

DECISION OF THE INTEGRITY COMMISSIONER

TOWNSHIP OF NORTH SHORE

ALLEGATION: CONTRAVENTION OF THE CODE OF CONDUCT

BY: COUNCILLOR GARY GAMBLE



I. EXECUTIVE SUMMARY

- [1] These reasons relate to inquiries under section 223.4(1) of the *Municipal Act, 2001*, (the "*Municipal Act*") about Councillor Gary Gamble ("Councillor Gamble"), an elected member of the Township Council ("Council") for the Township of North Shore (the "Municipality").
- [2] The Requestors alleged that Councillor Gamble failed to act in accordance with the Township of North Shore Code of Conduct and the Staff Council Relations Policy when he:
- Without the authority of Council initiated and received results of a mailout to constituents regarding their preference on how to best fill the vacant Mayor's position.
 - Did not disclose the results as received on a per constituent basis to the Clerk in accordance with the Municipality's policy related to the use of electronic mail and the retention of municipal records bylaw.
 - Came unprepared to Council meetings, often asking questions of the Clerk-Treasurer about matters that were included in the Council Meeting package sent out to Councillors well in advance of Council meetings.
 - Did not sign a sympathy card for the passing of the Clerk-Treasurer's stepfather. It is alleged that this was done on purpose, and to be hurtful towards the Clerk-Treasurer.
 - Did not attend Council training and information workshops that he committed to attend.
 - By his actions toward a staff person on a number of occasions contravened the *Occupational Health and Safety Act* ("*OHSA*").

Mailout

- [3] After former Mayor Condie resigned his position, Councillor Gamble took it upon himself to author and mail a Flyer to households in the Municipality. This was done without the authority of Council.
- [4] A member of Council does not need Council's express authority to get feedback from residents. In fact, it is encouraged. Councillors should seek feedback from residents on important matters.
- [5] Councillor Gamble requested that individuals contact any or all members of Council and provided email addresses for them to do so. He did not however, advise the other members of Council.

- [6] Additionally, Councillor Gamble was requested to file the responses he received with the Clerk [the keeper of all municipal records] because these responses were in fact municipal records.
- [7] Councillor Gamble refused.
- [8] A single member of Council cannot engage the public on behalf of all of Council without Council's knowledge and without a resolution or decision of Council to do so. In other words, a single member of Council cannot speak for all of Council without authorization and by including all members contact information on his Flyer, this is what Councillor Gamble did or certainly appeared on the face of the Flyer to do. We find that this action is contrary to section 1.2 (d) of the Code of Conduct which requires Council members to conduct themselves and perform their duties in a manner that promotes public confidence and will bear close public scrutiny.
- [9] Councillor Gamble contravened both the Municipality's "Retention of Municipal Records Bylaw and the Acceptable Use Policy when he refused to provide the Municipal Clerk with the responses he received as a result of the Flyer he circulated.
- [10] This action is contrary to section 5.10 of the Council Staff Relations Policy in which members of Council must respect the statutory authority of the position of the Municipal Clerk.
- [11] Therefore, Councillor Gamble also contravened section 1.2 (f) of the Code of Conduct by not adhering to Municipal policy.

Unprepared for Meetings

- [12] It was alleged that Councillor Gamble failed to attend Council meetings prepared. He would arrive at the meetings, move the papers around on the table in front of him and then ask the Clerk-Treasurer questions that had already been answered in the materials before him.
- [13] The evidence supports that Councillor Gamble did on occasion ask questions of the Clerk-Treasurer that were specifically already addressed in the Council package.
- [14] There was insufficient evidence to support a finding that Councillor Gamble's actions were contrary to the Council Staff Relations Policy or the Code of Conduct.

Disrespected the Clerk-Treasurer

- [15] It was alleged that Councillor Gamble failed to sign a sympathy card for the Clerk-Treasurer when her stepfather passed away.
- [16] Two (2) members of Council [Deputy Mayor Barton and Councillor Green] had signed the card. Councillors Gamble and Rose did not sign the card.
- [17] Councillor Gamble denies seeing the card. We do not believe this assertion. We find that both he and Councillor Rose purposefully failed to sign the card.
- [18] Failure of Councillor Gamble to participate in signing the sympathy card, while seemingly disrespectful in the workplace, is a personal choice. Council as a body did not pass a resolution requiring all members to sign the sympathy card. Councillors Gamble and Rose were not obligated by a decision of Council or by any specific policy adopted by Council to sign the card.
- [19] It clearly was a political/personal choice and is not a contravention of the Code of Conduct.

Failure to attend Training

- [20] It was alleged that Councillor Gamble failed to attend training held on February 12, 2020 and on February 18, 2020.
- [21] Council had committed to attending training with Wishart Municipal Law Group (WMG) and Expertise for Municipalities (E4m) as the Integrity Commissioner on February 12, 2020. Councillor Gamble did not attend and failed to notify anyone that he would not be in attendance.
- [22] Council committed to attend the Accountability and Transparency Policy drafting Workshop hosted by WMG and E4m on Feb 18, 2020. The Municipality paid for this training (\$45 per Councillor). Councillor Gamble had stated his intention on attending the session and not show up or let anyone know that he was not going to be in attendance thereby costing the Municipality money unnecessarily.
- [23] The cost to have WMG and E4m travel to the Municipality and be unable to carry out the training on February 12, 2020, was significantly more than the \$45 that the

Municipality paid for Councillor Gamble's seat at the Accountability and Transparency Bylaw drafting Workshop.

- [24] There is no provision of the *Municipal Act* or the Code of Conduct that requires a member of Council to attend training. However, members of Council are responsible to serve and be seen to serve their constituents in a conscientious and diligent manner [Code of Conduct section 1.2 (b)].
- [25] Failing to notify anyone that he would not be attending, resulted in unnecessary financial cost to the Municipality and is a contravention of section 1.2 (b) of the Code of Conduct.

Contravention of the *Occupational Health and Safety Act*

- [26] It was alleged that Councillor Gamble contravened the *Occupational Health and Safety Act* ("OHSA"). Allegations of this nature are not within the jurisdiction of the Integrity Commissioner. Upon hearing of the allegations, the Integrity Commissioner is required to suspend their inquiry until the matter was investigated.
- [27] The findings of the third-party investigation were reviewed and as a result it has been determined that there was no breach of the Code of Conduct.

II. LEGISLATIVE FRAMEWORK

- [28] Under section 223.4(1)(a) of the *Municipal Act*, Council, a member of Council or a member of the public may make a request for an inquiry to the Integrity Commissioner about whether the member has contravened the Code of Conduct applicable to that member.
- [29] The *Municipal Act* requires that municipalities adopt a Code of Conduct.

Section 1.2 (b) of the Code of Conduct States:

"Members must serve and be seen to serve their constituents in a conscientious and diligent manner."

Section 1.2 (d) of the Code of Conduct states:

"Members are expected to conduct themselves and perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny."

Section 1.2 (f) of the Code of Conduct states:

“Members shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the laws and policies adopted by the Municipal Council.”

Section 7.1 of the Code of Conduct states:

“Every Member has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. The Member shall be familiar with, and comply with, the municipality’s Workplace Anti-Violence, Harassment and Sexual Harassment Policy.”

Section 8.1 of the Code of Conduct states:

“Under the direction of the senior administrative staff, and in accordance with the decisions of Council, staff and Officers are required to serve the municipal corporation as a whole. Every Member shall be respectful of the role of staff and Officers to provide advice based on political neutrality and objectivity and without undue influence from any Member or group of Members. Accordingly, no Member shall maliciously or falsely injure or impugn the professional or ethical reputation of any staff person or Officer.”

Section 8.2 of the Code of Conduct states:

“Members shall acknowledge and respect the fact that staff carry out directions of Council, through senior staff, including but not limited to the treasurer, clerk, director of public works, and administer the policies of the Municipality. No Member shall perform, direct or attempt to undermine the duties of any staff person or Officer except in accordance with the Municipality’s procedural by-law.”

- [30] Section 270 of the *Municipal Act* was amended on March 1, 2019, to require that municipalities adopt a policy regarding the relationship between members of council and the officers and employees of the municipality¹. Council has adopted such a policy.

[1]

¹ Section 270(1)2.1 of the *Municipal Act*, 2001, S.O. 2001, c.25

Section 5.10 of the Council Staff Relations Policy states:

Professionalism

“Members of Council, Staff and Officers must treat each other with professionalism. When Council requests that Staff and Officers appear before Council, they must comply and be prepared for any questions Council has. Advance notice of questions to Staff provides an opportunity for Staff to provide quality reports and advice.”

Section 5.11 of the Council Staff Relations Policy states:

Respect

“Members, Staff and Officers shall work hard at fostering a climate of mutual respect. Each must be respectful of others’ intelligence and professional duties. Members, Staff and Officers must understand that they all face different, often unique, challenges and recognize their overarching goal is to serve the best interests of the Municipality.”

[31] Sections 254, 255 and 256 of the *Municipal Act* require municipalities to disclose upon request, retain/preserve and properly dispose of municipal records. Additionally, Council has adopted a Retention of Municipal Records bylaw for this purpose. Section 1(c) defines a municipal record as:

“Record” means information however recorded or stored, whether imprinted form, on film, by electronic means or otherwise, and includes documents, financial statements, minutes, accounts, correspondence, memoranda, plans, maps, drawing, photographs and films”.

[32] The Municipality has adopted an Acceptable Use Policy that, among other things, describes the use of Electronic Mail. Section 5.1.1.6 specifically states that users of Municipal email [which includes members of Council] must:

Know that electronic mail messages are considered Township data, and that Users should have no expectation of privacy in their electronic mail messages sent or received.

[33] When a matter is referred to us, we may then conduct an inquiry in accordance with the Municipality’s Integrity Commissioner Inquiry Protocol and, upon completion of the inquiry, we may make recommendations to Council on the imposition of penalties.

[34]

III. THE REQUEST

[35] The requests before us were properly filed and in accordance with the *Municipal Act* and the relevant policies and procedures for the Township of North Shore.

[36] The Requestors alleged that Councillor Gamble failed to act in accordance with the Township of North Shore Code of Conduct (“Code of Conduct”) and the Council Staff Relations Policy when he:

- Without the authority of Council initiated and received results of a mailout to constituents regarding their preference on how to best fill the vacant Mayor’s position.
- Did not disclose the results as received on a per constituent basis to the Clerk in accordance with the Municipality’s policy related to the use of electronic mail and the retention of municipal records bylaw.
- Came unprepared to Council meetings, often asking questions of the Clerk-Treasurer about matters that were included in the Council Meeting package sent out to councillors well in advance of Council meetings.
- Did not sign a sympathy card for the passing of the Clerk-Treasurer’s stepfather. It is alleged that this was done on purpose, and to be hurtful towards the Clerk-Treasurer.
- Did not attend Council training and information workshops that he committed to attend.
- By his actions toward a staff member on a number of occasions contravened the *Occupational Health and Safety Act* (“OHS”).

IV. THE INQUIRY PROCESS

[37] The responsibilities of the Integrity Commissioner are set out in section 223.3(1) of the *Municipal Act*. On March 1, 2019, section 223.2 of the *Municipal Act* was amended, and municipalities were required to adopt a Code of Conduct. Further, municipalities were to appoint an Integrity Commissioner who is responsible for the application of the Code of Conduct. Complaints may be made by Council, a member of Council or a member of the public to the Integrity Commissioner for an inquiry about whether a member has contravened the Code of Conduct that is applicable to that member.

[38] After receiving the complaints, we followed the inquiry process as set out in the Integrity Commissioner Inquiry Protocol. We did a preliminary review of each complaint which resulted in the decision to conduct an inquiry into the matters.

[39] Darren Nesbitt, a professional investigator with Investigative Solutions Network (ISN), was assigned as an agent of the Integrity Commissioner to carry out an

investigation into the Requestors allegations. The inquiry followed the process outlined in section 5 of the Integrity Commissioner Inquiry Protocol which included reviewing the available evidence, interviewing the Requestors, witnesses and Councillor Gamble.

[40] The conclusions we arrived at with respect to these matters are based upon the standard of a balance of probabilities. Balance of probabilities is a civil burden of proof, meaning that there is evidence to support the allegation that the comments or conduct "more likely than not" [50.1%] took place, and that the behaviour is a breach of the Township's Code of Conduct. As required, assessments of credibility have been made. These assessments are based on:

- whether or not the individual had first-hand knowledge of the situation,
- whether or not the individual had an opportunity to observe the events
- whether or not the individual may have bias or other motive,
- the individual's ability to clearly describe events
- consistency within the story
- the attitude of the individual as they are participating
- any admission of dishonesty²

V. THE FACTS

Mailout

[41] Randi Condie resigned his position as Mayor for the Municipality.

[42] Council declared the seat vacant in accordance with the *Municipal Act* and was considering the options for filling the vacancy [appointment or by-election].

[43] Council directed the Clerk-Treasurer to notify constituents by way of a newsletter mailout of the procedures surrounding the vacant Mayor's position. And this direction was followed.

[44] Councillor Gamble authored and mailed a Flyer to approximately 200 households in the Municipality asking them if they would prefer the vacant Mayor's seat be filled by appointment or by-election. He requested that individuals contact a member of Council and provided email addresses for each Councillor.

[1]

² *Faryna v. Chorny* (1951), [1952] 2 D.L.R. 354 (B.C.C.A.), at Para 10, 11.

Alberta (Department of Children and Youth Services) v. A.U.P.A. (2009), 185 LAC (4th) 176 (Alta.Arb.)

- [45] This Flyer was not reviewed by or approved by Council. Nor were the other members of Council aware that Councillor Gamble was including all email addresses and not just his own.
- [46] All members of Council received responses from interested residents.
- [47] Acting Mayor Barton and Councillor Green submitted their responses to the Clerk.
- [48] At the January 22, 2020 Council meeting, Councillor Gamble presented the fact that he received over 60 responses to his Flyer from constituents claiming to want the position filled by by-election. He did not present any numbers wishing to fill the spot by appointment.
- [49] The Clerk formally requested that Councillor Gamble provide the responses.
- [50] The Flyer is a municipal record, in accordance with the definition of "record" in the Municipality's Retention of Municipal Records Bylaw [Bylaw 18-06].
- [51] Further, section 5.1.1.6 of the Acceptable Use Policy provides that all Electronic Mail is a Municipal Record and needs to be preserved by the Municipality.
- [52] The Clerk is the statutory officer of the Municipality responsible for the preservation, retention and destruction of municipal records.

Unprepared for Meetings

- [53] Councillor Gamble was elected to Council for the Municipality during the 2018 municipal election.
- [54] A Requestor alleged that Councillor Gamble had not come to Council meetings prepared to discuss/debate the matters before Council. Nor did he attempt to ask questions of municipal staff, and specifically the Clerk-Treasurer, prior to Council meetings.
- [55] It was reported that Councillor Gamble attended Council meetings, would start moving papers around and then ask questions of the Clerk-Treasurer that were already answered in the Council Package materials and that this practice was disrespectful making the Clerk-Treasurer look bad.

- [56] It was agreed that Council packages are distributed to Council well in advance of the Council meeting and members of Council are expected to review the material.
- [57] Councillor Gamble reported that he does review the material, that he does often ask questions of the Clerk-Treasurer that were covered in the materials but that this was done inadvertently.
- [58] Councillor Gamble indicated that he is a first time Councillor and may make some mistakes.

Disrespected the Clerk-Treasurer

- [59] The Clerk-Treasurer's stepfather passed away December 31st, 2019. Deputy Mayor Barton picked up a sympathy card for Council members to sign.
- [60] Councillor Gamble did not sign the card.
- [61] The card had been left on the Council table between Councillors Gamble and Rose at the January 22, 2020 Council meeting.
- [62] It was reported that at the conclusion of the meeting Councillors Gamble and Rose removed all of their documents and the unsigned card was the only thing left behind.
- [63] At an emergency Council meeting March 19, 2020, another sympathy card was passed around to Council for signing. This one had to do with the passing of a firefighter. Both Councillors Gamble and Rose signed this card.
- [64] The Clerk-Treasurer reported feeling significantly disrespected when Councillor Gamble failed to sign the sympathy card and that this added additional stress to the workplace.
- [65] Councillor Gamble advised that he did not see the sympathy card on the table between him and Councillor Rose during the meeting or at the end of the end of the meeting when he had collected his material. He stated that if he had he would have signed it.
- [66] Councillor Gamble recalled signing the sympathy card for the death of the firefighter. He stated that Deputy Mayor Barton brought it around for signatures.

Failure to attend Training

- [67] A Requestor alleged that Councillor Gamble committed to attend training and then failed to show up.
- [68] On February 18, 2020, all members of Council agreed to attend the day long Accountability and Transparency Bylaw drafting workshop hosted by Wishart Municipal Law Group (WMG) and Expertise for Municipalities (E4m).
- [69] The Municipality paid \$45 per Council member to attend the event.
- [70] Councillor Gamble was the only member of Council who failed to show up.
- [71] Councillor Gamble did not notify the Clerk-Treasurer, the Deputy Mayor or the Workshop hosts that he was not going to attend.
- [72] It was reported that Councillor Gamble attended the Municipal office to follow up on a complaint he had received about snowplowing.
- [73] On February 12, 2020, WMG and E4m (as Integrity Commissioner), at the request of Council were hosting a public training/information session in the evening and a training for Council members on various topics including the Council vacancy in the afternoon.
- [74] Councillor Rose was unable to attend the daytime session.
- [75] Councillor Gamble, who is on the Library Board, had to attend a Library Board meeting at 1:00 P.M. and the two-hour Council training session was rescheduled to start at 10:00 A.M. to facilitate Councillor Gamble's attendance.
- [76] Because a quorum of Council would be present at the morning training session, a Special Council meeting had been called and appropriate notice was given.
- [77] At 10:00 A.M. the Deputy Mayor, Councillor Green and representatives from WMG and E4m were waiting for Councillor Gamble to attend to call the meeting to order and begin the training. After the required time had elapsed, the meeting was automatically adjourned because quorum was not present.
- [78] Councillor Gamble did not advise the Clerk, or the Deputy Mayor that he was not able to attend the meeting.

[79] Councillor Gamble reported that he did attend the Library Board meeting and the Public Education meeting the evening of February 12, 2020.

[80] He also advised that in both circumstances, he had personal matters to attend to.

Contravention of the *Occupational Health and Safety Act*

[81] A Requestor alleged that Councillor Gamble contravened the *OHS Act* on a number of occasions by his actions/behaviour.

[82] In accordance with section 223.8 of the *Municipal Act*:

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act, other than the Municipal Conflict of Interest Act, or of the Criminal Code (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98; 2017, c. 10, Sched. 1, s. 23.

[83] We determined it necessary to suspend this inquiry until the allegations that Councillor Gamble contravened the *OHS Act* were investigated separately to this inquiry. These allegations were referred to an independent third-party having expertise in such investigations.

[84] The findings of the third-party investigation were reviewed.

VI. THE ISSUE

Mailout

[85] We considered:

- Whether Councillor Gamble contravened a municipal policy when he authored and mailed the Flyer.

- Whether Councillor Gamble contravened the Code of Conduct when he authored and mailed the Flyer.
- Whether Councillor Gamble contravened a municipal policy when he failed to surrender the responses he received to the Municipal Clerk.
- Whether Councillor Gamble contravened the Council Staff Relations Policy when he failed to surrender the responses he received to the Municipal Clerk.
- Whether Councillor Gamble contravened the Code of Conduct when he failed to surrender the responses he received to the Municipal Clerk.

Unprepared for Meetings

[86] We considered:

- Whether Councillor Gamble contravened the Code of Conduct when he was unprepared for meetings.

Sympathy Card

[87] We considered:

- Whether Councillor Gamble contravened the Council Staff Relations Policy when he failed to sign the sympathy card for the loss of the Clerk-Treasurer's stepfather.
- Whether Councillor Gamble contravened the Code of Conduct when he failed to sign the sympathy card for the loss of the Clerk-Treasurer's stepfather.

Missed Training

[88] We considered:

- Whether Councillor Gamble contravened the Code of Conduct when he failed to attend training he committed to attend.
- Whether Councillor Gamble contravened the Code of Conduct when he failed to notify the Clerk, the Deputy Mayor or the organizers of the training that he would not be in attendance.

Contravention of the *Occupational Health and Safety Act*

[89] We considered:

- Whether Councillor Gamble contravened the *OHSA*.

VII. THE OPINION

Mailout

- [90] Councillor Gamble did author and mail the Flyer to municipal households. And that he did so without the support of Council. No resolution was passed supporting Councillor Gamble's actions.
- [91] It is clear that Councillor Gamble did so to seek feedback from residents.
- [92] In *Linton v. Kitras*, (2020 ONMIC 1, January 25, 2020), Integrity Commissioner Guy Giorno reported the following on the role of Council members:

69. Centre Wellington is a democracy. Council Members are elected to office. The democratic nature of the office means that Council Members have political and representational roles in addition to their legislative (law-making) role the Courts have confirmed that municipal councillors have a hybrid political and legislative functions, that they are representatives of the communities that elect them, and that members of the public have the right to address their municipal representatives on issues of concern. The Municipal Act confirms that the role of the Council is "to represent the public."

70. It is part of the role of a Council Member to communicate with members of the public about municipal issues. This includes both initiating and communication and responding to communication initiated by members of the public. In doing so, a Council Member is not limited to explaining and defending what the municipality is already doing. As part of the political process, a Council Member is entitled to form views to hold views, to express views and once in office, to give effect to those views. Some of those views may involve a change in law or a change in direction. Provided that a Council Member proceeds lawfully and in a manner consistent with the Municipal Act, the Code of and other legislation and by-laws, nothing prevents a Council Member from taking, defending and seeking to implement a position would alter the status quo. Indeed, the Courts have clearly stated that as an elected representative of the public a municipal councillor is entitled to take "an open leadership role" on an issue.

- [93] Of concern, is that Councillor Gamble included the email addresses of the other members of Council without their knowledge. While these email addresses are public knowledge, Councillor Gamble ought to have advised members of Council

that he was putting the Flyer out and their names were to be included or alternatively, only used his email to collect responses.

- [94] As noted by Mr. Giorno, it is perfectly acceptable for Council members to seek feedback from the public and we agree with this finding. However, we find that Councillor Gamble's inclusion of all of the other Councillors to be beyond his personal representative role.
- [95] A single member of Council cannot force other members of Council to engage the public. In this circumstance, Councillor Gamble has done so. We find that this action is contrary to section 1.2 (d) of the Code of Conduct which requires Council members to conduct themselves and perform their duties in a manner that promotes public confidence and will bear close public scrutiny.
- [96] Councillor Gamble contravened both the Municipality's "Retention of Municipal Records Bylaw and the Acceptable Use Policy when he refused to provide the Municipal Clerk with the responses he received as a result of the Flyer he circulated.
- [97] This action is contrary to section 5.10 of the Council Staff Relations Policy in which members of Council must respect the statutory authority of the position of the Municipal Clerk.
- [98] Therefore, Councillor Gamble also contravened section 1.2 (f) of the Code of Conduct by not adhering to Municipal policy.

Unprepared for Meetings

- [99] It was alleged that Councillor Gamble was unprepared for meetings. There is insufficient evidence before us to demonstrate that asking questions of the Clerk-Treasurer at Council meetings that were already addressed in the Council packages is sufficient to be a contravention of the Council Staff Relations Policy or the Code of Conduct.
- [100] Section 5.10 of the Council Staff Relations Policy expressly requires that Staff and Officers who appear before Council are to be prepared for any questions that Council may have. It goes on to say that advance notice of the questions should be given to staff prior to the meeting so that Staff/Officers can provide quality reports and advice.

[101] There is no specific prohibition related to asking questions about material or information already contained in the Council packages. In fact, it may be completely appropriate in various circumstances to ask questions about the information to foster debate and public awareness.

Sympathy Card

[102] Based on the evidence before us, the sympathy card was to be signed by Council as a body [meaning by all members of Council] to show respect for the loss that the Clerk-Treasurer and her family had suffered in the passing of her stepfather.

[103] Two (2) members of Council [Deputy Mayor Barton and Councillor Green] had already signed the card. The card was placed on the table between Councillors Gamble and Rose for their signature.

[104] We do not believe Councillor Gamble's assertion that he did not see the card. We find that both he and Councillor Rose purposefully failed to sign the card.

[105] Council as a body did not agree to provide a card to the Clerk-Treasurer. To be clear, a resolution of Council was not passed authorizing or requiring that a sympathy card be signed on behalf of the Municipality to be given to the former Clerk-Treasurer.

[106] Individual Council members were not obligated to sign the card. Councillors Gamble and Rose made a political and/or personal choice not to sign the sympathy card. While this action may appear to be disrespectful based on personal expectations, members of Council are within their rights to choose not to participate when a formal decision of Council has not been made to the contrary.

[107] Therefore, Councillor Gamble did not contravene the Code of Conduct when he did not sign the sympathy card.

Missed Training

[108] Councillor Gamble admitted that he is a new Councillor, and he may do things incorrectly. This is one of those circumstances. Councillor Gamble intentionally did not attend meetings he committed to attend on February 12, 2020 and February 18, 2020. We find this because Councillor Gamble did attend the Library Board meeting on February 12, 2020. His excuse for attending was the legal and other information that would be presented to the Board.

- [109] WMG and E4m were presenting legal and governance information to Council to aid them in carrying out their obligations as elected officials. The presenters changed the time to earlier in the day to accommodate Councillor Gamble.
- [110] Councillor Gamble failed to attend two prearranged training sessions and failed to notify anyone in advance that he was not going to attend resulting in significant cost to the Municipality.
- [111] The cost to have WMG and E4m travel to the Municipality and be unable to carry out the training on February 12, 2020, was significantly more than the \$45 that the Municipality paid for Councillor Gamble's seat at the Accountability and Transparency Bylaw drafting Workshop.
- [112] There is no provision of the *Municipal Act* or the Code of Conduct that requires a member of Council to attend training. However, members of Council are responsible to serve and be seen to serve their constituents in a conscientious and diligent manner [Code of Conduct section 1.2 (b)].
- [113] Failing to notify anyone that he would not be attending, resulted in unnecessary financial cost to the Municipality and is a contravention of section 1.2 (b) of the Code of Conduct.

Contravention of the *Occupational Health and Safety Act*

The findings of the third-party investigation were reviewed and as a result it has been determined that there was no breach of the Code of Conduct.

VIII. CONCLUSION

- [114] With respect to our findings, we recommend the following:
- a) For the contraventions of the Code of Conduct related to the mailout, that Councillor Gamble be required to:
 - Immediately provide to the Municipal Clerk all responses he received in relation to the Flyer.
 - Provide a written apology to members of Council for failing to seek permission for their participation in collecting responses related to his Flyer.
 - b) For the contravention of the Code of Conduct related to the failure to attend the training sessions publicizing this misconduct is a sufficient penalty.

DATED January 31, 2021