

Type of Decision									
Meeting Date	Tuesday, March 20, 2018				Report Date	Friday, March 9, 2018			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting		Open	X	Closed
REPORT TITLE - Harassment Complaint Results - Closed Meeting									
Report #20/03/18 - 1301									

Subject: Results of the Harassment Complaints filed by Employees

RECOMMENDATION:

That Council adopt the following recommendation.

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 Workplace Violence and Harassment Policy Complaints and subsequent report to Council and in a second matter in relation to staffing matters.

Resolution #2

WHEREAS Council went into closed session to discuss personal information about an identifiable individual and labour matters and did receive a confidential harassment complaint report from the investigator and an internal staffing 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 aside from providing direction to employees.

Resolution #3

WHEREAS council has received the investigator's confidential report under the Municipal Workplace Violence and Harassment Policy outlining recommendations specifically that;

1. The Municipality would benefit from additional education about harassment in the workplace;
2. Council arrange for specific training for both Council and staff; and
3. Council creates rules of decorum (to be followed) at Council meetings.

AND WHEREAS legislation to come in force in 2019 requires the hiring of an Integrity Commissioner to assist Council in conflict, code and integrity issues in addition to providing council, staff and public education;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby decide to be pro-active and immediately begin the process of appointing an Integrity Commissioner to assist in reacting to investigation findings as well as to prepare for the future as will be required under the Bill 68 changes to the *Municipal Act*;

AND FURTHER THAT as per legislation, the summary of the harassment complaints relating to each respondent be forwarded to each person respectively, including warnings of the need to maintain confidentiality;

AND FURTHER THAT the names of the 5 persons found to have harassed municipal staff and the fact that two citizens were exonerated be released to the public.

BACKGROUND/EXECUTIVE SUMMARY:

From Ms. Risks' letter to Council...

RECOMMENDATIONS

What the investigation revealed was that the Townships would benefit from additional education about harassment in the workplace. It may be that a careful review and internalization of the findings of the report will be sufficient, or Council may want to arrange for specific training for both Council and staff. I would further recommend that Council create guidelines (or rules of decorum) for Council meetings. Many of the comments that were of

On a final note, I remind you that this letter and Mr. Curtis' report are confidential. None of the information discussed herein should be disseminated.

Bill 68, amending the *Municipal Act*, has been created to address situations such as that which this community has found itself in over the past year. The bill provides for an Integrity Commissioner (IC) to be used as a reference by Council or staff **prior to** an adverse situation arising or a member participating in a discussion where they feel they may have a conflict. The position is also required to provide pro-active education and training to Council members, members of the public and staff. An IC will update current policies to ensure they are according to legislation and enforceable.

Significant municipal expense has been incurred to date with little constructive resulting action to date. Council still does need to discuss the reports and determine acceptable steps to take to prevent repetition of the harassing behaviours identified.

Appointing a new firm/individual will address current demands, provide objective input into enacting recommendations and prepare for future legislative requirements. Continued complaints, such as those received on March 20 will result in increased expenses for this municipality without intervention by Council. By hiring an Integrity Commissioner now, hopefully this individual/firm will be able to assist Council and staff in making changes which will result in a more effective and efficient Council and staff. Setting the groundwork prior to the election will result in a smoother transition to a new Council with a standard set of rules and procedures for everyone to follow reducing any upcoming challenges both prior to and after the election.

This Council can show that it is taking pro-active steps to alleviate a very public and lengthy negative history and ensure that the best interests of the municipality are what are being considered moving into the future. A proposal from a non-profit firm willing to take on our challenges is attached for Council review. As it is a component of a contract, it should not be made public.

“Note: On March 1, 2019, the day named by proclamation of the Lieutenant Governor, subsection 223.3 (1) of the Act is repealed and the following substituted: Integrity Commissioner

(1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible

for performing in an independent manner the functions assigned by the municipality with respect to any or all of the following:

- 1. The application of the code of conduct for members of council and the code of conduct for members of local boards.*
- 2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.*
- 3. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council and of local boards.*
- 4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.*
- 5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.*
- 6. Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.*
- 7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the Municipal Conflict of Interest Act. 2017, c. 10, Sched. 1, s. 19 (1)."*

As per the email from Andrea Risk dated February 9, 2018 the content of the harassment report is confidential under municipal policy but more importantly under provincial legislation in the *Occupational Health and Safety Act* and is protected from a *Municipal Freedom of Information and Protection of Privacy Act* request and subject to potential litigation if leaked. The information is a record related to labour relations or employment matters and is required to remain confidential, no matter who signs a release.

Council is restricted to advising the complainants and respondents of: (1) the results of the investigation; and (2) any corrective action that has been taken or that will be taken as a result of the investigation. No individual has a right to receive a copy of the report.

Council has the opportunity to accept the investigator's report in whole or in part. After making the decision about acceptance of the report, Council will then need to consider whether and what remedial steps are necessary to prevent any further harassment going forward.

It is recommended that Council utilize the services of an Integrity Commissioner with the duties listed under the new legislation, to help with the points above including what sanctions, if any, should be applied to Council members found in violation of municipal policy.

Options/Discussion:

1. To accept the Curtis Report in whole or in part.
2. Approve the notice to respondents as outlined in this report. Legally, the report in its entirety is not to be released to ANYONE. Leaking the report could result in workplace discipline for an employee or in litigation for anyone else.
3. Remedial steps to take to prevent any further harassment going forward. (Work with new integrity commissioner.)
4. Hiring of contract Integrity Commissioner to assist in taking steps to improve workplace.
5. To have Cunningham Swan present their reports to Council. Andrea is not available until April 17. (Or simply work with new integrity commissioner.)

Council can spend money on having the municipal solicitor come and review Mr. Curtis' report, knowing that there are significant and proved incorrect conclusions and errors within. Council does have the written recommendations of Mr. Curtis and Ms. Risk to follow.

Based on emails and comments received recently, it is uncertain that any action that Council takes at this point in time will be acceptable to some members of the public or Council.

Asking an outside firm to assume IC duties now, instead of waiting until 2019 will help to resolve outstanding issues, will provide the necessary education for Council, the public and staff moving forward, will assist in updating policies which contain administrative challenges and will set a solid groundwork for the future putting an end to the current negative atmosphere.

It is obvious that some members of the community and of council will not accept the advice of staff members due to their personal opinions and not based on any identified errors of the Clerk/staff. Having an integrity commissioner provide that same advice, will cost the municipality more but may prevent a repeat of the numerous costly, unnecessary and unfounded complaints made over these past months ultimately resulting in reduced expenses for the municipality in the long run.

It is staff recommendation that Council consider the documents provided from an outside resource willing to provide those services. Once an IC is appointed, have them work with council, the public and staff to address current ongoing issues as identified in the recently completed reports and set groundwork for a smoother operation into the future.

Financial Considerations/Budget Impact:

Costs of hiring an integrity commissioner to provide advice prior to unnecessary code complaints being made will ultimately result in reduced costs of investigations to the municipality. The cost of investigations is much more than the pro-active cost of advice prior to complaints being made which historically have resulted in incorrect conclusions and in part a worthless document. Once appointed, the IC will assist Council in preparing policies related to access to his services.

There will be a going rate for any company providing this service, knowing that in the next months, ALL municipalities in Ontario will be looking to hire these services as per legislation. We may just have an easier time before the push in the fall.

Policy Impact:

This decision will result in amended and updated policies. Meets the requirements of the Municipal Act under the Bill 68 amendments, simply prior to the legislated deadline.

Others Consulted:

Municipal Legal Counsel, Various, Cunningham Swan
Chris Wray, Expertise for Municipalities

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

Melinda Reith