



**Committee of the Whole – Regular Meeting
September 4, 2013 – 9:00 a.m.
The Frontenac Room, 2069 Battersea Road, Glenburnie, ON**

AGENDA

Page

- 1. CALL TO ORDER**
- 2. ADOPTION OF AGENDA**
- 3. DISCLOSURES OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF**
- 4. DEPUTATIONS AND/OR PRESENTATIONS**
- 5. REPORTS**
 - a) Mr. Nigel Bellchamber, Amberley Gavel Ltd., will provide an educational session for County Council regarding Council Code of Conduct
 - b) 2013-094
Code of Conduct for County Council and Committee Members
(Referred from the June 19, 2013 County Council meeting)
- 6. RISE AND REPORT**
- 7. PUBLIC QUESTION PERIOD**
- 8. ADJOURNMENT**

2

3-15

Nigel Bellchamber

Presentation for Frontenac County Council Committee of the Whole September 4, 2013

Outline

1. The Municipal Context in Ontario and its relevance to codes of conduct
2. Changing Provincial-Municipal Relationships and their impacts on Codes
3. Changing Public Expectations and Codes
4. Current Codes already Affecting Municipal Councillors
5. Optional Codes of Conduct-Pros/Cons and Their Implementation
6. Future Outlook



Report 2013-094

ADMINISTRATIVE REPORT

To: WARDEN AND COUNCIL OF THE COUNTY OF FRONTENAC

From: Elizabeth Savill
CAO

Prepared By: Jannette Amini
Deputy Clerk

Date Prepared: May 7, 2013

Date of Meeting: May 15, 2013

Re: Administrative Services – Code of Conduct for County Council and Committee Members

Recommendation

BE IT RESOLVED THAT the Council of the County of Frontenac receive this *Administrative Services – Code of Conduct for County Council and Committee Members* report;

AND FURTHER THAT the Council of the County of Frontenac adopt the Code of Conduct for County Council and Committee Members, attached as Exhibit A to this report;

AND FINALLY THAT County Council authorize staff to proceed with the issuance of a Request for Expressions of Interest for the appointment of an Integrity Commissioner to be approved by Council.

Background

In 2007, additions to Part VI of the *Municipal Act, 2001* create a mandatory requirement for an accountability and transparency policy. Part VI provides that Council shall adopt and maintain a policy 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.

Part V.1 of the *Municipal Act, 2001*, as amended by Bill 130, also creates new options for municipalities regarding accountability and transparency. The changes provide the authority, but not the requirement, for County Council to:

- Establish a code of conduct for County Council
- Appoint an Integrity Commissioner
- Appoint a Meetings Investigator (Provincial Ombudsman can be utilized)
- Appoint an Auditor General
- Appoint an Ombudsman
- Establish a Lobbyist Registry and appoint a Lobbyist Registrar

These provisions were proclaimed and came into force on January 1, 2008.

In 2013, the LHIN L-SAA agreement executed following Council's direction at the regular Council meeting in April requires a code of conduct to be in place covering Fairmount's directors. Council is, under the Long Term Care Act, the board of directors for Fairmount. The L-SAA states:

The representations and warranties for governance have been updated as follows:

(a) *The HSP represents, warrants and covenants that it has established, and will maintain for the period during which this Agreement is in effect, policies and procedures:*

(i) That set out a code of conduct for, and that identify the ethical obligations of HSP's Personnel¹;

¹ Please note that HSP's Personnel is defined as "The controlling shareholders (if any), directors, officers, employees, agents, volunteers and other representatives of the HSP. In addition to the foregoing HSP's Personnel shall include the contractors and subcontractors and their respective shareholders, directors, officers, employees, agents, volunteers or other representatives".

Comment

In November 2007, County Council passed a by-law to adopt an accountability and transparency policy for the County of Frontenac and in November 2009, County Council passed a by-law to appoint a Closed Meetings Investigator for the County of Frontenac. These were done pursuant to the above noted amendments to the *Municipal Act* as a result of the passage of Bill 130.

Additional work was anticipated to take place with respect to reviewing the provisions of Bill 130 relating to potential guidelines for councillor conduct. However, the adoption of a Code of Conduct is now required by the additional obligation imposed under the L-SAA agreement just executed between the County and the South East Local Health Integration Network (LHIN).

Further to this, a Code of Conduct can be effective only when an Integrity Commissioner is appointed under the *Municipal Act*. The Act permits penalties to be imposed on a member of council or a local board only if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the Code of Conduct. Council may impose as a penalty either a reprimand, a suspension in office or remuneration for a period up to 90 days or a removal from Committees of Council. An Integrity Commissioner is not required to be an employee of the municipality and Council may appoint an Integrity Commissioner either directly or jointly with its respective townships.

Guidelines for Councillor Conduct

- Section 223.2(1) of the *Municipal Act* authorizes Council to establish codes of conduct for the members of the County Council, as well as the members of its Committees.
- Currently, the County of Frontenac does not have conduct guidelines for the members of County Council or its Committees.
- A set of guidelines is intended to provide County Council and Committee members with assistance in determining appropriate behaviour and conduct that meet the highest ideals of public service. It provides guidelines on ensuring openness, transparency and equity in the County's processes. Such guidelines also serve to distinguish the roles and responsibilities between Council and staff and to determine a benchmark for optimal council/staff relations.

Staff has benchmarked with other municipalities, including the County of Lennox and Addington, the United Counties of Stormont, Dundas and Glengarry, the Municipality of Brighton, the Municipality of Port Hope, the Town of Aurora, the Town of Huntsville, Northumberland County, Lanark County, the City of Barrie, and the City of Kingston, all of whom have passed a Code of Conduct for Council and Committee members within the last 3 years.

Staff is recommending the attached Code of Conduct for County Council and Committee members to ensure the County of Frontenac continues to be accountable and transparent to its citizens and meets the obligations placed by the LHIN.

Sustainability Implications

Good governance is critical to the sustainability of a community. As stated in *Directions for Our Future* government decision-making processes are clear, transparent, forward thinking and focused on the longer term.

Financial Implications

There are no financial considerations associated with this report.

Organizations, Departments and Individuals Consulted and/or Affected

Senior Management Team
Colleen Hickey, Human Resources Specialist/Labour Relations
Kieran Williams, Municipal Intern



DRAFT
County of Frontenac
Code of Conduct for Members of County Council and Committees
Draft 1: May 7 2013

1.0 Application

- 1.1 This Code of Conduct applies to all Members of Council, being the Warden and each Councillor. It also applies to all members of the public appointed to committees by Council.
- 1.2 As Council Chair, the Warden has additional responsibilities and, accordingly, must:
- i. uphold and promote the purposes of the municipality;
 - ii. promote public involvement in the municipality's activities;
 - iii. act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
 - iv. participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents

The principles set out in this Code of Conduct apply to the distinct role of the Warden as the context requires

- 1.3 All Members of Council and members of the public appointed to a County committee are expected to follow this Code, the Council Procedural Bylaw and other sources of applicable procedural law. They are also subject to other sources of law such as:

- Municipal Act, 2001
- Municipal Conflict of Interest Act
- Municipal Elections Act
- Municipal Freedom of Information and Protection of Privacy Act
- The Criminal Code of Canada

2.0 Responsibilities of Council, the Warden and Councillors

- 2.1 Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for committees. Authority to act on behalf of Council, including through a committee, can only be delegated by Council or through law.
- 2.2 Council is responsible for and dedicated to providing good and effective government for the public in an open, accountable and transparent manner.
- 2.3 A fiduciary relationship exists between the Council and inhabitants of the municipality.
- 2.4 Members of Council:
- i. when appointed to committees and other bodies as part of their duties must make every effort to participate actively in these bodies with good faith and care,
 - ii. must uphold the law and conduct themselves with the highest degree of ethical behaviour and integrity,
 - iii. must avoid conflict of interest,
 - iv. must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect, and
 - v. may not make statements known to be false or make a statement with the intent to mislead Council or the public.

3.0 Members of Council and the Role of Staff

- 3.1 Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategies through the work of staff. The role of Council is to lead through setting policy and budget. It is not to manage or administer.
- 3.2 Staff members serve Council and work for the municipal corporation under the direction of the chief administrative officer. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Members of Council have no individual capacity to direct members of staff to carry out particular functions.
- 3.3 Inquiries of staff from Members of Council should be directed to the chief administrative officer or the appropriate senior staff as directed by the chief administrative officer.
- 3.4 Members of Council must respect that:
 - i. staff provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations. They must not willfully injure the reputation, impugn the integrity or question the capabilities or performance of staff in a manner that is inappropriate.
 - ii. staff undertake their duties based on political neutrality without undue influence. Members may not invite or pressure any member of staff to engage in partisan political activities.

4.0 County Assets and Gifts

- 4.1 Council is the custodian of the assets of the municipality. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets
- 4.2 Members of Council and members of the public appointed to committees must not use municipal assets for personal convenience, for profit or to assist during an election or in relation to a nomination, except where such privileges are granted to the public or provided by law.
- 4.3 Members of Council and members of the public appointed to committees must not accept gifts and benefits except as provided for under law and in the course of their duties. They may accept gifts of token value only but should be aware that even these may place them in a position where their actions are open to serious question.

5.0 Confidentiality

- 5.1 Members of Council have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. They must not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or required by law.
- 5.2 Members of Council must not disclose, use or release information in contravention of applicable privacy law. They are only entitled to information in the possession of the municipality that is relevant to matters before the Council or a committee. Otherwise,

they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen.

- 5.3 Members of Council must not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law.

6.0 Committees and Members of Committees

- 6.1 Members of the public appointed to committees are appointed at the pleasure of Council. They do not hold office as elected officials nor do they represent either Council or the committee unless mandated to do so. Members of the public appointed to committees must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.

- 6.2 Committees operate only within meetings for which proper notice has been given or as a matter duly added to an agenda.

- 6.3 Committee work often depends on the specific expertise of members of the public appointed to committees, including their employment or business interests. Interests relating to expertise, knowledge or acquaintance of a topic or an individual does not necessarily constitute a pecuniary interest. Such an interest should still be declared, however, for the purposes of openness.

- 6.4 If a pecuniary interest or an appearance of such arises in relation to any matter, members of the public appointed to a Committee must declare the pecuniary interest in a matter being discussed. The member may participate in the discussion but may not vote on the matter.

- 6.5 Committee work is part of the public record. Committees must ensure that their recommendations are sufficiently detailed and recorded clearly so that they can be relied upon by Council or the standing committee acting upon them.

- 6.6 The minutes of a committee meeting must record when any member has declared an interest or a pecuniary interest well as the circumstances in which the member left the room, the times at which the person left and returned to the meeting.

- 6.7 In addition to the recording of minutes as required by section 6.6, where a member of a committee has declared a pecuniary interest, the declaration as well as the nature of the pecuniary interest must be recorded as part of the recommendation to Council so that Council may be aware of the declaration when making its decision.

7.0 Compliance with the Code – Complaint

- 7.1 Where an alleged contravention of any provision of this Code of Conduct occurs, the following procedures will be adhered to.

- 7.2 Individuals (i.e. Municipal employees, members of the public or Members of Council) or organizations who believe they have identified or witnessed behaviour or an activity by a Member of Council that they believe is in contravention of the Code of Conduct for Members of Council, may wish to address the prohibited behaviour or activity themselves as follows:

- i. advise the Member of Council that the behaviour or activity contravenes the Code of Conduct;
- ii. encourage the Member of Council to stop the prohibited behaviour or activity;
- iii. keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- iv. advise someone else (for example, another Member of Council or a senior staff member of the Municipality) about their concern, their comments to the Member of Council and the response of the Member of Council;
- v. if applicable, confirm to the Member of Council their satisfaction with the response of the Member of Council or, if applicable, advise the Member of Council of their dissatisfaction with the response: and
- vi. consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with an applicable judicial or quasijudicial process.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that they believe to be prohibited by the Code of Conduct. However, it is not a precondition or a prerequisite that they pursue the informal complaint procedure prior to pursuing the formal complaint procedure in 8.2.

8.0 Formal Complaint Procedure - Integrity Commissioner

- 8.1 A Member of Council, Municipal staff or member of the public who has reasonable and probable grounds to believe that a member of Council has contravened the Code of Conduct for Members of Council, may request that the matter, or complaint be reviewed.
- 8.2 The complaint shall be in writing and shall be signed by the complainant(s).
- 8.3 A complaint shall set out the grounds for the belief and the contravention alleged and include a supporting affidavit that sets out the evidence in support of the complaint.

For example, facts should include the name of the alleged violator, the provision allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information respecting the complainant during normal business hours.

9.0 Initial Classification by Integrity Commissioner

- 9.1 The complaint shall be filed with the Chief Administrative Officer/Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council policies.
- 9.2 If the complaint does not include a supporting affidavit, the Integrity Commissioner may defer the classification until an affidavit is received.
- 9.3 If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall advise the complainant in writing as follows:

- i. if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the Ontario Provincial Police;
- ii. if the complaint on its face is with respect to non-compliance with the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with the complainant's own legal counsel;
- iii. if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred to the Privacy Commissioner for review;
- iv. if the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and
- v. in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

10 Integrity Commissioner Investigation

10.1 If a complaint has been classified as being within the Integrity Commissioner's jurisdiction, the Commissioner shall investigate and may attempt to settle the complaint.

10.2 The Integrity Commissioner will proceed as follows:

- i. serve the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation be filed within ten days; and
- ii. serve a copy of the response provided upon the complainant with a request for a written reply within ten days.

10.3 If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, examine any other documents relevant to the complaint and may enter any County office relevant to the complaint for the purposes of investigation and settlement.

10.4 The Integrity Commissioner may make interim reports to Council as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

10.5 The Integrity Commissioner shall submit a final report on the complaint to Council, no later than 90 days after the making of the complaint, outlining the findings, the terms of any settlement, or recommended corrective action.

10.6 Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.

11.0 Refusal to conduct inquiry

11.1 If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an inquiry, the Integrity Commissioner shall not conduct an inquiry and shall state the reasons for not doing so in the report.

11.2 If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

12.0 Reporting

12.1 The Integrity Commissioner shall file a copy of the final report with Chief Administrative Officer who will then provide a copy of the report to the complainant and the Member of Council whose conduct is concerned.

12.2 The Chief Administrative Officer shall process the report to the next meeting of Council.

12.3 Council shall consider and respond to the report within 90 days after the day the report is laid before it.

12.4 The Integrity Commissioner shall report annually to Council on complaints affecting the Council of the County of Frontenac, filed with the Integrity Commissioner.

13.0 Municipal Support for Members of Council

13.1 In the case of a Formal Complaint, the municipality will provide up to \$1,000. to the Council member to obtain professional advice or assistance. Reimbursement will be made upon provision of original invoices marked paid in full to the Chief Administrative Officer, and processed through regular accounts payable procedures.

14.0 Non-Compliance

14.1 The following measures may be instituted and applied to any member of Council under Section 223.4(5) of the *Municipal Act*.

- i. a reprimand;
- ii. suspension of the remuneration paid to the member in respect of his or her services as a member of Council or the local board, as the case may be, for a period of up to ninety (90) days, and/or
- iii. censure including removal from appointed Committees, Boards and/or liaison roles.

Signature

The undersigned hereby acknowledges that they have read, understood and accept this Code of Conduct.

Signature of Member

Date

Printed Name of Member

Appendix A – Integrity Commissioner

Duties of the Integrity Commissioner

1.0 The Integrity Commissioner shall:

- 1.1 Conduct inquiries and investigations into alleged contraventions of the Code of Conduct for Members of Council.
- 1.2 Make the decisions, including the imposition of penalties with regards to the alleged contraventions of the Code of Conduct for Council Members. Penalties may include, but are not limited to:
 - i. Reprimand in Open Council (Censure)
 - ii. Suspension of office for a period of not more than 90 business days;
 - iii. Suspension of honorariums for a period of not more than 90 business days;
 - iv. Removal from committees of Council
 - v. Any combination of the above.

A penalty imposed by the Integrity Commissioner takes effect immediately upon the receipt by Council of the report of the Integrity Commissioner regarding the alleged contravention.

- 1.3 Prepare and deliver an annual report to Council containing a summary of the activities of the office of the Integrity Commissioner during the calendar year.
- 1.4 Detailed responsibilities of the office of the Integrity Commissioner will be outlined with the appointment of the position.

2.0 The Integrity Commissioner may, at the request of Council:

- i. Prepare written materials for distribution to and use by members of Council regarding the role of the Integrity Commissioner and ethical obligations and responsibilities of members of Council under the Code of Conduct for Members of Council and any other procedures, rules or policies governing their ethical behaviour.
- ii. Prepare written materials for distribution to and use by the public to aid in their understanding of the role of Integrity Commissioner and ethical obligations and responsibilities of members of Council under the Code of Conduct for Members of Council and any other procedures, rules or policies governing their ethical behaviour.
- iii. Deliver an oral presentation to members of Council regarding their ethical obligations and responsibilities of members of Council and any other procedures, rules or policies governing their ethical behaviour.
- iv. Provide advice and recommendations to Council regarding amendments to the Code of Conduct for Members of Council and in respect of any other procedures, rules or policies governing their ethical behaviour.

3.0 Procedure to Submit a Complaint to the Integrity Commissioner

- i. Council members, employees or members of the public may submit complaints to the Integrity Commissioner relating to compliance with the Code of Conduct for Members of Council.
- ii. All complaints will be treated as confidential at all times.
- iii. Complaints shall be submitted on the established Complaint Request Review Form, attached hereto. The Complaint Review Request Form is also available on the County website or from the Clerk's office.
- iv. All complaints must contain the following information:
 - a. Name of Municipality;
 - b. Complainant's name, mailing address, telephone number and e-mail address (if applicable);
 - c. Nature and background of the complaint;
 - d. Any activities undertaken (if any) to resolve the concern;
 - e. Any other relevant information;
 - f. Original Signature; and a
 - g. Cheque in the amount of \$125.00 made payable to the County of Frontenac
- v. The Complaint Review Request form, accompanied by the prescribed fee, shall be dated and submitted to the Clerk by mail or personal delivery.
- vi. Upon receipt of a complete Complaint Review Request the Clerk shall prepare a package to be forwarded to the Integrity Commissioner that will include the following:
 - a. The Complaint Review Request Form;
 - b. A certified true copy of the Code of Conduct for Members of Council; and
 - c. Any and all such other information or documentation supplied by the complainant that is deemed relevant.
- vii. The information package referred to above shall be forwarded to the Integrity Commissioner in hard copy format by courier or regular mail, whichever is deemed appropriate.

Appendix B – Code of Conduct Complaint Form

County of Frontenac
 Integrity Commissioner Complaint Review Request Form
 Section 223 – Municipal Act, 2001, as amended

COMPLAINANT NAME			
ADDRESS			
TELEPHONE	HOME		WORK
E-MAIL			

PLEASE NOTE: PERSONAL INFORMATION IS COLLECTED UNDER THE AUTHORITY OF SECTION 239 OF THE MUNICIPAL ACT AND WILL BE USED BY THE INTEGRITY INVESTIGATOR TO CARRY OUT AN INVESTIGATION UNDER THE ACT.

BACKGROUND	This should provide as much information as is required to explain the nature and background of the particular occurrence. (i.e.) timing, contact and explanation. Please attach applicable documents. Attach additional sheets as needed.

ACTION	Activities that the complainant has undertaken to resolve the matter; if applicable. Attach additional sheets as needed.

SUMMARY / COMMENTS
Attach additional sheets as needed.

 Date of Signature

 Signature of Complainant