

*Request for Decision United Townships of Head, Clara & Maria Council*

Type of Decision									
Meeting Date	Friday, March 27, 2015				Report Date	Tuesday, March 24-15			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	X	Information Only			Type of Meeting	X	Open		Closed

## Review of Council Code of Conduct - Report #27/03/15/1102

**Subject:**

A first of term review of the Council Code of Conduct.

**RECOMMENDATION:**

That Council adopt the amended Code of Conduct.

**WHEREAS** Council and staff recommendations have been incorporated into an amended document;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby adopt the amended Council Code of Conduct dated March 2015.

**BACKGROUND/EXECUTIVE SUMMARY:**

Those sections of the Code of Conduct (aside from grammatical and typo errors) amended include:

9. CONDUCT OF ELECTION CAMPAIGN

9.1. Every member shall comply with all applicable requirements of the Municipal Elections Act, 1996.

9.2. No member shall use confidential information, facilities, equipment, supplies, services or other resources of the municipality, for any election campaign or campaign-related activity that are not offered to other non-council member candidates.

9.3. No member shall undertake campaign-related activities on Municipal property during regular staff working hours unless authorized by the municipality.

9.4. No member shall use the services of any person for election-related purposes during hours in which that person receives any compensation from the municipality unless those same services are being offered to all candidates, current members of council or other.

The following section has been removed:

1.1.1. The Integrity Commissioner may also recommend that Council or a local board take one or more of the following actions:

- 1.1.1.1. Removal from membership on a committee or local board;
- 1.1.1.2. Removal as chair of a committee or local board;
- 1.1.1.3. Repayment or reimbursement of monies received;
- 1.1.1.4. Return of property or reimbursement of its value;
- 1.1.1.5. Request an apology to Council, the complainant, or both; or
- 1.1.1.6. Any other or additional action deemed by Council to be appropriate, and which is within its power to take.

### **Options/Discussion:**

Councillor Grills had a question about section 11 during the council meeting. Upon a phone conversation on March 24 initiated by the Clerk for clarification it was determined that the question was not whether the sanctions listed could be taken but whether an Integrity Commissioner first had to have conducted an investigation.

Upon additional research...

It is true that Council has no authority to act until and unless an Integrity Commissioner is appointed and in fact conducts an inquiry or investigation.

Once it has been determined that there was an infraction the Commissioner is to report that to Council. At that point, Council uses its own discretion to impose what it feels are warranted sanctions.

Until a court decision in 2013 the following was true and was used to create our original document... "Although the sanctions in paragraph 11.1.1 are listed in the Municipal Act, they are not exclusive and may be supplemented by other sanctions as listed in 11.1.2. The draft of the Code of Conduct used to create HCM's has been crafted and provided for municipal use in Ontario Municipal Law User's Manual produced by Carswell and used by HCM staff."

Since the court decision in 2013 the following has now been proved and will have to be complied with....

From... [http://www.cba.org/cba/sections\\_municipal/pdf/Paper\\_JohnMascarin\\_Aug2014.pdf](http://www.cba.org/cba/sections_municipal/pdf/Paper_JohnMascarin_Aug2014.pdf)

The Conduct of Elected Municipal Officials – Can Their Behaviour be Regulated? \*\*

\*\*This paper was originally presented at the LSUC Six-Minute Municipal Lawyer 2014, May 13, 2014, and has been reprinted with permission. John Mascarin - Aird & Berlis LLP

"Integrity Commissioners can investigate and report on potential contraventions of a municipality's code of conduct. Unless expressly authorized by the council which appointed them, an Integrity Commissioner can only recommend penalties to be imposed on a member if a contravention is found. It is clear that only one or two penalties may be imposed pursuant to either subsection 160(5) of the City of Toronto Act, 2006 or subsection 223.4(5) of the Municipal Act, 2001:

1. A reprimand; or

2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

The penalty provisions in subsection 160(5) of the City of Toronto Act, 2006 were considered in Magder v. Ford (2013), 7 M.P.L.R. (5th) 1 (Ont. Div. Ct.) and were determined to be finite and not subject to expansion or enlargement.”

### **Financial Considerations/Budget Impact:**

### **Policy Impact:**

### **Others Consulted:**

Additional reading may be located at:

<http://www.weirfoulds.com/the-municipal-integrity-commissioner-in-ontario-role-and>

The Code of Conduct of the Municipality of Parry Sound

<http://www.erin.ca/file.ashx?id=11b6c2c8-2897-4ff1-b446-530632482a52>

Approved and Recommended by the Clerk

Melinda Reith,  
Municipal Clerk