



Report to Council

United Townships of Head, Clara and Maria
July 24, 2018

Wishart Municipal Law Group

Expertise for Municipalities

1. PURPOSE

This report has been prepared jointly by Wishart Municipal Law Group (WMG) and Expertise for Municipalities (E4m) for the United Townships of Head Clara and Maria (the Municipality), upon Council's request, to provide advice and/or guidance on ways to rebuild confidence between the members of Council, the municipal staff and the public.

2. BACKGROUND

Four separate and distinct hamlets along highway 17 make up the Municipality. The year-round population is reported to be 248 in 2016. The municipality also has a seasonal population.

Current Situation

Over the past year or so, considerable dissention has arisen within the Municipality between the Council, staff and the public. It appears, that this has transpired in large due to the County's proposed use of the former railbed, which crosses the municipality, as a multi-use trail. This has fostered an environment of conflict, distrust and self-protective behaviour within the municipality resulting in the breakdown of respect and trust between members of the Council, staff and the public. This has resulted in various complaints and resulting, problematic investigations and all of which has further been exacerbated by the failure to keep various investigations, and the contents of the subsequent reports, confidential by several parties.

It is very apparent that a divide has been created in the community. Based on the documentation that we reviewed, it is difficult to establish a single underlying cause as it appears that there are multiple actions/behaviours that have led to the current situation. To be clear, no single event or person has created the situation it appears to have resulted from a series of events/decisions.

Current Challenges

The following is a summary of some of the key challenges that are problematic for the municipality today

- Public perception of Council and staff bias
- Level of trust between Council and Staff in the decision-making process
- Misunderstanding of Conflict of Interest both regarding Councillors and Staff
- Breaches of confidentiality or a lack of understanding when and how confidentiality applies
- Personal Relationships between and among Council, staff and the public

What makes an effective Municipal Government?

- ✓ Healthy, strong and vital communities work as a "team" toward a common vision for the future. They have developed community plans and implementation strategies.

- ✓ The public expresses their opinion in an open public forum. Everyone is treated with respect and has an opportunity to express their opinion without fear of being ostracized, criticized or humiliated. People do not openly attack one another.
- ✓ The municipal government operates in an accountable and transparent manner. Members of Council understand that they have a responsibility to act within their statutory role and make decisions that are in the best interest of the Municipality, not for a single person or interest group.
- ✓ The public is seen as a valuable resource with a wide array of skills, experiences and opinions. They are consulted often, including those individuals who may have opposing views. Opposing views are sought to ensure that all points have been considered in the decision-making process on potentially contentious issues.
- ✓ The head of council provides leadership guiding the decision-making process, acting as referee if necessary to ensure that established principles of procedure (decorum) are adhered to. The head of council provides strong leadership during meetings to ensure they are run respectfully and that each party follows their “role” (Councillors, Staff and Public).
- ✓ Municipal staff are seen as professionals. They are not targets of ridicule or finger pointing. Staff follow direction/policy as established by Council and treat all members of Council the same. They act in a professional and unbiased manner providing the best advice/information to Council.
- ✓ Staff understand that when Council makes a decision contrary to their recommendation, it is not a personal affront; some decisions are political in nature.
- ✓ The public understands it is the role of staff to provide advice/recommendations to Council, not to make the decisions themselves or advance a personal agenda.
- ✓ The community is successful and a desired place to live and work.

A Path to Move Forward

After reviewing material that was provided to give background and further understanding of the matter, we find the following to be the key areas to be addressed by the strategy. While we understand that this is election time, it is still prudent to begin a process to help the Municipality to move forward. The foundation of our approach is to:

- Build a Culture of Trust– Establish and follow the Rules
- Improve Decision-Making Processes – Examine all the Angles
- Strengthen Leadership -
- Develop the “Team”

3. BUILD A CULTURE OF TRUST – ESTABLISH AND FOLLOW THE RULES

A municipal government is a statutory government and is the level of government that is closest to its constituents. Members of the public interact, often on a daily basis, with elected officials and staff in both a professional and a personal capacity. It is actually the most scrutinized level of government due both to the fact that it is required to have open meetings with few exceptions and that it is run by Councillors and Staff who often live in the community. We often refer to it as living in a “fish bowl”. It certainly can be a challenging environment to work within when you are constantly bombarded with ridicule and threats.

Being an elected official is often a thankless and challenging position. It can also be highly rewarding once you understand that it is impossible to keep everyone happy all of the time and that your role is to act in good faith and carry out the responsibilities assigned to councils under various pieces of legislation. Council needs to understand and remind itself that its role is primarily to set policy and levels of service, not to operate the municipality. This is often a challenge for Councillors who run for Council in an effort to perform a specific task or project or who want to become involved in the municipal operations.

An employee of a Municipality often has too many “supervisors”. It is extremely important that Council and the public understand that Council only supervises one employee – the CAO. When members of the public and/or council attempt to direct staff to carry out specific work they are going outside of their role. This frequently creates problems and uncertainty in the workplace. Council only has legal “power” while sitting at the council table at a properly constituted meeting. No individual member of council has authority to act on behalf of council unless directed by by-law/resolution. Further, a quorum of Councillors are prohibited from meeting to move the business of the municipality forward apart from at a proper Council meeting.

Decisions a Council makes, the actions of individual members of Council in the community as well as the actions of staff shape the public’s perception of their municipal government. If the public understand the roles of Council and of Staff, and Council provides strong and consistent leadership to staff who then carry out instructions from Council which are provided in written, accessible resolutions or by-laws, all members of the “team” understand and largely support the municipal government. Where decisions are made and remade, are challenged by Councillors after they are made, are not made in writing, are made in improper meetings or where staff do not follow and support the decisions of Council, the public loses faith in their local government.

Tools to help build a Culture of Trust.....

- Strategic Plan – strategic plan that is developed by the community provides Council with an understanding of where and how the community(ies) want to develop. It also acts as a reference point so that decisions made conform with the principles of the plan. This is a long-term planning document that assists Council, Staff and the Public to understand where the Municipality is going and what short, medium and long term goals are in place.

- Code of Conduct – Council’s promise to the public about how they can expect them to behave. Changes to the *Municipal Act* require municipalities to have a compliant code of conduct and appoint an Integrity Commissioner by March 1, 2019.
- Staff Code of Conduct – Council’s direction to staff about how they are expected to behave. While not required under the *Municipal Act* it is an excellent idea for municipalities to have a staff Code of Conduct.

Workplace Violence & Harassment Policy – Municipalities were required by the Bill 132 Amendments to the *Occupational Health and Safety Act* to have an updated policy by September of 2016. Currently the Municipality’s policy does not comply with the OHSAA.

- Procedural By-law – Section 238 of the *Municipal Act* requires each municipality to prepare a Procedural By-law. This is an important document for any municipality as it advises everyone how Council will function. A Procedural By-law sets out the rules by which meetings are conducted. It specifically contains the definition of a meeting, provisions for calling meetings, public meetings, conduct of Council, staff and members of the public at meetings, reporting, the order of business, how to become a delegation and how minutes are taken and posted. Most procedural by-laws follow Parliamentary Procedure/Robert’s Rules of Order. This makes them extremely formal. A municipality’s procedural by-law should be a reflection of how it functions and conversely, Council should function as dictated by its Procedural By-law
- Accountability and Transparency by-law – The *Municipal Act* requires municipalities to adopt and maintain policies with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public. It is important for Council to understand what is meant by “Transparency” per your policy. It does not mean that confidential information or in-camera information is disseminated to the public. Rather it means that the decision-making process is open to scrutiny and understanding. It means that decisions are discussed and debated in proper meetings and that confidential meetings are advertised and held in accordance with the requirements of s.239 of the *Municipal Act, 2001*.
- Education on all of the above for Council, Staff and public
 - Both documentary and in person

Some of these documents are already in place. Our plan is that they be reviewed, updated and amended as required then that Council, staff and the public are provided training on what they contain, what they do and how to use them.

4. IMPROVE DECISION-MAKING PROCESSES – EXAMINE ALL THE ANGLES

Individuals who sit on council, and staff who work for a municipality, typically do so because they want to make their community a better place to live, work and play. They achieve this by acting within their roles and by making informed decisions.

It is a fact of government that not all decisions will be popular, nor will they please all ratepayers.

The role of council is to set policy and establish levels of service. To make these decisions, they rely on information that they have available to them. This information often comes from staff reports, public meetings/letters/petitions and the debate process at a council meeting. From time to time, members of council also do their own research by speaking with constituents. Each Council member should have access to the same information that every other Councillor has. In other words, it is important that information be shared and considered at Council meetings equally.

The role of staff is to carry out the direction of Council. When Council direction is not clear and decisive, staff have to make decisions on how to interpret Council's wishes. Sometimes, staff do nothing because they do not believe that they have been given direction from Council. Often this leads to Council feeling like staff are not doing their job properly.

A significant decision-making challenge, primarily in small municipalities, is that they don't have accountants, engineers, land use planners or lawyers on staff. Advice from these professionals is often costly and many small municipalities are unwilling to pay these costs, so they rely on staff to provide them with the 'legal interpretation', 'land use planning advice' etc. and what we have seen is that these communities are saving themselves into crisis. By this we mean that rather than spend a thousand dollars today on professional advice they end up paying tens of thousands tomorrow to correct problems that have been created by not getting the proper advice in the first place. This is not the fault of staff. They are doing the best they can with the resources, skills, knowledge and experience they have.

It is also important for Council to make and then support decisions, and not revisit or discuss past decisions except in accordance with Procedural by-law. Failure to do so results in poor relationships between and among Council, staff and the public. It also strongly undermines Council's reputation and integrity in the Community.

Tools to help Improve the Decision-making Process.....

- Standardize an approach to decision making – Not everyone thinks the same way, nor do they approach decision-making the same way. This is actually a significant benefit to the Council type of government. Decision-making is a process that can be clearly defined. It is useful to establish a clear process on how Council will make decisions. This assists staff in preparing reports and ensuring Council has the appropriate information for the type of decision that they are making. It will also help to streamline the work of Council as well as improve accountability to the public.
- Policy on the use of petitions in decision making – it is important for Council to determine rules around the use of petitions in their decision-making process. A clear

policy will allow the public to put forward appropriate petitions and decrease the potential animosity that arises when one petition is considered and another is not. While worthy of consideration, Council should not believe they are bound by petitions.

- Policy on community engagement – A strategic plan is an excellent guide to help Council make decisions for the large majority of topics. From time to time issues arise that may not have been contemplated when the strategic plan was developed. In some of these circumstances Council would benefit from public input. A policy outlining the strategy that will be used to engage the community will provide guidance to Council members and staff on when, and in what manner they are to approach the public for input/feedback on issues/matters being decided upon.
- Standardized Staff reports – the content of staff reports should be in keeping with the decision-making standard. At a minimum staff reports should contain
 - Consistent format
 - References to applicable legislation
 - References to applicable municipal by-laws/policies/previous resolutions
 - Options to consider
 - Staff recommendation(s)

5. STRENGTHEN LEADERSHIP

Leadership is multi-layered in the municipal context.

- Council as a whole provides leadership to the community
- The head of council provides leadership to Council
- The CAO provides leadership to staff, provides advice to Council and is a liaison with the public. (Prof Seigel, Brock University)

This is one area that is often forgotten. Leadership is not a skill that everyone innately has. It is a critical skill that councils should consciously develop. Strong leadership is necessary to function effectively and efficiently within the geographical borders of the Municipality as well as to navigate the political tides of the Province. Leadership is different than management. Leadership in this context is largely based on what is known as political acuity. Political acuity can be summarized as follows:

- a) Understanding the formal process by which decisions are made:
Each organization/municipality will make decisions differently based on the formal policies and procedures that have been adopted by Council. These formal processes drive the interactions between Council, staff and the public. It is important for leaders to know and follow these processes. This includes how decisions are made at the County and Provincial levels as decisions made by both bodies can have a direct impact on the municipality/municipal organization. This involves:
 - Knowing who the key players are
 - Legislative framework - formal sources of power
 - Policies and procedures
 - Organizational structure/chain of command

- b) Understanding the informal process that impact decision-making
Informal processes:
The informal process is driven by people with influence rather than necessarily positions of “power”. These can be individuals, groups of individuals, organizations and/or businesses. Informal networks or alliances are important to understand. Capitalizing on these resources within and external to the Municipality will enable Council to make informed decisions by understanding the originating perspectives and motives from which the influence comes.
- c) Understanding the environmental factors that are at play (political climate/community culture):
Every organization has a political culture. Every community has its own culture. Without knowing this about your organization or community it will be a challenge for decision-makers to find middle ground and achieve win-win outcomes. In essence, understanding your political culture is necessary to determine what is indeed in the best interest of the municipality as a whole.
- d) Understanding how personalities, as well as organizational/community politics and how the dynamic nature of both, can negatively or positively play a role in relationships:
Recognizing and respecting that each individual has a unique personality, skill-set and experiences and capitalizing on these to assist making decisions, mobilizing community participation, and minimizing conflict is a skill of good leaders. By this we do not mean manipulating people, we mean understanding what strong suits people have and using these skill resources appropriately. This is especially critical for the head of council, the CAO as well as committee and board chairs. It is not in the best interest of the Municipality to set people up to fail. This is often done by placing individuals in a position that they are not capable of. This not only does a disservice to the individual it also impacts the effectiveness and perception of the Municipality by the public and outside agencies. Taking advantage of personnel strengths, rather than focusing on weaknesses leads to individual effectiveness and therefore a more productive team player and thereafter, team.
- e) Understanding the difference between internal and external forces and their impacts:
There are many forces that impact Municipalities. It is important for leaders to know what is going on within the community and outside of the community, to recognize/analyze the trends and determine how they will impact the Municipality. These are consistent and non-static. It is important to always be aware and forward thinking. Many Municipalities find difficulty when they do things “because we have always done them that way”. Often, this fact is precisely the trigger to look at a particular task, practice or policy to determine whether it is effective or whether organizational improvement can be achieved.

Leaders that have political acuity are able to mobilize people, build capacity and direct energies/resources on the most important activities to achieve an outcome proactively – not wait until something becomes a crisis before they act. This could include lobbying neighbouring communities, the County, Provincial or Federal governments.

Tools to Strengthen Leadership.....

- Community Engagement best practices
- Conflict Resolution training
- Community Directories

- Council and Staff team building exercises and “strength inventories”.

6. DEVELOP THE “TEAM”

In order to develop the “Team”, it is important that the team members start on the same page. To do this, each member needs to understand his or her role as well as how each role participates in the municipal process. The team works best when each member acts within their role and follows the appropriate rules. It is important that Council members and new staff receive proper orientation, so they understand what their role is and what is expected of them.

Also, it is important that all team members recognize that knowledge and information is meant to be shared within the team and not used as a weapon against one another. Disparity in knowledge can lead to misunderstanding and friction. Any information given to a single member of council should be shared with all members of council. It is cliché, but there is no “I” in team. The municipal “team” is a group made up of staff, council(lors) and the public, all with vital, yet distinct roles. It is inappropriate for staff to treat some Councillors differently than they treat others. This is extremely important when there are prior personal connections with a member of Council. In small municipalities this is a common occurrence where family members or friends are on Council. A perception of favouritism can weaken the relationship between and among team members. While often inevitable, this perception can be combatted by ensuring an open and equal sharing of information and strictly restricting discussion of municipal business to Council /Committee meetings

Information sharing should also be done, as appropriate, with the public. This leads to a transparent organization. Confidential information should never be shared. The integrity of the closed session should never be breached by members of Council or staff. In fact, to legally release confidential Council information, a formal decision of Council is required. This decision cannot be made by any one individual, either staff or Council. Failure to maintain confidentiality is a significant breach of trust and can lead to disciplinary action or civil litigation and liability for the Municipality or individuals.

The Council members, staff and the public have a responsibility to seek/disseminate the appropriate knowledge/information. By this we mean that perception is not always fact and it is important that facts, not gossip or misinformation, is circulated within and outside of the community. Nothing works against a community more than turmoil and inaccurate information being captured in the media. A strong media relations policy is recommended.

Our approach to build team involves Council training, staff training and public education. By understanding roles, the legislative framework and what is acceptable behaviour strong working/trust relationships can be built between and among Council, staff and the public.

Tools to Develop the Team include.....

- Council orientation
- Public education – conflict of Interest/candidate training/others as the need arises
- Workplace harassment training
- Complaint process/policy
- Communication/media policy

7. ACTION PLAN

Foundation	Tool	Action	Time
Building Trust	Strategic Plan	Prepare a long-term community development strategic plan	January 2019 to September 2019
	Code of Conduct for Council	Review/Adopt Code of Conduct/ Integrity Commissioner Protocols - documents received by CAO after attending drafting workshop put on by WMG and E4m - Council to Review/be trained on -Council to Adopt - shared with public	July 2018 July/August 2018 September 2018
	Code of Conduct for Staff	Review/update and adopt - add definition of conflict of interest	September 2018
	Workplace Violence and Harassment Policy	Compliant policy provided with WMG membership Review Adopt Train Council/Staff/Public	N/A July/August 2018 September 2018 September 2018
	Procedural By-law	Update for compliance with Bill 68 Amendments to the <i>Municipal Act</i> - revise to ensure “user friendliness”	WMG/E4m Drafting/Training Workshop November 2018
	Accountability & Transparency By-law	Review & update as appropriate ensure there is consideration of MFIPPA and closed session confidentiality.	February 2019
	Improve Decision Making Processes	Standardized approach to decision making	Develop a process/decision-making model with Council as to how they will make decisions
Policy on petitions		Draft and adopt a policy on when petitions are acceptable and how they will augment the decision-	February/March 2019

		making process	
	Policy on community engagement	Draft and adopt a policy on when and how the community will be engaged in the decision-making process	March/ April 2019
	Standardized staff reports	Review existing staff report template and revise to address decision-making model	December/January 2019
Strengthen Leadership	Community Engagement best practices	Develop a resource that identifies the Municipality's best practices for engaging the public (surveys, newsletters, public meetings) what works	Spring 2019
	Conflict Resolution Training	Research and find appropriate training, budget and hold training	Spring 2019
	Community directories	Update existing directories Determine other useful directories to have and build	On-going
	Team building exercises and "strength inventories"	Conduct team building with the new Council/ Committees and continue the practice throughout the term of Council Create a strength inventory	On-going after election Start after the election/maintain and update on an on-going basis
Building "Team"	Council orientation	In house and with external providers	After the election
		Build the orientation package	Prior to election day
	Public Education - conflict of interest - candidate training - others as the need arises	Training on what conflict of interest is and is not Training on what is involved in being on council Be aware of other areas requiring public	Prior to March 1, 2019 Prior to October 22, 2018 On-going

		awareness/training, provide as appropriate – develop an annual training schedule	
	Workplace Harassment	Updated, compliant policy obtained with WMG membership - adopt policy - train staff - train Council - educate the public	September 2018 September 2018 September 2018 September 2018
	Complaint process/policy	Review existing policy, update to include code of conduct complaint process as well as to provide a definition of what harassment is and how vexatious complaints become harassment Adopt policy	January 2019
	Communications/Media policy	Review/update or draft as necessary	January 2019

