

MCIA and Municipal Codes of Conduct: invaluable legislation to ensure honest and accountable governance

By Mike Riley

Local Journalism Initiative Reporter

OVER THE PAST several months, several public officials from some municipalities surrounding Bancroft have run afoul of the Municipal Conflict of Interest Act and their respective Municipal Codes of Conduct, resulting in a report to the Integrity Commissioner and an investigation of their conduct. Penalties for these public officials were then suggested by the Integrity Commissioner, which the council can accept, reject, or modify at their discretion, depending on the severity of the transgression. Unfortunately, I've noticed some people in the community view these complaints to the Integrity Commissioner, the resulting investigation and suggested penalties as some kind of retribution by the complainant, a distraction or an unnecessary exercise.

Municipal Codes of Conduct and the Municipal Conflict of Interest Act are there to protect me, you, and all taxpayers, and all public officials in general, from enriching themselves financially or otherwise, either intentionally or unintentionally.

While there are undoubtedly some complaints to the Integrity Commissioner that are made frivolously, vexatiously, not in good faith or without sufficient evidence, many complaint/inquiry protocols empower Integrity Commissioners to dismiss these at an early stage and not follow them through to completion. If a complaint has merit and is justified, that's when the Integrity Commissioner follows the investigation through to completion and suggests penalties to the council in question.

Some in the community and the public service, also decry and erroneously believe these complaints to the Integrity Commissioner are done anonymously. This measure is to protect township staff and others within the communities who feel that they may face retribution if their identity was revealed widely and publicly. Fleming clarified the process to The Bancroft Times on Nov. 6, 2023, saying that complaints are not actually anonymous and that he requires the name of the person complaining as part of the process.

?However, the Municipal Act requires that the Integrity Commissioners keep confidential the investigation process and, in most cases, this includes the name of the complainant. If it is necessary for a member of council to properly defend themselves to know who the complainant is, in those specific circumstances, we would disclose the name, with the complainant knowing in advance that we were doing so,? he said.

To underline how important this anonymity is for complainants (except to the Integrity Commissioner), in one case a complainant whose identity became public has faced severe blowback from the community for their complaint, including repeated and forceful suggestions they resign from their job.

The Ontario MCIA came into effect in 1983, and requires local government representatives to disclose pecuniary interests and to abstain from decision making on matters on which they have these financial interests. These pecuniary interests fall into three categories; direct interest, indirect interest or deemed (family) interest. In addition, there are exempt interests, including two general exemptions; a pecuniary interest which is common with electors in general, and a pecuniary interest that is so remote or insignificant that it cannot reasonably be regarded as likely influencing the member. More information on the Ontario MCIA can be found at www.ontario.ca/laws/statute/90m50.

All municipalities have to have Codes of Conduct under the Municipal Act, 2001, for councillors and certain local boards. They also have to provide access to an Integrity Commissioner. Municipal Codes of Conduct compel members of council to observe the highest standard of ethical conduct and they're expected to act honestly, independently, impartially, with discretion and without regard to self-interest, avoiding any situation liable to put them into a conflict of interest. Municipal Codes of Conduct can be found on their respective township websites.

If a complainant isn't happy with the Integrity Commissioner's report, complaints can be brought to the Ontario Ombudsman as a last resort, who will review the Integrity Commissioner's work and make their own determinations if necessary.

In summary, the Municipal Conflict of Interest Act and the Municipal Codes of Conduct are there to protect the taxpayers and public officials from abuses to the system by public officials, that would enrich them, financially or otherwise, either intentionally or unintentionally and are generally not a form of retribution or revenge against public officials that some in the community seem to think they are, as there are checks and balances in place to preclude complaints without merit. Encouraging high standards of conduct from public officials through the MCI Act and Codes of Conduct and the Integrity Commissioner complaint process not only improves governance quality and public administration but also protects and maintains the integrity and stability of a municipality's reputation in the long run.