

| Type of Decision  |                           |                  |  |    |                 |                            |      |  |        |
|---|---------------------------|------------------|--|----|-----------------|----------------------------|------|--|--------|
| Meeting Date  | Tuesday, January 23, 2018 |                  |  |    | Report Date     | Wednesday, January 3, 2018 |      |  |        |
| Decision Required                                       | X                         | Yes              |  | No | Priority        | X                          | High |  | Low    |
| Direction   | x                         | Information Only |  |    | Type of Meeting | X                          | Open |  | Closed |
| <b>REPORT TITLE - Council Code of Conduct Amendment</b> |                           |                  |  |    |                 |                            |      |  |        |
| Report #23/01/18 - 1202                                 |                           |                  |  |    |                 |                            |      |  |        |

**Subject: Amendment to the Council Code of Conduct**

**RECOMMENDATION:**

That Council adopt the following recommendation amending the Council Code of Conduct as advised by legal counsel.

**WHEREAS** the definition of the word “apparent” may be defined as “seeming real or true, but not necessarily so” depending on the perception of the viewer;

**AND WHEREAS** using the overwide phrase “*conflicts of interest, both apparent and real*” in the municipal policy allows too broad a definition of conflict of interest and unnecessary allegations, investigations and costs;

**AND WHEREAS** it is desirable to avoid in the future, the costs of investigations into Code of Conduct complaints against Council members simply due to a “perceived” or “apparent” interest and not as the legislation dictates, when there is a financial or pecuniary interest;

**THEREFORE BE IT RESOLVED THAT** following the recommendation of the municipal legal counsel, the Council of the United Townships of Head, Clara & Maria does hereby amend the Council Code of Conduct to remove the word “*apparent*” after the words “*and conflicts of interest, both*” in Clause 1.3;

**AND FURTHER THAT** this amendment becomes effective immediately.

**BACKGROUND/EXECUTIVE SUMMARY:**

As explained to Council and staff during the training session held on November 6, 2017 at the municipal offices in Stonecliffe, Mr. Fleming did express his concern with the wording of the municipal Code of Conduct for Council members. It was his recommendation to remove the word “apparent” as it is too vague and changes, from person to person based on their knowledge, expectations, education level, understanding of legislation etc.

For this reason, staff have provided the above resolution for Council consideration.

The original clause states: “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;*” We are simply removing the word “apparent” to reduce frivolous and unwarranted code complaints at the expense of ratepayers.

The Municipal Conflict of Interest Act and amendments to the Municipal Act cover pecuniary/financial interests. The common law related to bias covers “perceived” or “apparent” conflicts. There is no need to complicate matters in a municipal code of conduct.

Additionally, during a Bill 68 training session; attendees were encouraged to be pro-active and to implement a form to be used to declare pecuniary interest at appropriate meetings. The attached form will now be required to be completed by the Council member when item #4 of the Agenda is reached. The council member is to fill in the blanks (may be completed beforehand) read the form at the meeting and then submit same to the Clerk for retention.

As a reminder, a member is to also declare if an issue was discussed at a previous meeting that he/she was not in attendance at the beginning of the next meeting. Many of the new rules under the Bill 68 changes will not be in force until January 2019 but there is no harm in being pro-active.

### **Options/Discussion:**

### **Financial Considerations/Budget Impact:**

The cost of the most recent Code of Conduct complaints will be in the order of \$ per complaint. The conclusions indicated that there were no real conflict of interest complaints, only perceived or apparent conflicts. As those perceived conflicts have no consequence other than costing ratepayers the expense of an investigation, it is recommended that Council avoid such future claims by making this amendment.

### **Policy Impact:**

The policy is still effective with the removal of the word “apparent”.

### **Others Consulted:**

Municipal counsel.

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

*Melinda Reith*