

Annual Report of the Integrity Commissioner for the Municipality of West Nipissing

1. COMMISSIONER'S REMARKS

I am pleased to present Council with my 2021-2022 Annual Report.

This is now my third Annual Report to Council as Integrity Commissioner for the Municipality of West Nipissing. As such, this report will focus on the activities of my Office for the period of March 1st, 2021 to February 28th, 2022. I have amended somewhat the format of my annual report, after having received feedback from some Members of Council while presenting my first and second reports in September of 2020 and June of last year.

All know that the Office of the Integrity Commissioner was created as a process for hearing complaints regarding elected officers and may recall that I was appointed by your Municipality in March of 2019. My term began on March 1st, 2019 and it continues until December 1st, 2022. It may also be renewed for a further four (4) years at the Municipality's sole discretion.

Over the past 3 years now, I, as Integrity Commissioner have received numerous complaints and requests for advice from Members of Council.

I would like to, once again, acknowledge the very efficient and professional administrative support provided to my Office by your Municipality's Clerk/Planner and staff.

As in my first two years, my focus this past year was to follow through with the implementation of a formal complaint process. Specifically, I have continued to respect the established complaint process whereby my Office would receive a formal Request for Investigation form attached with a sworn affidavit to commence the investigative process. Only once satisfied that an investigation was warranted would I then send the details of the complaint to the Member of

Council for his/her reply to the allegation(s) of breach(es). After having been provided the Member's chronology of events, I would then determine if any further investigation was warranted. It should be noted, again this year, that no formal "in-person" hearings have been held. All complaints have been resolved without the necessity of such hearings. The complaints were either withdrawn, founded or unfounded or resolved amicably by the interested parties. I will be reporting more specifically further on in my report.

2. MANDATE

The statutory role of the Integrity Commissioner is set out in Section 223.3 of the *Municipal Act, 2001*:

INTEGRITY COMMISSIONER

223.3(1) Without limiting sections 9, 10 and 11, those sections authorize the Municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the Municipality with respect to any or all of the following:

1. The application of the Code of Conduct for Members of Council and the Code of Conduct for Members of local boards.
2. The application of any procedures, rules and policies of the Municipality and local boards governing the ethical behaviour of Members of Council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to Members of Council and of local boards.
4. Requests from Members of Council and of local boards for advice respecting their obligations under the Code of Conduct applicable to the Member.

5. Requests from Members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the Municipality or of the local board, as the case may be, governing the ethical behaviour of Members.
6. Requests from Members of Council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to Members of Council, members of local boards, the Municipality and the public about the Municipality's Code of Conduct for Members of Council and members of local boards and about the *Municipal Conflict of Interest Act*.

As Integrity Commissioner, I have the powers of inquiry and delegation as well as a duty of confidentiality and reporting requirements as follows:

8. I report directly to Council on matters related to the Code of Conduct and other policies, rules or procedures related to ethics for Council.
9. I will also report to Council on matters related to the Code of Conduct for local boards, including adjudicative boards, if any.
10. I, and all those acting under my instruction, must preserve secrecy with respect to all matters that come to my attention; I have the power to undertake investigations into complaints alleging contraventions of the applicable Code of Conduct while respecting confidentiality.
11. My reports are public and I am permitted to disclose necessary information related to the findings while maintaining confidentiality. I can make recommendations to Council relating to Code of Conduct breaches, but only Council can sanction one of its Members.

12. Council also has the authority to assign additional powers and duties to the Integrity Commissioner (I will also speak to this later on in my report).

3. OVERVIEW

In addition to the legislated role of an Integrity Commissioner as set out in Section 223.3 of the *Municipal Act, 2001*, I was assigned both an advisory and education function to the position. These are important functions of the Office that were incorporated into the expanded legal mandate of all municipal integrity commissioners in Ontario as of March 1, 2019.

As was stated in my first report, my workload as Integrity Commissioner during my first reporting cycle (March 1st, 2019 to February 29th, 2020) would most likely be higher than in the next years to come. This was largely due to consultation with Members of Council and staff and work related to the review and implementation of the newly drafted Code of Conduct for Members of Council during my first year. The Code was also amended by Council on September 10th of 2019. That was not the case. You have been made aware in my second annual report and you will learn in this, my third annual report that the volume of work has increased with having received 25 separate complaints during this reporting period alone.

4. COMPLAINT INVESTIGATIONS AND ADJUDICATIONS

Anyone who identifies or witnesses behaviour or an activity that they believe to be in violation of the Code of Conduct may pursue the matter through the formal complaint process. All complaints received are handled in accordance with the set procedures. There is no fee charged for making a complaint against a Member of Council.

During the 2021-2022 reporting period, my Office received twenty five formal complaints, which fell within my jurisdiction as Integrity Commissioner. I also received a few separate general advice requests of potential conflict of interest situations and inquiries pertaining to the penalties

section of the Code. I will elaborate on the recommendations for further amendments to the Code of Conduct later on in my report.

Of the twenty-five complaints received during this reporting period, there was one finding of breach and ten other complaints that were dismissed. The remaining investigations have not yet been completed and will not be reported in this report. These fourteen files are still under investigation and as the investigations are still ongoing, there are no findings that have yet been determined. Furthermore, a few files (4) had overlapped from the previous reporting year and four separate findings were made; they will also be reported in this report.

In addition to complaints received through the informal or formal complaint process, my Office also received a number of inquiries that were either related to matters outside of my jurisdiction or did not follow the established complaint procedures and were eventually dismissed for lack of proper process.

I will now turn to the specific complaints that had not yet been resolved by the reporting date of my second annual report as well as new complaints received after March 1st, 2021.

(A) FORMAL COMPLAINTS

As required by the process, formal complaints are submitted on the appropriate "Request for Investigation Code of Conduct for Council" form, with a signed affidavit, to my attention and must include information to support the allegation(s) made against a Member including dates, locations, the specific sections of the Code of Conduct, other persons present and all other relevant information and witnesses.

My Office conducts an intake analysis of each formal complaint to determine whether the matter is, on its face, a complaint with respect to the non-compliance of a section of the Code of Conduct for Members of Council and not covered by other legislation or other Council policies. I also consider whether the complaint is frivolous, vexatious or not made in good faith, or whether there are sufficient grounds to pursue an investigation.

During the period of the present report (March 1, 2021 to February 28, 2022) a number of new complaints were received and I will also refer to them in chronological order, but first, I will deal with last year's complaints as follows:

i) COMPLAINTS THAT WERE NOT COVERED BY MY LAST REPORT:

Complaint #25: The complainant Councilor D. Sénécal requested an investigation against Councilor C. Fisher for sending an inappropriate email to all Members of Council. After investigation, I have determined that there was a breach of the Code of Conduct by not treating every person with dignity, understanding and respect and by generally not conducting themselves in a manner that would generate community trust/confidence or enhance the role and image of the Council and local government generally (sections 5.1) and (5.8). I recommended that the member write a letter of apology to be sent to all Members of Council. My Report to Council was sent on May 11th, 2021.

Complaint #26: The complainant Councilor D. Sénécal requested an investigation against Councilor R. Larable as he would have acted in a conflict of pecuniary interest at a motion to adopt disbursements for services that had been authorized as an expenditure for typical work that was conducted at the River Valley site and was part of disbursements to be paid by the Municipality. I had found that the member may have been "perceived" to be in a conflict-of-interest position as per section 5.11 conflict of interest of the amended Code of Conduct. After investigation and because of the history of said expenses paid by the Municipality, I had recommended to Council that no penalty be imposed but the member in question recuse himself if/when this or any similar situation arises in the future. My Report to Council was sent on July 28th, 2021.

Complaints #28 and #29: These complaints were filed by two separate taxpayers. The complainants both questioned Councilor C. Fisher's conduct, by posting inappropriate

comments on social media. I have found that the member had indeed contravened the Code of Conduct by not treating every person with dignity and understanding. After investigation, I recommended that the member write a letter of apology and post it in the same group called "Verner on se parle – Verner lets talk". My Report to Council was sent on April 28th, 2021.

I will now turn to complaints received after March 1, 2021.

ii) COMPLAINTS RECEIVED BETWEEN MARCH 1ST, 2021 AND FEBRUARY 28TH 2022

Complaint #21-1: This was an informal complaint by a constituent. I had requested a Request for Investigation form that I did not receive. Hence, the investigation process was terminated.

Complaint #21-2: The complainant taxpayer had general inquiries about the complaint process and the use of the Code of Conduct for submitting a complaint. A formal complaint was not received. The complaint process was terminated and the file was closed.

Complaint #21-3: The formal complaint process was not respected. Though an extension of time was granted to the complainant, the taxpayer failed to provide further evidence. Hence, the matter was dismissed for lack of proper process and the file was eventually closed.

Complaint #21-4: The complainant J. Barbeau alleges misrepresentation of information to Council by Mayor J. Savage causing a miscarriage of justice. After investigation, it was determined that the Mayor had not breached the Code of Conduct in these very specific set of circumstances.

Complaint #21-5: The same complainant as in complaint #21-4, J. Barbeau with the same allegations but against another Member, namely Councilor L. Sénécal. Same findings; I found no breach of the Code of Conduct in these unique circumstances.

Complaint #21-6: The complainant J. Barbeau alleges various breaches against Councilor Y. Duhaime but most importantly, acting in a conflict-of-interest situation. After investigation, it was determined that there were no such breaches by the member.

Complaint #21-7: The complainant Mayor J. Savage alleges that another member, namely Councilor D. Roveda would have used language that was accusatory, defamatory and went as far as questioning her integrity and professionalism at different occasions. After investigation, it was determined that there were no breaches, though I did find that tensions were "palpable" at times.

Complaint #21-8(a): The complainant Councilor C. Fisher alleges that Mayor J. Savage failed to declare a pecuniary interest when dealing with a specific matter before Council. In all of the unique and particular circumstances of this investigation, I have found no such breach.

Complaint #21-8(b): This complaint is similar to the previous complaint but against Councilor L. Sénécal. I have determined the same findings and found no such breach.

Complaint #21-9: The complainant Councilor C. Fisher alleges that Councilor Y. Duhaime had acted in a conflict-of-interest situation. This was the same particular set of circumstances as was found in an earlier complaint (#21-6) and the same outcome was found ie: no breach.

Complaint #21-10 a) & b): These complaints by Councilor D. Roveda were made against Mayor J. Savage and Councilor L. Sénécal, for having acted in a conflict-of-

interest situation in a Human Resources matter. After investigation, it was determined that the members had not breached the Code of Conduct.

Complaint #21-11: This complaint was made by Councilor D. Roveda against Councilor Y. Duhaime for knowingly providing false information to other Members of Council. After a thorough investigation, I found no such breach in the circumstances after having accessed many confidential sources of information in a Human Resource file from the Municipality.

Complaint #21-12: This complaint by Mayor J. Savage against another member, namely Councilor D. Roveda stems from him sending an inappropriate email. After investigation, it was determined that the member had indeed breached the Code of Conduct and I recommended that the member send a letter of apology to the member, also confirming that the member had reviewed specific sections of the Code, dealing with respect of others. My Report to Council was sent on January 19th, 2022.

Complaint #21-13: The complainant Mayor J. Savage alleges that Councilor R. Larabie would have contravened the Code of Conduct by not declaring a conflict of interest. Similar to other matters and after a thorough investigation, it was determined that the member had not breached the Code of Conduct in these circumstances.

Complaint #21-14: This complaint file remains open as an ongoing investigation. I have now received the member's chronology of events to advance this investigation, after having permitting an extension of time to obtain written submissions.

Complaint #21-15: This is still an ongoing investigation and has not yet been completed. This is a recent complaint by one member against another member. The ongoing investigation has not yet been completed. I have not determined whether an investigation is warranted.

Complaint #21-16: A number of allegations by one member against three separate members for the same breaches. I have not determined whether a further investigation is warranted.

Complaint #21-17: This is a recent complaint by one member against two members. The investigation has not yet been completed.

Complaint #21-18: The complainant Councilor L. Sénécal complains of a member, namely Councilor D. Roveda for inappropriate outbursts that are not acceptable in a public forum. After investigation, it was determined that the member had not breached the Code of Conduct and I did not need to pursue my investigation any further.

Complaint #21-19: The complainant complains of several members (3) having posted inappropriate comments on social media. The investigation has not yet been completed.

Complaint #21-20: This is a recent complaint by one member against another member, alleging unfounded accusations that were false by another member. This investigation is also still ongoing.

Complaint #21-21: This was (the same complainant as #21-01) a citizen of the Municipality asking guidance on a specific gesture of a member and the complaint process. I had referred the taxpayer to the Code of Conduct and the Request for Investigation form. No formal complaint was received. Therefore this complaint file was never opened.

Complaint #21-22: This is also a recent complaint by one member alleging unacceptable behaviour by another member during a council meeting. This investigation is still ongoing.

5. INQUIRIES AND ADVICE

Providing written advice and interpretations to inquiries from Members of Council and their staff is a core function of the Integrity Commissioner's mandate.

- All requests for advice and advice provided shall be in writing – Under the new subsection 223.3 (2.1) of the *Municipal Act, 2001*, all requests for advice shall be made in writing. Presently, requests for advice are received by way of email and/or telephone call. I encourage Members to continue contacting me informally as the need arises.

All general legal advice requests have been for potential conflict of interest situations. I would, once again, encourage all Members to review the Code of Conduct regularly but more specifically, sub-section 5(11) Conflict of Interest.

6. RECOMMENDATIONS FOR AMENDMENTS TO THE CODE OF CONDUCT

This year has been particularly busy. I have made it known that the consequences of having been found guilty of breaching the Code only provides Council with two options re: letter of reprimand and/or suspension of the Member. I would encourage Council to elaborate this section of the Code of Conduct to permit a broader range of consequences. I would be happy to assist in developing same with Council.

7. FINANCIAL STATEMENT

The Integrity Commissioner's remuneration consists of an hourly fee of \$250 per hour (in office) or \$300 per hour (on site), a fee of \$100 per hour for travelling to and from the Municipality and all applicable taxes.

Financial Breakdown (March 1st, 2021 to February 28th, 2022) in comparison with previous two years reports:

2019-2020		2020-2021		2021-2022	
		March	\$2,345.32	March	\$831.12
March-April 2019	\$4,334.47	April	\$4,830.19	April	\$1,756.59
May	\$3130.33	May	\$1,651.50	May	\$2,204.07
June	\$794.95			June	\$1,685.40
		June & July	\$5,847.19	July	\$2,349.27
July-August	\$976.90			August	\$1,136.22
		August & September	\$2,048.69	September	893.83
September-October	\$788.75	October	\$1,081.98	October	1,596.13
November	\$289.28	November	\$1,119.27	November	3,990.03
December	\$350.87	December	\$1,122.09	December	1,571.27
January 2020	\$232.22	January 2021	\$2,851.56	January 2022	\$5,549.43
February	\$1,409.11	February	\$1,132.27	February	\$2,325.54
Total	\$12,306.88		\$24,030.06		\$25,888.90

CONCLUSION

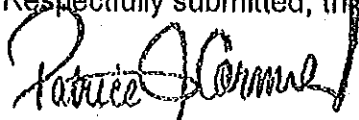
My consultation with Members of Council this past year suggests that Members are somewhat satisfied with the assistance they receive through my Office. However, I feel that a report on every complaint may be burdensome and not very cost efficient for the Municipality. As such, I propose to continue to report the breaches to Council as they occur and will continue to inform the complainants and the respondents of a complaint, the outcome of my findings should I find no breaches. I do not see the need to report any informal complainants and complaints that have not respected the formal process until my yearly report.

Be certain that I will always make myself available for the betterment of The Corporation of the Municipality of West Nipissing.

Looking to the year ahead, education and the need for more sanctions (broader range of consequences) would be my humble recommendations for Council. Sanctions may assist Council in determining more appropriate consequences for members who do not respect the Municipality's Code of Conduct.

I do look forward to working with all of you again this year.

Respectfully submitted, this 30th day of March, 2022, at Hawkesbury, Ontario.



Patrice J. Cormier, Integrity Commissioner for the Municipality of West Nipissing