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August 20, 2024

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
Our File No. 37629-8

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:

- Original Complaint received – December 13, 2023
- Preliminary Review conducted and clarified with Complainant – January 2024
- Complaint sent to Member – February 2, 2024
- Follow up with Member – March 5, 2024
- Re-send complaint to Member – April 10, 2024
- Response received from Member – April 19, 2024
- Member's Response sent to Complainant – April 26, 2024
- Response received from Complainant – May 10, 2024
- Interviews Conducted – August 2024

Complaint Overview

A Complaint was received on December 13, 2023. The Complaint alleged breaches of the Code of Conduct by Councillor Sherri Bell (the "Member").

The Member is alleged to have "targeted" specific members of Council by name by posting on social media that two members of Council had proposed a motion to prioritize paving a local road and to utilize specific grant funding for that purpose, rather than using that grant funding wholly for a wastewater project. The social media post did not state that the councillors had presented a motion, but the complaint alleged that members of the public would assume the councillors were proposing a motion because the social media post used the words, "are asking" and "are proposing" in reference to the projects and funding. The complaint alleged that this was misleading and led to public anger over the issue.

The Member was also alleged to have acted inappropriately at a Council meeting on November 13, 2023. The Mayor cautioned the Member about her behaviour at the time. The Member

raised her voice and demanded an apology from the two members of Council who were “asking or “proposing” to pave a local road and use grant funding for that purpose.

The Complaint was made to attempt to stop the polarizing and aggressive behaviour of the Member which the Complainant believed was having negative impacts on Council and its ability to conduct the business of the Township.

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.

5.3 Members will conduct their dealings with each other in ways that maintain public confidence in the office to which they have been elected, are open and honest, focus on issues rather than personalities, and shall avoid aggressive, offensive or abusive conduct.

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.

Investigation Process

In conducting the investigation, the Complaints, the social media posts and the responses received from both the Member and the Complainant were reviewed. Interviews with relevant witnesses were also conducted and video footage of the Council meeting where the Member is alleged to have acted inappropriately was reviewed.

Factual Findings

The social media posts and the Council meeting are not in dispute. The Member posted that two identified councillors “asked” or “proposed” that funding from a grant be spent partially on a specific road project and not on a wastewater project. Based on the Council meeting recording, we confirmed that there was no motion brought forward by either member to use the funding in the way they were discussing. The particular meeting in question was a budget meeting where many options for spending the available budget were discussed. We

understand that at a later meeting Council voted on the budget which dealt with allocation of the grant in question.

The Member did request an apology in the November 13, 2023 meeting from the same two members and the Mayor admonished the Member for her behaviour at that meeting.

Code of Conduct Findings

The social media post was not misleading. It did not state that either member of Council moved a motion related to how to utilize funding. Based on the recorded meeting, it is clear that the members did propose or suggest that the funding be used partially for a road and not completely for the wastewater project. We cannot speculate as to what the public think or might be led to believe by the use of the words “asked” or “proposed”.

The Member is advocating for her constituents and is taking a strong stand against any action that she believes is not in line with what she interprets as her mandate on servicing in her area. The Code of Conduct does not prevent a politician from being a politician, so long as they are not misleading the public. We cannot find that the language of the social media posts were misleading.

Section 5.3 requires members of Council to, “focus on issues rather than personalities, and ... avoid aggressive, offensive or abusive conduct”. The Member is certainly being forceful in advocating for issues at Council. We cannot however read the social media post and find that her behaviour is “aggressive, offensive or abusive conduct”. The Member is not using offensive behaviour or language and the posts, taken in context, are not aggressive or abusive.

The social media posts are not a breach of the Code of Conduct.

With respect to the Council meeting of November 13, 2023, the Member was disruptive, talked over other members and demanded an apology related to the comments of the two councillors that formed the basis for the social media post. This behaviour does not rise to the level of behaviour intended to be captured by Section 18.1. Decorum does not mean a standard of perfection and must be intended to prohibit conduct that exceeds what should be expected at a Council meeting as reasonable debate by members.

The Mayor interceded and admonished the Member, which was the appropriate way to handle that behaviour. The mere fact that the Member was out of order and needed to be admonished does not automatically mean that a Code of Conduct breach occurred. The Mayor’s response was effective and appropriate and is all that was needed in the circumstances.

The behaviour at the November 13, 2023 meeting did not rise to the level of a Code of Conduct breach.

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.

While we are not recommending a penalty, it is worth noting that the type of behaviour complained about is not atypical in local government. The Member is very passionate about the issue of servicing and that passion is leading to advocacy that can be perceived as aggressive or inappropriate behaviour. As an Integrity Commissioner however, we must carefully balance the ethical obligations under the Code of Conduct with the freedom of expression that is protected by the Charter of Rights and Freedoms. The Code of Conduct cannot prevent a politician from advocating strongly for their constituents, but it can prohibit conduct that is abusive, offensive or otherwise inappropriate. In this case the Member restrained herself to remain on the “right” side of the line. We caution the Member to abide by the Code of Conduct and continue to refrain from misleading or abusive behaviour, despite her passion for the issues.

We also commend the Mayor for maintaining order at the meeting and using the Procedural By-law to ensure decorum was maintained – that is the proper way to address behaviour that if unchecked might undermine the order of a meeting.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



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