



Cunningham Swan

LAWYERS

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CONFIDENTIAL

July 11, 2023

SENT BY EMAIL TO: JConnor@ramara.ca

Mayor and Members of Council
c/o Jennifer Connor, Clerk
Township of Ramara
2297 Hwy 12
P.O. Box 130
Brechtin, Ontario
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Dear Ms. Connor:

**RE: Code of Conduct Complaint – Report
Our File No. 37629-2**

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 – February 8, 2023
- Complaint sent to Member – March 6, 2023
- Response received from Member – April 18, 2023
- Response sent to Complainant – May 18, 2023
- Response received from Complainant – May 20, 2023
- Interviews Conducted – May 31, 2023 and June 1, 2023

Complaint Overview

The Complaint alleges that Councillor Snutch breached the Code of Conduct on three occasions.

January 16, 2023

First, it is alleged that Councillor Snutch disclosed in an email to the Complaint's spouse dated January 16, 2023 the content of confidential letters that were received regarding a proposed development.

January 18, 2023

It is alleged that Councillor Snutch confronted the Complainant in the Complainant's office regarding the sharing of the January 16, 2023 email. It is alleged that Councillor Snutch entered the Complainant's office on January 18, 2023 and in a raised voice said, "I want to know what the hell it is you think that you are playing at?". The Complaint alleges that Councillor Snutch was visibly agitated and angry and waving his arms while pacing in the doorway. The Complaint alleges that Councillor Snutch stated to the Complainant, "why did you forward my email to [redacted] ...now pushing to have me go to the Integrity Commissioner. It's like you tried to trick me and set me up by writing a letter so that I would say something wrong".

The Complaint alleges that Councillor Snutch was angry and upset during the exchange and this incident had a significant negative impact on the Complainant.

January 30, 2023

The Complaint alleges that on January 30, 2023, Councillor Snutch made a derisive and accusatory remark during discussions about a proposed development about a former member of Council who is now a private citizen. Specifically, it is alleged that Councillor Snutch stated, “We wouldn’t even be here today if it wasn’t for certain people who are in the audience who are pushing this who used to be members of the Council that are using their contacts to try to get this MZO to go through that failed once before.”

Code of Conduct

The Complaint alleges that the above-noted incidents contravene several provisions of the Code of Conduct.

The sections engaged by the Complaint are the following:

Section 5.13(e)

Members of Council:

...

- (e) Must seek to advance the public interest with honesty and treat members of the public and staff with dignity, understanding and respect;

Section 10.1

No member shall disclose or release or publish by any means to any member of the public, or in any way divulge any confidential information, including personal information or any aspect of deliberations acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council resolution to do so.

Section 18.1

Members shall conduct themselves in a civil manner with decorum at Council, Committee and other meetings in accordance with the provisions of the Township of Ramara’s Procedural By-law, this Code, and other applicable laws as amended from time to time.

Section 20.1

Every member has the duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All members of Council shall ensure that their work environment is free from discrimination and harassment

Section 20.6

Without limiting the generality of the foregoing, Members shall not:

...

- (b) Make indecent, abusive, insulting or inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;

Investigation Process

In conducting the investigation, the Complaint and responses of both Councillor Snutch and the Complainant were reviewed. Interviews were also conducted with the Complainant and Councillor Snutch. Video footage from the Complainant's office for January 18, 2023 was requested but was not available for review.

Factual Findings

January 16, 2023 Allegation

This portion of the Complaint pertains to the disclosure of alleged confidential information by Councillor Snutch to the Complainant's spouse.

The alleged confidential information pertained to letters regarding a proposed development which were referred to in Councillor Snutch's email.

As part of our investigation we identified the letters that were referred to and inquired as to whether the documents were in fact confidential. While Councillor Snutch used the word "confidential" in his email when describing the letters he indicated in his interview that they simply had not yet been shared by the municipality.

It is our finding that the letters that are the subject of this allegation were not confidential in nature. We confirmed with staff at the municipality that the correspondence in question was released to the general public several days after Councillor Snutch's email was sent.

January 18, 2023 Allegation

During the interview process, the Complainant and Councillor Snutch both agreed that Councillor Snutch went to the Complainant's office on January 18, 2023. However, the Complainant and Councillor Snutch had differing accounts of what occurred during this exchange.

The Complainant's account indicated that Councillor Snutch came to their office and was visibly upset and agitated and stated, "I want to know what the hell you are playing at". During the interview process, it was acknowledged that Councillor Snutch may have said "heck" instead of "hell." The Complainant alleged that Councillor Snutch was agitated and angry and waving his arms while pacing in the doorway. The Complaint alleges that Councillor Snutch stated to the Complainant, "why did you forward my email to [redacted]....now pushing to have me go to the Integrity Commissioner. It's like you tried to trick me and set me up by writing a letter so that I would say something wrong". The Complainant alleges that the encounter had a significant negative impact on them.

Councillor Snutch's account of his behaviour during the exchange differed from the Complainant's account. Councillor Snutch denies saying, "I want to know what the hell it is you think you are playing at". Councillor Snutch indicated that he typically is expressive with his hands when he speaks but that he did not waive his arms. Councillor Snutch stated that he went to the Complainant's office to have a conversation about why the Complainant was "causing trouble". Councillor Snutch confirmed in his written response that he did say that, "[redacted] wants me in front of the Integrity Commissioner" and that he further stated to the Complainant, "I am trying to work with you but you don't seem to want that". In the interview process Councillor Snutch expressed that his intention was to discuss the situation that had arisen with respect to the allegations about the letters. Councillor Snutch's account of the Complainant's reaction was that the Complainant was snickering and smiling throughout the exchange and showed no signs of distress.

We note that we must make a finding of fact as to what occurred during the exchange on a balance of probabilities given the only two witnesses, the Complainant and Councillor Snutch, have differing accounts of what transpired and the behavior and reactions exhibited during the exchange. As noted previously, video evidence of the encounter was requested but was not available.

It is not disputed that Councillor Snutch went to the Complainant's office uninvited with the intent to discuss the sharing of his January 16, 2023 email by the Complainant. As confirmed by Councillor Snutch, he did state, "[redacted] wants me in front of the Integrity Commissioner" and "I am trying to work with you but you don't seem to want that". Further, during the interview process it was apparent that Councillor Snutch was still upset by the encounter and the allegations. As such, it is our finding that, on a balance of probabilities, Councillor Snutch's demeanour during the exchange was not of a friendly nature and that he was agitated. We further find on a balance of probabilities that Councillor Snutch was

confrontational and that it is more likely than not that he used a phrase similar to what the Complainant alleges – something akin to, “I want to know what the heck it is you think you are playing at”. Councillor Snutch admits that his intent was to find out why the allegations of sharing the emails was being raised. The fact that the Councillor went uninvited to the Complainant’s office in an agitated state with the stated aim of confronting her about the email disclosure allegation is sufficient to find that the Complainant’s version of the incident is more accurate.

With respect to the impact of the exchange on the Complainant, we found the Complainant to be credible and forthright with respect to the negative impact the exchange had on them. The Complainant described that the exchange not only impacted them during the encounter but has had a continued impact following the exchange. While it may be true that Councillor Snutch did not notice any signs of distress during the brief encounter, we accept the Complainant’s account of the distress that the encounter caused.

January 30, 2023 Allegation

Councillor Snutch confirmed in his written response that he stated, “We wouldn’t even be here today if it wasn’t for certain people who are in the audience who are pushing this who used to be members of the Council that are using their contacts to try to get this MZO to go through that failed once before.” As such, we accept as fact that this comment was made.

Code of Conduct Findings

January 16, 2023 Allegation

The allegation that the January 16, 2023 email from Councillor Snutch to the Complainant’s spouse disclosed confidential information engages Section 10.1 of the Code of Conduct.

We find no breach of this section of the Code of Conduct as it was confirmed during the investigation that the letters that were the subject of the email were not confidential in nature.

January 18, 2023 Allegation

As found above, Councillor Snutch went to the Complainant’s personal office to confront the Complainant about the sharing of the January 16, 2023 email. Councillor Snutch’s demeanour during the exchange was not of a friendly nature and that the exchange had a negative impact on the Complainant.

These findings engage Sections 5.13(e), 20.1 and 20.6(b) of the Code of Conduct as excerpted above.

We find that the confrontational nature of the exchange constitutes a breach of Section 5.13(e). Confronting a member of the public in their personal office space in an agitated manner as described above does not meet the requirement of treating members of the public with dignity, understanding and respect. It must be remembered that Councillors are held to a high standard of behavior and should not engage in confrontational exchanges with members of the public. Further, approaching a member of the public in their personal workspace for the purpose of a confrontation is not appropriate; there are more appropriate and less confrontational avenues within which the concerns of Councillor Snutch could have been addressed.

Similarly, we also find a breach of Section 20.1 of the Code of Conduct. As noted above, the exchange initiated by Councillor Snutch was not appropriate and it is our finding that it was intimidating in nature. We do not find that the exchange rises to the level to be considered abusive or bullying.

We find no breach of Section 20.6(b) of the Code of Conduct. As noted above, we do not find that the confrontation or comments made rise to the level required for a finding of breach of this section.

Although we accepted as fact that the encounter had a negative impact on the Complainant, the extent to which the encounter impacted the Complainant was not a consideration in finding breach. The finding of breach is based on our factual findings with respect to the demeanour of Councillor Snutch during the exchange, the purpose and context of the exchange and the statements made during the exchange.

January 30, 2023 Allegation

The comments made during the January 30, 2023 Council Meeting engage Sections 5.13(e) and Section 18.1 of the Code of Conduct.

We find that there is a breach of Section 5.13(e) of the Code of Conduct with respect to the comments made. The finding of breach is fact-specific and pertains primarily to the context in which the comments were made. The comments were made in open session and singled-out a former member of Council who is now considered a member of the public who was present at the meeting. We find it disrespectful of the public to make a comment of this nature that identifies the member and expresses discontent with the member of the public's actions or opinions in open session.

We find no breach of Section 18.1 of the Code of Conduct. While the comment was disrespectful, it does not rise to a level that we would consider to be a lack of decorum or civility or other breach of this section.

We note that, while we find the comment made by Councilor Snutch was disrespectful, we acknowledge that Councillor Snutch already publicly apologized for this comment on March 13, 2023. While this does not negate the finding of breach it is relevant to the penalty recommendation included below.

Recommendation

January 18, 2023 Allegation

As outlined above, we find that Councilor Snutch breached Sections 5.13(e) and 20.1 of the Code of Conduct on January 18, 2023 with respect to the exchange with the Complainant.

Confronting a member of the public in their personal workspace is not appropriate and falls well below the standard of behaviour expected of a member of Council. The nature of the confrontation requires in our opinion that Council impose a penalty to demonstrate its condemnation of this type of behaviour. The incident did not involve threats or abuse but still needs to be strongly condemned by Council. In the circumstances, we recommend that Council suspend Councillor Snutch's remuneration for 15 days.

January 30, 2023 Allegation

As noted above, we find that Councillor Snutch breach section 5.13(e) of the Code of Conduct on January 30, 2023.

With respect to this item, our recommendation would normally be to require Councilor Snutch to issue a public apology to the affected member of the public. However, since this was already done on March 13, 2023 we do not recommend any further action with respect to this finding of breach.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



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