

Type of Decision							
Meeting Date	Tuesday, October 16, 2018			Report Date	Friday, October 12, 2018		
Council Decision Required	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Priority	X	High	Low
Complies with Current Policy	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Creates New Policy	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Aligns with Strategic Plan	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>	Priority in Asset Management Plan	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Follows Procedure By-law	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Follows Procurement By-Law	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Aligns with Zoning By-Law	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>	Aligns with previous Council precedent	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
As per Provincial Legislation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Provincial Act or Regulation	Bill 68 and OHSA		
Direction	x	Information Only		Type of Meeting	X	Open	Closed
REPORT TITLE - Library Board Policy							
Report #16/10/2018 - 1201							

Subject: Council direction to the Public Library Board concerning Workplace Harassment and Violence Policy

RECOMMENDATION:

That Council adopt the following resolution directed by legal counsel at employee training held on Wednesday, September 12, 2018 in order to protect the municipality and the Library Board against non-compliance with legislation and ultimately with the potential for charges for failure to protect employees.

Resolution #1

WHEREAS Council, staff and members of the public did receive training on the municipal Workplace Harassment and Violence Policy as per Bill 68 directives;

AND WHEREAS municipalities, in recent decisions have been determined to be the employer in a situation similar to ours where the municipality pays library board employee's salary and has obligations to those employees;

THEREFORE BE IT RESOLVED THAT as per direction of municipal legal counsel, the Council of the United Townships of Head, Clara & Maria does hereby direct the Library Board to adopt by resolution, as soon as possible, the Workplace Harassment and Violence Policy adopted by the municipality until the board chooses to replace it with a version of their own.

BACKGROUND/EXECUTIVE SUMMARY:

Although a Municipal Library Board is a separate board, they are required to adopt a Workplace Harassment and Violence Policy under the current legislation.

In recent court cases, it was determined that in a situation similar to ours, the municipality was considered a “common employer”. Should anything happen to Library Board staff or volunteers while completing their duties for the board, as they fall under the Municipality with respect to payroll, WSIB etc. they will fall under the Municipality’s authority.

The Ministry found that because Council has the ability to replace the board, they are ultimately “in control” of protecting itself and the board from liability – in effect responsible should anything happen to a Board employee. In a case with a situation similar to ours, the Ministry (of Municipal Affairs) has recently determined that the employer was the municipality.

For this reason, Council has the authority and legal obligation to ensure that proper policy is in place.

The work involved for the Library Board should be minimal as the policy has recently been vetted by municipal legal counsel.

Options/Discussion:

The decision is one of adopting the resolution requesting the Library Board to adopt the policy or not. In order to protect the municipality from liability this resolution is required.

If Council does not pass the resolution, and the Library Board does not adopt a policy, this or otherwise, the municipality may ultimately be held responsible for workplace violations under the Occupational Health and Safety Act.

Financial Considerations – Budget Impact:

Could be significant if an employee is not properly protected under current employment legislation and the municipality is found to be liable.

Others Consulted/Resources:

Wishart Municipal Law Group

Approved and Recommended by the Clerk

Melinda Reith,
Municipal Clerk

Melinda Reith