

2019 ANNUAL REPORT OF THE INTEGRITY COMMISSIONER

THE CORPORATION OF THE CITY OF STRATFORD

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Introduction

I was appointed as the Integrity Commissioner for the City of Stratford by agreement pursuant to subsection 223.3(1) of the *Municipal Act, 2001* on December 18, 2018.

This is the first annual report that I have prepared and it covers the period from my appointment until December 31, 2019.

Ontario's Municipal Accountability Framework

The municipal accountability framework for all local governments in Ontario was significantly amended early in 2019. The *Modernizing Ontario's Municipal Legislation Act, 2017* implemented changes to both the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*.

As of that date, all municipalities in Ontario were required to establish codes of conduct for both their members of council and members of their local boards, and to appoint or secure the services of an Integrity Commissioner. Prior to that date, both codes of conduct and Integrity Commissioners were permissive – they are now mandatory.

The role of the Integrity Commissioner was enhanced last year by amendments that were made to the *Municipal Act, 2001*. The functions of an Integrity Commissioner are set out in subsection 223.3(1) of the *Municipal Act, 2001*:

223.3(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*.

Complaints Received

Last year I received five (5) complaints 4 of which were against all of Council for its approval of the BioGas Plant and its impact on the community and the environment. I summarily dismissed all of them with the explanation that I report to Council and have no jurisdiction to rule against a majority of Council. I advised the complainants that the intent of the *Stratford Code of Conduct for Council, Local Boards and Committees* (the "Code") is to permit complaints against individual Councillors or groups of them, alleging that they have contravened the Code. I found no breach of the Code in any of the 4 complaints.

The fifth complaint alleging a violation of the *Municipal Conflict of Interest Act* was against members of Council who were also directors of the Stratford Hydro facility for accepting compensation from that corporation. I also summarily dismissed this complaint citing Section 4 (g) of the act, which exempts such compensation from constituting a pecuniary interest.

Advice Provided

I received 7 requests for advice during the year, 4 from members of Council, 1 from a member of a local board and 2 from members of the public. This is one of the new functions of the Integrity Commissioner and empowers me to provide specific written advice to members with respect to their obligations under the Code, other City ethical policies, rules or procedures and the *Municipal Conflict of Interest Act*. The Act requires that all requests for advice be made in writing. It is my policy to accept telephone calls but require an E-mail to be sent to me before expressing my opinion in writing.

The advice I provided during the year will remain confidential except for the following which I believe should be shared with all of Council:

One member of Council had the impression that Council members should not discuss agenda items prior to a meeting with other members of Council. I advised that in my opinion, discussions between members of council is essential for a member to do his or her job and they are part of democracy. I include both public and private conversations. In my opinion the intent of the *Municipal Act* is to prevent a clandestine strategy being developed to obtain a commitment to vote in a certain way from a majority on a controversial issue. It also prohibits a councillor from openly calling or attending an unofficial meeting of a quorum of Council to discuss an issue. There was also a case where an E-mail to all members of Council was judged to be contrary to the Act because many of the recipients used the "Reply All" feature and it was deemed to be a virtual meeting.

Education & Training

I was pleased to present a comprehensive workshop and educational session to members of Council and Staff on the Code and the *Municipal Conflict of Interest Act* on January 21, 2019.

Existing Code of Conduct

An extensive report was prepared by staff after consulting with me on the Code revisions which were approved by Council on February 4, 2019. In my opinion, the Code complies with the Municipal Act and no further revisions are required.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'RS', with a long horizontal flourish extending to the right.

Robert Swayze
Integrity Commissioner