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CODE OF CONDUCT COMPLAINTS 2020-01 & 2020-02 INTEGRITY COMMISSIONER REPORT

THE CORPORATION OF THE COUNTY OF PERTH

**Daria (Dasha) Peregoudova
Aird & Berlis LLP**

August 12, 2021

INTEGRITY COMMISSIONER REPORT CODE OF CONDUCT COMPLAINTS 2020-01 & 2020-02

I. SUMMARY

Two formal complaints were filed with the Integrity Commissioner on December 3 and 8, 2020 (the “**Complaints**”) alleging that Councillor Todd Kasenberg (the “**Councillor**”) of The Corporation of the County of Perth (the “**County**”) contravened Sections 5.2, 5.4, 5.5, 5.7, 5.8 and 7.1 and 9.2 of the County’s Code of Conduct for Members of Council of the Corporation of the County of Perth (the “**Code**”) as a result of his actions and public statements related to a motion to establish an inclusivity and anti-racism charter and a related committee on November 19, 2020 (the “**Motion**”), and in turning off his video camera for a December 3, 2020 ceremony of the Warden (the “**Warden Ceremony**”) which is alleged to have been disrespectful.

II. APPOINTMENT & AUTHORITY

Aird & Berlis LLP was appointed as Integrity Commissioner for the County pursuant to subsection 223.3(1) of the *Municipal Act, 2001* by Council by By-law No. 3634-2017 on November 16, 2017.

Council adopted the Code and its Complaint Protocol (the “**Complaint Protocol**”) on May 5, 2016 by By-law No. 3532-2016.

As Integrity Commissioner, we are appointed to act in an independent manner on the application of the Code, and other rules and procedures governing the ethical behaviour of members of Council. We are required to preserve secrecy in all matters that come to our knowledge as Integrity Commissioner in the course of our duties. The County is required to ensure that reports received from the Integrity Commissioner are made available to the public.

The Complaints were properly filed in accordance with Section 18.1 of the Code, being the County’s Formal Complaint Procedure. We further determined that the Complaints did not appear to be frivolous or vexatious, and that they fell within our jurisdiction as Integrity Commissioner and subsection 223.4(1) of the *Municipal Act, 2001*.

This is a report on the investigation of the Complaints made in accordance with Section 15 of the Code and subsection 223.6(2) of the *Municipal Act, 2001* (the “**Report**”).

The principles of procedural fairness require us to provide reasons for our conclusions and recommendations, which we have done in this Report. Our investigation was conducted in accordance with the Complaint Protocol and with a process that was fair to all parties. We have assessed the evidence in an independent and neutral manner. We have provided an opportunity to the Councillor to respond to all of the allegations set forth in the Complaints, and to review and provide comments on our preliminary findings and conclusions.

III. CODE OF CONDUCT PROVISION AT ISSUE

The Complaints alleged that the Councillor contravened the following provisions of the Code:

- Section 5.4;
- Section 5.5;

- Section 5.7;
- Section 5.8;
- Section 7.1; and
- Section 9.2.

The aforementioned provisions of the Code have been reproduced in **Appendix A** to this Report.

IV. REVIEW OF MATERIALS AND INTERVIEWS

In order to undertake our investigation and prepare this Report, we reviewed and considered the following materials:

- The Complaints and all attachments thereto;
- Response to a request for clarification dated January 6, 2021 from the complainant in Complaint 2020-01, and the response to a request for clarification dated January 11, 2021 from the complainant in Complaint 2020-02 (collectively, the **“Responses to Requests for Clarification”**);
- The Councillor’s response to the Complaints dated February 1, 2021 (the **“Response”**);
- The Councillor’s further response to the Complaints dated June 26, 2021 (the **“Second Response”**);¹
- Agenda, video recording and Meeting Minutes of the Regular Council Meeting of November 19, 2020 (the **“Council Meeting”**); and
- Agenda and video recording of the Warden’s Election of December 3, 2020.

We also reviewed such further materials that we considered appropriate to understand the context of the ethical framework and matters related to the Complaints.

V. BACKGROUND AND FACTUAL CIRCUMSTANCES

(a) The Complaints

As noted, the Complaints alleged that the Councillor contravened Sections 5.2, 5.4, 5.5, 5.7, 5.8 and 7.1 and 9.2 of the Code as a result as a result of his actions and public statements related to the Motion.

Specifically, the Complaints referred to the following public statements in support of their allegations that the Councillor contravened the Code:

- The *Listowel Banner’s* Facebook Page dated November 27, 2020, which quotes the Councillor as stating, “I believe that through the disinterest shown by the county council to this motion, we risk sending messages that are contrary to who we are – namely,

¹ At our request, the Councillor submitted a further response to an allegation pertaining to a specific Code provision which was not clearly identified to the Councillor in our earlier correspondence.

good hospitable people are progressive and opportunity-creating for all those of goodwill. I find myself wondering how those of minority communities are feeling at the neglect of this motion. This could send unintended signals.” (the **“Facebook Quote”**).

- A Facebook comment made by the Councillor on November 27, 2020 stating, “I am pretty disheartened. The focus was on creating a committee to support Council. A petition could draw attention. Perhaps we could bring together a group from across the County to do the work without County Council endorsement and then bring that work forward, it would create more pressure. I have pondered whether the next step is to bring forward a draft charter or statement – that would escalate the matter.” (the **“Facebook Comment”**).
- The *Listowel Banner* article dated December 15, 2020 which quotes the Councillor as stating, “There seems to be this argument that I wasn’t a real collaboration-oriented guy in this – that I could have talked to all my councillors and whipped up support and learned what their objectives are. ... They would have all said that it wasn’t going to be a committee, they didn’t want another committee. The point I’d like to make in response to that is it’s not all that encouraging that councillors have group-based discussions before an issue arises at the council table in terms of ethics and the Municipal Act.” (the **“Interview Quote”**).

Complaint 2020-20 also alleged that the Councillor turned off his video camera during the Warden Ceremony, which was alleged to have been disrespectful.

(b) Relevant and Related facts

In reviewing the available evidence, we concluded that the following were clearly available or observable relevant facts.

On November 19, 2020, at approximately the 2:09 hour mark of the Council Meeting,² the Councillor made a short address to Council with respect to diversity and inclusion in the County, and ultimately made a motion, as reflected in the Minutes of the Council Meeting, as follows:

Whereas Perth County is a welcoming home to a tolerant, respectful community that celebrates diversity and promotes inclusivity, both in our organization and for all residents, businesses and organizations; and

Whereas Perth County eschews racism, and works to stop it when encountered;

Therefore Be it Resolved that:

The Council of the County of Perth establishes a Committee on Inclusion and Diversity, to explore and identify relevant actions that represent this County’s commitment to a tolerant, respectful community;

And that: Potential actions to be considered by the Committee include the creation of an Inclusivity and Anti-Racism Charter or Statement, exploration of the option to join the Coalition of Inclusive Municipalities, petitioning other levels of government for actions conducive to our intentions, and other actions viewed as viable to further the commitment to a tolerant, respectful community;

² https://www.youtube.com/watch?v=KYGfMn_Ksjk.

And that: The Council of the County of Perth approve an associated Terms of Reference to support the work of this Committee;

And that: The Committee delivers its first report to Council no later than February 28, 2021.

As evident in the video and in the Minutes of the Council Meeting, the motion failed to receive a seconder.

Following the failed Motion, there was significant media and public attention to the issue, which was mostly critical of Council's apparent refusal to support the Councillor's Motion and the implications of the refusal for the County.

VI. PRELIMINARY MATTERS

(a) The Councillor's Requests for the Identity of Complainants

In his Response, the Councillor indicated that while he "entertained the notion" that the Integrity Commissioner acts in accordance with natural law, he found it objectionable that he was not entitled to know the identity of his accuser(s) and the source of a complaint.

The *Municipal Act, 2001*, from which our investigation and this Report derive their authority, is clear with respect to an Integrity Commissioner's duty of confidentiality:

Duty of confidentiality

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.

Although the principle is not reflected in the Complaint Protocol, which was approved by Council as part of the Code in 2016, more recent municipal Codes of Conduct for Council members reflect this principle and provide that the Integrity Commissioner does not have an obligation to disclose the identity of a complaint or complainants (or witnesses) unless unless it is essential for the Member to adequately respond to the complaint, which determination shall be made in the Integrity Commissioner's sole and absolute discretion.

In *Di Biase v. Vaughan (City) Integrity Commissioner*,³ the Ontario Divisional Court held that:

An administrative body that investigates and makes recommendations must disclose the substance of the allegations. The Supreme Court of Canada in two cases affirmed the following statement by Lord Denning in *Selvarajan v. Race Relations Board*, [1976] 1 All E.R. 12 (C.A.), p. 19:

The fundamental rule is that, if a person may be subjected to pains or penalties, or be exposed to prosecution or proceedings, or deprived of remedies or redress, or in some such way adversely affected by the investigation and report then he should be told the case made against him and be afforded a fair opportunity of answering it. The investigating body is, however, the master of its own procedure. It need not hold a hearing. It can do everything in writing. It

³ (2016), 55 M.P.L.R. (5th) 173 (Ont. Div. Ct.). Online: <<http://canlii.ca/t/gtqtf>>.

need not allow lawyers. It need not put every detail of the case against a man. Suffice it if the broad grounds are given. It need not name its informants. It can give the substance only.

The Integrity Commissioner was not, in the words of Lord Denning in *Selvarajan*, required to provide the applicant with “every detail of the case against” him. The Integrity Commissioner was not required to “name [her] informants”. It was sufficient “if the broad grounds [were] given.”⁴

Having regard to the foregoing, and having made no finding that the identity of the complainants were or are essential for the Councillor to adequately respond to the Complaints, we determined that the Councillor was and is not entitled to know the identity of the complainants. As indicated above, the Complaints have been properly summarized and a full opportunity to respond has been provided to the Councillor.

(b) Partial Summary Dismissal

Based on the evidence provided in support of the Complaints and the Responses to Requests for Clarification, we exercised our discretion to summarily dismiss the allegations pertaining to Sections 5.8, 7.1 and 9.2 of the Code as they related to the Motion.

Specifically, there was no evidence before us, both in the Complaints and the Responses to Requests for Clarification, which supported the allegation that the Councillor used the influence of his office or the status of his position in a manner giving rise to a conflict of interest, or to his private advantage in the way that the Code, and general municipal conflict of interest principles contemplate. This was especially so in light of Section 5.10 of the Code, which states:

For greater clarity, this code does not prohibit members from properly using their influence on behalf of constituents.

With respect to Section 7.1, there was no evidence of discrimination or harassment on the part of the Councillor with respect to the Motion. While one of the Complainants cited adverse impacts as a result of the stress caused by the situation giving rise to the Complaints (and in particular, a very critical letter they received in backlash to the failed Motion), we concluded that this was not a direct or foreseeable result of the Councillor’s actions which would give rise to a finding of discrimination or harassment under the Code.

We did, however, exercise our discretion based on the evidence available to us to conduct a preliminary investigation as it pertained to the Warden’s Ceremony (only), given the allegations the conduct of the Councillor was disrespectful.

In his Response, the Councillor indicated that the turning off of his camera during the Warden’s Ceremony was in no way meant to be disrespectful, and entirely related to connectivity issues that he has experienced from time to time, including at other meetings of Council. In reviewing the video footage of the Warden’s Ceremony, we observed that another Councillor also appeared to have had his camera off for the ceremony, and one other Councillor could be observed looking at his mobile phone. There have been many difficulties with a remote, virtual environment during the COVID-19 pandemic, requiring a requisite degree of understanding and flexibility from all.

⁴ *Ibid* at paras 138-149.

In the absence of specific rules or policies of decorum related to the ceremony or virtual meetings generally, which were not cited in the Complaints, we did not find sufficient evidence to support the allegation that the Councillor breached the Code by turning off his camera during the ceremony. As such, we exercised our discretion not to investigate the allegation any further, and to summarily dismiss this portion of the Complaints as well.

VII. ANALYSIS

This Part of our Report sets out our findings regarding the allegations in the remaining portions of the Complaints. The sole purpose of our investigation and Report is to determine whether the Councillor breached Sections 5.2, 5.4, 5.5, and 5.7 of the Code. For the reasons below, we find a minor contravention of Sections 5.5 and 5.7 the Code in relation to one portion of the Complaints only, and dismiss the remaining portion of the Complaints.

(a) The Facebook Quote

The Complaints alleged that the Councillor's quote as published on Facebook by the Listowel Banned on November 27, 2020 was in violation of Sections 5.2, 5.4, 5.5 and 5.7 of the Code. As indicated above, the Facebook Quote is as follows:

I believe that through the disinterest shown by the county council to this motion, we risk sending messages that are contrary to who we are – namely, good hospitable people who are progressive and opportunity-creating for all those of goodwill. I find myself wondering how those of minority communities are feeling at the neglect of this motion. This could send unintended signals.

In our review of the Complaints, it is the word “disinterest” that appears to have struck a particular chord, since it no doubt reflects poorly on Council to have been described as “disinterested” in the issues giving rise to the Councillor's Motion. In his Response, the Councillor indicated that the statement was not meant to be inflammatory, and that readers were able to discern their own conclusions.

We agree that the Councillor could have used a more neutral word than “disinterest” to describe Council's response to the Motion. However, taken together with the remainder of the lengthy and detailed article where the quote appears,⁵ we agree with the Councillor that there is sufficient context that does not automatically lead to the conclusion that the Councillor's statement was solely aimed at disparaging Council and no other intent or purpose. For example:

But I can assure – my motion was not intended to irritate a neighbouring municipality, or to call them out for their actions. It was a reaction to what I believe is a general harm that we can express ourselves about – and not a judgment on one of our peers.

...

Through this motion, I urged council to study possibilities for actions that will address those who feel unsafe or unwelcome, who feel diminished from being whole.

⁵ <https://midwesternnewspapers.com/north-perth-mayors-inclusivity-anti-racism-charter-silently-rejected-by-perth-county-council/>.

Only one of the Complaints cited the fact that once a decision by Council is made, it was incumbent on the Councillor to support Council's direction and decision-making as a whole. No specific rule, policy or provision of the Code was cited in support of this obligation. While we accept that, as a general best practice, Council would have a reasonable expectation of its members to support the outcomes of Council as a whole, we do not believe this gives rise to a breach of Section 5.2, which requires that members comply with all "legislation, by-laws and policies" that pertain to their positions as elected officials. It would be a reach to conclude that the Councillor could not have expressed any opinion whatsoever on the failed Motion, especially in light of the fact that there was no discussion had on point as a result of a lack of a seconder. Such discussion could have provided more context as to the rationale of the remainder of Council.

Section 5.7 requires members to refrain from making disparaging remarks about other members of council, staff, members of the public, or council's decisions. As earlier noted, while the word "disinterest" certainly carries connotation and therefore a more neutral word could have been chosen by the Councillor, it is also, by definition, synonymous with neutrality, detachment and even impartiality. Combined with the context of the article as a whole, we do find that the Facebook Quote amounts to a disparagement of Council's decision (or more accurately, indecision) regarding the Motion. We also agree with a point raised in the Councillor's Second Response where he indicates that commenting on "disinterest" does not rise to the level of "disparagement", which includes libel, slander and defamation.

Similarly, we do not see any evidence in support of a contravention of Section 5.4, which requires the Councillor to serve and be seen to serve the interests of the County's constituents and the County in a conscientious and diligent manner, and approach decision-making with an open mind.

The Complaints argue that not supporting and criticizing the decision of Council is, by extension, a failure to support the County itself. In his Response, the Councillor indicated that his comment to the media intended to advise all constituents that he stood for a matter which was important to so many of them, and remind the community that despite what to him seemed like a poor choice by Council, that the County are good, hospitable people. The Councillor stated that if anything, his assurance of the latter was serving the interest of reassuring that the inaction was not a reflection of any overt exclusionary ethos of Council.

We agree with the Councillor, especially in light of the finishing thought of the Facebook Quote, which states that the failure to support the Motion by Council could "send unintended signals" [emphasis added]. In other words, the Councillor's quote suggests that whatever negative impact results from the disinterest in the Motion was not intentional.

With respect to Section 5.5, which requires that the Councillor conduct his dealings with other members of Council in ways that maintain public confidence in the position to which he has been elected or appointed, the Councillor submitted that his comment did not directly address his dealings with other members of Council, but instead dealt with potential ramifications of the action chosen by Council. With respect, we believe that this is too narrow a reading of subject provision.

The Councillor's addressing of Council's actions in a public forum is a "dealing with other members of Council" in its own right. If "dealing with other members of Council" were limited to private and direct interactions, this would be an overly broad and unintended reading of the Code. Notwithstanding, we agree with the Councillor that if there was any loss of public confidence, which appears to have been the case based on subsequent letters and calls to action, there is insufficient evidence to support the allegation that such loss of confidence was the direct result of the Councillor's commentary in the Facebook Quote.

For the reasons above, this portion of the Complaints is dismissed.

(b) The Facebook Comment

The Complaints also allege that the Councillor's Facebook Comment was in violation of Sections 5.2, 5.4 and 5.5 of the Code. As indicated above, the Facebook Comment stated as follows:

I am pretty disheartened. The focus was on creating a committee to support Council. A petition could draw attention. Perhaps we could bring together a group from across the County to do the work without County Council endorsement and then bring that work forward. It would create more pressure. I have pondered whether the next step is to bring forward a draft charter or statement – that would escalate the matter.

The Councillor indicated that he was responding to a question posed to him by another Facebook user, namely, "Todd Kasenberg how do we support a change? A petition?". While we are not able to directly access the Facebook account and comment in question, we have no reason to doubt this information as provided by the Councillor. Indeed, the screenshot of the Councillor's Facebook Comment submitted in support of the Complaints appears to be a re-posting of the comment, but not in its original context.

The Councillor further submitted that merely expressing emotion is not in breach of the Code or of any of his duties. Further, he submitted that there are no specific policies, legislation or rules that he breached in responding to an individual posing a question which would constitute a violation of Section 5.2.

Lastly, the Councillor submitted that he was in fact serving the best interests of constituents when he responded to a request for information, reflecting an open mind and solution-oriented possibilities, and that in responding to a citizen-initiated call for action, he in no way named his colleagues or impacted his dealings with them. In short, the Councillor submitted that he did not breach Section 5.4 or Section 5.5 of the Code.

We agree with the Councillor's submissions above, especially in light of Section 5.10, which we have already articulated, which makes it clear that the Code contemplates members of Council using their influence of behalf of constituents.

The explanation provided by the Councillor is consistent with his other statements, for example, as quoted in the article in the *Listowel Banner* dated November 27, 2020 in support of the Motion:

... Which is why I think our path forward is to start a committee to evaluate a few things and those few things include the possibility of our county joining an associate which is committed to inclusivity and diversity in communities and also to establish, as other communities in Ontario have, a charter that speaks to inclusivity and diversity and anti-racism. ... We've heard from our constituents. We have an opportunity to take some action and that action probably is best served at this point by deliberate and thoughtful conversations amongst ourselves and some of those citizens who are interested in this matter. So that's why I've put forward this motion and I so move it.

For the reasons set out above, this portion of the Complaints is dismissed.

(c) The Interview Quote

Lastly, our analysis deals with the portion of the Complaints that alleges that the Councillor's Interview Quote of December 15, 2020 was a breach of Sections 5.4, 5.5 and 5.7 of the Code. The Interview Quote was recorded by the *Listowel Banner* as follows:

There seems to be this argument that I wasn't a real collaboration-oriented guy in this – that I could have talked to all my councillors and whipped up support and learned what their objectives are... They would have all said that it wasn't going to be a committee, they didn't want another committee. The point I'd like to make in response to that is it's not all that encouraging that councillors have group-based discussions before an issue arises at the council table in terms of ethics and the Municipal Act.

The Complaints allege that the above quote is not supportive of Council or the decision made by Council, and that it is unfounded and untruthful to suggest a violation of ethical principles and the *Municipal Act, 2001* by members of Council.

The Councillor submitted that his comment was in response to the Warden's statement to the *Listowel Banner* on December 3, 2020, which mirrored statements of Councillors Wilhelm, Herlick and Kellum made to the *Listowel Banner* on December 10, 2020, and all of which suggested that the explanation for the refusal to second the Councillor's Motion was a lack of desire for a new committee given the number of existing committees, especially during COVID-19. Given their similarity, the Councillor indicated that it was likely that prior discussion had taken place and that he was merely suggesting a possible explanation for this rare outcome.

In his Response, the Councillor also indicated that he could not substantiate his opinion that conversations among his fellow Councillors happened prior to the Motion. Instead, he proposed that in our investigation, the Integrity Commissioner should proceed to request affidavits from every member of Council pertaining to whether there had been discussions of the Motion prior to its arising on the floor at the meeting of November 19, 2020, and if so, whether a consensus was reached to not second the motion.

As the Integrity Commissioner, the purpose of our investigation and Report is to opine on whether there has been a breach of the Code. Even if there was evidence of the Councillor's suggestion that other members of Council had discussed the Motion prior to its tabling, that would not provide an immediate reason for breach of the Code. It may, however, provide an explanation that would go to any corresponding recommendations (or possibly forego the need for an investigation into the apparent breach). That circumstance is hypothetical in the present instance. The Councillor has clearly stated that his response was speculative and was not based in evidence. As such, we do not find it appropriate for him to retroactively rely on the possibility of truth of his statement in support of a possible breach of the Code. The suggestion of an ethical breach, or a breach of the *Municipal Act, 2001* by his fellow members of Council is a serious allegation, more consistent with what would commonly be understood as being "disparaging". Contrary to the Councillor's Second Response, "disparagement" does not only include lying or distortion of the truth, but is defined as "to depreciate", "speak slightly about" and "to lower in rank or reputation."⁶ It was incumbent on the Councillor to more carefully consider his wording prior to making a media statement to this effect.

⁶ Definition of "Disparagement", Merriam Webster Dictionary, online: <https://www.merriam-webster.com/dictionary/disparagement>.

Having regard to the above, we are of the view the Councillor contravened Sections 5.5 and 5.7, as his statement that Councillors were engaging in group-based discussions in breach of ethical obligations and statutory requirements before an issue arose, which was not based in fact, but in speculation, had the ability to undermine public confidence in Council as a whole, and was disparaging of Council's decision (or in this case, indecision), irrespective of whether the Councillor's opinion was accurate. Our finding is that the contravention of the Code with respect to both Sections 5.5 and 5.7 is of a relatively minor nature.

In his Second Response in particular, the Councillor objects to a possible breach of Section 5.7 on a technical ground, indicating that because no "decision" was made by Council and no individual Councillor was named by him in the Interview Quote, by definition, no one could be "disparaged" pursuant to the Code. With respect, we believe that this is too narrow a reading of the Code, especially in light of the guiding principles of Section 5.11. A suggestion that certain unnamed members of Council (who, by the Councillor's own admission, were implicated in the context of the article) acted unethically and breached the *Municipal Act, 2001*, falls squarely within the language of Section 5.7, which states that "members shall refrain from making disparaging remarks about other members of council...".

On the other hand, there is no evidence before us to support a finding that the Councillor did not serve his constituents or the County diligently or with an open mind contrary to Section 5.4. The Councillor stated that the conscientious execution of his duties included the responsibility to bring debate and discussion to a duly moved and seconded motion on the Council floor, but that a lack of a seconder did not provide him with an opportunity to represent his constituents and the County well on the matter of inclusivity and anti-racism.

Clearly, as evidenced by the fact that Council saw over 55 letters from constituents and a petition with approximately 1000 signatures by its meeting of December 3, 2020, resulting in two (2) urgent motions, and with the recent adoption of the County's Diversity, Equity and Anti-racism Charter on June 17, 2021, it is clear that the Councillor was representing the will of many constituents in the County and using his influence consistently with Section 5.10 of the Code.

In summary, we find that the Councillor committed contraventions of Section 5.5 and Section 5.7, albeit in a relatively minor manner. The portion of the Complaints pertaining to Section 5.4 is dismissed.

VIII. RECOMMENDATIONS

Subsection 223.4(5) of the *Municipal Act, 2001* and the Code both authorize the Integrity Commissioner to recommend and Council to impose the following penalties on a member who has been found to have contravened the Code:

- (a) a reprimand; and
- (b) a suspension of remuneration paid to the member for a period up to ninety (90) days.

Having regard to the totality of our findings, and taking into consideration that the Councillor has no prior history of Code contraventions or complaints against him, we do not find either penalty to be warranted or appropriate in the circumstances and we do not recommend their imposition by Council.

In his Response, the Councillor has indicated that he is prepared to publicly retract the Interview Comment pertaining to prior group-based discussions by Council in the absence of evidence, given that elected officials must do their best to support their opinions with facts. We would recommend that in receiving our recommendations, the Councillor acknowledges that his comment was not based in concrete evidence of prior group discussions at the time the Motion was introduced.

We took note of the Councillor's indication in his Response that in the Introduction Package provided to him during his initial Councillor training, he was not provided with, and as such, was unaware of the existence of the Code. The Councillor indicated that he was aware of, and was trained with respect to a code of conduct at the lower-tier municipality, but not at the County. We have reviewed Council's training history at the County and confirmed that orientation sessions, including general education regarding codes of conduct, were held on November 28, 2018 and that the Councillor was in attendance at these sessions. We are also aware that more recent training was conducted on April 8, 2021 (following and unrelated to the filing of the Complaints). In the future, we recommend that all new County Councillors receive the current version of the Code as part of their orientation materials at the County and that they review it carefully, as lack of awareness of the Code's existence or its contents will not provide a satisfactory reason as to its breach.

IX. CONCLUSIONS

For the reasons set out above, it is our conclusion based on the preponderance of the evidence that the majority of the Complaints are dismissed, but that the Councillor did commit a minor breach of Sections 5.5 and 5.7 of the Code with respect to the Interview Comment (only).

This Report has been prepared for and is forwarded to Council for its consideration of the Recommendations set out herein.

Subsection 223.6(2) of the *Municipal Act, 2001* provides that this Report be made public.

AIRD & BERLIS LLP



Daria (Dasha) Peregoudova

Integrity Commissioner for the County of Perth

Dated this 12th day of August, 2021.

Appendix “A”

Code of Conduct Provisions at Issue

Section 5.4

Members shall at all times serve and be seen to serve the interests of their constituents and the county in a conscientious and diligent manner and shall approach decision-making with an open mind.

Section 5.5

Members will conduct their dealings with each other in ways that maintain public confidence in the position to which they have been elected or appointed.

Section 5.7

Members shall refrain from making disparaging remarks about other members of council, staff, members of the public, or council's decisions.

Section 5.8

Members shall avoid the improper use of the influence of their office and shall avoid conflicts of interest, both apparent and real.

Section 7.1

All members have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying or intimidation, and to ensure that the work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies and, where applicable, the county's Respect in the Workplace Policy III-2.

Section 9.2

Members should not use the status of their position to influence the decision of another individual to the private advantage of oneself, one's parents, children, or spouse, staff members, friends, or business or other associates.