

COUNCIL
INTEGRITY COMMISSIONER

REPORT
FEBRUARY 23, 2021

**SUBJECT: SECOND COMPLAINT FROM STAFF AGAINST COUNCILLOR
GRAHAM SPECK**

AUTHOR: ROBERT SWAYZE, INTEGRITY COMMISSIONER *PRO TEM*

RECOMMENDATION:

That the report from the Integrity Commissioner dated February 23, 2021 be received by Council for information.

ORIGIN AND BACKGROUND:

I was appointed Interim Integrity Commissioner by Council effective from November 10, 2020 to January 21, 2021 when I was informed that the permanent Integrity Commissioner was appointed. The terms of my contract provided that if my contract terminates while conducting an investigation, I will be permitted to complete that file.

I received a complaint against Councillor Speck on January 18, 2021 from member(s) of staff who requested that they remain anonymous. This was the second such complaint I received from staff, which also was received prior to the termination of my contract.

I reported to Council on the first complaint and found that posts by him on social media, critical of staff were contrary to the Code of Conduct for Members of Council (the "Code"). I recommended that Councillor Speck's compensation, paid to him as a member of Council, be suspended for a period of 30 days which was approved by Council.

The second complaint arises from an E-mail sent by the Councillor to all members of Council and a member of the public. It was again alleged to be critical of staff. It attaches an e-mail from the member of the public who sits on the Heritage Committee alleging that the Chairman of the Committee unilaterally cancelled a direction passed by the Committee to research a property on Ridge Road. The cancellation by the Chairman was based on his receipt from the Heritage Committee staff member of minutes of an in-camera meeting of Council recommending expropriation of the property.

Criticism of Staff

In his E-mail Councillor Speck criticized the staff member for releasing closed session Council minutes which are required to be kept confidential. He also asked rhetorical

questions such as “does staff have the ability to direct the Committee” and “Can staff override a motion that is passed by this Committee”.

The Code in Section VII provides as follows:

“Members are expected at all times to treat staff with respect, professionalism and courtesy.

Members shall be respectful of the fact that staff are charged with making recommendations that reflect their professional expertise and corporate perspective without undue influence from any individual Member or group of Members.”

Closed Meeting Rules

A second allegation contained in the subject complaint is that the E-mail sent to all members of Council “could have constituted a meeting within the meaning of Section 238(1) of the Municipal Act, 2001 insofar as a quorum of members of council was included on the E-mail chain.”

COMMENTS AND ANALYSIS:

My investigation included speaking with the Clerk who confirmed that the staff report dealing with the expropriation approved in closed session was announced as an open session item by Council. The staff member did not therefore breach the requirement that such minutes cannot be disclosed. In his response, Councillor Speck indicated that when he wrote the E-mail, he was unaware that the approval to the expropriation was now in the public realm.

SUMMARY AND CONCLUSION:

I find that the E-mail sent to all of Council and a member of the public contravened the above Code sections for the same reasons expressed in my first report. The rhetorical questions contained in the E-mail were accusatory in nature. Members of staff have a reputation to preserve and it is inappropriate for any member of Council to publicly call into question their professionalism. There are private ways for Councillors to complain about staff members.

This constitutes a second offence. However, I will not recommend that further sanctions be imposed because the offending E-mail was sent before Councillor Speck had notice of my first report and that I was proposing 30 days suspension of his salary. Hopefully, he will refrain from any future public criticism of staff. I recommend to the permanent Integrity Commissioner that any further breaches of the Code be dealt with as a second offence.

As to finding a breach of the closed meeting rules, I have always recommended that E-mails to all members of Council be sent cautiously but I have never ruled them out. There was a case last year where such an E-mail was deemed a virtual meeting because of the many *reply all's* which had the effect of conducting a general discussion of an issue by a quorum of Council. When such an E-mail is sent there is a risk of

breaking the rules, but I cannot find it as a contravention of the Code. Accordingly, this second ground for the complaint is hereby dismissed.

ATTACHMENT:

None.

A handwritten signature in blue ink, appearing to be 'RS', written over a horizontal line.

Robert Swayze
Integrity Commissioner *Pro Tem*