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CONFIDENTIAL

February 7, 2025

SENT BY EMAIL TO: JConnor@ramara.ca

c/o Jennifer Conner, Clerk
Township of Ramara
2297 Hwy 12
P.O. Box 130
Breachin, ON L0K 1B0

Dear Council:

**RE: Code of Conduct Complaint – Final Report – Mayor Basil Clarke
Our File No. 37629-16**

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

The key dates and events during the course of this investigation are as follows:

- Complaint received – November 17, 2024
- Preliminary Review conducted and clarified with Complainant – November, 2024
- Complaint sent to Member – November 26, 2024
- Response received from Member – December 5, 2024
- Documentary investigation process – December, 2024
- Interrogatory process with Member – January, 2025

Complaint Overview

A Complaint was received on November 17, 2024. The Complaint alleged breaches of the Code of Conduct by Mayor Basil Clarke (the “Member”).

The Member is alleged to have misled Council and the public by raising a point of order at the October 28, 2024 meeting to state that the correct percentage that were users of the water system was not 44% of the population. The Mayor was correcting another member of Council and at that time he stated that 17% of land owners used the sewer system and approximately 21% used both water and sewer. The Member further stated that the correct figure had been “established” previously and that 44% was an error.

Code of Conduct

The following provisions of the Code of Conduct are relevant to our findings in this investigation:

5.1 Members are responsible for making honest statements. No member shall make a statement when they know that statement is false. No member shall make a statement with the intent to mislead Council, staff or members of the public.

Investigation Process

In conducting the investigation, the Integrity Commissioner reviewed the recorded meeting from October 28, 2024. The Complainant provided documents setting out the basis for calculating the percentage of the population that were water users at 44%. The Member provided evidence in support of his statement that 44% was an incorrect number. The Integrity Commissioner obtained additional written information from staff and from the Member to assist in understanding the basis for the Complaint.

Factual Findings

The issue in this investigation is a matter of determining whether the Member was making an honest statement when he raised a point of order to dispute that 44% was not the correct percentage of water users. The test under the Code of Conduct is whether the Member knew the statement was false and whether it was made with the intent to mislead the public.

We understand that the percentage may vary depending on whether the total population is used versus the total number of properties. For example, materials provided by the complainant used the total number of connections to water and sewer and then applied an estimate of the population that would live in the properties connected, divided into the total population of 10,377 to arrive at approximately 44% of the population. The Mayor provided evidence that staff calculated the number by using the total number of properties in the Township divided by the number of properties connected to water and sewer. As the number of properties using water and sewer were different, two percentages were calculated – 22.6% of water users and 17.9% of sewer users.

We do not make any finding in this report as to which percentage calculations are or are not correct. The arithmetic necessary to make such a finding is not germane to the allegation.

We do find as a fact that the Member was in possession of emails from the CAO prior to the October meeting in which the CAO confirmed the percentage of users that the Mayor relied on.

The Mayor also stated that this figure was confirmed by the CAO to Council. Due to the passage of time we were unable to verify this occurred.

We find that the Member believed, honestly, that 44% was not accurate. We further find that the Member's intent was to correct what he honestly believed was an incorrect number; there was therefore no intent to mislead the public.

Code of Conduct Findings

The point of order to correct a member of Council who stated that 44% of the population were users of sewer and water was not a dishonest or misleading statement. While there may be a legitimate dispute about the arithmetic, for purposes of the Code of Conduct there was no dishonesty or intent to mislead.

As a result of the foregoing, the Complaint is dismissed.

Recommendation

As the investigation revealed no breach of the Code of Conduct, the Complaint is dismissed and no further steps will be taken with respect to the investigation.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP

A handwritten signature in black ink, appearing to read 'CS', followed by several horizontal strokes.

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