

Municipality Of Chatham-Kent

Corporate Services

Municipal Governance

To: Mayor and Members of Council
From: Judy Smith, Director, Municipal Governance/Clerk
Date: February 10, 2021
Subject: 2020 Integrity Commissioner Report

Recommendation

It is recommended that:

1. The Integrity Commissioner 2020 Annual Report be received for information.

Background

The purpose of this report is to fulfill a requirement within the Code of Conduct for Members of Council. "The Integrity Commissioner shall provide an annual report to Council which shall include:

- the number of instances in which the Integrity Commissioner provided written advice to a member with respect to interpretation of this *Code of Conduct*,
- complaints received but determined to be not within the jurisdiction of the Integrity Commissioner,
- complaints deemed to be frivolous, vexatious, *de minimus*, not made in good faith, or where there were insufficient grounds to investigate,
- complaints investigated and number of reports written, and
- total costs of investigations annually, including all fees and disbursements by the Integrity Commissioner,

but shall not disclose information that could identify a person concerned."

Comments

Mary Ellen Bench was appointed as the Integrity Commissioner/Closed Meeting Investigator for the Municipality of Chatham-Kent for a two-year period beginning November 27, 2019.

The 2020 annual report (Appendix A) is for the period of November 27, 2019 to December 31, 2020.

Areas of Strategic Focus and Critical Success Factors

The recommendation in this report supports the following areas of strategic focus:

- Economic Prosperity:
Chatham-Kent is an innovative and thriving community with a diversified economy
- A Healthy and Safe Community:
Chatham-Kent is a healthy and safe community with sustainable population growth
- People and Culture:
Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community
- Environmental Sustainability:
Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendation in this report supports the following critical success factors:

- Financial Sustainability:
The Corporation of the Municipality of Chatham-Kent is financially sustainable
- Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership
- Has the potential to support all areas of strategic focus & critical success factors
- Neutral issues (does not support negatively or positively)

Consultation

No other department was consulted.

Financial Implications

There are no financial implications at this time.

Prepared by:

Reviewed by:

Judy Smith, CMO
Director, Municipal Governance/Clerk

Cathy Hoffman, MPA, CHRL
General Manager, Corporate Services/
Chief Human Resource Officer

Attachment (1)

1. Appendix A – 2020 Integrity Commissioner Annual Report

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Municipality of Chatham-Kent
Integrity Commissioner
Annual Report, for the year 2020

I was appointed Integrity Commissioner and closed meeting investigator for the Municipality of Chatham-Kent effective November 27, 2019. This is my first report on my activities as Integrity Commissioner, and covers the period up to December 31, 2020. My appointment covers council as well as the agencies, boards and committees (collectively referred to as “Council”) that report through Council. It has been a distinct pleasure to serve as Integrity Commissioner for the Municipality of Chatham-Kent. 2020 has been a challenging year given the impact of the COVID-19 and has required municipalities to change how municipal business, including Council meetings, is held. Given this is my first year as your Integrity Commissioner, I cannot comment on how the current environment has impacted the number of matters that have been referred to my attention. Despite the challenges this environment has created for staff, required to work remotely for part of the year, I have received full support and access to corporate records and information from staff in several areas of the Corporation, whenever I have asked for it. Staff and members of Council that I have interacted with have all been very professional and helpful.

The *Code of Conduct* is an ethics document that members of Council have considered and have endorsed, and is intended to be used to measure Councillor conduct. The *Code of Conduct* is also intended to uphold values that support the principles of open, accountable and transparent government reflected in the *Municipal Act, 2001*. A Code of Conduct is a living document, intended to document the values that members of Council believe are core to how they conduct themselves in office, knowing that Council will be measured against these values.

The duties assigned to me as Integrity Commissioner are set out in Section 223.3 of the *Municipal Act, 2001* and Section 18 of the *Municipality of Chatham-Kent Code of Conduct for Members of Council* as follows:

- Providing advice to members of Council, individually or collectively, respecting the application of the *Code of Conduct* and the *Municipal Conflict of Interest Act*, or other policies that govern the ethical behaviour of members of Council;
- Providing educational information to members of Council about the *Code of Conduct* and *Municipal Conflict of Interest Act*;
- Assessing and investigating formal written complaints respecting alleged contraventions of the *Code of Conduct*;
- Determining whether a member of Council or local board has in fact violated a protocol, by-law or policy governing their ethical behaviour, including this *Code of Conduct*, with the final decision-making authority resting with Council as to whether the recommendation(s) of the Integrity Commissioner are imposed;
- Providing Council, through the Municipal Clerk, with written reports which the Clerk shall include on the next public meeting agenda of Council.

The *Municipal Act, 2001* is clear that I perform my duties independently.

Over the course of the year, I have responded to the following matters:

Requests for advice from members of Council: 12

Requests from advice from members of the public: 2

Complaints received and determined not within my jurisdiction: 1

Complaints dismissed without investigation: 2

Complaints investigated: 1

Complaint about an agency, board, committee member: 1

Council attendance and staff meeting (in person): 1

Council educational session (online): 1

Total costs, including all fees and disbursements by the Integrity Commissioner: \$ 13,830.94 total. Fees: \$13,457.13 and Disbursements: \$373.81, plus HST

As set out above, I received a number of requests for advice from members of Council prior to a matter that could be considered a conflict, being discussed at a Council meeting. I consider this my most important role, assisting to prevent breaches of the *Code of Conduct* or the *Municipal Conflict of Interest Act*. It is my practice to confirm the facts explained to me and the advice given, so that members of Council can rely on my advice as a defence if their actions are challenged, as provided for in section 223.3(2.2) of the *Municipal Act, 2001*. Proactive advice can assist elected officials and those appointed to boards and committees, and I look forward to responding to more requests going forward. I have committed to responding to these matters in hours, not days, recognizing that issues often come up in the hours before Council meetings.

In regard to requests for advice from the public, one matter raised related to a policy decision that the individual do not agree with. It is not the role of the Integrity Commissioner to question policy decisions made by Council.

The report submitted on the one investigation conducted raised questions about the interpretation of certain provisions of the *Code of Conduct* and also, question the need for a social media policy or guidelines. Guidelines already exist for staff, but not Council members.

On October 26th I participated in an online meeting with Council and senior staff where we reviewed the *Code of Conduct* and related issues. Outcomes from that session are available for Council consideration.

The one recommendation I have for Council is that consideration be given to moving forward with a social media policy and guidelines for members of Council. Staff receive training in the use of this tool and I believe that everyone in the public sector would benefit from it. It is important to remember that once a message has been posted, it can never be fully erased. Looking to locations outside of Chatham-Kent and considering the impact that social media has had on policy advocacy and activism, on everything from neighbourhood issues to election campaigns, social media has changed our world forever, and not always for the good. Members of Council receive community feedback through social media, and must sort through the information and disinformation published on

issues that come before them for discussion. The face mask issue Council dealt with in the summer of 2020 is one of those issues that municipalities across the country had to grapple with. Members of Council must also be careful to respect and honour the Code of Conduct in regards to what and how they respond to staff advice, comment and debate with each other, and they share information with the public, using social media.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'MEB', is written over the typed name.

Mary Ellen Bench, BA, JD, CS, CIC.C

Municipality of Chatham-Kent

Integrity Commissioner