

Georgina Advocate

Georgina could OK integrity commish tonight

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The Town of Georgina will appoint an integrity commissioner to conduct independent review of residents' complaints regarding the conduct of council, committees and local boards, if a staff report gets the stamp of approval tonight at council. Staff recommends retaining the services of George Rust-D'Eye of Weirfoulds LLP to provide review, investigation and preparation of reports with respect to the application of the code of conduct, procedures and policies governing the ethical behavior of members of council and local boards. Mr. Rust-D'Eye was chosen for his experience in the area, having served as integrity commissioner to numerous municipalities, including Mississauga, Brantford and Hamilton.

The integrity commissioner will work to ensure the code of behaviour and ethics governing elected officials are objectively applied. This may include general advice to members regarding proper interpretation and compliance; investigating any possible contraventions of any applicable code of conduct; to report any violation with any recommendation for sanction in accordance with the Municipal Act and any prevailing protocols or policies with the town; and to provide report findings to the public through the town's website. Staff will provide overall cost estimates within the proposed 2013 budget, but an hourly rate of \$450 was included in the report. While the town adopted a code of conduct in

2008, an independent integrity commissioner was not appointed at that time. The issue, however, has resurfaced according to the report, in light of the recent investigation launched by a Keswick resident to determine if proper procedure was followed after a defamation lawsuit against the town's former leisure services director was dropped. Despite the fact the town breached the Municipal Act at one of its closed meetings, the overall procedure it followed was legal, according to results of a four-month investigation conducted by Amberley Gavel Ltd. It began in May and included a review of agendas and minutes of meetings of council, procedural bylaw and applicable legislation. During a closed meeting in November 2011, town staff provided a letter containing legal advice from the town's solicitor, including but not limited to a conclusion that litigation would be commenced, for review by the committee. Staff was directed to "follow legal advice" to initiate legal proceedings, which effectively were decisions that "exceeded a mere direction" even though the committee did not take a formal vote of the matter.

While there is no clear direction or definition under the act regarding "directions" to staff, investigators concluded the intention of the act is not that a substantive decision be "couched" in a direction to staff. No sanctions were outlined by Amberley Gavel, but it recommended council and committees

should be diligent in ensuring the way a matter is handled in closed session does not breach the Municipal Act. "More specifically, a council cannot make substantive decisions (even if they don't vote on them) and then characterize the decision as a mere direction to staff or others when indeed it is not merely directional in nature," the report stated, noting committees have even less authority to direct staff.

In addition, the town could have followed proper municipal procedure more accurately when citing the reasons for closed sessions on meeting agendas, but those "procedural inaccuracies" would not render any decisions made at those meetings illegal, the report concludes.

"We do not think there was any intention of the town or of council to shield the overall matter from openness and transparency by assigning the broader, more ambiguous Municipal Act exception dealing with "personal matters", even if it was not the more relevant or accurate exception," the Amberly Gavel report stated.

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