



## Integrity Commissioner's Report

To Mayor and Council – The Corporation of the Municipality of Temagami

**Date:** Monday July 23, 2018

**Complaint #: 2018-02**

**Request for Investigation – Code of Conduct for Members of Council – Schedule A to By-law 13-1138, Appendix B (Copy of signed affidavit attached to report)**

**Date:** 18 June 2018

**Name of Requester (Complainant):** Councillor Ron Prefasi

**Name of member of Council or local board who is alleged to have contravened Code of Conduct:** Councillor/Deputy Mayor Brian Koski

**Sections of Code Alleged to have been contravened:** Sections 1, 2, 3, 4.1, 4.2, and 4.4

### The Key Facts:

Councillor Prefasi attached a letter to his Affidavit dated Saturday June 16, 2018. The first incident Councillor Prefasi has noted is that the "Deputy Mayor of Temagami, Brian Koski, has contravened the above noted sections and the key facts that lead me to that belief are as evidenced in the April 17, 2018 Committee of the Whole meeting audio recording and that the Deputy Mayor's comments during that meeting. I was in attendance at that meeting."

The second incident Councillor Prefasi has noted is a contravention of the sections of the Code of Conduct noted above and the "key facts that lead me to that belief are as evidenced in the June 11, 2018 Special Meeting of Council audio recording.

In the letter of Saturday June 16, 2018, Councillor Prefasi provides a number of statements of additional examples of allegations of violations of the Code of Conduct. Appendix 1 to Councillor Prefasi's letter is his notes of statements made during the April 17, 2018 Committee of the Whole Meeting relating to a Temagami First Nation resolution regarding the Code of Conduct complaint filed against Councillor Prefasi.

**Copies of Documents and Records Relevant to Requested Inquiry:**

There were no other documents or records provided.

**Copy of The Corporation of the Municipality of Temagami By-law No. 13-1138; Schedule A to By-law 13-1138, Appendix A – Confidentiality Agreement and Appendix B – for of Affidavit – attached to this report.**

The Integrity Commissioner advised the parties that this inquiry would be restricted to the Code of Conduct and would not consider allegations of violations of the Human Rights Code, the Charter of Rights and Freedoms (Canada), allegations of violations of the Conflict of Interest Act, any other laws or of the Municipality’s Procedural By-law.

**For Reference: Section 3 of the Code of Conduct – Purpose**

The Purpose section in the Code of Conduct states that “The Code of Conduct for Members of Council and related Policies identify the Municipality’s expectations of Members and establishes guidelines for appropriate conduct to ensure that:

- The decision-making process of the Council is transparent, accessible and equitable.
- Independent, impartial decision-making considers the best interests of the entire Municipality as envisioned in the Oath of Office;
- Communications are open, honest, consistent, respectful, consultative and inclusive;
- Private interests, real or perceived, are kept separate from public responsibilities;
- Respect and support for others, including other Council members, members of municipal staff and members of the public, is maintained.

**Allegation of Violation Deemed to be of Section 3 of the Code of Conduct – Purpose**

Councillor Prefasi stated that at a Special Council Meeting on June 11, 2018, Part 2 after the Closed Session, Councillor Koski asked a question of a candidate that he identified as Debby Burrows. While Councillor Prefasi stated that audio recording of this meeting was not posted at the time he submitted his complaint, it was subsequently posted.

At this Special Council Meeting on June 11, 2018, Part 2 after the Closed Session, Councillor Koski asked, “ Can we ask some questions of former Councillor Burrows?”<sup>1</sup>.

Mayor Hunter responded that she would need “unanimous consent from Council”<sup>2</sup> to do that and that Debby Burrows would have to agree to answer questions.

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<sup>1</sup> Reference Audio Recording: Special Council Meeting on June 11, 2018, Part 2 after the Closed Session

<sup>2</sup> Reference Audio Recording: Special Council Meeting on June 11, 2018, Part 2 after the Closed Session

With consent and Ms. Burrows agreement, Councillor Koski asked, “We have a delayed Code of Conduct against a Councillor. What is your position on that?”<sup>3</sup> Ms. Burrows asked Councillor Koski if he was “speaking of the one that’s been formed by a taxpayer/ratepayer”<sup>4</sup> to which Councillor Koski responded “Yes; a ratepayer and an employee in the employment of Bear Island as well; Temagami First Nation.”<sup>5</sup> Councillor Prefasi stated he believed this “was undue influence and abuse of power as Deputy Mayor.”<sup>6</sup>

Councillor Koski told the Integrity Commissioner that he had attempted to contact Debby Burrows by phone and she would not answer his calls and that when he told Councillor Prefasi of this, Debby Burrows called him “immediately afterwards”.

Ms. Burrows told the Integrity Commissioner that in the telephone conversation she had with Councillor Koski prior to the Special Council Meeting on June 11, 2018, Part 2 after the Closed Session, Councillor Koski asked her if she would “support bringing in an Integrity Commissioner regarding a Code of Conduct complaint”. Ms. Burrows told the Integrity Commissioner that she “already knew it was about Ron Prefasi.”

#### **Assessment:**

At the Special Council Meeting on June 11, 2018, Part 2 after the Closed Session, Councillor Koski asked Debby Burrow’s her opinion about the Code of Conduct complaint filed by Ms. J. Koistinen against Councillor Ron Prefasi.

#### **Violation of Section 3 of the Code of Conduct – Purpose**

Councillor Koski violated Section 3 of the Code of Conduct – Purpose by failing to ensure that “The decision-making process of the Council is transparent, accessible and equitable”.

Councillor Koski violated Section 3 of the Code of Conduct – Purpose by failing to ensure “Independent, impartial decision-making considers the best interests of the entire Municipality as envisioned in the Oath of Office.”

#### **For Reference: Section 5.4 Allegations of a Serious Nature**

For reasonable allegations of infractions of a serious nature, the CAO shall bring the matter to the Mayor and Council. Council shall give the Member the opportunity to respond to the allegation. Then Council shall decide whether or not to exercise its

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<sup>3</sup> Reference Audio Recording: Special Council Meeting on June 11, 2018, Part 2 after the Closed Session

<sup>4</sup> Reference Audio Recording: Special Council Meeting on June 11, 2018, Part 2 after the Closed Session

<sup>5</sup> Reference Audio Recording: Special Council Meeting on June 11, 2018, Part 2 after the Closed Session

<sup>6</sup> Reference Audio Recording: Special Council Meeting on June 11, 2018, Part 2 after the Closed Session

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. Consideration of whether or not to appoint an Integrity Commissioner to investigate the allegations shall be done in an open council meeting when the matters discussed deal only with the conduct of the member in the course of his or her professional duties as a member of Council and do not fall within the exceptions to the open meeting requirements. In completing his or her investigation and reporting to Council, the Integrity Commissioner shall have the powers and duties, including the duty of confidentiality, as set out in the Act.

### **Allegation of Violation Deemed to be of Section 5.4 Allegations of a Serious Nature**

The process for proceeding with a complaint as outlined in Schedule A to By-law 13-1138 is vague. However, in section 5.4, it does state that “Council shall give the Member the opportunity to respond to the allegation”, but no specific time frame is stated.

With respect to the Council in Committee of the Whole Meeting on Tuesday April 17, 2018, various Councillors gave their opinion as to the process of proceeding with dealing with the complaint filed by Ms. J. Koistinen. Councillor O’Mara stated that in fairness, and as part of the process, Councillor Prefasi should be “given some time”<sup>7</sup> and an “opportunity to respond”<sup>8</sup> to the complaint filed by Ms. J. Koistinen. Councillor O’Mara also stated that he did not know if Councillor Prefasi was in a position to respond tonight.

Mayor Hunter stated that she assumed “this was the time”<sup>9</sup> but if Council felt differently she wanted to hear about it. Mayor Hunter stated she and the Clerk decided this was “an important decision and she was going to “support going to an Integrity Commissioner”<sup>10</sup>. Councillor Harding stated that Council should not “rush into a decision at this time” and that it had not “been a week”<sup>11</sup>, referencing the time since the complaint had been received.

At the Council in Committee of the Whole Meeting on Tuesday April 17, 2018, Councillor Koski stated that we (Council) “need to go to a third party which is the Integrity Commissioner” and “we need to go right now”<sup>12</sup>.

Councillor Koski told the Integrity Commissioner he “wanted to go to the Integrity Commissioner.”

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<sup>7</sup> Reference Audio Recording: Council in Committee of the Whole Meeting on Tuesday April 17, 2018

<sup>8</sup> Reference Audio Recording: Council in Committee of the Whole Meeting on Tuesday April 17, 2018

<sup>9</sup> Reference Audio Recording: Council in Committee of the Whole Meeting on Tuesday April 17, 2018

<sup>10</sup> Reference Audio Recording: Council in Committee of the Whole Meeting on Tuesday April 17, 2018

<sup>11</sup> Reference Audio Recording: Council in Committee of the Whole Meeting on Tuesday April 17, 2018

<sup>12</sup> Reference Audio Recording: Council in Committee of the Whole Meeting on Tuesday April 17, 2018

Councillor Prefasi told the Integrity Commissioner that he believed Councillor Koski was “pre-judging” his “guilt” by saying “take it to the Integrity Commissioner right now”.

**Assessment:**

Councillor Koski should have known and considered, that according to the Code of Conduct in section 5.4, it does state that “Council shall give the Member the opportunity to respond to the allegation” and this had not occurred.

**Violation of Section 5.4 Allegations of a Serious Nature**

Councillor Koski violated the Code of Conduct in section 5.4, Allegations of a Serious Nature, by recommending the appointment of an Integrity Commissioner prior to Councillor Prefasi being given an opportunity to respond to the allegations in the complaint submitted by Ms. J. Koistinen.

This report is submitted by: **Antoinette Blunt MPA, CHRL, CHRE, FHRPA**

Appointed by resolution at the Municipality of Temagami Council Meeting on June 28, 2018 Part 2 of 2.

MOVED BY R. Prefasi

SECONDED BY J. Harding

WHEREAS three separate Code of Conduct complaints have been received against members of Council;

AND WHEREAS in the Clerk’s absence no one can assess the merits of these complaints;

THEREFORE BE IT RESOLVED THAT these complaints be received by Council and dealt with as per the requirements of Temagami’s Code of Conduct By-law

AND FURTHER THAT these complaints be forwarded on to the Integrity Commissioner appointed at the last meeting.