative report provided by municipal solicitor responsible for completing Code of Conduct complaints investigation.

RECOMMENDATION:

That Council consider receiving and debating this report in open session and making this entire report a public document to be shared with all to be used as an educational tool.

That failing that, Council goes into closed session; briefly discusses the report then returns to open session to determine next steps. That Council releases the full report to the general public to use as an educational tool.

Resolution #1

WHEREAS the Municipal Act allows for closed meetings under section 239;

THEREFORE BE IT RESOLVED THAT this meeting go into an in camera session at _____ h to discuss personal information about identifiable individuals including municipal and local employees under section 239 (2) (b) in relation to Code of Conduct Complaints filed against municipal employees.

Resolution #2

WHEREAS Council went into closed session to discuss personal information about an identifiable individual and did receive a confidential report;

THEREFORE BE IT RESOLVED THAT this meeting come out of closed session at _____ h. and the public portion of the meeting continue. Let it be public record that no business of Council was advanced during this closed session.

_____ No votes were held in closed session.

_____ Votes were held in camera for the sole purpose of providing direction to staff.

Resolution #3

WHEREAS 11 Code of Conduct Complaints have been made against administrative employees by a Council member and investigated as per policy resulting in a report to Council;

AND WHEREAS not one of the 11 complaints were upheld with the solicitor finding that no employee breached any clause of the Code;

AND WHEREAS since many of the complaints were made in public, the employees against whom complaints were made have provided permission to Council to discuss personal matters about each of them as it relates to this report in public in order for Council to use the report as an educational tool;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby accept the report as presented and does further adopt the recommendations included in the report to be implemented immediately namely:

1. The Procedure By-law and Code be amended to allow Council to direct staff to recuse themselves in certain circumstances in providing advice to Council; and
2. The Code be amended to make dispute resolution mandatory prior to having a costly investigation completed.

AND FURTHER THAT Council directs staff to make the entire report public including the Summary, Background, Investigation, Analysis, Recommendations and Appendices to be used as an educational tool for Council members, employees and members of the public who may share similar misconceptions as the complainant.

BACKGROUND/EXECUTIVE SUMMARY:

The current Code of Conduct has been written in a way to protect employees by keeping allegations private:

- where unfounded complaints have been made about them; and/or
- when they have in fact contravened the code but still deserve privacy;
- when actions taken as employees while in the course of their employment are being questioned;
- Including performance appraisals and any resulting corrective plans.

All these things may constitute personal information about an identifiable individual under the Municipal Act and are subject to protections.

The code attempts to keep any complaint, investigation and results confidential to the best of the ability of the Clerk, staff and investigators to protect the individual's named.

In this instance, when Mayor Reid entered the municipal office this past Friday, with employees feeling so strongly that we had not contravened the Code in any matter; and before reviewing the report, we expressed to Mayor Reid that we wished to have the report discussed in open session and released publicly no matter what it contained. Staff feel that open and transparent governance is important and strive to keep municipal business that way.

It is staff belief that all of our actions are, have and always will be of the highest ethical and moral standard and open to review by the residents and Council which we serve. We do not and did not have anything to hide and wanted Mayor Reid to know that we were willing to have the report made public without knowing what it contained. Mayor Reid then provided the Clerk with the report in order to prepare for this meeting.

The ability to hold council meetings in closed session is a discretionary decision of Council, under the Municipal Act, based on the facts of each individual circumstance. Staff are trained to attempt to hold as many meetings in public as possible; to only recommend to Council that closed sessions be used where absolutely necessary to protect information or individuals where warranted.

The recommendation from the solicitor is that, as directed in the Code, the report be discussed in closed session based on the “personal information about an identifiable individual including municipal employees” exemption provided for in the Act. Council is then to move to open session to take a vote on how to proceed based on the report and discussion.

Based on the disclosure statements provided by staff, Council has no reason to go into closed session; the persons to be protected by this exemption have provided authorization to discuss the report in public. Should Council wish to do so, it may go into closed session but has no obligation to.

If Council wishes to follow the letter of the Code of Conduct and the recommendation of the solicitor, Council could go into closed session, briefly discuss the report and then move to open session where the decision and vote as to what to make public or not is to be held.

Employees feel that the complaints, the investigation and results should be made public aside from the components which should be redacted due to potentially defamatory statements quoted.

Councillor Villeneuve has stated in his emails, letters and/or at Council meetings that “many people” think some of these same things as he does and that actions taken by administrative employees, specifically the Clerk, are in error. By having the investigation results and analysis made public, hopefully those misconceptions and error in interpretation of the Code will be shared with others.

The only parts of the report that should be redacted are included in the reference to the contents of Councillor Villeneuve’s letter read at the meeting of October 17, 2017 within complaint #4.

Financial Considerations/Budget Impact:

The invoice for the completion of this investigation and report has not yet been received.

Others Consulted:

Mayor Reid
Councillor McKay via email (all Council cc'd)
Noella LeBreton, Treasurer
Crystal Fischer, Admin Assistant

Approved and Recommended by the Clerk

Melinda Reith,
Municipal Clerk

