

Schedule A to By-law 13-1138

Appendix B

FORM OF AFFIDAVIT

AFFIDAVIT OF

1. I, JUDY GOVIN of the MUNICIPALITY OF TEMISKAMING

affirm the following:

2. I have personal knowledge of the facts as set out in this affidavit, because I WAS AT THE MEETINGS WHERE THE INCIDENTS OCCURRED.

[Outline basis of information - eg. was at event with the member of Council, etc.]

3. I have reason to believe that a member of council, RON PREFASI

has contravened section(s) 4.1.2 AND 4.5

of the Code of Conduct for members of Council (Adopted by By-law 13-1138).

4. The key facts that have led me to this belief are as follows:

COUNCILLOR PREFASI DID NOT DECLARE A CONFLICT ON MOTIONS THAT WERE COMPLAINTS AGAINST HIM, AND VOTED ON THE MOTIONS, ON FEW OCCASIONS AT MEETINGS OF COUNCIL ON APRIL 17, MAY 24 + JUNE 19, 2018.

5. This affidavit is made for the purpose of requesting that this matter be reviewed.

6. I acknowledge that I have read the following section of the Council Code of Conduct.

5.5 Integrity Commissioner

If an Integrity Commissioner finds that a complaint has been filed that is malicious, frivolous, vexatious, or has no basis in fact, the complainant shall be required to reimburse the Municipality for the Integrity Commissioner's fees and costs associated with the complaint.

Prior to an Integrity Commissioner commencing any investigation, the Complainant(s) will be required to complete the affidavit found in Appendix B to this policy.

SWORN [or AFFIRMED] before me at the

City of Temiskaming Shores

in the Province of Ontario this 27th Day of June, 2018

COMMISSIONER OF OATHS

COMPLAINANT

[Signature of Commissioner]

[Signature of Complainant]

Michelle Elaine Nelson, a Commissioner, etc., Province of Ontario, for Ramsay Law Office

Professional Corporation.

Expires August 17, 2018.

Elaine Gunnell, Acting CAO
Municipality of Temagami
Box 220
7 Lakeshore Drive
Temagami, ON
P0H 2H0

June 27, 2018

Dear Elaine,

Re: Conflict of interest on the part of a Councillor

I believe that Councillor Ron Prefasi has acted in conflict of interest on four occasions in open sessions of Council on April 17, May 24 and June 19, 2018. Specifically, I believe that Councillor Prefasi has contravened the Municipality's Procedural By-law (By-law 17-1365) Section 11.1.1 (emphasis is mine):

"11.1 Conflict of Interest

11.1.1 Every Member present at a Meeting where a question is put shall vote thereon, except that, if the Member has any pecuniary or other conflict of interest, direct or indirect in the question, he or she shall at the first opportunity disclose his or her interest and shall refrain from taking part in the discussion and shall vacate his or her seat and refrain from voting on the particular question. When a conflict is declared at any meeting, the Chair shall briefly explain the conflict of interest rules to any audience present. If a member declares a conflict of interest for the in camera session, the Councillor must vacate the chamber.

11.1.2 No member, after having disclosed a conflict of interest on any matter, may move, second, speak or vote on a confirmation by-law."

and also Council's Code of Conduct (By-law 13-1138), Sections 4.1 and 4.5 (emphases are mine):

"4.1.c Oath of Office

Members shall uphold the solemn promise and declaration made when appointed to office to:

a) truly, faithfully and impartially exercise this office to the best of their knowledge and ability;

b) not receive any payment or reward, or promise thereof, for the exercise of this office in a biased, corrupt or in any other improper manner;

c) disclose any pecuniary interest, direct or indirect, in accordance with the *Municipal Conflict of Interest Act*;"

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"4.5 Conflict of Interest – Pecuniary Interest

Members shall be responsible to ensure that they are familiar with the application of the Municipal Conflict of Interest Act, R.S.O. 1990, as amended. Members shall keep their obligations to follow and respect the provisions of the Act. It shall be the responsibility of each Member, not staff, to determine whether they have a conflict or pecuniary interest with respect to matters arising before Council."

Because three of these occasions involve an accusation of Code of Conduct violation, Councillor Prefasi's conflict of interest may include pecuniary interest, under Section 5.7 of the Code of Conduct, as follows (emphasis is mine):

"5.7 Penalties

As prescribed in legislation, penalties that may be imposed by the Municipality where the Integrity Commissioner reports that a Member of Council has contravened the Code of Conduct include:

- 1) A reprimand; OR
- 2) Suspension of remuneration for a period of up to 90 days."

April 17, 2018

At the Committee of the Whole Council Meeting of April 17, 2018, the following item appeared on the agenda under **Correspondence**:

"10.8 11534 - Temagami First Nation Resolution regarding remarks on Facebook."

Included in the information package for the meeting was the Band Council Resolution from the Temagami First Nation, which complained about posts Councillor Prefasi had made to his group facebook page, "Ron Prefasi: Your Voice Matters", and demanded a public apology from him.

Also on the agenda was the following item under **New Business**:

"14.1 Code of Conduct Complaint"

Included in the information package for the meeting was a letter on Temagami First Nation letterhead from Jamie Koistinen, Capital Projects Manager. Again quoting statements made by Councillor Prefasi on his group facebook page, "Ron Prefasi: Your Voice Matters", Ms. Koistinen accused Councillor Prefasi of contravening Council's Code of Conduct by acting in a manner inappropriate to good governance, quoting Schedule 'A' of the Code of Conduct (By-law 13-1138).

As recorded in the Draft Minutes the April 17 meeting, Councillor Prefasi did not declare a

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conflict of interest on either item at the beginning of the meeting. The Draft Minutes record that a recorded vote was taken on a motion to move the Code of Conduct complaint to Item 17 on the agenda for resolution of Council. Councillor Prefasi voted against the motion, tying the vote and thereby defeating it.

Still on April 17, when Council returned to regular session, the Draft Minutes record that Councillor Prefasi spoke to the criticisms made against him and voted against a motion in support of the Temagami First Nation's Band Council Resolution:

"11534 - Temagami First Nation Resolution regarding remarks on Facebook
Discussion took place regarding this matter and Councillor Prefasi read out a s.223.4 (5) of the *Municipal Act*, regarding penalties or sanctions in which a Code of Conduct is in place.

18-143

MOVED BY: B. Koski

SECONDED BY: C. Lowery

WHEREAS the Municipality of Temagami values our working relationship and friendship with the Temagami First Nation (TFN), and the Teme-Augama Anishnabai (TAA);

AND WHEREAS we have received the Temagami First Nation Band Council resolution #2018- 008 "asking the Municipality of Temagami's Council to denounce Councillor Ron Prefasi's letter and actions as posted on his social media page "Temagami Ron Prefasi – Your Voice Matters";

AND WHEREAS Council had not met to deliberate on the matter of moving of construction trailers on the Lake Temagami Access road when Councillor Prefasi's comments were made on Facebook and Council had not made a decision on the matter;

AND WHEREAS only the Mayor of the Municipality of Temagami has the authority to speak on behalf of Council;

AND WHEREAS Councillor Ron Prefasi had no authority to speak on behalf of Council;

AND WHEREAS the Council of the Municipality of Temagami understands that the Temagami First Nation will not participate in any future meetings where Councillor Prefasi is present until an apology is made by Councillor Prefasi to the Temagami First Nation Chief and Council, citizens and Capital Project Manager;

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NOW THEREFORE BE IT RESOLVED THAT the Municipality of Temagami's Municipal Council in no way supports Councillor Ron Prefasi's letter and actions as posted on his social media page "Temagami Ron Prefasi – Your Voice Matters" on Saturday March 17, 2018;

AND FURTHER THAT the Council of the Municipality of Temagami join the TFN by asking Councillor Ron Prefasi to make a public apology to Temagami First Nation Chief and Council, citizens and Capital project Manager for his manner in handling this matter.

Councillor Prefasi requested a recorded vote."

Councillor Prefasi voted against the motion with two others. As one member abstained, the motion was defeated.

Regarding the Code of Conduct complaint, the Draft Minutes record the following:

"18-142

MOVED BY: D. O'Mara

SECONDED BY: J. Harding

BE IT RESOLVED THAT this motion be deferred until the next regular Council meeting.

Mayor Hunter requested a recorded vote."

Councillor Prefasi voted against the motion, tying the vote and thereby defeating it.

As the Draft Minutes of the April 17 meeting they have yet to be approved, the evidence is in the audio recording of the meeting, to be found on the Municipality's website.

May 24, 2018 Regular Council Meeting:

On the agenda for the May 24 Regular Council meeting, the Code of Conduct complaint from Jamie Koistinen reappeared on the agenda as follows:

"UNFINISHED BUSINESS

15.1 11536A - Code of Conduct Complaint regarding Facebook Posts

Draft Motion:

BE IT RESOLVED THAT Council receive correspondence from Jamie Koistinen of the Temagami First Nation regarding a Code of Conduct complaint regarding Councillor Prefasi's Facebook posts; AND FURTHER THAT Council exercise its authority under Section 223 of the Municipal Act 2001, as amended (the Act) to appoint an Integrity Commissioner who would be responsible for performing an independent investigation

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BE IT RESOLVED THAT Council receive correspondence from Jamie Koistinen of the Temagami First Nation regarding a Code of Conduct complaint regarding Councillor Prefasi's Facebook posts;

AND FURTHER THAT Council exercise its authority under Section 223 of the Municipal Act 2001, as amended (the Act) to appoint an Integrity Commissioner who would be responsible for performing an independent investigation and reporting back to Council;

AND FURTHER THAT Council hereby appoints Fred Dean as the Integrity Commissioner to perform the investigation on this matter."

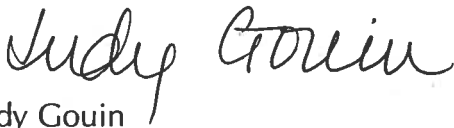
As the audio recording of the meeting shows, Councillor Prefasi had once again not declared a conflict of interest at the beginning of the meeting. When a motion was once again made to defer, he seconded it, spoke to the motion, requested a recorded vote and voted to defer. The motion was defeated.

An amendment was proposed to substitute Antoinette Blunt for Fred Dean. Councillor Prefasi spoke to the motion, and voted in favour. The motion was carried.

Thus, in effect, Councillor Prefasi chose the person who would investigate him.

I believe that the evidence I have provided clearly shows that Councillor Prefasi has contravened both the Procedural By-law provisions regarding Conflict of Interest, and Council's Code of Conduct, as set out at the beginning of this letter, and I request that an Integrity Commissioner be appointed to investigate. The required affidavit is attached to this letter.

Yours sincerely,



Judy Gouin

✓ cc. Lorie Hunter, Mayor

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and reporting back to Council; AND FURTHER THAT Council hereby appoints _____ as the Integrity Commissioner to perform the investigation on this matter. "

As the approved minutes show, Councillor Prefasi again did not declare a conflict at the beginning of the meeting, and he did vote on the motion to defer, as follows:

" **UNFINISHED BUSINESS**

11536A - Code of Conduct Complaint regarding Facebook Posts

18-204

MOVED BY: B. Koski

SECONDED BY: C. Lowery

BE IT RESOLVED THAT Council receive correspondence from Jamie Koistinen of the Temagami First Nation regarding a Code of Conduct complaint regarding Councillor Prefasi's Facebook posts; AND FURTHER THAT Council exercise its authority under Section 223 of the Municipal Act 2001, as amended (the Act) to appoint an Integrity Commissioner who would be responsible for performing an independent investigation and reporting back to Council; AND FURTHER THAT Council hereby appoints Fred Dean as the Integrity Commissioner to perform the investigation on this matter.

DEFERRED

To Defer

18-205

MOVED BY: C. Lowery

SECONDED BY: B. Koski

Be it resolved that the motion be deferred until the next committee of the whole meeting.

Recorded YEAS

L. Hunter X J. Harding X B. Koski X C. Lowery X D. O'Mara X R. Prefasi X

Results CARRIED"

June 19, 2018 Committee of the Whole Meeting

On the agenda for the June 19 Committee of the Whole meeting, the Code of Conduct complaint from Jamie Koistinen appeared on the agenda, as follows:

"6. BUSINESS ARISING FROM THE MINUTES

6.1 Jamie Koistinen Code of Conduct Complaint

Draft Motion:

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