

Municipality Of Chatham-Kent

Corporate Services

To: Mayor and Members of Council
From: Judy Smith, Director, Municipal Governance/Clerk
Date: July 28, 2023
Subject: Integrity Commissioner Report re: Councillor Jubenville

Recommendation

It is recommended by the Integrity Commissioner (Page 21 of the attached IC report) that:

1. Councillor Jubenville's remuneration be suspended for a period of three months.

Background

The Integrity Commissioner reports to Council directly and is responsible for ensuring compliance to the Municipal Code of Conduct for Members of Council (the Code). They also conduct investigations, as requested by the community, into the actions of Council members in an independent and impartial manner.

Council approved the appointment of an Integrity Commissioner whose responsibilities are as follows:

- Investigate complaints and alleged breaches of the Code.
- Review the Code and make recommendations on an annual basis.
- Serve as an advisor to individual Members of Council in relation to the Code and any procedures, rules and policies of the municipality governing ethical behaviour, and act as a proactive educator for Council, the Civic Administration and the public.
- Provide reports to Council, summarizing activities.
- Provide individual investigative reports, as required, which will include background concerning a complaint and recommendations to Municipal Council with respect to a complaint.

Section 19.c (iv) of the Code requires the Integrity Commissioner to provide a report within 90 days of first receiving the complaint. It also provides the Integrity Commissioner with the authority to make a recommendation to Council on penalty.

Section 19.d of the Code states that within 60 days of receipt of a final investigation report from the Integrity Commissioner, the report shall be considered by Council in a

regularly scheduled open and public meeting of Council. Council shall decide, and the Municipal Clerk shall record the vote of each member of Council, with respect to each recommendation made by the Integrity Commissioner. Council may ask the Integrity Commissioner to appear before Council, in an open and public meeting of Council, to answer questions or provide information to Council about the investigation or investigation report. No person shall be entitled to make a deputation to Council with respect to any investigation report or any matter related thereto. Council is entitled to receive “*in camera*” (*closed session*) advice as permitted under the *Municipal Act, 2001* from relevant staff.

It is also noted in the Code that “neither the person who filed the complaint, nor the Council member who is subject of the report, shall be present during that portion of the Council meeting when the report is considered and responded to by Council.” However, as it relates to dealing with the imposing of a penalty of a suspension of remuneration, the Municipal Conflict of Interest Act permits a member of Council to take part in the discussion of the matter, including making submissions to Council to attempt to influence the voting on any question but is not permitted to vote on any question in respect of the matter. This provision about a member of Council being present and making decisions at the meeting in the Municipal Conflict of Interest Act is not consistent with the section in the Code with respect to these matters. As the Municipal Conflict of Interest Act is Provincial legislation, the ability for a Councillor to speak to this matter under that Act should be preserved, thus allowing Councillor Jubenville to speak to the matter.

Comments

The Integrity Commissioner responded to various complaints about social media posts and related behaviour of Councillor Rhonda Jubenville during the period of April to June, 2023. Each complaint was reviewed in accordance with the process provided in the Code.

Appendix A is the report submitted by Mary Ellen Bench, the Chatham-Kent Integrity Commissioner, relating to this matter.

Under Section 223.4(5) of the *Municipal Act, 2001*, Council may impose either of two penalties for a violation of the Code:

- a. a reprimand, or
- b. suspension of remuneration paid to the member for a period of up to 90 days.

Areas of Strategic Focus

This report supports the following areas of strategic focus:

			
Economic Prosperity	Healthy & Safe Community	People & Culture	Environmental Sustainability
	2.1	3.1	

Consultation

Legal Services was consulted on this report.

Communication

Section 19 (c)(iv) of the Code directs the Clerk to make the investigation report available to the public on the municipal website within ten days (Wednesday, July 26, 2023) of receiving the decision. Within 30 days the Clerk shall also put the investigation report on a Council agenda (Monday, August 14, 2023).

Diversity, Equity, Inclusion and Justice (DEIJ)

As noted in the Code, section 15, all members of Council have a duty to treat members of the public, one another, and staff in a civilized way and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies, in addition to other federal and provincial laws.

Financial Implications

To date, the Integrity Commissioner has invoiced approximately \$13,300 to the municipality regarding this complaint. Suspending a councillor's remuneration for a three-month period equates to \$8,515.

Prepared by:
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Consulted with:
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Attachment (1):

1. Appendix A – Integrity Commissioner Report re Councillor Jubenville