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Federation of Northern Ontario Municipalities 57<sup>th</sup> annual conference**

**Ombudsman Paul Dubé: Keynote presentation**

**North Bay, Ontario**

**May 11, 2017**

- 1** Welcome and hello!
  
- 2** Thank you, Lynn, and thank you so much Premier, for giving me a tough act to follow for the second year in a row!
  
- 3** Well, good afternoon, everyone. I hope you’re having a fantastic conference so far. As I said, I’m very pleased to be here for the second year in a row. Last year, just one month after I became Ombudsman, I attended FONOM in Timmins as one of my very first events.
  
- 4** *Bon après-midi à toutes et à tous. J'espère que vous trouvez la conférence fantastique jusqu'à présent. Comme je l'ai dit, je suis très heureux d'être ici pour la deuxième année consécutive. L'an dernier, tout juste après que je devienne Ombudsman, j'ai assisté à la FONOM à Timmins. C'était l'un des premiers événements auxquels je participais.*
  
- 5** It was an eye-opener for me. I was only a month into the job, and had come from being an ombudsman in the federal government before that.
  
- 6** Despite coming from a small town in northern New Brunswick, where my mom served as town councilor, and my father with whom I practiced law was the town solicitor (but not at the same time!) I knew I had much to learn about municipalities in Ontario.
  
- 7** So it was a great two-way learning experience. In addition to my presentation and the questions and answers that followed, I was able to speak to so many of you, including having face-to-face conversations over a cup of coffee in the diner in the exhibition centre. That was one of the first times I was able to really hear about municipal issues firsthand, and speak with the folks on the ground – you – about your thoughts and concerns.

**8** Since then, I've continued to make it a priority to seek out and meet with municipal officials, council members, and staff across the province. For example, I attended AMO last August where I had many great conversations and will be doing so again this year. My team and I regularly meet with individual municipalities, and groups like the Municipal Integrity Commissioners of Ontario or the various boards for municipal associations. We see and hear the same issues that you see and hear – and every day we learn something new.

**9** *Nous voyons et nous entendons les mêmes problèmes que vous - et chaque jour, nous apprenons quelque chose de nouveau.*

### **Year in review**

**10** Last year, when I was on the FONOM stage, I told you about my Office, and about our “new” oversight of municipalities, including how we work and my approach to the role. Well, that oversight isn't so new anymore. It's been in place for a year and a half.

**11** And now, there are other ‘new’ changes on the horizon – including changes to how municipalities operate through Bill 68, legislation that will modernize the Municipal Act. We've been getting lots of questions about that and I'll touch on it in a few minutes.

**12** So what's been going on in my office in the past year?

**13** Well, since I was here last May, my office has released reports on four systemic investigations, making more than 100 recommendations, all of which have been accepted by government. And only one of those reports was about a municipality! And I might add, that that one was done at the request of the municipality in question.

**14** Since I became Ombudsman last year, we have made recommendations to improve police training. To transform the system for adults with developmental disabilities in crisis. To strengthen the tracking system for segregated inmates in Ontario jails. And, in the municipal sector, to bolster the procurement process in the city of Brampton.

**15** During this time, as I mentioned, I've also made it a priority to build productive, appropriate relationships with municipalities, and share my Office's best practices and other observations we've gained dealing with municipal issues.

**16** I have to say, I am encouraged by the experience we've had so far. I don't have to tell you that many of the municipal issues we deal with are thorny and complex, but the communication and feedback we've had from municipalities has been overwhelmingly positive. It's encouraging to see that we're all on the same page with the same end goal, which is improving governance for citizens.

**17** *C'est encourageant de voir que nous sommes tous sur la même longueur d'onde, et que nous partageons le même but final - qui est l'amélioration de la gouvernance pour les citoyens.*

**18** So I thank you for inviting me here today, and for welcoming members of my team who are here at the trade show this week. I understand you're keeping them very busy! This is another reason we make it a priority to attend trade shows and conferences like these – communication is a two way street and we are here to listen and learn as much as to educate and inform.

**19** I want you to know that my Office isn't just about receiving complaints. It's about working with stakeholders to get problems solved and improve governance. So I hope you'll also consider us a collaborative resource if you have questions or concerns.

**20** As we do in any area of our jurisdiction, we strive to work proactively and collaboratively to resolve issues and avoid the need for formal investigations as much as possible.

### **An Ombudsman's role in looking forward**

**21** The theme of this year's conference is "Forward Thinking for a Greater North." A big part of future planning is having processes and procedures in place now, to deal with issues that might arise in the future – issues like public complaints.

**22** In this day and age, citizens have come to expect that their local governments will exercise principles of fairness and accountability – and rightly so – and that these same governments will provide ways for them to voice their concerns if or when they have any.

**23** The best way to do this is to create a robust, clear, and straightforward complaints.

**24** You know, I'm in the complaints business, not because I like to deal with unhappy people, but because resolving complaints is so rewarding, especially when you get to the root causes and can prevent them from recurring. What I have learned is that complaints are of great value to any organization. I truly believe that. As Bill Gates has said, your most unhappy customers are your greatest source of learning – and, if I might add, a golden opportunity for improvement. That is why progressive and forward-looking organizations actually embrace complaints and see them as opportunities to engage with stakeholders and get buy-in to help advance their agendas.

**25** That approach is based on an awareness of human nature. If people feel an organization is not fair or won't listen to them, they are less likely to engage with that organization and accept its decisions or actions. They may actually be inclined to challenge the organization, protest, litigate, and not comply with its rules. That forces the organization to spend valuable resources dealing with a lack of compliance, litigation, protests, and bad press. That can actually be detrimental to the bottom line.

**26** But the opposite is also true. If people see an organization putting a priority on service and fairness, they are much more likely to support and accept what the organization is doing. Removing the irritants I mentioned can be good for the bottom line and allow it to devote precious resources to realizing its vision rather than defending itself.

**27** At my Office, we deal with more than 20,000 complaints every year, about one-fifth of which are related to municipalities. We deal with these complaints impartially. We do not advocate for the complainants and not all complaints have merit. So we use each one to either validate the work being done by public sector bodies, or provide helpful, constructive feedback on how to solve the problem, improve processes, and prevent issues from recurring.

**28** Since we began taking complaints about Ontario's 444 municipalities on January 1, 2016, we've had more than 4,300 complaints come to us, about all the issues your municipalities also see daily – from sewage and drains and potholes and snow clearing, to by-laws and zoning, to committees and council.

**29** When we get a complaint, we look at administration and process, to determine if a public body followed the correct procedures. We help resolve issues related to individual complaints, and we address systemic issues by proposing corrective actions.

**30** With all of these complaints, how many have we closed? Well, we've closed about 90 per cent of them.

**31** And how many, of those thousands, have become full, formal investigations?

**32** Three. Just three! We've had three formal investigations out of more than 4,300 complaints. Again, one of those was about procurement issues in Brampton that the city asked us to do.

**33** So what happened to all those other complaints?

**34** Well, as we resolved each issue, we helped the municipality make its processes better. Or, we validated the solid processes that the municipality already had in place.

**35** And we did it quietly, behind the scenes without fanfare. That is consistent with the work we do in all areas of our jurisdiction.

**36** I know many of you are also quite familiar with us because of our role as closed meeting investigator.

**37** Our Office has been the investigator for approximately half of all Ontario municipalities since 2008. This has given our staff valuable experience with municipalities, and helped us understand that you are all different in your own way. It has allowed us to help citizens with hundreds of complaints, and help councils ensure that their meeting practices are open, transparent and consistent with the law.

**38** Unfortunately, I know it also led to a lot of confusion and concern, because it cast the Ombudsman's office in a law enforcement role. For many people, this created the mistaken belief that our role was to police local councils, which is not at all what we do. An enforcement role simply doesn't allow an ombudsman's office to play to its strengths.

**39** What an ombudsman's office normally does – and what ours excels at – is resolve most complaints informally. We do a great deal of work behind the scenes to humanize government and remove the irritants confronted by citizens. We look for simple, sensible solutions to problems, usually without having to resort to formal investigations.

**40** *Le rôle d'un bureau d'ombudsman est généralement de régler la plupart des plaintes de manière informelle – et c'est un rôle dans lequel notre Bureau excelle. Nous faisons beaucoup de travail en coulisses afin d'humaniser le gouvernement et d'éliminer les sources de friction pour les citoyens. Nous cherchons des solutions simples et sensées aux problèmes, généralement sans devoir recourir à des enquêtes officielles.*

**41** And we've also been working on materials for council members to better understand their role with regards to closed meetings – including closed meeting tip cards, an updated version of our Sunshine Law Handbook, and an upcoming web resource – a Digest of our Open Meeting cases and decisions - that will help you search closed meeting cases quickly and easily by municipality and by keyword.

**42** This is another way we look forward – we help improve processes so problems don't recur in the future.

**43** But the majority of our work is not only done behind the scenes; it's done proactively.

**44** At the provincial level, this means meeting regularly with the leadership of provincial government organizations, to alert them to problems they can fix before they mushroom into something worse. I meet with the Secretary to Cabinet and Cabinet Ministers and Deputy Ministers; my Executive and Managers meet with Associate Deputy Ministers and Directors; and so on down the line. We foster these relationships in order to resolve problems as efficiently and as effectively as possible, hopefully through collaboration and without an investigation.

**45** And we've done this with municipalities, too – explaining how we work, looking at complaint trends, discussing what to expect when we call, and reiterating the value of having someone – us – validate if things are working as they should be.

**46** In doing this, we often avert the need for a major investigation, simply by making sure complaints are being addressed by those who are directly responsible.

**47** Occasionally, we will come across issues that can't or won't be resolved and that warrant a formal investigation. Even more rarely, we will tackle broad, systemic problems that affect hundreds or even millions of people.

**48** Sometimes the political will does not exist, or the resources cannot be secured, to address systemic problems until our investigations shine a light on the problem. Once we compile irrefutable evidence, conduct a fair and balanced investigation, tell compelling stories to illustrate the problem, and present feasible recommendations, the desire and resources usually materialize.

**49** For example, in April, we released a report about tracking and placement of segregated inmates in provincial jails. It made headlines across the province. We made 32 strong recommendations to improve a very flawed system, all of which were accepted by government.

**50** We saw a serious issue that we reported on year after year, but hadn't gotten fixed – so we made some noise about it. And the result is the government's pledge to put in place our 32 suggestions to make it better.

**51** That's what I call a "win-win-win": It's a win for us because our recommendations are accepted; it's a win for the person or people who complained; and it's a win for the public servants involved, who are often well aware of the problem but don't have the wherewithal to get it fixed.

**52** *C'est ce que j'appelle une solution gagnant-gagnant-gagnant : nous y gagnons, car nos recommandations sont acceptées, la personne qui a porté plainte y gagne, et les fonctionnaires concernés y gagnent aussi car ils avaient souvent conscience du problème, mais ne disposaient pas des ressources pour y remédier.*

### **How it works for municipalities**

**53** On a municipal level, we are constantly working with municipal staff to help their cities and towns improve their processes. The great majority of cases are referred right back to existing complaint mechanisms, like local ombudsmen and integrity commissioners.

**54** In some cases, our staff make informal inquiries with the relevant municipal officials. Most of the time, they are able to resolve problems to everyone's satisfaction.

**55** What are people complaining about? Well, as I mentioned, in the winter, it was snow removal, now it's water and sewer issues or garbage collection. Ontario Works, housing programs and, of course, bylaw enforcement account for a lot of complaints. As does customer service in general. We've also gotten a few complaints about DSSABs [*dee-sabs*], or District Social Services Administration Boards, which of course, are unique to the north.

**56** We have many good examples of informal resolutions already.

**57** In one case, a man complained to us that he received a water bill and a late payment penalty even though he had a \$600 credit with the utility. Our staff contacted the municipality and discovered that the man's original account had been closed and a new account had been set up without the credit being transferred over. Once we got involved, the municipality transferred the credit and cancelled out the money owing, and waived the late fee.

**58** This was a simple issue for us to resolve, and a substantial cost savings to the man, who was having trouble navigating a complex system.

**59** In another case, a woman's Ontario Works case worker suspended her benefits, claiming she had received a settlement that meant she was no longer entitled to them. The woman couldn't pay rent and contacted our Office for help. After our staff intervened, Ontario Works discovered the settlement had no effect on her benefits entitlement and that her benefits were being withheld by mistake. Ontario Works provided the woman with her benefit payments and she was able to pay her rent.

**60** However, the number one most common topic of complaints so far has been municipal councils themselves. This category includes complaints about council members and their conduct, policies and decisions of councils (which, generally speaking, we do not get involved in), as well as communications and conflict of interest.

**61** As with all other complaints we receive, the first thing we do when we receive a complaint like this is determine if it can be resolved locally.



**62** And this where you can ask yourselves, what can our municipality do to make sure we're able to help the people in our community? What steps can we take to look forward and be proactive?

**63** Well, do you have a process for handling local complaints? Do you have a code of conduct? Better yet, do you have a local accountability officer, like an integrity commissioner, an ombudsman or both?

**64** We know of 24 municipalities in Ontario with municipal ombudsmen – a number that has grown dramatically in just the last year. We also know of about 84 integrity commissioners, 3 auditors general, and 92 municipalities with complaint processes.

**65** These accountability officers and processes will ultimately make your municipality a stronger and better government for the people you serve.

### **The importance of complaints policies**

**66** From the start of this expansion of our mandate, our office has made it clear that we encourage municipalities to have their own accountability officers, and clear processes for dealing with complaints.

**67** *Dès le début de cette expansion de notre mandat, notre Bureau a clairement souligné que nous encourageons les municipalités à avoir leurs propres agents de responsabilisation, ainsi que des processus clairs de traitement des plaintes.*

**68** We think it's so important to have a code of conduct and complaints process that we've been providing information and presentations across the province about how to do just this.

**69** Having an effective, credible public complaints policy helps build confidence in local government. An objective review can help citizens understand and accept why decisions are being made as they are – it's a cornerstone of transparent, accountable government. It shows you care about sound administration and the people you serve.

**70** A failure to have a fair, understandable complaints process breeds distrust. It not only makes people wary of you as a government, but it can have a negative

impact in other ways – lost revenue, wasted time and resources, and overall unhappiness on the part of both citizens and staff.

**71** Without going into all our recommendations for municipal complaint processes – because there are many! – let me provide a few tips for setting up a robust, effective process.

**72** To start, every municipality should have a general complaint policy, posted publicly, and separate from a code of conduct applying to council members. It should be free for anyone to complain.

**73** If there's a local ombudsman or integrity commissioner, information about how to contact that person should be easily available to citizens.

**74** There should be a very clear timeline for responding to complaints, and people should understand where their complaint will go after they've filed it.

**75** During the complaint review process, the staff designated to review complaints should consider all relevant information and documents.

**76** Once a decision has been made, the person who complains should be provided with a written explanation about why certain decisions or actions were taken.

**77** Your complaint statistics should be collected and reported publicly.

**78** And if course, complainants should be advised that they can contact my office if they're not happy with the response to their complaint.

**79** These are just a few suggestions – there are more on my office's website.

### **Bill 68 – a new twist**

**80** We've been emphasizing the importance of complaints processes for years. But there is another factor now in play that makes them especially important.

**81** I know a lot of you here have been discussing Bill 68 this week, which is the bill to modernize the Municipal Act. Many of you have even made submissions to the standing committee about the bill, as I myself did.

**82** Our work with municipalities all across Ontario, together with our extensive expertise in oversight of provincial government bodies, has given my Office a unique perspective on how to improve transparency, accessibility and accountability in the municipal sector.

**83** As I told the committee, I see Bill 68 as a positive step forward. I fully support the aspects of the Bill that would make it mandatory for every municipality to adopt a code of conduct for council members, and appoint integrity commissioners to review complaints under that code.

**84** And we've heard this too – can't our office act as integrity commissioner? Well, no. The Ontario Ombudsman is an office of last resort. We don't replace integrity commissioners or duplicate their work. Let me take a moment to explain how or when we might become involved with an integrity commissioner investigation.

**85** If someone is unhappy with the result of an integrity commissioner decision, they could, at that point, come to us.

**86** We still wouldn't duplicate the initial integrity commissioner investigation. What we would do, is consider if the commissioner did the following:

- If they acted in accordance with the relevant legislation, the terms of reference set by the municipality, and any applicable policies or procedures;
- If they followed a fair practice;
- If they obtained and considered relevant information; and
- If they provided sufficient reasons to support their decision.

**87** Then, after examining the facts, we might determine that the integrity commissioner had acted properly, and validate the process. Or, we might find it necessary to make recommendations to improve the transparency, accountability or accessibility of the review.

**88** Let me give you an example. A citizen member of a committee, who was the subject of a complaint, contacted us. He was upset because an integrity commissioner's report was discussed during an open meeting, instead of during a closed session, as he expected. We contacted the municipality to see what happened. As a result, the municipality decided to update its procedures for

integrity commissioner investigations, to make it very clear to everyone about its process and about how and when reports would be discussed.

**89** In this case, we didn't examine the actual integrity commissioner investigation, but we did assist in clarifying the processes for everyone involved.

**90** As I've said before, codes of conduct and local accountability officers are simply in the best interests of local democracy and the people we all serve. Putting these mechanisms in place is a proactive and forward-thinking step that will go a long way to enhancing democracy and smoothing the waters.

**91** My Office's role here is ensuring that those mechanisms are functioning as they should. And helping, wherever possible, by recommending solutions and best practices to bolster those efforts.

**92** We also use our unique position and powers to monitor and address issues that are beyond the scope of local officials.

**93** In one example, we co-ordinated efforts between a municipality and a provincial body to make a community railway crossing safer. After narrowly escaping being hit by an Ontario Northland Railway train near her home, a woman requested that an automatic signal be installed to prevent future incidents. The Ontario Northland Transportation Commission agreed to install a signal if the municipality bore the cost, but the municipality rejected this. Our inquiries determined that in fact, ownership of the railway crossing had been in dispute for 50 years. After the intervention by our Office and some coordinated dialogue, the Commission and municipality offered to share the cost of the signal, and it was installed.

**94** Again, a small, but significant, change – and one where our intervention connected the two levels of government to make it happen.

## **Conclusion**

**95** In closing, I just want to thank you again for this opportunity to be here today. My team and I look forward to working with you to solve problems that come to our attention and working proactively in collaboration to prevent many issues from becoming problems or complaints.

**96** I invite you to engage with us and see us as a public service partner rather than an adversary.

**97** *Pour terminer, je veux simplement vous remercier une fois encore de cette occasion d'être ici. Mon équipe et moi serons ravis de travailler avec vous pour régler les problèmes qui sont portés à notre attention, et de travailler en collaboration proactive pour éviter que de nombreuses questions ne deviennent des problèmes ou des plaintes.*

**98** *Je vous invite à travailler en contact avec nous et à nous voir comme un partenaire du service public, plutôt que comme un adversaire.*

**99** And even if we have some thorny issues to resolve, I believe that it can be a positive experience for you. Either you'll have your practices validated by a credible and independent Ombudsman, or you'll receive constructive feedback that will help you be more responsive to the needs of the people you serve.

**100** Now, I'm happy to answer questions today if time permits, and I invite you to contact my office if you have anything else you'd like to discuss.

**101** Thanks again for your attention and enjoy the rest of your conference.

**102** *Merci une fois de plus de votre attention et bonne conférence!*