#### TEMAGAMI FIRST NATION



#### LAKE TEMAGAMI, ONTARIO POH 1CO

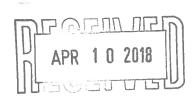
TEL 1.888.737.9884 or 705.237.8943 FAX 705.237.8959

www.temagamifirstnation.ca



April 10, 2018

Lorie Hunter – Mayor Municipality of Temagami Box 220 Temagami, ON POH 2H0



**Dear Mayor and Council** 

Further to Temagami First Nation Chief and Council writing the Municipality of Temagami asking for a public apology and including a resolution. I wish to further advise that I too was personally slighted by Councillor Prefasi's erroneous rant on his social media page, additionally I am of the opinion that the basis of the page is not representative of good governance. Councillor Ron Prefasi maintains his own social media page on Facebook (where he is the page's creator, moderator and administrator called "Temagami Ron Prefasi — Your Voice Matters". This page is a forum which allows and encourages hateful, malicious and vexatious exchanges to take place on social media. The basis of this page and Councillor Prefasi's conduct on the page also violates the Municipal Declaration of Office, the Royal Proclamation of 1763, Bylaw 17-1337 Municipality of Temagami Workplace Harassment Policy, the Human Rights Code and the Charter of Rights and Freedom, the MOU between TAA/TFN/MOT and more specifically the Policy Statement under Municipal Code of Conduct (By-Law 13-118), as such please accept this letter as my Complaint, which I believe is of a serious nature as defined under section 5 Enforcement of the Schedule A to By-Law 13-1138 more specifically sections 5.1 and 5.4.

Please refer the chronology of events below and details of my complaint where Councillor Prefasi violates the codes to which he has been given the elected privilege to represent. As quoted in Schedule A to By-Law 13-1138 – Attaining an elected position within the community is a privilege which carries significant responsibilities and obligations. As leaders in our community, Members of Council are held to high standards of conduct and ethical behaviour. In addition to being well-informed to undertake their policy and decision-making functions effectively, Council members are expected to carry out their duties in a fair, honest, conscientious, diligent, impartial, transparent and professional manner that respects the dignity of individuals and is in accordance with the Human Rights Code and the Charter of Rights and Freedoms - is the Municipal Council in support of Councillor Prefasi's page and the basis of it?

On November 28<sup>th</sup> 2017 – prior to finalizing the Tender of Temagami First Nation (TFN) Multi-Use Facility - I organized on open house on Bear Island and invited every neighboring contractor, supplier, lodge owner and anyone who had an interest in taking part in and learning about our project. The Open House was designed to be a forum to develop partnerships/opportunities with all 6 of our Pre-Qualified General Contractors, it was well attended and it was here that TFN also learned that the lodges did not have the ability to dedicate their establishments to our potential contractor's manpower needs. This led TFN to purchase a contractor camp comprised of 8 modular trailers which would be set up on Bear Island to provide lodging for the workforce carrying out our major Capital Project. (As an aside I would like to share that the operation of this camp alone will be creating eight new full-time jobs in our area during construction.)

A plan was finalized on Tuesday March 14<sup>th</sup> on how we could safely move these trailers down the Lake Temagami Access Road and over our ice road to Bear Island. This plan was developed between myself, TFN's Community Infrastructure Manager, the camp supplier, the hired transport drivers, an Engineer with the Ministry of Labour and the local contractor who was hired to assist in moving these trailers. After which we had to apply for Oversize Load Permits with the Ministry of Transportation (MTO) of Ontario. It takes 36 hours to obtain the required MTO permits before we could begin to move these trailers via transport – the permits are only valid from dawn till dusk on regular work days (Monday through Friday) and the route in which these trailers are traveling need to be identified at the time- of application. The permits were required as the loads exceeded the allowed width of 8.5 feet –these trailers were 12 feet wide. An overweight permit was not required nor issued by the MTO.

On the afternoon of Thursday March 15<sup>th</sup> after preparing the "Community Bulletin" (as attached) advising of the intermit ice road closure I attempted to contact the Municipal Public Works
Superintendent (PWS) – Barry Turcotte to include him in our plans regarding the trailers. He was out of the office so I spoke to his Administrator and also supplied her with a copy of the "Community Bulletin" – she advised that the Public Works Crew was imposing the half load restrictions that day – I asked what the reduced weight limit would be to which she didn't know but moments later emailed that its was 5 tons per axle – at which time I advised that even with the half load restrictions imposed 7 of the 8 trailers conformed to the restriction as the trailers and trucks combined weight was 45,000 pounds 24 tons and given that the transports have 6 axels the loads were under the allowed 30 ton – the combined truck and trailer weight of the 8<sup>th</sup> truck was 63,000 pounds – almost 2 tons over the imposed weight limit however the expected weather forecast throughout the week of March 19<sup>th</sup> (when we would begin the haul the trailers) the daytime high was expected to be -18. The Access Road was and would remain frozen.

The PWS returned my call at 10:30AM on Friday March 16<sup>th</sup>, I made him aware of our plans in regards to moving these trailers, I made him aware we had obtained the MTO permits, consulted with an Engineer from the MTO and through discussion; given the weather, the weight of the loads we agreed that the Access Road was able to tolerate the loads provided we hauled the heaviest load (the 8<sup>th</sup> trailer) first thing in the morning ensuring the road was at its hardest. He asked from my email address as he wanted to recap and formalize our conversation. At 2:22PM that day an email was sent to my attention which all Municipal Council was also copied on;

#### Hi Jamie

Thanks for taking the time to speak to me today about the Municipality's concerns for the Lake Temagami Access Road. As you are aware at this time of year the Municipality of Temagami has half load signs up on the Mine Access road to protect the road and keep it in the best shape possible for everyone that uses this road. I understand that next week TFN will be hauling mobile trailers down this road and we want to make clear that any damages to our road resulting from these trailers and/or materials being hauled is at TFN expense to repair. As I mentioned, the MTO permits do not cover travel on municipally maintained roads. I would also like to add that, because Section 110 of the Highway Traffic Act the Act allows municipalities to issue permits to allow oversize or over weight vehicles to travel on municipally maintained roads, in the future you or the contractor should approach the Municipality for a permit for oversize or overweight loads on the mine road.

We want to work cooperatively with the Temagami First Nation, but there is not time to take this to Council to get permits for Monday morning.

Please respond to acknowledge receipt of this email.

Thank you

Barry Turcotte -Public Works Superintendent

In response to Barry's email I offer the following comments/questions for consideration -

- Does the municipality actually have "jurisdiction" over the Lake Temagami Access Road as defined in section 110 of the Municipal Act? I am not questioning the fact that the Municipality maintains the road but I have seen correspondence from the Mayor to Ministers and even Councillor Prefasi siting their position is that they (as the Municipality) do not own the road and further question why the Municipality should be responsible for maintaining it would the road not then fall under Crown Land and further would imposing a fee further violate the Royal Proclamation of 1763 where First Nation member maintain that we are able to travel freely throughout n'Daki Menan and further on this road as un-surrendered Native Territory as defined in the Royal Proclamation? Under the Declaration of Office does Councillor Prefasi's actions in declaring "that the Municipality has to use whatever means are at its disposal to prevent these vehicles (the trailers) from using the Access Road" bear true allegiance to Her Majesty Queen Elizabeth the Second by impeding our Progress? Is it the intention of the Municipality to enforce/issue permits in the future? Is the Municipality claiming on record that they now have ownership of the road in its current state?
- Did I miss the underlying sense of urgency to respond to the email that the PWS had sent? Did
  the PWS express in his professional opinion that the road in question could not accommodate
  the loads? It was Councillor Prefasi who seemingly took an issue with agreement and/or
  discussion that Public Works Superintendent and I had. What transpired between 2:22PM on
  Friday and 8:34AM on Saturday March 17<sup>th</sup> to provoke Councillor Prefasi to address all of
  Council by email/letter and post the letter and his position on the matter, to his social media
  page?

o Under Schedule A to By-Law 13-1138 Section 4.7 - Members shall acknowledge and respect the fact that staff work for the Municipality as a corporate body and are responsible for making recommendations that reflect their professional expertise and corporate objectives, without due influence from any individual Member. In addition, Members shall acknowledge and respect the fact that staff carry out directions of Council as a whole, through the Chief Administrative Officer (CAO) and administer the policies of the Municipality. A Member shall refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others. If a Member disagrees with or disapproves of information or advice provided by staff or actions taken by staff acting in good faith, the Member shall ensure that any comments made to this effect in public shall be made in a fair and respectful manner, in such a way as to express disapproval with the outcome, without criticizing staff.

As I said, on the morning of Saturday, March 17, 2018, Councillor Prefasi posted a letter that he had addressed to all of Municipal Council on his Facebook page, which led and provoked a completely unhealthy destructive exchange on Facebook, between himself (a member of Municipal Council) Temagami First Nation members and Municipal residents (attached is the letter and comments)

The thread of the post opened with him saying "wearing my councillors hat this morning" "Three large oversized trailers are scheduled to use the Access Road sometime this week to get to the TFN's ice road. The Municipality was made aware of this through a post on my Facebook page. Public Works correspondence with the TFN's Capital Projects Manager regarding the necessity of obtaining Municipal permits for oversized loads has gone unanswered, so it prompted me to send the attached letter to our Mayor and Council outlining my concerns and the necessity for a meeting with the TFN to discuss the parameters required for moving large loads such as this and to resolve the issue amicably.

I did in fact attempt to work with the municipality of Temagami and that your Public Work Superintend in his professional experience advised on Friday that he had no concerns with the Mine Road to use Mine Road to transport our trailers. All of Council was notified by the PWS yet Councillor Prefasi sites that his social media page is where he first learned of this? Again I have concerns of how the conversation was conducted on facebook — was Councillor Prefasi upholding the Municipal Code of Conduct or in compliance with Bylaw 17-1337 Municipality of Temagami Workplace Harassment Policy, the Human Rights Code and the Charter of Rights and Freedom when making these posts and statements on social media? Are Councilor Prefasi's comments/actions reflective of the relationship the Municipality wants to remain with TFN, more specifically is this type of behaviour supported by the Municipality under the MOU between the parties?

I attended the last Municipal Council meeting held on March 22<sup>nd</sup>, as I wanted to be there to speak to any matters that may have been discussed relating to Temagami First Nation's Capital Project (TFN-CP). I was told at the March 22<sup>nd</sup> meeting that the TFN-CP was not a matter on the agenda and that no discussions on the TFN-CP would be taking place under the agenda item "new business". I also took a moment to advise Municipal Council that should the TFN-CP become an "item" of discussion I would like to be notified as I am the point person for the project.

I have spent the last thirteen years working on major capital projects throughout Ontario and Western Canada and on each of these projects I was a direct liaison with Consultants, Sub-Contractors, site Personnel and Clients/Owner – all stakeholders in a project, which is why I engaged and truly understand the importance of these types conversations that took place with the Public Works Superintendent. I also understand the obligation to ensure a projects practices are in compliance with Ontario Provincial Specification Standards, Ontario Provincial Drawings Standards, specifications listed in Contracts documents, bylaws, and any other policies that hold stakeholders to a high measure of safety. Having said that I understand why a permit was issued from the Municipality to Geromer Inc. Geromer Inc was hauling "heavy loads" in a residential area - Fox Run .. generally a Municipality issues these types of permits in these types of situations to ensure the infrastructure under the road (as in water, sewer, gas and hydro lines) as well as the surface treatment (asphalt, granular sealant) in which the heavy loads are travelling on are protected and the integrity of that infrastructure isn't compromised. I reviewed the permit issued to Geromer Inc. where an understandable 12T total limit was imposed in order to preserve the integrity of the surface treatment of that road. The Access Road has no buried infrastructure, it's a complete granular base, one could even go so far to say that weakest point of that road is bridge at Tadapoga Creek (kilometer 5) but that bridge is also highway rated which generally allows/holds 120,000KG, none of these trailers in no way exceeded the weight limit of that road? I honestly question where Councillor Prefasi felt an emergency situation was before him? How did TFN have a complete disregard for the Municipality or other users of that road? I will ask again - does Council support his views?

As resident of Temagami for over 30 years, a TFN member as well as their newly appointed Capital Projects Manager I am trying realize and take pride in the local benefits that this \$9.8 million project will create, not only for our Nation but to the other adjacent communities so that more of the benefits stay within OUR ENTIRE COMMUNITY OF TEMAGAMI. This is the largest project this area has seen in too long, I am not sure how Councillor Prefasi's behaviour encourages or even supports our endeavours, but we will continue to strive for local benefit. I wish to further add that the Financial Benefits that has been expended since our contract was awarded on February 26<sup>th</sup> had been almost \$400,000.00 local contactors, suppliers and lodge owners, more specifically the following; Miller Paving, Runnals Trucking, Caldwell Trucking, Temagami Shores, Temagami Petro, Grants Home Hardware, Longshot Diamond Drilling, Manderstrom Construction Services and Temagami Electrical Services.

Finally, I write to you the Municipal Council to ask if you find my allegations of infractions regarding Councillor Prefasi's behaviour and actions to be of a serious nature? I am asking Council to decide whether or not to 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.

Sincerely

Jamie Koistinen
Capital Projects Manager - Temagami First Nation

The Municipality of Temagami is facing an emergency situation that it must deal with proactively.

It is an issue that contains elements of public safety, Municipal liability, potential costs for repair of infrastructure and due diligence through Risk Management.

The TFN has hired a contractor to move oversized trailers down the Lake Temagami Access Road this coming week. These trailers are vehicles that can only travel on provincially controlled roads if they obtain special permits from the MOT.

I understand that the MOT has provided those permits to the contractor. This allows the contractor to haul the trailers on provincial roads.

However, the MOT, in an email to the LTAPP committee, has claimed that it has no jurisdiction over the Access Road.

This is about a lot more than half load signs on the Mine Road.

It's about the safety of the travelling public.

It's about the safety of kids on school buses.

It's about the Municipality's responsibility to assume due diligence in Risk Assesment.

It's about access on the road for postal vehicles and emergency vehicles such as police and ambulance.

It's about ensuring that the Municipality take every necessary step to protect itself legally should anything happen as a result of these oversized trailers on the Access Road.

It's about whether we turn a blind eye to the actions of one segment of the area's population that is using the infrastructure in the municipality without cost. It's about treating taxpayers more harshly than we treat non-taxpayers. Harken back to Mr. Leger on Fox Run.

It's about the potential costs to the Municipality should there be problems with our infrastructure as a result of these oversized loads.

The TFN does not have the authority to drive these vehicles on the Mine Road. Nor do the drivers for the transport company that the TFN has hired.

This is a complete disregard for the community of Temagami.

Our first knowledge of this was a Facebook posting to my Facebook page  $24\ \text{hours}$  ago.

There was no contact with the Municipality.

We don't even know when these vehicles are travelling on the Access Road or how long they will hold up traffic.

We only know, from Facebook, when the ice road will be closed to ALL traffic and when every access to the ice road will be blocked.

There has been no response as yet to the contact email sent to the TFN by our Public Works Superintendent at 2:22 this afternoon.

How can this situation be resolved?

First of all, an issue of this magnitude should have been dealt with today by the Mayor and the acting CAO. Not by the Superintendent of Public Works.

This is also not the time to back away from this issue due to the perception of political correctness.

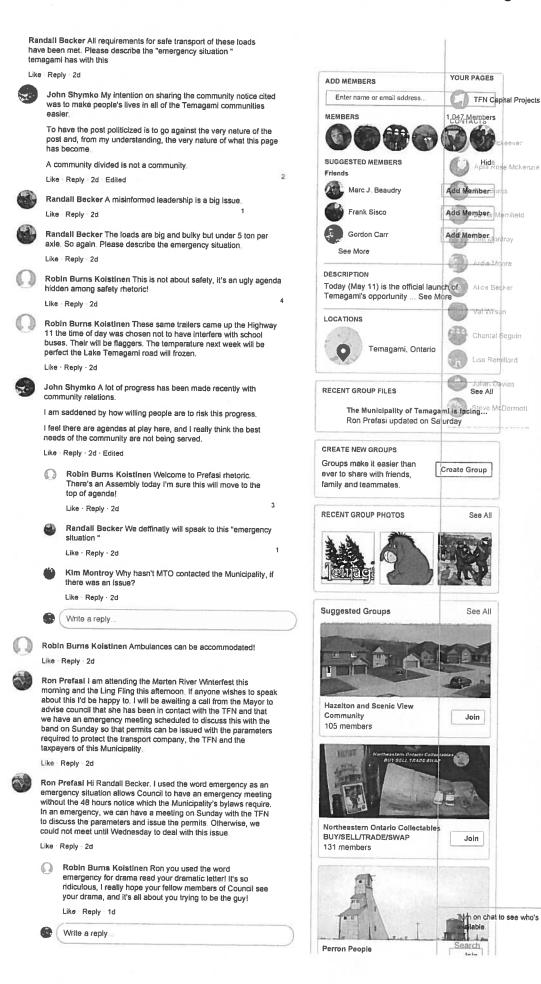
It's the time to analyze the situation and to come to a reasonable conclusion which protects our ratepayers, other users of the road and the Municipality itself.

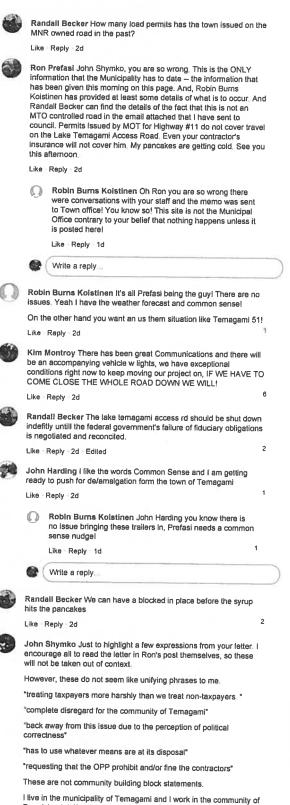
Until such time as there is communication between the TFN and the Municipality, the Municipality has to use whatever means are at its disposal to prevent these vehicles from using the Access Road, whether by doing it through discussion between the Mayor and the Chief, or by requesting that the OPP prohibit and/or fine the contractors for driving on a municipally maintained road without a Municipally issued permit for an oversized load, or through doing what the Reeve of Temagami had to do in the late 1980's due to an emergency situation: have the Public Works crew disrupt traffic on the road for a day in order to replace a culvert.

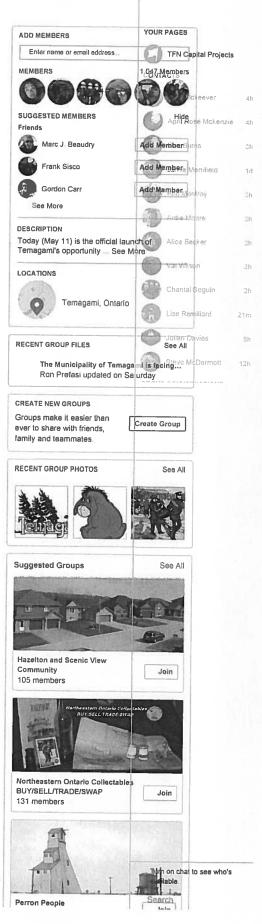
Given the short time frame facing us, I would suggest that it is the Mayor's duty to step in and contact the TFN and let them know that this is not going to happen until there is a meeting between the TFN, the council of the Municipality, the principal players in our Public Works department and the contractors.

Given these conditions, this is the prudent thing to do.









Bear Island. I, like so many here, have stakes in both communities.

but come on... "treating taxpayers more harshly than we treat non-

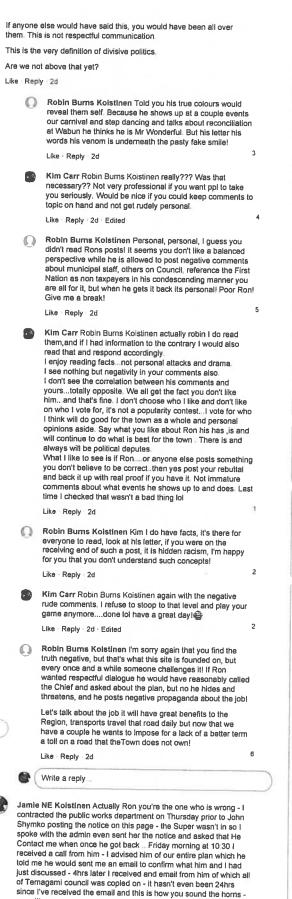
taxpayers. "? ummm... who are you referring to? First Nations

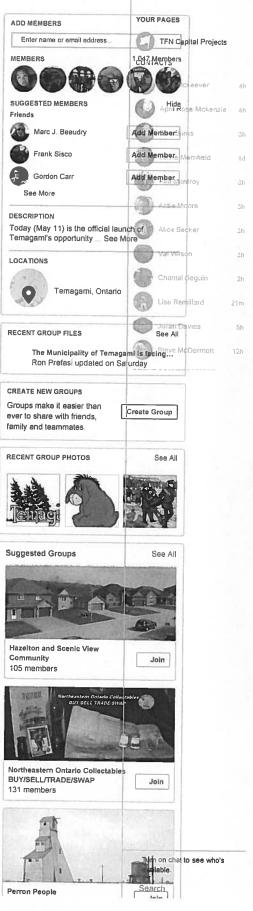
"back away from this issue due to the perception of political

really? seriously?

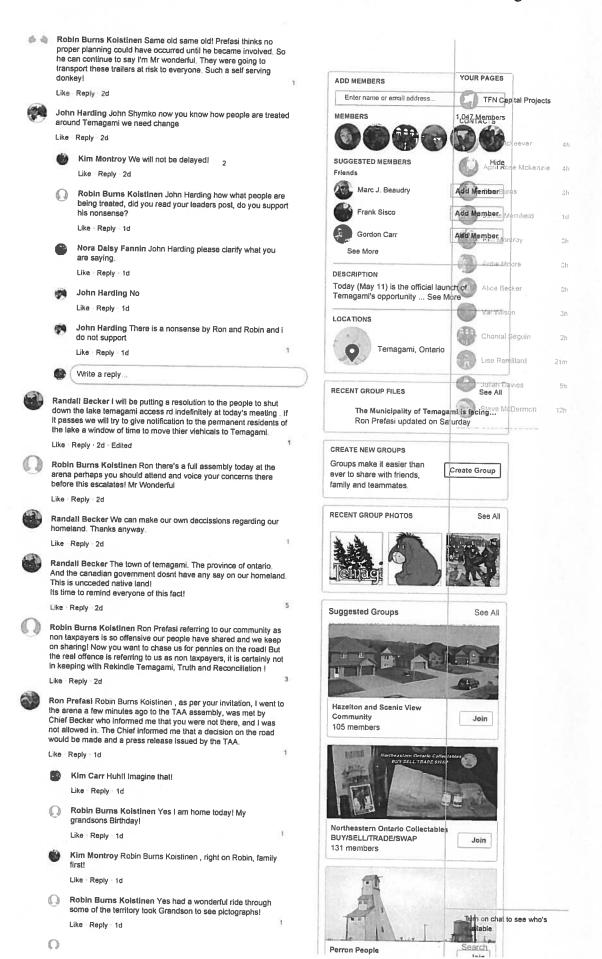
correctness

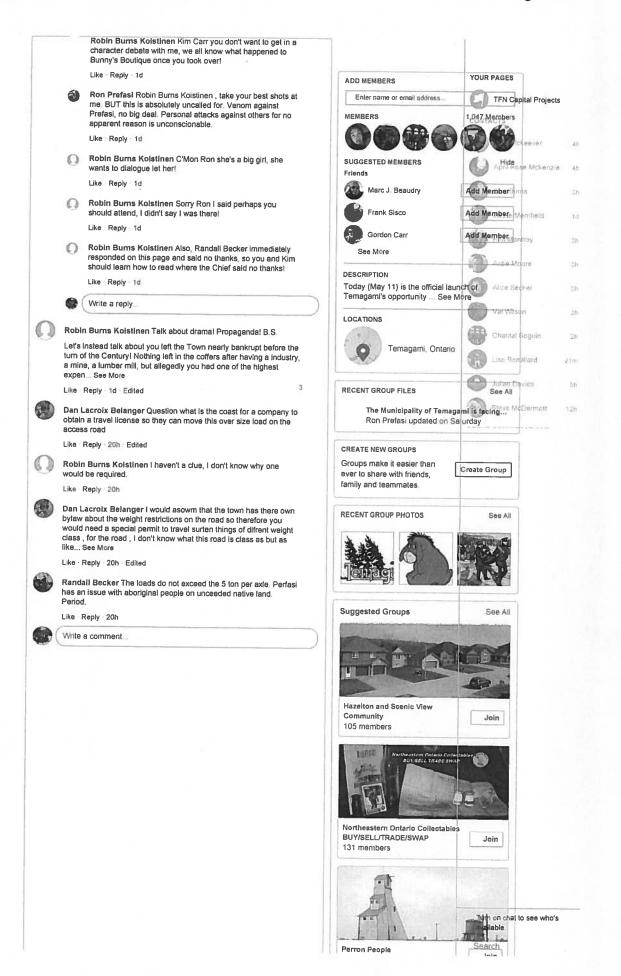
honestly?





Like Reply 2d





## TEMAGAMI FIRST NATION



#### **BEAR ISLAND** LAKE TEMAGAMI, ONTARIO P0H 1CO

TEL 1.888.737.9884 or 705.237.8943 FAX 705.237.8959

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# **COMMUNITY BULLETIN**

Attn: Community Members and Ice Road Users RE: ICE ROAD CLOSURE - Contractor Camp

Please be advised that starting in the afternoon of Monday March 19th until Friday March 23rd 2018, we will be moving the contractor camp trailers from town to Bear Island.

These trailers are currently staged at the Daki Menan Lands and Resource Corporation office located in town. They will be hauled to the end of the Lake Temagami Access Road by transport trucks and will then be towed from the Mine Landing across the ice using heavy equipment. The trailers will gain access to the island by Dean's Beach and will be towed to Lots 46-48 (former elders complex lots - across from the store) – we will be controlling/re-routing traffic on the island while transportation is underway.

On Tuesday March 20th the ICE ROAD will be CLOSED to any and all users between 9:30AM - 10:30AM and again in the afternoon from 2:30PM - 3:30PM. We will be stopping traffic at all access points leading to ice road.

A reminder that the speed limit of the Lake Temagami Access Road is posted at 50km/hr and to slow down when you see the pilot truck (advance warning truck) that will be used to escort the trailers down the Access Road as the transports take wide corners.

We apologize for any disruption this may cause but hope that this notice will allow you enough time to adjust your travel plans accordingly. Please contact me directly should you have any further questions or concerns at Jamie.Koistinen@temagamifirstnation.ca or 705-237-8600

To ensure the safety of all ice road users and community residents please help us by respecting those who are controlling the traffic, we thank you in advance for your cooperation.

Sincerely

Jamie Koistinen Capital Projects Manager - Temagami First Nation

### Schedule A to By-law 13-1138

### Appendix B

FORM OF AFFIDAVIT
AFFIDAVIT OF  1. I, Mame of Individual]  affirm the following:  of the Minicipality of Jewagam  [Name of Municipality]
2. I have personal knowledge of the facts as set out in this affidavit, because
3. I have reason to believe that a member of council, Ron Prefact [Name of Member of Council] has contravened section(s) Orbailed in attributed formal complement Spages + [Indicate section number(s)] 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:
alland a attacked formal complant spages + artachness
<ul> <li>[Set out the facts briefly-numbered statements are helpful-attach a separate sheet if more space needed]</li> <li>5. This affidavit is made for the purpose of requesting that this matter be reviewed.</li> <li>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.</li> <li>SWORN [or AFFIRMED] before me at the</li> </ul>
Municipality of Temagami [Name of Municipality] +
in the Province of Ontario this 11 Day of April, 2018  COMMISSIONER OF OATHS  COMPLAINANT
[Signature of Commissioner]  [Stamp]
Elaine Gunnell, Commissioner, etc.,
Clerk of the Municipality of Temagami