

Tony E. Fleming  
Direct Line: 613.546.8096 E-mail: tfleming@cswan.com

**CONFIDENTIAL**

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December 2, 2024

**SENT BY EMAIL TO: municipalclerk@townshipofthenorthshore.ca**

Mayor and Council  
c/o Rachel Jean Schneider, Clerk  
Township of The North Shore  
P.O. Box 108, 1385 Hwy 17  
Algoma Mills, ON P0R 1A0

Dear Mayor and Council:

**RE: Code of Conduct Complaint – Report  
Our File No. 36669-10**

This public report of our investigation is being provided to Council in accordance with Section 223.6(1) of the *Municipal Act*. We note that Section 223.6(3) of the *Municipal Act* requires that Council make the report public. The Clerk should identify on the agenda for the next open session Council meeting that this report will be discussed. Staff should consider whether it is appropriate to place the full report on the agenda in advance of Council deciding how the report should otherwise be made public.

Should Council desire, the Integrity Commissioner is prepared to attend virtually at the open session meeting to present the report and answer any questions from Council.

At the meeting, Council must first receive the report for information. The only decision Council is afforded under the *Municipal Act* is to decide how the report will be made public, and whether to adopt any recommendations made by the Integrity Commissioner. Council does not have the authority to alter the findings of the report, only consider the recommendations.

The Integrity Commissioner has included only the information in this report that is necessary to understand the findings. In making decisions about what information to include, the Integrity Commissioner is guided by the duties set out in the *Municipal Act*. Members of Council are also reminded that Council has assigned to the Integrity Commissioner the duty to conduct investigations in response to complaints under the Code of Conduct, and that the Integrity Commissioner is bound by the statutory framework to undertake a thorough process

in an independent manner. The findings of this report represent the Integrity Commissioner's final decision in this matter.

### **Timeline of Investigation**

- Complaint received May 2, 2024
- Confirm details with complainant May 6, 2024
- Provide Member with complaint package August 12, 2024
- Response from Member August 25, 2024
- Interviews September, 2024
- Draft report provided to the Member for review September, 2024

### **Complaint Overview**

The complaint included a series of emails between Councillor Richard Welburn (the "Member") and staff on a variety of topics. The complaint alleged that the Member was aggressive and bullying in meetings and emails with staff.

### **Relevant Policy Provisions**

#### **The Code of Conduct**

The Complaint engaged the following provisions of the Code of Conduct:

#### **Section 7.0 – Conduct Respecting Others**

7.1 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.

7.2 A Member shall not use indecent, abusive or insulting words, tone or expressions toward any other Member, any municipal staff or any member of the public.

#### **Section 8.0 – Conduct Respecting Staff and Officers**

8.1 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.

8.2 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.

8.3 Every Member shall show respect for staff and Officers, and for their professional capacities and responsibilities.

### **Factual Findings**

No factual findings were required in this investigation. We reviewed emails and as such there is no dispute as to what was contained in the emails. We also watched recorded Council meetings and there is no dispute about the content of the recordings.

We interviewed the complainant to ensure we understood the context of the complaint. In order to provide a full opportunity to the Member to respond, we also provided a draft of this report to the Member and invited his comments. This report reflects the response received from the Member to the draft report.

We reviewed portions of recorded Council meetings referenced in the Complaint. For the most part, the Member's comments were not inappropriate. However, there were comments during the Council Meeting on March 18 where the Member questioned the professionalism and competency of staff. The Member called a trucking company to get information about a matter being dealt with by staff related to the "yellow truck". What prompted the call was the fact that the Member did not like the letter provided to Council by the trucking company. The Member then stated that he was not sure the examples given by staff were correct, and said that they were "looking at things the wrong way". The Member then gave specific direction about how to buy used vehicles.

In response to this incident, the Member disagreed that he gave direction about buying equipment, rather he stated which vehicles the Township should stay away from and gave reasons – the vehicles the Member advised staying away from were the majority of the vehicles that staff had identified. The Member advised that when the mechanic asked to give advice on the "yellow truck" attended a Council meeting, his advice was the same as the Member's.

The Council meeting excerpts we reviewed included the Member stating a number of times that he was under a communication ban with staff and had never been told why. The Mayor explained the situation, but this was not acceptable to the Member. The Member appears agitated, if not angry, at a number of points in the various meetings. The Member does not use inappropriate language and is not disrespectful, but his tone makes it clear he is displeased.

In the March 20 meeting, the Member continued to make statements about the Clerk when the Mayor advised his comments were not in order. The only reason to continue with his comments was to demean the Clerk.

**Email dated May 1, 2023 to staff related to “yellow truck”**

“I can see the lack of experience when it comes to maintaining and purchasing equipment especially used equipment. That is not a knock on you or your staff it’s just a fact.”

After explaining why the Member wanted to see maintenance records for the yellow truck:

“But you know it doesn’t matter you will never see it that way and that’s a shame. I’m willing to bet our public works manager doesn’t have a maintenance plan or care for that matter.”

“Oh one other thing have you had a chance to talk to your public works manager about his aggressive behaviour I’m really worried about tonight and him not being in a pleasant mood.”

**Email dated April 26, 2024 to staff member, copied to Council related to boat launch**

“Further more show some respect and professionalism these are not island people they are residents of the Township and will be addressed and respected as such. But then again there is little respect and professionalism when it comes to this matter as the people it affected most were not considered or consulted on this matter or the safety of people that would be using the proposed gazebo.”

This email was in response to an email from staff on the same day that stated, “ If the budget passes Monday night we will have to put the tape [cordoning off the proposed location for a new gazebo located on a parking area] back up at the cookhouse boat launch, for the proposed gazebo and maybe a porta potty someday. Councillor Welburn could you advise your island people.”

**Email dated February 28, 2024 to staff, copied to Council in response to an email from staff of the same date**

“Wow I guess you missed the part of the IC training about aggressive behaviour. Have I done something wrong you sound upset with me.”

“Snowplowing seems a trigger point for you not sure why.”

“I’m sensing that you may be upset that I have the particulars on this subject name’s wages. Once again, I’m not sure why you would be upset.”

“Personally, if you would have just picked up the phone back on that day the township got hammered with snow and you were behind on your snow removal or

whatever the issue was. And just picked up the phone and talked to me like a gentleman instead of trying to show your dominance in whatever that show was in the closed meeting half of these issues wouldn't be around but then again, I see a theme here so we will work with the system we have I guess.”

This email was responding to an email from staff providing specific information that was requested by the Member. The email from staff was polite and not aggressive.

Many more emails were part of the complaint package, but these excerpts were the only portions considered relevant to the Code of Conduct investigation.

The tone of the emails and the Member's own response to not only this investigation but other complaints confirms that the Member dislikes certain staff. There is obvious tension between the Member and certain staff members. Other than the explicit examples set out above, the language of the balance of the Member's emails contained in the complaint package was not disrespectful or otherwise a breach of the Code of Conduct. With that being said, the overall tone of the emails is easily read as the Member trying to provoke a reaction from staff and, while using no offensive language, the emails are sarcastic and appear intentionally provocative.

In response to the draft report, the Member very candidly agreed that he did not like certain staff, and expected they felt the same about him.

The Member states his motivation is to “do his job” and to do that he needs information. In this case, the “job” is being fiscally prudent when making decisions about replacing the “yellow truck”; this is a prime example of the Member requesting very specific information, and when it is not provided questioning staff. The member claimed in his response that he is not attempting to manage anyone – but then states that if he was, they wouldn't be working long for him.

What appears to be happening is that a history of questions, emails and behaviour by the Member (which often consists of a repetition of the same or similar questions and requests for more detail for questions that have been answered) has created a perception among certain staff members that the Member is being overly forceful in asking questions about certain Township staff or topics. When the language of the above email excerpts is factored in, that perception is reasonable.

We also had the benefit of the written response from the Member to the complaint as part of the investigation process. Unfortunately for the Member, in his written response he confirmed the complainant's allegations that he was being disrespectful towards staff.

In his response, the Member demeaned the professionalism and capabilities of more than one staff member. He accused staff of lying and being unable to do their jobs and stated that his, “actions are dependent on the way I'm treated and dealt with and will continue that way until such a time there [sic] attitudes change towards me and my job.”

This response is consistent with other complaints we are investigating involving the Member.

## **Code of Conduct Findings**

### **Council Meetings**

The Member's comments about the "yellow truck" in Council on March 18 were disrespectful of staff and undermine the reputation of staff, contrary to sections 7.1, 8.2 and 8.3 of the Code of Conduct.

We find that the Member's comments in the March 20 meeting, including after the Mayor advised his comments were not in order, were intended to demean the Clerk. There were a few instances where the Member called into question the "communications ban" with staff.

We reviewed the email that was sent by the Clerk and it is clear in the email that the Clerk was requesting that the Member communicate with her only in writing based on past conversations that were inappropriate. There is no evidence to support the Member's continued assertion that he was under a total ban for all staff. The Member raised at Council direction he alleged that was given by the Mayor related to other staff, but refused to listen to the Mayor's explanation that this was a limited restriction. The Member was using his view of events as a way to portray staff (especially the Clerk) in a negative light. The Member also ignored his role in the original request and attempted to blame the Clerk. These statements are a breach of the following sections of the Code of Conduct:

7.1 - this is not appropriate treatment of staff and is harassing;

8.1 – this maliciously injured the professional reputation of the staff member;

### **Email dated May 1, 2023 to staff related to the "yellow truck"**

The Member stated that staff lacked experience when it came to maintaining and purchasing equipment. Following that statement by writing, "That is not a knock on you or your staff it's just a fact", does not make the statement less objectionable.

Accusing the Public Works Manager of not having a maintenance plan or caring about such a plan is clearly intended to be demeaning and to attack their professionalism.

The conclusion of the email then accused the staff member of being aggressive to the point that the Member claimed he was worried about attending a meeting where the staff person would be in attendance. This serious accusation was completely unwarranted.

These statements breach the following sections of the Code of Conduct:

7.1 - this is not appropriate treatment of staff and is harassing;

7.2 – this is abusive and insulting;

8.1 – this maliciously injured the professional reputation of the staff member;

8.2 – the repeated requests for maintenance records which were for the stated purpose of giving advice about what to do with the truck is a clear attempt to undermine the duties of staff;

8.3 – the comments show no respect for staff or their professional capacities and responsibilities.

### **Email dated April 26, 2024 to staff member, copied to Council related to boat launch**

The response to the email from staff is an example of the Member using words that, in isolation, are not profane or demeaning but nevertheless show a complete breakdown in the Council/staff relationship. The comments are provocative and appear to be intended to elicit a negative response from staff. Based on interviews with more than one staff member, this is certainly how staff perceive this type of email communication.

Staff should not feel reluctant to communicate with a Councillor for fear of being baited into writing something that will be used against them. This email is a breach of the following sections of the Code of Conduct:

8.1 – the accusation falsely impugns the professional or ethical reputation of staff.

8.3 – the accusation does not show respect for staff and for their professional capacities and responsibilities.

### **Email dated February 28, 2024 to staff, copied to Council in response to an email from staff of the same date**

Comments about the staff person “sounding upset” and “sensing” that they may be upset do not logically follow from the email from staff. Staff wrote a professional and neutral email. The comments from the Member appear to be an attempt to precipitate an argument or negative reaction from staff. This type of behaviour is not appropriate and undermines the working relationship with staff that the Code of Conduct is designed to foster.

The sections of the Code of Conduct that these statements breach are as follows:

7.1 - this is not appropriate treatment and constitutes bullying;

8.1 – accusing the staff member of being aggressive and attempting to “show dominance” falsely impugns the professional and ethical reputation of staff;

8.3 – the tone and language in this email does not show respect for staff or their professional capacities and responsibilities.

The Member must appreciate that his role on Council is not to manage staff. Council, as a whole by resolution, may set policy to manage staff, but no individual member of Council has the authority to manage any staff member. The repeated requests for information and the frustration and anger that follows when the Member does not get the information that he wants, when he wants it, with the specificity that he wants appears to be a large part of the improper behaviour that is then directed at staff.

While we did not excerpt other emails contained in the complaint, those emails show a pattern of the Member involving himself in operational matters, especially where he believes he has some personal expertise to lend to the task. Regardless of any expertise that the Member might have in any situation, no member of Council can direct staff. If the Member could refrain from straying into operational matters many of the behaviours that are objectionable might be avoided.

### **Recommendations**

The Code of Conduct allows for both penalties and sanctions.

In this circumstance, the behaviour of the Member warrants a financial penalty and the Integrity Commissioner recommends that Council suspend the pay of the Member for a period of 20 days.

A financial penalty is warranted to demonstrate to staff that this type of behaviour is not something that Council condones; and to demonstrate to the Member that continuation of this behaviour will not be tolerated by Council.

In addition to a financial penalty, the Integrity Commissioner recommends that Council impose the following sanctions on the Member to attempt to modify his behaviour and to protect staff:

1. Communication with staff shall only be by email directed to the Mayor and not copied to staff. The Mayor will then forward the substance of any comments or requests to staff, but not forward the email itself unless the email does not contain inappropriate commentary;
2. This communication protocol shall be continued for 12 months;
3. The Member shall not request any information from staff unless the substance of the request is related to a matter that is on an agenda of Council. This sanction is recommended to limit the instances where the Member seeks information for ideas that he has to improve operations or policies that are not driven by a Council agenda. Many of the instances of poor decision-making and bad behaviour are related to these types of information gathering exercises.



Sincerely,

**Cunningham, Swan, Carty, Little & Bonham LLP**

A handwritten signature in black ink, appearing to read 'Tony E. Fleming', with several horizontal strokes above and below the name.

Tony E. Fleming, C.S.  
LSO Certified Specialist in Municipal Law  
(Local Government / Land Use Planning)  
Anthony Fleming Professional Corporation  
TEF:sw