



ADR
C H A M B E R S

Integrity Commissioner Office
for the Township of Wainfleet

EDWARD T. MCDERMOTT
Integrity Commissioner
for Township of Wainfleet
integrity@adr.ca

May 18, 2021

SENT BY EMAIL TO:

Meredith Ciuffetelli
Township Clerk
Corporation of the Township of Wainfleet
Municipal Office
31940 Highway 3
Wainfleet, Ontario L0S 1V0
mciufetelli@wainfleet.ca

**Re: Township of Wainfleet Integrity Commissioner
Annual Report - IC-12534-0121 - April 17, 2020 - April 16, 2021**

Dear Ms. Ciuffetelli:

Thank you for the opportunity to act as Integrity Commissioner (or "IC") for the Township of Wainfleet over the past year. In accordance with the terms of the Agreement between the Township and ADR Chambers pursuant to s. 223.6 (1) of the *Municipal Act, 2001*, ("MA") we are providing our annual report for the third operating period of the Agreement covering the period April 17, 2020 – April 16, 2021.

As you know, the IC's role is to help Members of Council ("Members") ensure that they are performing their functions in accordance with the Township's Code of Conduct ("the Code"). The Integrity Commissioner is available to educate and provide advice to Members on matters governing their ethical behavior and compliance with the Code and the Municipal Conflict of Interest Act ("MCIA") in accordance with the provisions

of the MA; MCIA and the Code. The Integrity Commissioner is also responsible for receiving, assessing, and investigating appropriate complaints made by Council, Members, and members of the public respecting alleged breaches of the Code (and now the Municipal Conflict of Interest Act ("MCIA")) by Members.

Activities of Integrity Commissioner during Year under Review

Once again the Township is to be congratulated on its continuing record for two consecutive years of having no Complaints of contraventions of the Code or MCIA filed with my office. Your continuing efforts to comply with these legislated requirements has helped to contribute towards healthy and progressive relationships between Councillors and with members of the public who you have the responsibility to serve. It also helps to conserve the resources of the Township for other issues of concern to the residents of Wainfleet.

I wish to advise that I did respond to a Request for Advice made by a Councillor which was completed in a quick and cost-effective manner.

Cost

The cost to the municipality for my services during the year under review was accordingly limited to the sum of \$1,225.00 plus HST (including the preparation of an Annual Report and Responding to a Request for Advice).

You will recall that in my first year of service to the Township I had to deal with a significant Complaint against a Councillor which was upheld. This involved a cost of \$11,330.00. We subsequently held a full educational seminar with Council on May 8, 2019 with all Councillors and senior staff participating. The results of that effort appear to have borne fruit but no-one can predict when another significant matter (and expenditure) may arise. It would therefore be prudent to budget a reasonable amount for this portfolio on an annual basis to deal with these unknown but ever present potential costs.

Issues to be considered going forward

As a result of our experience during the past three years, it is respectfully suggested that Council consider the following issues on a going forward basis:

- The provisions of Bill 68 came into force on March 1, 2019 and contain some significant amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* which affect the role and powers of the Integrity Commissioner and the obligation of Members under the Township's Code. I have already conducted a comprehensive education seminar on the Code in 2019 for all Members of Council and senior staff, but would once again suggest that an *in camera* education seminar with the IC might be scheduled in the future (when circumstances permit) in order to (once again) familiarize all Councillors with the effect of these new amendments as well as emphasizing our experience with evolving issues such as the importance of not disclosing confidential information in accordance with the requirements of the Code. In my view, you should look at doing this when the next elected Council is in place - December, 2022 or early 2023.
- It also might also be of some value if Councillors could have at least some personal interaction with the Integrity Commissioner (in the form of an education seminar) so that Requests for Advice and subsequent complaints are not dealt with in a vacuum.
- The content of the Township's Code of Conduct is also a living document which should be periodically reviewed to ensure it meets the needs and requirements of the law, the Township, its Councillors and its citizens. There are a number of provisions which should, in my view, be reconsidered (e.g. delegating the power to impose penalties to the IC). We would be pleased to assist in such a review if Council deems it appropriate.
- On March 5, 2021, The Ontario Government launched a Consultation process to "Strengthen Municipal Codes of Conduct" with the objective of eliminating "workplace harassment or discrimination of any kind". The Consultation process is being led by Ms. Jill Dunlop the Associate Minister of Children's and Women's Issues.

On March 8, 2021 a Private Member's Bill was introduced by a Member of the opposition to expand the ambit of the Codes of Conduct of Municipalities by requiring all Members of Council to comply with Municipal Policies with respect to workplace violence or harassment under the OHSA. The Bill contemplates expanding the powers of an IC to receive and investigate Complaints of a contravention of this mandated provision under the Code and to apply to the

Court for a determination by it of the issue and the imposition of a penalty (including declaring the Councillor's seat vacant).

While the provisions of the Private Member's Bill will not necessarily become law, it is reasonably clear that Complaints against Councillors for mistreatment of staff will be enabled under an amendment to the Municipal Act and it will likely fall to the IC to determine these Complaints.

Council should be aware of this impending development and make whatever submissions it wishes to the Government Consultation process as these measures will affect the scope of the Code; the role of the IC; and inevitably, the cost of administering this program.

Summary

It has been a pleasure to assist the Township and its Members of Council (for now three years) in contending with the issues which have arisen in connection with the administration of its Code of Conduct and the MCIA.

Yours truly,



Edward T. McDermott
Integrity Commissioner for the Township of Wainfleet