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**INTEGRITY COMMISSIONER REPORT ON
CODE OF CONDUCT COMPLAINT 2022-01 -
COUNCILLOR RAYMOND CHARTRAND**

MUNICIPALITY OF HURON EAST

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INTEGRITY COMMISSIONER REPORT ON CODE OF CONDUCT COMPLAINT – COUNCILLOR RAYMOND CHARTRAND

I. INTRODUCTION

1. Aird & Berlis LLP was appointed as Integrity Commissioner for The Corporation of the Municipality of Huron East pursuant to subsection 223.3(1) of the *Municipal Act, 2001* by By-Law No. 15-2019. As such, we have jurisdiction to review complaints against members of Council made pursuant to the Code of Conduct for Members of Council and Local Boards (By-Law No. 14-2019, the “**Code**”).

2. A formal complaint was filed with our office (Complaint 2022-01, the “**Complaint**”). The Complaint alleges that Tuckersmith Ward Councillor Raymond Chartrand (the “**Councillor**”) contravened the Code in relation to his conduct during the 2022 municipal election campaign.

II. PARTIAL SUMMARY DISMISSAL OF THE COMPLAINT

3. The Complaint was initially filed with our office on November 27, 2022 and alleged that the Councillor breached the Code in a number of ways by engaging in inappropriate behaviour and making inappropriate comments during the recent 2022 mayoral election. In doing so, the Complaint alleged the Councillor had committed multiple breaches of the Code, citing Sections 2.2, 3.1(d), 4.1(a), (b), (c), (d), (e) and (f), 8.4, 8.5, 9.1, 9.2 and 10.1 of the Code as all having been contravened.

4. The complainant later filed further submissions and three (3) screenshot images on January 4 and 5, 2023, alleging that the Councillor had created a Facebook account for a fictitious individual (the “**Secondary Facebook Account**”).

5. Additional submissions were forwarded to our office on January 10, 2023 in which another Facebook screen shot image was appended.

6. Given these accumulating submissions, we wrote to the complainant on January 16, 2023 and requested that they forward all relevant information they wished make part of the record by January 19, 2023 so as to avoid any further incremental disclosures so that we could conduct our process in an efficient and procedurally fair manner.

7. After conducting our initial intake of the Complaint, including a review of the original submissions of November 27, 2022 and subsequent submissions of January 4, 5 and 10, 2023, we wrote to the complainant on February 6, 2023 (the “**Notice of Partial Summary Dismissal**”).

8. In our Notice of Partial Summary Dismissal, we set out that we had determined that the Complaint did not disclose reasonable or probable grounds to believe that the Councillor had contravened sections 2.2, 3.1(d), 4.1(a), (b), (d) and (e), 8.4, 8.5, 9.1, 9.2 and 10.1 of the Code. We accordingly exercised our discretion to not conduct a formal investigation into the allegations against the Councillor with respect to those provisions of the Code.

9. We determined that we would proceed to investigate the allegations against the Councillor with respect to only sections 4.1(c) and (f) of the Code in regard to the single remaining allegation that the Member had created the Secondary Facebook Account.

10. Of importance to our findings set out in this Report further below, our Notice of Partial Summary Dismissal examined the four (4) screenshot images submitted in relation to the Councillor's use of Facebook. We examined the content of the images and determined that the content did not contravene the Code, as we found that none of the comments rose to a level of abuse, bullying, intimidation nor did they use abusive words. In particular, we noted that the Councillor was a certified candidate in the 2022 municipal election. In our view, as a candidate for local elected office, the Councillor was entitled to participate in the election and could choose to run a campaign, for example, which supported a particular issue or candidate that was in line with his own vision and purpose.

III. CODE OF CONDUCT PROVISIONS AT ISSUE

11. In light of our determination in the Notice of Partial Summary Dismissal, the only Code provisions at issue in the Report are sections 4.1(c) and (f) which provide as follows:

4.1 In all respects, a Member shall:

...

(c) seek to advance the public interest with honesty;

...

(f) refrain from making statements known to be false or with the intent to mislead Council or the public;

IV. NOTICE OF COMPLAINT

12. Notice of the Complaint was provided to the Councillor on February 6, 2022 (the "**Notice**"). The Notice disclosed the nature of the Complaint and appended the four (4) screen shot images submitted by the complainant in relation to the Secondary Facebook Account. The Notice advised the Councillor that it was our standard practice to request written submissions.

13. The Councillor telephoned us and subsequently provided written submissions in response to the Notice on February 10, 2022 (the "**Responding Submissions**"). In the Responding Submissions, the Councillor stressed he was concerned about misinformation being circulated in the 2022 mayoral election and that he had created the Secondary Facebook Account to address this concern. The Responding Submissions set out, in part:

"...That is where I made my huge honest mistake . I thought my accounts were mine as a resident not as a councillor because I had never created a Councillor Facebook Profile account for myself. I didn't know or realize at that time I was doing something inappropriate by creating this second Facebook account or I would of never did it, an for that I am truly sorry. I guess at my age of 70 and getting into all this new social media I should of inquired first before I made this second account. I had absolutely no intent to be dishonest or mislead the public in any way, I was just trying to get the facts out there so people could make a well informed decision to vote for mayor...In closing, I have learned a very valuable lesson, I apologize and take full responsibility for my actions! I can assure you this will never happen again and I have deleted that Facebook account and according to Facebook the deletion will be completed on March 8th, see documents below."

14. The Councillor appended to his Responding Submissions correspondence from Facebook, confirming that he had requested that Facebook permanently delete the Secondary Facebook Account.

15. Pursuant to subsections 7(1)(b) and (c) of the Code's Complaint Protocol, we wrote to the complainant on February 13, 2023 on a strictly confidential basis and provided a copy of the Councillor's Responding Submissions. In our correspondence, we requested that the complainant provide any written reply to us within ten (10) days.

16. The complainant submitted reply submissions on February 20, 2023 (the "**Reply Submissions**"). The complainant appended nine (9) documents, only one of which was in response to the Responding Submissions and the other eight (8) documents which contained what purported to be further submissions and evidence with respect to matters originally raised in the Complaint. In addition, the complainant leveled a number of bald insinuations about the Councillor's conduct and character without any documentation to support or substantiate same.

17. We duly considered the Reply Submissions, despite the fact that they essentially attempted to re-introduce allegations and proffer submissions in support of those allegations that were raised in the original Complaint, which we had already dismissed in our Notice of Partial Summary Dismissal.

18. We wrote to the complainant on February 27, 2023 and acknowledged receipt of their correspondence. In our communication, we advised that we would be proceeding to make a final determination with respect to the allegations concerning the Secondary Facebook Account.

19. The Councillor subsequently contacted us on March 27, 2023 and advised us that he had recently completed a media training course on March 23, 2023 for members of Council and staff for the municipalities within Huron County. The Member advised the training covered topics such as how to use social media and interact with the press. He advised that he found the training to be very helpful in understanding communication via social media.

V. REVIEW OF MATERIALS

20. In order to prepare this Report to Council, we reviewed the following materials:

- The Complaint, including all materials submitted on November 27, 2022, January 4, 5, and 10, 2023;
- The Councillor's Responding Submissions of February 7, 2022 and a subsequent phone interview with the Councillor;
- The complainant's Reply Submissions; and
- The Councillor's March 27, 2023 telephone call and email outlining his recent social media training session.

21. In accordance with our standard procedure, we provided a draft of this Report to the Councillor as well as the complainant on March 30, 2023 to allow them to review and comment on the factual accuracy of the draft Report and to provide any additional comments by no later than April 12, 2023 in order to permit the inclusion of the Report on the agenda of the meeting of Council on May 2, 2023.

22. The Councillor wrote to our office on April 11, 2023 and advised that he had reviewed the draft Report, had no further comments and did not see any factual inaccuracies.

23. The complainant wrote to our office on April 6, 2023 in response to our request for comments on the draft Report. In their correspondence, the complainant raised additional materials which had already been submitted to our office and reviewed. The complainant also made further submissions alleging that the Councillor's conduct, in deleting the Secondary Facebook Account, had contravened Section 14.2 of the Code by "deleting evidence".

24. We duly considered the complainant's correspondence and determined that the Councillor's conduct did not, in fact, contravene the Code, as it was a remedial action undertaken in order to comply with the Code, rather than for the purposes of obstructing our inquiry. As such, we duly considered the complainant's submissions that were filed on April 6, 2023 and we subsequently proceeded to finalize the Report.

VI. ALLEGED CONTRAVENTION

25. The Complaint, as reformulated in light of the Notice of Partial Summary Dismissal, alleges that the Councillor has contravened Sections 4.1(c) and (f) of the Code by virtue of his creation of the Secondary Facebook Account by either not advancing the public interest with honesty or by making false statements or seeking to mislead the public, or both.

VII. FINDINGS

26. In his Responding Submissions, the Councillor does not deny that he created the Secondary Facebook Account.

27. In our view, the Councillor's actions, when taken in context, breached Section 4.1(c) of the Code. Section 4.1(c) of the Code provides that members of Council will seek to advance the public interest with honesty. While the Councillor's stated intention in creating the Secondary Facebook Account was to counter his perception of the spread of misinformation, the manner by which he chose to do so contravened Section 4.1(c) of the Code by his use of a fictitious Facebook account.

28. Section 4.1(f) of the Code provides that a member shall refrain from making comments known to be false or with the intent to mislead. In our opinion, as a candidate in the municipal election, the Councillor was entitled to participate in the election and could choose to run a campaign, for example, in support of a particular issue or candidate. Candidates in elections have significant leeway in terms of freedom of expression in the context of this democratic process. While the Councillor's Facebook communications may have contained some political embellishment, the comments were not knowingly false or made with an intention to mislead members of the public. The manner in which they were conveyed, however, by virtue of being shared or amplified by the Secondary Facebook Account, was misleading.

29. Accordingly, we find that the Councillor's conduct, by creating the Secondary Facebook Account, also fell short of the requirements as set out in Section 4.1(f) of the Code.

VIII. CONCLUSIONS AND RECOMMENDATION

30. As Integrity Commissioner we act in an investigative capacity. We review and assess formal complaints, make findings and provide recommendations. We have no authority to impose penalties or sanctions nor to order the rectification of wrongdoing, if any is found.

31. We have determined that the Councillor's actions in creating and using the Secondary Facebook Account are in contravention of Sections 4.1(c) and (f) of the Code.

32. We acknowledge the Councillor's Responding Submissions, in which he provided an apology for his action and then took immediate steps to permanently delete the Secondary Facebook Account.

33. As noted, the Councillor also subsequently contacted us to advise us of the further steps he had taken to educate himself on the use of social media. We found his communications to be sincere and forthright.

34. In light of the Councillor's Responding Submissions in which he apologized for his conduct and demonstrated he had deleted the Secondary Facebook Account, and given we found no contravention of the Code in relation to the content posted on the Secondary Facebook Account, we are recommending that Council not impose any penalty with respect to his contravention of the Code pursuant to subsection 223.4(5) of the *Municipal Act, 2001*.

35. We have considered and are also not recommending that Council impose any remedial measures or corrective actions.

36. We had contemplated recommending that the Councillor attend training on the use of social media in the municipal context. However, in light of the Councillor's communication whereby he advised of the training session and how much he had taken away from it, we decline to make such further recommendation. In our view, the Councillor has sincerely communicated his regret for his actions and conveyed that he has no intention to use social media in such a manner again.

Respectfully submitted,

AIRD & BERLIS LLP



Integrity Commissioner for The Corporation of the Municipality of Huron East