

Memorandum

Date: Tuesday, February 21, 2017

To: Members of Council

From: Laura Hall, Deputy Clerk, Corporate Services

Subject: Office of the Integrity Commissioner's Annual Report for 2016

The purpose of this Memo is to provide a summary of the activities of the Office of the Integrity Commissioner which covers the period from January 1, 2016 to December 31, 2016.

Council enacted a Council Code of Conduct that identifies the expectations of Members of Council and establishes guidelines for appropriate conduct. Further, the Council Code of Conduct also establishes the framework for the Office of the Integrity Commissioner.

Council appointed John Fleming from John Fleming Occasional Consulting Inc. as the Integrity Commissioner in March 2011, and has since granted a single source award contract with John Fleming Occasional Consulting Inc. appointing him as the Integrity Commissioner for the Town of Caledon until December 31, 2018.

In accordance with the agreement, the Integrity Commissioner is to deliver an Annual Report to Council containing a summary of the activities of the Office of the Integrity Commissioner during the calendar year. Attached as Schedule A to this Memo, is the Integrity Commissioner's Annual Report as submitted by John E. Fleming, Integrity Commissioner for the Town of Caledon.

Schedule A to Memo re Office of the Integrity Commissioner's Annual Report for 2016

BACKGROUND

It has been my honour and pleasure to have served as Caledon's Integrity Commissioner since the Council first put a Code of Conduct in place in late 2010, followed by my appointment in early 2011, with a number of refinements made to the Code in 2015. The term of my appointment was extended to coincide with the end of the term of Council in 2018.

I thank Council for its confidence in me, and appreciate the opportunity to have worked with all Members, and Town staff, throughout 2016.

As in the past, the terms of appointment require me to report annually to Council summarizing the activities of the Office of the Integrity Commissioner during the calendar year.

This is my sixth such report, covering the period from January 1, 2016 to year end.

ACTIVITIES DURING THE YEAR

1. Inquiries and Investigations

2016 has proven to be a somewhat more active year. In previous years, no formal complaints respecting alleged contraventions of the Council Code of Conduct or the Employee Code of Conduct were filed with my office. This year, there have been several occasion on which I have been approached, regarding formal complaints.

- Two written complaints were submitted to the office of the General Manager Corporate Services / Town Clerk and forwarded to me. In both cases, no Affidavits were provided, as the Code provides for; however I did undertake a review of both submissions. In both cases, I made a determination not to proceed, in one case because I did not find evidence of a breach of the Code, and in the second, the subject of the alleged breach I found did not fall within my mandate, as set out in the Code and relevant bylaws.
- There have been two other matters where I have been advised that filing a formal complaint is being considered. No final decision has been taken to proceed, to my knowledge and therefore I consider those matters to be pending.
- In other cases, where concerns have been raised, I have undertaken to assist the parties by facilitating an informal resolution between complainant and respondent. While there is no mandated role for your Integrity Commissioner in the defined process for informal resolution, I have seen it to be in the Town's best interest to assist in that way, and believe that the parties involved considered that intervention to have been of some assistance.

Members of Council will recall that both the Act and your Code requires high levels of confidentiality in such situations; hence there has been no documentation on any of the above cited matters submitted, nor does this report identify specifics of names or matters involved. For clarity, had I investigated formally any of these matters and determined that a breach of the Code occurred, a report to Council would have followed.

2. Requests for other services

2.1 Requests for advice

On several occasions during the year, I was asked for advice by members of Council regarding the Code of Conduct. I am always pleased to see Caledon's Council taking a thoughtful approach to its responsibilities under the Code of Conduct, and a ready willingness to seek my advice. When I'm asked for such advice, I consider the request carefully and respond on a timely basis. No further action or requests for follow-up were received by me in these cases, beyond what is described above. As in the past, the source and nature of those requests are held private between my office and the member making the request.

Further, I have on other occasions been asked for advice by Town staff pertaining to matters where an individual was considering the filing of a complaint. I do continue to provide my advice and assistance to your staff, as requested and as I find appropriate. The same privacy measures have been taken in respect to those situations.

2.2 Education and Information

Arising out of some of the matters raised earlier in this report, Members will recall that I asked for, and received, an opportunity to meet with Council in May for a training and education session on matters pertaining to the Code of Conduct.

Not every Integrity Commissioner across Ontario has a role in ongoing provision of education and information for elected officials, nor in the review of the Code, as Caledon has done, and I appreciate that opportunity.

A well-informed Council is, in many respects, one of the best preventive measures against breaches of the Code.

2.3 Municipal Integrity Commissioners of Ontario (MICO)

At the end of 2015, I reported to you as follows:

The various individuals who have been appointed as Integrity Commissioners across Ontario continue to meet at least two times per year. I attend those meetings wherever possible. The number of Integrity Commissioners across Ontario continues to grow steadily. There are now some 70 jurisdictions who have an Integrity Commissioner in place. While some have given thought to abandoning the appointment of a Commissioner, as the new role of the Provincial Ombudsman began in early 2016, most have heeded the urging of both the previous Provincial Ombudsman and the Ministry of Municipal Affairs and Housing, that advice being essentially to establish and maintain a local approach first and foremost.

As you are likely aware, Bill 68 is now before the Legislature, and proposes a number of significant changes to the Municipal Act regarding Codes and Integrity measures. While some of the changes will have modest effect in Caledon (e.g, a requirement that advice provided must be in writing) the more significant changes (mandatory for every municipality to have a Code in place, and to either have or have access to an Integrity Commissioner) reflect what Caledon already has in place. I will continue to monitor these developments as the legislative process unfolds, and work with your staff on advice for Council, should the Bill become law.

The MICO group has begun, and continues, a collaborative relationship with Ontario's new Provincial Ombudsman, as that office now has a defined role in the municipal sector.

I will of course continue to participate in the Municipal Integrity Commissioners of Ontario meetings, and to advise Council further as necessary.

Conclusion

I am pleased to continue to serve the Council and the people of Caledon in this important role, and look forward to an interesting year ahead.

Respectfully submitted,

John E. Fleming
Integrity Commissioner