

TOWNSHIP OF TEHKUMMAH

REPORT ON COMPLAINT RE: DAVID JAGGARD & RESPONDENT B – RECEIVED NOVEMBER 1, 2022

EXECUTIVE SUMMARY

The Integrity Commissioner received a Complaint alleging violations of the Township's Code of Conduct, and specifically clauses 2, 3, 4, 6, and 7 of the Township's Code of Conduct, Ethics and Values (Appendix "A") on November 1, 2022. The Complaint named the then-Reeve, David Jaggard, and another individual, as respondents. The Complaint made a series of allegations, which largely relate to issues in contacting the Township office; delays in responding to communications, and remarks made at council meetings with regard to this delay; access to Township offices by members of council; then-Reeve Jaggard's lack of cooperation/participation on the scheduling of a special meeting; improper meeting cancellation; and a written notice of meeting cancellation. In completing an inquiry into the Complaint, the Integrity Commissioner gathered documentary evidence (including emails, meeting minutes, a public notice, and other applicable materials), interviewed the complainant, respondent(s), and applicable witnesses in order to determine the facts underlying the issues in dispute. Interviews were scheduled commencing in November 2022.

Several of the allegations were beyond the jurisdiction of the Integrity Commissioner role, as defined by the *Municipal Act*. In the course of the Integrity Commissioner's review of the Complaint and interviews with the relevant parties, it was confirmed that a second individual Respondent was not a member of Council nor was the individual a member of a local board during the times applicable to the Complaint. To the extent that the Complaint alleges violations of the Code by this individual, those portions of the Complaint are dismissed. Moreover, the cancellation of a meeting of Council, as well as the calling of a special meeting by other members of council (cited by then-Reeve Jaggard in the cancellation), are matters which fall within the application and proper adherence to the Township's Procedure By-law. Accordingly, the Integrity Commissioner is unable to make any finding with respect to the proper cancelling (or scheduling) of meetings.

A violation of the Code of Conduct is found in the notice cancelling the council meeting. A notice of that nature may cause an impact in view upon those about whom it is written. In particular, issues with the language of the notice could provide members of the Township with an incorrect understanding of the actions taken by others. Regrettably, the notice was careless in its summary of these events and does not assist in the inspiring of the public's trust in local government. Accordingly, it is found that the notice language has violated Clause 6(b) of the Code of Conduct Appendix "A".

In accordance with section 223.4(5) of the *Municipal Act*, the municipality may impose certain penalties on a member of council or local board if the Integrity Commissioner reports to the municipality that the member has contravened the Code. In the current circumstances, Mr. Jaggard is no longer a member of council, his term having ended shortly after the Complaint was submitted. As Mr. Jaggard is no longer a member of council, it does not appear that Council can impose a reprimand or suspension of remuneration. Accordingly, no recommended penalty is being made.

INTRODUCTION

1. The Integrity Commissioner is in receipt of a Complaint alleging violations of the Township's Code of Conduct. The Complaint, which originated in the late fall of 2022 (originally received on November 1, 2022), names the then-Reeve, David Jaggard, and another individual, as respondents.
2. The Complaint makes a series of allegations, which related largely to, *inter alia*, communications with members of council going back to approximately March 2022, as well as a publicly-posted notice and the scheduling and cancelling of meetings of Council. These allegations are detailed further below.
3. In completing an inquiry into the Complaint, the Integrity Commissioner gathered documentary evidence (including emails, meeting minutes, a public notice, and other applicable materials), interviewed the complainant, respondent(s), and applicable witnesses in order to determine the facts underlying the issues in dispute. Interviews were scheduled commencing in November 2022. Ultimately, this report applies those facts to an assessment of whether the Respondents, in the view of the Integrity Commissioner, violated the Township's Code of Conduct, and, if so, to make any appropriate recommendations to Council regarding same.

JURISDICTION

4. The role of the Integrity Commissioner is governed by the *Municipal Act*, 2001, S.O. 2001, c. 25 (hereinafter referred to as the "Act" or the "*Municipal Act*"). Specifically, section 223.3(1) of the *Municipal Act* (as at the time of the Complaint) outlines this role to include the following:

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 codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*. 2017, c. 10, Sched. 1, s. 19 (1)
5. The Township of Tehkummah, consistent with the requirements of the *Municipal Act*, possesses a Code of Conduct, referred to as its Council Code of Conduct, Ethics and Values (or the "Code") (also referred to as Bylaw 2019-006). It is understood that all members of council had signed an acknowledgement of this Code prior to the events of this Complaint.
 6. When in receipt of a Complaint under the Code, the Integrity Commissioner performs an inquiry in accordance with section 223.4 of the *Municipal Act*. As part of this process relevant parties were interviewed and relevant materials were reviewed that were applicable to the scope and nature of the Complaint.

JURISDICTION ISSUE WITH RESPECT TO RESPONDENT

7. The Complaint as provided to the Integrity Commissioner names two Respondents, one of which is an individual who did not appear to be a member of Council (or local board). In the course of the Integrity Commissioner's review of the Complaint and interviews with the relevant parties, it was confirmed that this individual was not a member of Council nor was the individual a member of a local board during the times applicable to the Complaint.
8. Section 223.4 of the *Municipal Act*, which governs the inquiry process for Code of Conduct complaints, indicates as follows:

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

(a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or

(b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member. 2006, c. 32, Sched. A, s. 98.

9. Similarly, section 223.2 of the *Municipal Act* sets out the obligation for municipalities to establish codes of conduct, which are intended to apply to members of council and the local boards, as follows:

Code of conduct

223.2 (1) A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards. 2017, c. 10, Sched. 1, s. 18.

10. As this second Respondent was neither a member of Council nor of a local Board, the Integrity Commissioner lacks jurisdiction to determine a violation of the Code. Moreover, as the Code is applicable to members of Council or local boards, the Code does not apply to this individual.
11. Accordingly, to the extent that the Complaint alleges violations of the Code by this individual, those portions of the Complaint are dismissed. In light of the non-applicability of this process to such individuals, and consistent with confidentiality considerations inherent in this process, this report does not name the individual in question. To the extent that this individual is referenced in the below paragraphs, the individual will be identified simply as Respondent B.

THE COMPLAINT

12. The Complaint was originally provided to the Integrity Commissioner in November 2022. It alleged violations of several sections of the Code, related to both Mr. Jaggard as well as Respondent B.
13. The Complaint alleges infringements of articles 2, 3, 4, 6, and 7 of the Code of Conduct, Ethics and Values (Appendix A).
14. The Complaint alleges a series of issues with the conduct of then-Reeve Jaggard and Respondent B, as applicable. Such complaints include:
 - a. Issues in contacting the Township office;
 - b. Delays in responding to communications, and remarks made at council meetings with regard to this delay;
 - c. Access to Township offices by members of council;
 - d. The then-Reeve Jaggard's lack of cooperation/participation on the scheduling of a special meeting;
 - e. Improper meeting cancellation; and
 - f. A written notice of meeting cancellation.
15. Having reviewed the supporting documentation provided by the Complainant and other relevant parties, it appears that these issues related to a period of time between March and November 2022. The lengthier period of relevant times corresponds with the documentary evidence provided by the Complainant and others. The Integrity Commissioner has considered this complaint and the specific incidents alleged during those material times, as applicable. In general, reference to the "relevant times" within this report will refer to that period of time, or such portion

of that period of time as may be applicable to the specifics of that portion of the Complaint's allegations.

APPLICATION OF THE PROCEDURAL BY-LAW

16. With respect to the scheduling of special meetings by members of council, and the cancellation of meetings by the then-Reeve, Mr. Jaggard, this issue engages a scope of jurisdiction beyond that of the Integrity Commissioner.
17. Both the cancellation of a meeting of Council, as well as the calling of a special meeting by other members of council (cited by then-Reeve Jaggard in the cancellation), are matters which fall within the application and proper adherence to the Township's Procedure By-law (By-Law Number 2019-011).
18. The Integrity Commissioner takes note of the Township's Procedure By-law (referred to as By-law 2019-011), which includes provisions for the cancellation of meetings (i.e. article 3.7) as well as the scheduling of special meetings by members of council (i.e. article 3.3). However, to the extent that a determination must be made regarding whether these provisions were applied properly, this is beyond the scope of the Integrity Commissioner's role as defined by section 223.3(1) of the *Municipal Act*, reproduced above, as well as the role defined in the Township's Code.
19. The scheduling and cancelling of meetings itself may be a consideration, but this raises a jurisdictional question for the Integrity Commissioner. The Integrity Commissioner is aware of one precedent case where a determination was made that a meeting was cancelled inappropriately. Specifically, in *Young v Burton et al., 2011 ONMIC 1 (CanLII)*, a determination of the Integrity Officer for the Town of Oakville, a determination was made that meetings were cancelled inappropriately as follows:

My investigation has also determined that the Mayor requested by E-mail that the Taxi issue be deferred to May 10th instead of April 27th for the express reason that more notice should be given. In my opinion, the industry had adequate notice of the meeting on April 12th and did not need additional notice beyond April 27th. Both the staff member responsible for the preparation of the Taxi report and the Mayor did not regard the hearing of the report as urgent. The report required the compilation of statistics across the province and was two years in preparation. However, the urgency of the issue is not relevant to whether there were sufficient items on an agenda to hold a meeting.

I must conclude that there were sufficient agenda items to hold the meetings on April 12th and the meetings should not have been cancelled without a majority of Council in agreement. Neither the Mayor nor the CAO were aware of the substantial notice of the meeting given to the taxi industry and should have been advised by staff. However, it was an error in judgement by the Mayor to initiate these requests for changes to scheduled meetings based upon insufficient agenda items. He is not the expert in agenda assembly and if he wanted to cancel meetings for whatever reason, his only option was to seek

approval from a majority of Council. These actions did not advance the common good of the Town of Oakville as required of the Mayor by the Code. However, his motivation for these actions was not to benefit himself, either materially or politically and I cannot entertain recommending to Council any sanctions against the Mayor. It is hoped that this report emphasizing the importance of maintaining a regular schedule of meetings for a municipality will be sufficient to ensure that such requests do not happen again.

20. However, this earlier case is discussed in a subsequent case of an Integrity Commissioner which distinguishes the authority to make such a finding. Perhaps the most on point is the below from ***Ayotte v Akapo et al., 2022 ONMIC 8 (CanLII)***, which stated as follows on a similar issue:

68. The Toronto line of cases has been followed in many other municipalities, where it has been held that an Integrity Commissioner lacks jurisdiction to enforce procedural by-laws, unless a Council, in the clearest of language, confers that authority: *Miller v Bath-Hadden*, 2020 ONMIC 12 (CanLII), at para. 61; *Dhillon v. Moore*, 2018 ONMIC 15 (CanLII), at paras. 73-82; *Moore v. Maika*, 2018 ONMIC 7 (CanLII), at paras. 64-73; *Re Kett (No. 2)*, 2017 ONMIC 14 (CanLII), at para. 18.

69. An example of express Council authorization is *Young v. Burton*, 2011 ONMIC 1 (CanLII). In that case, Oakville Council had actually adopted a motion telling its Integrity Officer to investigate a purely procedural matter (namely, whether Council meetings had been properly cancelled according to the rules).

70. Even though a Council Code of Conduct may include reference to the Procedure By-law, the assumption is that the presiding officer of a meeting, not the Integrity Commissioner, has authority to enforce the Procedure By-law: *Harding v. Neal*, 2021 ONMIC 5 (CanLII), at paras. 76-79.

21. Accordingly, the Integrity Commissioner shall consider the actions of then-Reeve Jaggard in the context of the Code, but questions regarding the adherence to the required procedures for the calling and cancellation of meetings is a question more properly addressed by another forum, and the Integrity Commissioner must defer such an issue to same. Accordingly, the Integrity Commissioner is unable to make any finding with respect to the proper cancelling (or scheduling) of meetings in itself.

ISSUES IN CONTACTING THE TOWNSHIP OFFICE & ACCESS TO TOWNSHIP OFFICES

22. The Complainant alleges repeated issues in contacting the Township office. It is alleged that, for much of the relevant times, the Township office would be closed and locked. The Complainant alleges that members of the public and members of council were not regularly able to attend the office and enter into it.

23. In the course of inquiring into the Complaint as it pertained to this issue, answers were not consistent between witnesses as to whether such a problem was, in fact, experienced. The Integrity Commissioner understands, viewing the accounts of relevant witnesses, that the

township office would be closed or locked when there was minimal staffing present or available, and/or was kept locked starting during the pandemic times whereby a visitor would ring and be either let in or served at the door, depending on the nature of the visit.

24. No account of these visits were demonstrated to the Integrity Commissioner as having been a directive from or behaviour by then-Reeve Jaggard and no such finding is made. The matter of access to the township office was largely performed as an operational consideration given the needs of individuals attending the office, rather than any behavioural consideration or issue of conduct involving the then-Reeve.
25. While it may have been fair to debate the policy and practices for access to the township office, there is no basis in the course of this process to conclude that the then-Reeve took any action or made any remark inconsistent with the Code of Conduct as it relates to this issue.
26. In any event, considering the language of the Code of Conduct (and the Appendix "A" thereof) and its relationship to an issue such as this one, it is found that the Code of Conduct, as written, does not contemplate that such an issue gives rise to a violation of the Code of Conduct on the facts presented. The Code of Conduct places no specific requirement on the then-Reeve as it relates to access to the township office.
27. Perhaps the most applicable language is that of section 2(b) of the Appendix "A", which reads as follows:

2. As a Representative of the Township of Tehkummah, I will be objective. In practice, this looks like:

[. . .]

b) I am attuned to, and care about, the needs and issues of citizens, public officials, and Township workers.

28. However, the facts as presented by witnesses do not demonstrate that then-Reeve Jaggard took any action on this issue that would violate this aspect of the Code of Conduct and its Appendix "A". Accounts by the various witnesses demonstrated that, while not everyone may have been pleased with the method of service, actions by then-Reeve Jaggard cannot be found to have violated this section. Indeed, there was no apparent action by then-Reeve Jaggard cited which would do so in this regard.
29. Similarly, it was apparent that there existed differing views with respect to the policy and practice surrounding access to the township office. This may be a legitimate operational, or even governance debate. However, disagreement with respect to the administrative practice is beyond the scope of the jurisdiction of the Integrity Commissioner.

DELAYS IN RESPONDING TO COMMUNICATIONS AND RELATED REMARKS AT COUNCIL MEETINGS

30. The Complainant alleges regular attempts to seek information from the then-Reeve and/or the Township during the relevant times, but that, routinely, did not receive the information requested. Similarly, it was alleged that the Complainant, a member of Council, would raise these and related issues at Council meetings but would either not receive the information requested or would be responded to with rude or sarcastic responses. Without limitation, the Complainant identified a number of emails where information was sought but allegedly not received.
31. The Integrity Commissioner reviewed email exchanges provided by the Complainant and any Respondent/witness who was thought to possess relevant documentation and information. In reviewing same, the rudeness or lack of transparency alleged was not found.
32. While the Complainant was able to provide examples of emails where the Complainant followed up and sought further information when no response (or no satisfactory response) was provided, no violation of the Code of Conduct is found. The Code of Conduct does not provide a timetable for a Reeve or member of council to respond to any specific concern.
33. In particular, most of the email exchanges in question were directed to multiple parties, where no single individual could fairly be said to be expected to provide the response. Moreover, to the extent that any responses were requested of staff and not provided, this is not an issue for the Integrity Commissioner, whose mandate exists specifically in the application of the Code of Conduct to members of council or local boards.
34. Additionally, and specific to answers that were sought in relation to staff actions, there appears to have been a divide amongst Council with respect to its direct role in governance versus that of operations. It is understandable that members of Council, especially when in receipt of complaints from citizens, might seek to find answers from staff, but caution must be taken between following up on a citizen complaint and individually attempting to manage staff for whom an individual member of Council possesses no such authority.
35. Moreover, the Integrity Commissioner was provided with no example of the Respondent, then-Reeve Jaggard, responding to an email in a manner which was objectively rude or improper such as to ground a violation of the Code of Conduct.
36. It is understandable that an individual seeking answers and not receiving answers which they view to be satisfactory would be frustrated with those seen as not providing these answers. However, based upon an objective review of the facts and supporting materials, there is no basis to find an actual violation of the Code of Conduct in this respect.
37. With respect to allegations of remarks at meetings of council, the Integrity Commissioner role is limited and deferential to the ability of the council to address such matters in accordance with the applicable procedural by-law. For example, in *Harding v Neal, 2021 ONMIC 5 (CanLII)*, a report from the Integrity Commissioner of the City of Oshawa, the Integrity Commissioner determined that the conduct of council during council meetings largely falls within the authority of the

presiding officer in accordance with the rules of order and the applicable procedural by-law, as follows:

76. I am generally of the view that an Integrity Commissioner does not have authority to inquire into comments made during a meeting of Council or committee, since the presiding officer is responsible for the meeting, and the Procedure By-law makes it the presiding officer's duty to restrain Members within the rules of order and to enforce the observance of order and decorum.

77. In the case of the City of Oshawa, this position is further supported by the fact that the Code contains as separate section that explicitly deals with the conduct of Members at meetings. It states:

Conduct at Meetings

9. Each Member shall conduct herself or himself properly and in a civil manner at Council, Committee and other meetings, and in accordance with the provisions of the Procedure By-law 111-2017 as from time to time amended, this Code of Conduct, the procedural rules adopted by the DOBOM and other applicable law.

78. The Procedure By-law contains clear rules that make the Chair of a meeting the presiding officer.[3] It also sets out clear obligations for the Chair as the presiding officer, which includes, among other things:

b) Enforcing rules and decorum;

...

d) Ensuring that Meetings are conducted in an orderly fashion...

...

e) Deciding and ruling on all Points of Order and Points of Personal Privilege at a meeting

79. The combined effect of these provisions is to require all Members to conduct themselves in accordance the Procedure By-law and to give the presiding officer the power to uphold the requirement

80. The recording of the January 13 committee meeting demonstrates that the presiding officer intervened in the Respondent's conduct so as to restore order and decorum.

B. What is the Integrity Commissioner's role after the presiding officer has dealt with a matter at a meeting?

81. In my view, once the presiding officer of a meeting has dealt with an issue of order or decorum, the Integrity Commissioner should not duplicate that work by making parallel findings under the Code of Conduct.

38. The Integrity Commissioner is mindful that, in this immediate case, the Respondent, then-Reeve Jaggard, was the presiding officer in most cases. However, the Township's Procedure By-law provides for a process for points of order and the appeal of the Chair's decision with respect to same. Simply put, there is a specific process in the hands of council for addressing such concerns within the scope of its own Procedure By-law, and outside the scope of the Integrity Commissioner.

39. Accordingly, no violation of the Code of Conduct is found in relation to the responses (or non-responses) to email communications, and with respect to alleged comments in meetings that were placed under consideration in the course of this Complaint.

CANCELLATION OF MEETINGS/NOTICE OF MEETING CANCELLATION

40. This issue arose following Council's desire to call a Special Meeting for September 29, 2022.

41. In the course of investigating the facts giving rise to the Complaint, the Integrity Commissioner was able to compile an outline of these events which is summarized in the next several paragraphs.

42. At the relevant time, an outstanding matter of a procurement selection process was being considered. Council had considered the matter in its meeting of September 20, 2022. At that time, and as reflected in the minutes of the said meeting, Council directed that a contractor who had supplied a bid be contacted and asked to provide further information as it related to work proposed to be done, by Tuesday September 27, 2022.

43. Following this meeting, it was proposed by staff that a special meeting be called, in advance of the subsequent council meeting, in order to invite the contractor to provide further information to Council.

44. Several members of council were in agreement to hold such a special meeting, but there was disagreement on the necessity of such a meeting by the then-Reeve, who did not support the additional meeting being called and indicated that he did not wish to attend such an additional meeting. Moreover, staffing availability and sufficient notice concerns were identified for a special meeting as was being proposed.

45. Other members of council sought to call such a special meeting utilizing provisions of Council's Procedure By-law. Councillors were of the view that it was necessary to acquire the information from the contractor at such a meeting, and proceeded to schedule such a meeting for September 29, 2023 at their own initiative.

46. Ultimately, a notice of some form was posted by a member of council on the door indicating that a Special Meeting of council would occur on September 29, 2022 at 7:00PM, and was called by

the “Council of a whole - Tehkummah Township”. The notice, as provided to the Integrity Commissioner and identified by witnesses, read as follows:

Special Council Meeting (Tonite) [sic] Sept 29 2022 at 7:00 PM in the Fire Hall Called by the Council of a whole – Tehkummah Township

47. The Special Meeting was held, chaired by the then-Deputy-Reeve, on September 29, 2022. The meeting predominantly included a discussion with the contractor.
48. Following the Special Meeting of council on September 29, 2022, as called by members of council, the regular meeting of Council was cancelled by the then-Reeve. This meeting was to have taken place on October 4, 2022.
49. A notice of this cancellation was posted, which provided that the then-Reeve was cancelling the October 4, 2022 meeting in accordance with the emergency provisions of the procedural by-law.
50. With respect to the notice sent out regarding the cancellation of the October 4, 2022 meeting, this notice was posted at the request of the then-Reeve. The then-Reeve drafted the notice. The notice, which was publicly available, advised as follows:

NOTICE

October 4, 2022 Council Meeting

The Reeve has cancelled the Regular Monthly Council Meeting of Tehkummah Township scheduled for October 4, 2022 until further notice pending information from (i) legal counsel, (2) the Ministry of Municipal Affairs and Housing, (3) the Integrity Commissioner, (4) the Ombudsman, and (5) other applicable municipal/government agencies.

This meeting has been cancelled by the Reeve under the authority of the Procedure Bylaw of March 28, 2019, section 3.7, “Cancellation of Council Meeting” which states “the Reeve may cancel a Meeting in an emergency”.

An emergency was created when the members of Council held a meeting for which no notice was given, on Thursday, September 29, 2022, instead of waiting until the regular monthly Council Meeting which was scheduled to be held five days later on Tuesday, October 4, 2022.

This meeting was suggested, in an email to all of Council, by the Economic Development Officer who convinced the members of Council to call the meeting and have it on their own. There was no agenda and the purpose of the meeting was to meet with a Contractor regarding an RFP.

The purpose and results of this meeting must be investigated by the above-mentioned authorities and until there is some information received from them, the Reeve will not be calling any Special Meetings.

The next Regular Council Meeting is scheduled for November 1, 2022.

51. A subsequent meeting of November 1, 2022 was also cancelled.
52. As outlined above, the Integrity Commissioner makes no finding with respect to the cancellation (or scheduling) of meetings and defers to those with authority to interpret and apply the Procedure By-law regarding this process.
53. In the absence of any jurisdiction to make findings relating to the proper application of the Procedure By-law, the issue to be considered is whether the then-Reeve's actions in the manner of posting the notice could have violated the Code of Conduct.
54. The notice itself contains certain information and allegations about the September 29, 2022 meeting. Specifically, the notice, as reproduced above, advised amongst other considerations, that the other members of council held a meeting providing "no notice", and that council elected to "have it on their own".
55. These statements, in particular, are not fairly accurate.
56. The members of council did not have the meeting "on their own" so as to exclude the then-Reeve from the meeting. Rather, it is clear that the then-Reeve was consulted on the holding of a special meeting and disagreed with the necessity of same. While such disagreement may not, on its face, bear any apparent concern, there is a process by which council members can call special meetings under the Procedure By-law.
57. As written, the notice could be read to suggest that the members of council held a meeting in an exclusionary manner from the then-Reeve. It is apparent that this was not so.
58. Secondly, notice was provided of the meeting in some form. A written notice of some form had been posted, as described above. Equally, the then-Reeve was party to discussions about the holding of this special meeting.

APPLICATION OF THE CODE OF CONDUCT

59. In the original Complaint, the Complainant alleged violations of clauses 2, 3, 4, 6, and 7 of the Township's Code of Conduct, Ethics and Values (Appendix "A").
60. Given the factual findings above, as well as the limited scope of the Integrity Commissioner's jurisdiction with respect to some of the same, it is important to turn to the language of the Code of Conduct itself.

61. Clause 2 of the Code of Conduct (Appendix "A") provides "As a representative of the Township of Tehkummah, I will be objective." It then sets out a series of parameters or considerations under such a heading. In assessing the applicable factual findings above, there is nothing to suggest that the then-Reeve Jaggard was not objective in his dealings under the applicable facts. Accordingly, there is no finding that this clause was violated.
62. Clause 3 of the Code of Conduct (Appendix "A") provides "As a representative of the Township of Tehkummah, I will be respectful." It similarly sets out parameters for same. This provision largely provides, without limitation, that a member of council cannot intimidate, bully, harass, use derogatory language, and must treat people with dignity and respect. In reviewing the facts and findings above, there is no basis to provide for a finding of a breach of this section. The Integrity Commissioner is unable to find that any of the conduct described above could reasonably be interpreted in this manner. Accordingly, there is no finding that this clause was violated.
63. Clause 4 of the Code of Conduct (Appendix "A") provides "As a representative of the Township of Tehkummah, I will be transparent and accountable." It similarly sets out parameters for same, including, without limitation, the obligation to conduct and convey business in an open and transparent manner and being responsible for the decisions made, including acts of commission and omission. In reviewing the facts and findings above, there is no basis to provide for a finding of a breach of this section. The Integrity Commissioner is unable to find that any of the conduct described above could reasonably be interpreted in this manner. Accordingly, there is no finding that this clause was violated.
64. Clause 6 of the Code of Conduct (Appendix "A") provides that "As a representative of the Township of Tehkummah, I will show leadership and work in the public interest." It similarly sets out parameters for same, including, without limitation, serving constituents in a conscientious and diligent manner, and performing duties in a manner that will bear close public scrutiny. In particular, Clause 6b reads as follows:
- b) I will strive, by focusing on issues important to the community and demonstrating leadership to build and inspire the public's trust and confidence in local government.
65. With regard to the findings above, it is difficult to reconcile the notice provided by then-Reeve Jaggard, and the specific issues outlined above, with this obligation. A notice of that nature may cause an impact in view upon those about whom it is written. In particular, the specific issues identified above could provide members of the Township with an incorrect understanding of the actions taken by others. Regrettably, the notice was careless in its summary of these events and does not assist in the inspiring of the public's trust in local government. Accordingly, it is found that the notice language has violated this clause.
66. Clause 7 of the Code of Conduct (Appendix "A") provides "As a representative of the Township of Tehkummah, I will be responsible." This section largely provides for considerations of conflict of interest. There is no finding in the facts of this matter that give rise to a conflict of interest. The

Integrity Commissioner is unable to find that any of the conduct described above could reasonably be interpreted in this manner. Accordingly, there is no finding that this clause was violated.

RECOMMENDATIONS & OTHER CONSIDERATIONS

67. In accordance with section 223.4(5) of the *Municipal Act*, the municipality may impose a penalty on a member of council or local board if the Integrity Commissioner reports to the municipality that the member has contravened the Code. These penalties could include a reprimand or a suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.
68. In the current circumstances, Mr. Jaggard is no longer a member of council, his term having ended shortly after the Complaint was submitted. As Mr. Jaggard is no longer a member of council, it does not appear that Council can impose a reprimand or suspension of remuneration.
69. The decision of *Di Biase (Re), 2017 ONMIC 23 (CanLII)* is informative on this point, being the scope of authority to impose a reprimand in such circumstances. In that decision, where the Respondent had resigned from council, the Integrity Commissioner made a finding of a violation of the Code of Conduct but did not recommend any reprimand or suspension of remuneration:

On May 19, 2017, the Respondent resigned as a Member of Council (a "Member") following the filing of my report in respect of a separate complaint against him.

After the Respondent's resignation, I considered whether the complaint had been rendered moot. For example, courts have the discretion to decide not to hear a matter if there is no longer any live controversy between the parties because of a change in circumstances (*Borowski v. Canada (Attorney General)*, 1989 CanLII 123 (SCC), [1989] 1 SCR 342). I find that I have a similar discretion under section 8 of the Code Protocol, which permits [sic] me to decline to pursue an investigation if there are insufficient grounds to do so.

In this case, however, the Respondent has provided a response denying the allegations in the complaint and there appears to be a live controversy about the nature of the Respondent's conduct, even if it is unclear that Council can impose any sanction on the Respondent in light of his resignation. Even if there were no live controversy, I would have exercised my discretion in these circumstances to complete my complaint investigation report given the public interest in having these issues come to the attention of the public.

[. . .]

8. Recommendations

Based on the cumulative evidence of the witnesses, my review of the documents, and all of the other information received during the course of this investigation, I have found on the balance of probabilities that the Respondent has contravened Rule 7 of the Code of

Conduct. I tender this report of my complaint investigation to the Council of the City of Vaughan for its consideration.

The conduct demonstrated by the Respondent undermined the public trust placed in him in execution of his public duties. Such conduct compromises the integrity of municipal government and interferes with the institutional safeguards put in place to allow for discussions around the protection of environmentally sensitive lands.

I have brought forward this report in fulfilment of my reporting mandate and my obligation to submit to Council any findings at the conclusion of a Formal Complaint investigation.

Given that a sanction can only be imposed on a sitting Member, the Office of the Integrity Commissioner respectfully submits the above findings without any recommended sanction.

70. Accordingly, no recommendation for penalty is being made.
71. However, without exceeding the scope of the Integrity Commissioner role, it seems prudent to encourage that Council take steps to further familiarize itself with the elements of the Township's governance process, including the Procedure By-law and Code of Conduct itself. Ideally, a deeper understanding and appreciation for same will assist Council in respect of these sorts of issues on a going forward basis.
72. Finally, in conducting this process, it became apparent that there was a rift in Council during these relevant times. This rift seems to have stemmed largely from a differing viewpoint in governance and operational considerations by Council. To some degree, such differences of opinion are to be expected among elected officials performing a governance function, and represents an inherent reality in democratic institutions. However, the efficacy of good governance functions benefits from an underlying healthiness in debate and in respect between members. It must always be the hope that members are committed to this positive component of collaborative and democratic governance.
73. The Integrity Commissioner has considered the implications of subsection 223.8 of the *Municipal Act*, and has not found it to apply to the within matters. Similarly, subsection 223.6(2) of the *Municipal Act* provides that the Integrity Commissioner may disclose, in a report to a municipality such as this, such matters as, in the opinion of the Integrity Commissioner, are necessary for the purposes of the report. All the content of this report is, in the opinion of the Integrity Commissioner, necessary.
74. The Township is reminded that, pursuant to subsection 223.6(3) of the *Municipal Act*, it shall ensure such reports as this be made available to the public. The Township is also to ensure that the Respondent, Mr. Jaggard has access to the report. Should the Respondent wish to respond to the findings of the report, he ought to be permitted to do so.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

As submitted to Council – September 19, 2023

Zachary T. Courtemanche

Zachary Courtemanche