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INTEGRITY COMMISSIONER REPORT

TO: Committee of the Whole, Town of Wasaga Beach
FROM: Robert Swayze, Integrity Commissioner
SUBJECT: Interim report of the Integrity Commissioner
DATE: October 18, 2016

RECOMMENDATION

That the report of the Integrity Commissioner dated October 18, 2016 be received.

BACKGROUND

I was appointed Integrity Commissioner by By-law commencing on November 24, 2015 and my duties as assigned by Council, are as follows:

- a) Provide information to Council as to their obligations under the Code;
- b) Provide advice to individual members regarding specific situations as they relate to the application of the Code;
- c) Provide advice to Council on other policies and procedures that relate to the ethical behavior of members;
- d) Provide general advice on conflict of interest issues noting that this advice may not be used in defense of allegations related to conflict of interest;
- e) To provide as requested, outreach programs, including educational sessions to Council and local boards on issues of ethics and integrity;
- f) Provide information to the public regarding the Code and the obligations of members under the Code; and
- g) Provide an annual report to Council on the activities of the Integrity Commissioner.

The Town of Wasaga Beach has been one of my most active Integrity Commissioner clients since my appointment. I have had 12 formal complaints in 2016 under the Code of Conduct, two of which at the date of writing this report are still in process and one which has been dismissed in confidence. I intended to present an annual report early in 2017 which will summarize all of my activities

since my appointment, including the general nature of complaints received, advice given to Councillors/ staff and the educational session conducted.

The CAO has requested that I prepare this interim report as soon as possible to discuss my reasons for dismissing or not proceeding with 9 of the complaints which have requested investigations and to attend a meeting of Committee of the Whole to answer any questions which Councillors may have.

DISCUSSION

There are three categories for the 9 complaints as follows:

- **Six Complaints re: Improper Conduct in Meetings and Otherwise**
 1. Two complaints were against Deputy Mayor Bifulchi that she generally does not show respect for Council in debating issues. Meetings are not videoed so it is difficult to establish such a complaint but I was supplied with newspaper articles by the complainant. This allegation centered mainly on the debate over filling a vacant Council seat where the Deputy Mayor expressed strong views. The second complaint refers to her behaviour at Council as shameful because it is constantly negative.
 2. One of the complaints was against the Mayor for silencing Council members in meetings.
 3. Three of the complaints were against Councillor Stockwell for his disrespectful comments against the Deputy Mayor made in social media.

Analysis

It is not the role of an Integrity Commissioner to stifle political debate and comment. Members of Council need to be able to speak their mind without fear of repercussions. In my opinion, the right to freedom of expression must be respected, particularly for elected representatives. There is no doubt that there are conflicting opinions on Council and the Deputy Mayor often votes negatively and quite often in the minority. But that is her right as a representative of the citizens of Wasaga Beach and my contact with her has convinced me that she is sincere.

It is also not my role to second guess a ruling of the Mayor as Chair of a meeting. Under the procedural by-law the chair has the power to control the meeting and the Integrity Commissioner has no mandate in those rulings.

There is also no doubt that the reference by Councillor Stockwell to the Deputy Mayor as “Nina No No” is disrespectful. He also exaggerates the percentage of times that she votes negatively. In my opinion within reason, I must extend some latitude to members of Council who show lack of respect for another politician. I have had numerous complaints regarding inappropriate decorum and political

name-calling by Councillors over my past 8 years providing Integrity Commissioner services for more than 20 municipalities. I have only recommended sanctions on two occasions, one of which was a claim that a Mayor was taking bribes without any proof and the other arose from repeatedly disrupting meetings and using vulgar language which was disgusting. I have come close to recommending sanctions where excessive political infighting is affecting the ability of a Council to do its business. I am beginning to have this concern in Wasaga Beach and will take that into account in reviewing any future complaints.

- **Two Complaints re: Holding Meetings contrary to the Purchasing By-law**

I have received two complaints against the Mayor for having meetings with prospective tenants contrary to the purchasing by-law while Requests for Proposals were out for bids and after proposals had been before Council.

Analysis

In response to these complaints I made a telephone call to the CAO who advised me that he attended the meetings and they were not contrary to the purchasing by-law. I did not continue my investigation because I must accept the judgement of the CAO who is advised by the Town Solicitor and I have no jurisdiction in this area. I have been advised that some of these matters are now in litigation which additionally underlines why an Integrity Commissioner must avoid any involvement.

- **One Complaint re: Failure to Respond to a Constituent**

The last complaint which this report will deal with is a complaint against Deputy Mayor Bifolchi which alleges that she failed to respond to a series of questions put to her by a constituent. I have reviewed the questions, many of which are disrespectful, such as: "Can you inform me of a single achievement on your part since being elected?"

Analysis

In my opinion a member of Council who serves thousands of citizens must be entitled to refuse to respond to some of them. They must be able to say I can't help you or you are taking up too much of my time. It is the electorate who must judge whether a Councillor is diligent and not the Integrity Commissioner.

CONCLUSION

It is hoped that members of Council will agree with the conclusions I have reached in dealing with the 9 complaints covered by this report. If not, I will be

pleased to answer all questions put to me at the meeting on October 18, 2016. I have not identified the complainants who are comprised of both Councillors and members of the public. I will send all of them a copy of this report on the day it becomes public. There may be a subsequent report or reports on the two outstanding investigations which I am conducting.

Respectfully Submitted,

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

Robert Swayze
Integrity Commissioner