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CONFIDENTIAL

January 10, 2025

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 Ms. Schneider:

**RE: Code of Conduct Complaint – Report
Our File No. 36669-20**

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.

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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

- November 29, 2024, complaint received
- December 2024, preliminary review
- December 16, 2024, letter to complainant to confirm only a portion of the complaint would be investigated
- December 17, 2024, complaint package sent to Member
- December 18, 2024, meeting recording sent to Member
- January 6, 2024, interview with Member

Complaint Overview

The complaint alleged that Councillor Richard Welburn (the “Member”) acted inappropriately at a closed session of Council on November 27, 2024. The complaint also alleged inappropriate behaviour at the open session of the same Council meeting. After a preliminary review, we dismissed the aspect of the complaint related to the open session meeting and proceeded with an investigation of the closed meeting only.

At the closed session, it is alleged that the Member commented that he did not want to receive a copy of a lawyer's letter written on behalf of a staff member. The Member stated that he was concerned what could happen in the future if the staff member were upset with him and could be accused by the staff member of spreading the information contained in the letter, as he was now aware of it.

The Code of Conduct

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

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.

...

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

Factual Findings

There is no dispute as to what was said at the closed session. We reviewed the recording and confirmed that a letter was placed on the agenda from a lawyer retained by a staff member. The content of the letter was not reviewed in this investigation and was not necessary to investigate the allegations.

The Member questioned why the letter was provided and asked if Township legal counsel had been consulted about whether members of Council needed to be provided with the letter. These were reasonable questions to ask.

Had the Member stopped there, no breach of the Code of Conduct would have occurred. Unfortunately, the Member did not stop there and went on to say:

“what happens 6 months down the road and [the staff member] is upset with me and now I get a letter– not saying they will or won’t – are we not setting ourselves up – don’t think it can’t happen to anyone in that room”

The Member then later in the meeting stated that he was trying to “protect himself” and that he did not trust that 6 months down the road that he would not get accused of spreading the information because he was now in possession of it and could not use that as a defence.

Code of Conduct Findings

The explicit inference from the Member’s statement is that the staff member in question is likely to falsely accuse him of spreading the information contained in the letter from the staff member’s lawyer. The fact that the Member said that he was not saying the staff member would or would not make a false accusation does not make the accusation less offensive. The clear implication was that the staff person was capable of falsely accusing the Member of spreading the information and that he no longer had any “defence” because he was in possession of the information.

When interviewed the Member did not claim that what he said was not an accusation; he confirmed that his focus was on protecting himself from future false allegations.

Section 8.1 of the Code of Conduct states:

... Accordingly, no Member shall maliciously or falsely injure or impugn the professional or ethical reputation of any staff person or Officer.

Accusing a staff person of being likely to falsely accuse a member of Council of improper actions falsely injures that person's reputation and is contrary to section 8.1 of the Code of Conduct.

This complaint follows a similar pattern of behaviour exhibited in other reports that the Integrity Commissioner has brought to Council about Councillor Welburn. The Councillor has stated a number of times to the Integrity Commissioner that he does not like certain staff members and does not trust them; this is clearly exhibited in the November closed session.

The Member needs to respect his role as a representative of the Township and appreciate that regardless of his personal views, he cannot continue to be disrespectful and abusive towards staff; Councillors must put aside personal feelings and act professionally at all times.

Conclusions

As a result of the breach of the Code of Conduct, the Integrity Commissioner recommends that the Member's pay be suspended for a period of 15 days. This recommendation reflects the repeated behaviour and is intended to act as a deterrent to future behaviour.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



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