

January 18, 2022

Annual Report 2021
Township of Wilmot Integrity Commissioner

I was appointed Integrity Commissioner for the Township of Wilmot in March 2013 (By-law 2013-16) in conformity with Section 223.3 (1) of the Ontario *Municipal Act, 2001* as revised in 2017.

Under the *Municipal Act, 2001* the Integrity Commissioner “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 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*.” (section 223.3(1))

The *Municipal Act, 2001* refers to the possibility of the Integrity Commissioner providing “a periodic report to the municipality on his or her activities” and I have done so through an annual report to Council on investigations completed and underway. This report will continue that practice and to set out some observations for future reference based on the Integrity Commissioner’s 2021 activities.

Integrity Commissioner Activity 2021

Investigations prompted by several applications filed in 2020 were not completed until early 2021. In two cases (IC Reports 2020-01 and 2020-02) I determined that contraventions of the Code had occurred and recommended penalties in relation to those findings as provided for under Section 223.4 (5) of the *Municipal Act, 2001*. Since these were the first investigations in Wilmot that led to such findings, Council carefully considered the reports and their implications and, in each case, imposed a penalty under Section 223.4 (5). My investigations of the two other cases originally submitted in 2020 led me to conclude in (IC Reports 2020-03 and 2020-04) that no contraventions had occurred.

During 2021, I received no applications to investigate violations of the Code of Conduct for Members of Local Boards or the *Municipal Conflict of Interest Act* but an additional seven formal applications were filed for an investigation under the Township of Wilmot's Code of Conduct for Elected Members. In no instance did I conclude that the evidence demonstrated that the Code of Conduct for Elected Members had been violated. Nevertheless, the number of applications filed was unprecedented and each required a considerable amount of time to investigate and to prepare a report as required under the *Municipal Act, 2001* section 223.6. I also responded to several questions about the applicability of both Codes of Conduct and the *Municipal Conflict of Interest Act* from elected officials, staff and members of the public and provided advice as necessary.

Commentary

Together these Code of Conduct applications and the inquiries based on them compel me to include some additional commentary in this Annual Report even though the behaviour or incidents that generated new complaints in 2021 were ultimately not found to be verifiable violations of the Code. The Code of Conduct does permit the Integrity Commissioner to refuse to investigate allegations that are deemed to be "frivolous or vexatious or beyond his jurisdiction," but the requests filed in 2021 reflect matters of public concern that for a number of reasons required thorough investigations.

For one thing, the allegations were lodged during a period of considerable controversy in Wilmot, particularly in relation to the future of the Prime Ministers Path, and I believed it would be irresponsible of me to set them aside strictly on technicalities or because of other deficiencies in the application itself. Furthermore, the complaints were filed by residents who believed that they had observed unacceptable behaviour by elected officials in the performance of their public duties and who believed that the Code of Conduct is the appropriate means available to them to address such questions. In addition, since the role of the Integrity Commissioner and the nature of the legislative parameters implicit in the Code of Conduct are relatively new features of the municipal system in Ontario, I see the investigations - as explained in the reports themselves - as a contribution to my educational role as Integrity Commissioner (point 7 on the list above). That is, I have undertaken these inquiries in 2021 in the interests of helping to clarify for Council and the community the applicability of the Township's Code of Conduct and to provide guidance to those who may wish to consider making submissions in the future. As I stated in IC Report 20121-07, though, new submissions based exclusively on incomplete, imprecise or otherwise unverifiable evidence or submissions that are not tied in some way to the substantive rules found in the Code of Conduct will not be investigated in this way.

Developments Provincially in 2021

In the spring of 2021, the Ministry of Municipal Affairs and Housing initiated a consultation with the municipal sector and the public to examine "what changes or mechanisms are needed to better hold council members accountable for municipal code of conduct violations," "how to more effectively enforce these codes" and "whether a broader range of penalties for violations of the codes of conduct are needed." At the present time, I have been unable to determine whether the Province has as yet concluded what changes may be

needed and what changes may be implemented. I will share any developments with Council as information becomes available.

Requests for Inquiries in 2022

Revisions to section 223.4 (7) of the *Municipal Act, 2001* that took effect on March 1, 2019 have instituted a limitation on inquiries under the two Codes of Conduct and the *Municipal Conflict of Interest Act* during a year when a regular election is scheduled (that is, 2022).

Basically, the revised legislation calls for the termination of any inquiry by an Integrity Commissioner under the two Codes of Conduct that has not been completed before nomination day. Therefore, in the period starting on nomination day and ending on voting day no requests for an inquiry will be accepted, no reports will be submitted to the municipality about whether a member of council or of a local board has contravened the applicable code of conduct and Council may not consider whether to impose any penalties that may be recommended in such a report. The amendment to the *Municipal Act, 2001* also applies these limitations to inquiries made under the *Municipal Conflict of Interest Act* during this period but extends the applicable filing period as established in the *Act* to permit additional time to file the request “within six weeks after voting day.” (section 223.4 (5.2)).

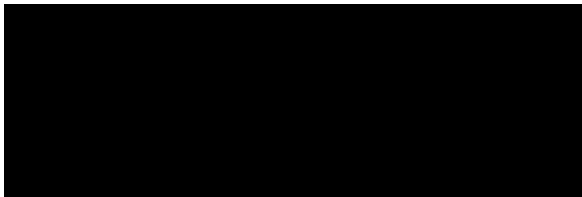
Under the *Municipal Elections Act, 1996*, as revised in 2021, “Nomination day for a regular election is the third Friday in August in the year of the election” (section 31) and voting day is the fourth Monday in October (section 5). In 2022, nomination day is August 19 and voting day is October 24.

Conclusion

I am prepared to work with Staff on revisions to the Township’s two Codes of Conduct and associated documents and will continue to maintain regular contact with other Municipal Integrity Commissioners across Ontario as part of my professional development.

I appreciate the opportunity to serve the Township of Wilmot in this important responsibility.

Respectfully submitted,

A large black rectangular box redacting the signature of the Integrity Commissioner.

Integrity Commissioner
Township of Wilmot