

Council Code of Conduct set for approval Tuesday

By Brock Weir

A new Code of Conduct governing the behaviour of Council members, as well as members of local boards, passed the first hurdle last week and is set to be ratified at Council this Tuesday.

Council members gave the thumbs-up to a new Municipal Code of Conduct at last week's General Committee meeting.

Previously a hot button issue in Aurora following its formal adoption in the 2006 ? 2010 Council term and scrapped during the subsequent term, an Integrity Commissioner and Code of Conduct is now required of municipalities to comply with 2017 Provincial Legislation, which comes into effect March 1.

?The intent?is that members of Council and, to a lesser extent, members of advisory committees or local boards, should be held to a higher standard of behaviour and conduct,? said Michael de Rond, Clerk for the Town of Aurora.

The Code of Conduct covers a wide range of areas including gifts, hospitality and benefits received by members, outlines respectful conduct, including conduct towards employees of the municipality, and how members handle confidential information.

The guiding principles, said Mr. de Rond, is that ?members of Council shall serve the public and their constituents in a conscientious and diligent manner.?

?Members of Council shall be committed to performing their functions with integrity, impartiality and transparency. Members of Council shall perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny. There is a benefit to the municipality when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of profession, community associations and otherwise.?

Aurora has followed the lead of the Region of York in retaining the services of Principles Integrity to act as Integrity Commissioners. The firm has also been drafted in Whitchurch-Stouffville and East Gwillimbury.

The Integrity Commissioner (IC) will be tasked with reviewing complaints and possible breaches with respect to the Code of Conduct made by a Council, Council member, or member of the public, in various ways.

?Once Council and local Board Codes of Conduct are passed by Council, the Town will publish a robust website page that will contain information about Codes of Conduct, the Integrity Commissioner, and how members of the public can access them,? said Mr. de Rond. ?The filing of a complaint with regards to the Code of Conduct is a confidential process. The complaint will be sent directly to the office of the Integrity Commissioner for their review. Complaints are investigated as expeditiously and as reasonably as possible, but in accordance to the tenets of procedural fairness and the confidentially provisions of the Municipal Act. Upon receipt of a complaint, the integrity commissioner will first ensure they have jurisdiction to investigate the complaint and [also] whether the complaint is of a frivolous or vexatious nature.

?If the IC decides that it is in the public interest to pursue a complaint further, the formal process may be initiated. This will involve an investigation by the IC which may result in a report to Council if there are substantive findings and/or recommendations. Recommendation reports produced after an investigation sustains one or more of the allegations will clearly and accurately recite the relevant facts and circumstances, and set out findings and recommendations with precision and without hyperbole. When it is in the public interest to do so, for example, to clear the air, or to provide the necessary closure when the circumstances demand, a report can be issued even where there have been no findings or ethical transgressions.?

The Integrity Commissioner, Jeffrey Abrams, was on hand to take questions from Council members last week, and they included protection for whistleblowers and a grey area for Council as they are neither employers or municipal employees under the definitions contained within the Code.

Councillor Michael Thompson, on the other hand, questioned whether it would be more efficient for all parties if Aurora and the Region adopted the same Code of Conduct.

Mr. Abrams agreed there would indeed be some efficiencies and that that would be encouraged, but it is not essential going forward.

?I only bring it up because my understanding is it has already been presented to the Region, there were some questions initially [around] the definition of family, that it may have been too extensive, shall we say, to include first cousins and so forth,? said Councillor Thompson. ?I thought there might be some value in the comments that the Region had made previously being also made with this Council.?

The Integrity Commissioner noted that the Code of Conduct is a living document and, once adopted, minor amendments can be made down the line.

When we get to Regional Council, we will have a more fulsome discussion on whether we approve this or look at making some minor changes, but I do think we should have two Codes of Conduct, one at the Region and one here that mirror each other and shouldn't be different," agreed Mayor Mrakas, Aurora's representative at the Region. "From my perspective [as] the Regional Representative, it makes it difficult to have to basically work with two different Codes of Conduct and I think it should be the same standard across the Board. I hope we adopt this one tonight and if we do need to make some minor amendments going forward, we can do that."

Questions were also raised by Councillors John Gallo and Wendy Gaertner, the two members sitting around the table, who were also present during that contentious period on the 2006 - 2010 term when Aurora's first Code of Conduct came into sharp focus. Councillor Gaertner questioned whether or not a stipulation could be placed within the Code of Conduct requiring each elected member to sign the Code, acknowledging they will adhere to its provisions, noting there was a situation during that time when one member refused to sign the Code of the day.

The Integrity Commissioner responded that it is clear that once the Code is adopted Members are "obliged to follow it." "The requirement to sign would be superfluous and may, in fact, introduce an opportunity for someone to suggest that they can reject the Code of Conduct when they cannot," he said.

Councillor Gaertner also questioned how the Code of Conduct would govern former Council members with respect to confidential information they received during their time in office.

"It is certainly understood that the information is confidential," said the Integrity Commissioner. "I am uncertain about the mechanism that might be brought against a person who is no longer a member of Council, who might breach that obligation of confidentiality. There may be legal means outside of the administration of the Code of Conduct. It is not a question we have encountered before. I suppose I could say fortunately we have almost four years to figure it out and I can undertake to do that, but my first blush at answering the question is that once a member leaves office the Code of Conduct likely doesn't apply, but the obligation to keep the information confidential would continue."