
TOWN OF ORANGEVILLE INTEGRITY COMMISSIONER,
GUY GIORNO

Citation: Newman v. Brown, 2021 ONMIC 11

Date: July 21, 2021

REPORT ON COMPLAINT

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THE COMPLAINT

1. This report concludes an inquiry into a complaint about a March 2021 letter from Mayor Sandy Brown (Respondent), to Town Council, announcing his resignation from the Police Services Board.
2. Ms Tracey Newman (Complainant) alleges that the Mayor's letter contravened sections 1.1, 3.2, 6.2, 12.2, 14.2, and 14.3 of By-law No. 044-2016, the Code of Conduct for Council, Local Boards and Committees.

SUMMARY

3. The inquiry and this report pertain only to Mr. Brown's conduct as Mayor. As Integrity Commissioner, I have no jurisdiction over his conduct as a member of the Police Services Board.
4. The Mayor's letter is mostly opinion, but includes some factual content.
5. The Police Services Board, out of respect for legal proceedings involving the Ontario Civilian Police Commission, is unable to respond to questions about certain claims made by the Mayor. Consequently, on certain key issues, I possess only the information in the Mayor's letter.
6. As a general principle of Canadian law, allegations must be proved. The individual against whom an allegation is made is not obliged to prove the allegation false. This is especially true when an alleged contravention, if established, can lead to suspension of pay or other sanctions. The Mayor is not required to prove that his letter complied with the Code.
7. Given the limits of information available, I find no evidence to disprove the principal factual components of the Mayor's letter.
8. The remaining portions of the letter contain the Mayor's opinion on political matters, or opinion on political matters mixed with factual claims. Political opinion, including political opinion mixed with factual claims, is neither true nor false. It is merely someone's opinion. The Code does not tell Council Members what opinions to hold and does not allow the Integrity Commissioner to police the truth of political speech.
9. In summary, I find that neither the opinion (including the mixed opinion-fact) portions of the letter nor the factual portions of the letter contravene the Code.

BACKGROUND

10. Sometime around March 24, 2021, Mayor Sandy Brown sent the following letter to Town Council:

Dear Members of Council:

Today I will be resigning my seat, until the end of this Council term, as a member of the Orangeville Police Services Board. I was notified on Friday March 19, 2021 that the Ontario Civilian Police Commission is beginning an investigation regarding Code of Conduct issues through what I believe is a politically motivated complaint instigated by PSB Chair Todd Taylor. I believe that the Mayor represents the taxpayers of the Town of Orangeville and has a duty to speak freely and report on issues of concern, particularly fiscal mismanagement and should not be muzzled. The current membership of the PSB is populated with OPS supporters – including Chair Taylor who continues to advocate for one of the poorest managed Police Services in the history of Ontario. Now that I am free of my bonds – there will be a lot more to report to Town Council and the citizens of Orangeville.

I will be calling a Special Meeting of Town Council at 11:30 AM on Thursday March 25 for the purpose of selecting a member of Council to serve on the Police Services Board. The *Police Services Act* states that the Mayor is automatically on the PSB, unless he or she elects to step down – or is removed. I will be recusing myself from this vote as I am under the OCPC investigation. However, I strongly believe that the Deputy Mayor – the next ranking member of Council – should be selected as my replacement. Deputy Mayor Macintosh has a long career in Emergency Services and understands Policing through his countless hours of close interaction with multiple Police Services.

I am extremely proud of leading Council and taxpayers of Orangeville in the replacement of OPS with OPP. We are already seeing cost savings – and when we step into the new billing model, the savings will be millions of dollars per year. Money that can be used to freeze taxes for years and to continue to improve the amenities and infrastructure of our Town. We are already seeing the qualitative improvements in the local Police Service – improved police presence, improved traffic enforcement, increased criminal arrests, a new Street Crime Unit to fight drugs - and perhaps most importantly a motivated, professional group of police officers provided with excellent equipment and resources who inspired by excellent leadership are happy to be working in Orangeville and doing their best to serve our Town.

Sincerely,

[signed]

Mayor Sandy Brown
Town of Orangeville

11. The letter was included in the agenda package for the Special Council Meeting, and thereby became public. Several news media reported on it.

12. As the letter indicates, under Part III of the *Police Services Act*, the Mayor of Orangeville, as head of Council, is automatically a member of the Orangeville PSB unless the Mayor chooses not to be a member. In that case, another Council Member may be appointed by resolution of Council.¹

13. The Special Council Meeting was held March 25, at 11:30 a.m. The agenda, minutes, and a recording are all available online.²

14. The Mayor delivered the following prepared statement at the beginning of the meeting:

A complaint has been forwarded to the Ontario Civilian Police Commission over alleged Code of Conduct issues by the Mayor, statements by the Mayor regarding policing issues. The OCPC is conducting an investigation into these allegations. The requirement is for a member under investigation to step down while the investigation takes place. I have decided to resign from the Board in order to get some fresh thoughts and fresh perspective from another Member of Council. The matter is confidential until the investigation is completed, at which point all of the investigation will be made public. I will not be making any comments further, nor will I be answering any questions by the public or the press, beyond this statement.³

15. His resignation having created a vacancy on the PSB, the Mayor moved, seconded by Councillor Andrews, to appoint Deputy Mayor Andy McIntosh to the Police Services Board.⁴ The motion carried unanimously. (To be precise, I note that, while the recording shows that Mayor Brown moved the motion, the official minutes of the meeting state that Deputy Mayor McIntosh was the mover.⁵)

16. I subsequently received a Complaint that Mayor Brown contravened the Code by issuing the letter.

¹ *Police Services Act*, clause 27(5)(a): “the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council”

² See minutes and agenda online:
https://calendar.orangeville.ca/meetings/Index?_RequestVerificationToken=wG5fHEdzTmv51FaRPzEw-JZEULy4HNq-QBQGSF1yQjysM1Xbokjmuxxf9xBaVPu8ANc7bFnKDI2HtbFBPkmPb0ZWSWRPKNO6SKxC5JGFK1dqqYVzJTe9z7iDj8VG1Fr3pEtEC3vDpEXYmcVolZocZW9VXQ6P0Xgo5ByN2gOuHTs1&StartDate=03/25/2021&EndDate=03/25/2021

³ Orangeville Town Council, Special Council Meeting (March 25, 2021), recording, online:
<https://youtu.be/HduAdHioMBU>

⁴ *Ibid.*

⁵ Orangeville Town Council, Special Council Meeting (March 25, 2021), Minutes, item 8.1, online:
<https://calendar.orangeville.ca/meetings/Detail/2021-03-25-1130-Special-Council-Meeting/776ffa0f-557a-4d4f-bec9-ad0e00a0e206>

POSITIONS OF THE PARTIES

Position of Complainant

17. The Complainant alleges that the Mayor contravened six sections of the Code. For completeness, I am reproducing her argument on each section.

18. Section 1.1 of the Code sets out the “key principles that underline the Code of Conduct.” There are three sets of principles: First, accountability, ethics and integrity. Second, serving and being seen to serve constituents in a conscientious and diligent manner, avoiding improper use of influence of office, and conflicts of interest, both real and apparent. Third, performing duties in a manner that promotes public confidence and will bear close public scrutiny.

19. In alleging a violation of section 1.1, the Complainant submits:

By making accusations that an investigation by the Ontario Civilian Police Commission was due to a politically motivated complaint by Councillor Todd Taylor, Mayor Brown has failed to act accountably, has failed to demonstrate ethics or integrity and has improperly used the influence of his office.

By stating that the mayor should not be muzzled and is now free of his bonds, the Mayor does not promote confidence that Council is functioning effectively or with the best interest of its constituents.

By stating that Councillor Todd Taylor, who is the chair of the Police Services Board, continues to advocate for one of the poorest managed police services in the history of Ontario, Mayor Brown appears to act in conflict as he is currently under a confidential investigation. This action does not promote accountability, is not ethical, does not promote political confidence, or any of the virtues held within the Code of Conduct. I further fail to see how this letter does anything other than serve the Mayor's own interests while under an investigation instead of those he accepted a responsibility to represent.

20. Section 3.2 of the Code provides that, “Members will conduct their dealings with each other in ways that maintain public confidence in the office to which they have been elected or appointed, are open and honest, focus on issues rather than personalities, and avoid aggressive, offensive or abusive conduct.”

21. The Complainant's submission on section 3.2 of the Code is as follows:

By writing a letter that publicly alleges political motivation by another councillor, Mayor Sandy Brown has failed to conduct himself in a manner that maintains public confidence. This letter appears to be aggressive, offensive and abusive in its nature towards another councillor. It fails to pursue any of the avenues of proper and formal complaint, such as this process, and leads to nothing more than spreading unfound[ed] allegations and rumours.

22. Section 6.2 of the Code applies to decision-making on the awarding of contracts and the settlement of claims. It says Members shall not attempt directly or indirectly to influence these processes.

23. On section 6.2, the Complainant's position is as follows:

By writing a letter that claims political motivation and then proceeds to describe that a vote will take place to elect a replacement for Mayor Sandy Brown on the Police Services Board in which Sandy Brown recused himself due to the ongoing investigation against him, the Mayor proceeds to not only tell other councillors who he believes should be elected and why. This has direct influence on the decision-making process regarding a vote in which the Mayor was under investigation and supposed to be recused. This action is an improper use of his office and directly opposes his attempt to recuse himself, while he may not have voted on this issue, Mayor Brown certainly used his position of power by writing his letter on mayoral letterhead to suggest his wishes be executed.

24. Section 12.2 of the Code requires that Council Members conduct themselves with decorum during meetings, and show courtesy and not distract from business during presentations and when other Members have the floor.

25. The Complainant's submission on section 12.2 is simply that, "By writing this letter, the Mayor failed to demonstrate courtesy towards his fellow councillors."

26. Section 14.2 provides that, "Members shall treat every person, including other Members, the public, staff and volunteers, with dignity, understanding and respect."

27. According to section 14.3, "All Members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation." The section continues by requiring Members to ensure the work environment is free from discrimination and personal and sexual harassment.

28. The Complaint explains as follows her allegation that the Mayor contravened sections 14.2 and 14.3 of the Code:

By writing this letter, Mayor Brown has failed to treat Councillor Todd Taylor with dignity, understanding and respect. I find the content of the Mayor's letter to be harassing in its nature and fail to see what purpose it serves other than to attempt to bully a fellow councillor and to serve the Mayor's own self interests whilst under a serious and confidential investigation.

29. Because the Mayor did not submit a Response, the Complainant did not make reply submissions. (A Complainant is given the opportunity to reply to a Response from the Respondent.)

Position of Respondent

30. The Mayor, through legal counsel, asked for and was given an extension, until May 12, to submit a Response. No Response was ever provided.

31. I have no reason to believe that the omission was caused by anything other than inadvertence. Nonetheless, I decided to continue with the inquiry. In particular, I decided to seek relevant information from the Police Services Board, and then to give the Mayor an opportunity to address any relevant evidence or claim.

32. Given the position of the PSB (see paragraphs 40 to 43, below) it is not necessary for me to go back to the Mayor.

PROCESS FOLLOWED

33. In operating under the Code, I follow a process that ensures fairness to both the individual bringing a Complaint and the Council Member responding to the Complaint. This process is based on the Code of Conduct Complaint Procedure that was adopted by Council.

34. The Complaint was submitted April 19.

35. I issued a Notice of Inquiry on April 26. I informed both the Complainant and Respondent that I would be conducting an inquiry into whether the first paragraph of the Respondent's letter contravened section 3.2 of the Code. I also informed the parties that I would not be inquiring into whether the Respondent contravened sections 1.1, 6.2, 12.2, 14.2 and 14.3, as they are not the provisions of the Code that can give rise to a breach, do not apply to the facts of this case, or are otherwise redundant.

36. I also reminded the parties that sections 18 through 23 of the Complaint Protocol require confidentiality to ensure that the Complaint is investigated in a fair manner that respects the rights of both parties.

37. The Notice of Inquiry invited the Respondent to respond by May 5.

38. On May 2, legal counsel for the Mayor replied to me by email acknowledging the Notice of Inquiry and requesting an extension until May 12. I granted that request, but I did not receive any Response from the Mayor or legal counsel by May 12, or subsequently.

39. I reached out to the Police Services Board and its Chair, Councillor Todd Taylor, and invited both the PSB and Mr. Taylor individually to address the comments in the letter related to them.

40. The PSB as an institution and Mr. Taylor as an individual take the position that, because the Ontario Civilian Police Commission may be conducting an investigation of Mr. Brown (indeed, the Mayor's letter says precisely this), it would be inappropriate for them to comment on the Mayor's letter or the matters mentioned in the letter.

41. I understand and I respect their reasons for being unable to participate in this inquiry.

42. Mr. Taylor wears two hats. He is both the PSB Chair and a Town Councillor. Mr. Taylor takes the position – quite properly in my view – that he cannot remove his PSB hat and comment on the letter wearing only his Town Councillor hat. Everything he states on a matter related to policing must be a statement that is appropriate for him to make as PSB Chair; otherwise he cannot address the matter at all, he says. I accept this explanation and believe it is proper.

43. Chair Taylor and the PSB are aware that the inquiry is continuing without the PSB's version of events. This is inevitable given their appropriate decision not to comment in the wake of a potential OCPC investigation.

44. I have spoken again to the Complainant. She has laid out her arguments very articulately, but she possesses no more information about the subject of the Mayor's letter than is publicly available.

FINDINGS OF FACT

45. The Mayor, obviously, issued the letter.

46. I find as a fact that, based on the usual Council agenda distribution process, the Mayor knew, or reasonably ought to have known, that his letter would become public.

47. Because the Police Services Board, for very legitimate reasons, is unable to participate in this inquiry, I must make findings without the PSB's contribution.

48. On the Mayor's claim that the OCPC investigation was begun "through what I believe is a politically motivated complaint instigated by PSB Chair Todd Taylor," I have only the information in his letter, and no evidence to contradict it.

49. On his claim that, "[t]he current membership of the PSB is populated with [Orangeville Police Service] supporters," I have only the information in the Mayor's letter, and no evidence to the contrary.

50. On the Mayor's claim that Councillor Taylor "continues to advocate for one of the poorest police services in the history of Ontario," I have only the information in his letter and publicly available facts. It is a fact that the Orangeville Police Service no longer exists.

It is also a fact that it is not within a PSB's authority to decide whether policing will be provided by the OPP or by a municipal police service. That is a Council decision, not a PSB decision. I have confirmed that nobody currently on Council, including Councillor Taylor, is advocating (were it even possible) to revive the OPS and replace the OPP.

51. I find as a fact that Mayor Brown did not recuse himself from the vote to fill the PSB vacancy, though, as I explain below, that fact is not relevant to compliance with the Code.

ISSUES AND ANALYSIS

52. The Complaint alleges contraventions of six sections of the Code. In the Notice of Inquiry, I explained why the inquiry would only consider the allegation under section 3.2.

53. In this section, I will address each section of the Code to explain why it was not considered or, in the case of section 3.2, whether it was contravened.

54. As a general principle of Canadian law, allegations must be proved. The individual against whom an allegation is made is not obliged to prove the allegation false. This is especially true when an alleged contravention, if established, can lead to suspension of pay or other sanctions. The Mayor is not required to prove that his letter complied with the Code.

Section 1.1 (statements of principle)

55. In the Notice of Inquiry, I told that parties that I would not consider whether section 1.1 was breached. A statement of principle is not a provision that can be contravened and an allegation under a statement of principle cannot support a complaint. See: *Re Wilson*, 2017 ONMIC 13 (CanLII), at paras. 118-123; *Re Ford*, 2013 ONMIC 12 (CanLII). However, a statement of principle can be considered in interpreting substantive provisions of the Code. In this case, section 1.1 could be relevant to the interpretation of section 3.2.

56. A key reason why I do not feel a statement of principle can be breached is because this would lead to uncertain results. Here, for example, the Complainant uses section 1.1 to argue that the Mayor, "failed to act accountably, [and] has failed to demonstrate ethics or integrity." That language (from section 1.1) is so broad, and so general, that it could mean anything an Integrity Commissioner wants. Outcomes would be subjective, unpredictable and, quite possibly, inconsistent.

57. It is true that some Integrity Commissioners will accept a complaint alleging breach of a statement of principle, and some will even recommend a penalty for contravention of a vague or fuzzy platitude. In my view, however, it is unfair to impose penalties based on subjective, shifting interpretations of unspecific standards. Because Council Members

are subject to sanctions if they contravene the rules in the Code, it necessarily follows that the rules must be clear, certain, and unambiguous. Council Members must be able to understand clearly the conduct that is required.

58. I agree with one of Ontario's longest serving Integrity Commissioners, Mr. Robert Swayze, who stated the following in *Hayes v. Miles*, City of Brampton Report L05 IN (May 12, 2015):

In my experience members of councils in Ontario are busy people serving their community and want certainty in the interpretation of the many rules that apply to them. A code, by definition, is a set of rules of behaviour and should not be interpreted by each councillor according to subjective values. The rules need to be clear and where possible, capable of only one meaning. [emphasis added]

59. I accept and adopt Integrity Commissioner Swayze's comments about the need for clarity, certainty and lack of ambiguity in the rules. This is why it should not be possible to find a Member in contravention of a statement of principle, such as section 1.1.

Section 3.2 (focus on issues not personalities, avoid abuse)

60. Section 3.2 applies to dealings among Members of Council. The only such "dealings" conducted through the letter are the Mayor's dealings with Councillor Taylor. However, for legitimate reasons arising from his responsibilities as PSB Chair, Mr. Taylor is not commenting on the Mayor's letter.

61. The words of section 3.2 describe four standards that apply to the conduct of dealings among Council Members:

- First, the conduct of dealings must maintain public confidence in the elected offices.
- Second, the conduct of dealings must be open and honest.
- Third, the conduct of dealings must focus on issues rather than personalities.
- Fourth, the conduct must not be aggressive, offensive, or abusive.

62. The first standard is vague and subjective, particularly when applied to political speech. An Integrity Commissioner has no objective basis to assess whether words in a politician's letter do or do not maintain public confidence. A Member should not be subject to a financial penalty (suspension of pay) based on my or any Integrity Commissioner's subjective opinion of what public confidence entails.

63. Further, based on the evidence in the previous complaint involving the Mayor (*Montforts v. Brown*, 2021 ONMIC 10 (CanLII)), I find as a fact that public opinion of the Mayor is divided. Some in the Orangeville community, including the Complainant in this case, believe that the Mayor's communications diminish public confidence in elected officials. Others believe that the Mayor strives to uphold transparency, accountability, and financial responsibility, and thus he promotes public confidence. Both sides of the debate reflect legitimately held beliefs of people exercising their democratic rights. An Integrity Commissioner should not choose one position or another in this political debate.

64. The second standard, honesty (which literally means deliberately telling the truth), gives rise to the same challenge: Does the Code contemplate that the Integrity Commissioner will police the truth of political speech of elected officials? In my view, this is not what was intended.

65. Political communication involves implicit choices about **selection** and **salience**. The politician *selects*, from all the information possibly relevant to a topic, the pieces of information to highlight in the communication. The politician also determines how *salient* – that is, how memorable, meaningful, and noticeable – the information, as presented, will be.⁶ (This process is called framing.)

66. Very often, the claim that a communication is misleading or false merely reflects a different set of assumptions about what information to select and to elevate in salience.⁷

67. The Code of Conduct was not intended to regulate political judgments about the selection and salience of information in Council Members' communications. Otherwise, there is risk that an Integrity Commissioner, who frames an issue differently, might find against a Member without being conscious of different underlying assumptions about selection and salience. Justice Beverley McLachlin (later the Chief Justice) did not use the terminology of communication psychology, but nevertheless made a similar observation in the Supreme Court of Canada case, *R. v. Zundel*.⁸

68. More fundamentally, we must assume that the Code of Conduct is not intended to contravene the *Canadian Charter of Rights and Freedoms*, which protects freedom of expression. According to the Supreme Court of Canada, "The scope of constitutional

⁶ Entman, R.M. (1993). Framing: Towards clarification of a fractured paradigm. *Journal of Communications* 43(4), pp. 51-58.

⁷ Musolff, A. (2019). Metaphor framing in political discourse. *Mythos-Magazin: Politisches Framing* 1 (2019, Jan.), p. 8.

⁸ "Moreover, meaning is not a datum so much as an interactive process, depending on the listener as well as the speaker. Different people may draw from the same statement different meanings at different times. ... The result is that a statement that is true on one level or for one person may be false on another level for a different person." *R. v. Zundel*, [1992] 2 S.C.R. 731, at 756.

protection of expression is, therefore, very broad. It is not restricted to views shared or accepted by the majority, nor to truthful opinions.⁹ [emphasis added]

69. On its face, the third standard, focus on issues, not personalities, seems straightforward, but it must be interpreted in the context of typical political communications, which often include reference to people's records. In a democracy, politicians have a right to explain (defend) their own records, and to differ with (even criticize) the records of other politicians. In fact, the Supreme Court of Canada has confirmed the vital importance of being able to criticize a record of government decision-making, referring to the "interdependence between democratic governance and freedom of political speech,"¹⁰ including the freedom of "criticism and answer and counter-criticism, from attack upon policy and administration and defence and counter-attack."¹¹ The Supreme Court of Canada has also stressed that, "a democracy cannot exist without that freedom ... to put forward opinions about the functioning of public institutions," and the Court did not exclude from its comment the opinions of elected officials within public institutions.¹²

70. In other words, section 3.2 cannot reasonably be interpreted as a prohibition of referring to personalities while discussing issues.¹³ The Code must be understood to apply only to *ad hominem* comments that do not refer to issues, policies, positions, and records. In the Mayor's letter, all the comments about people were made in the context of addressing issues and addressing people's policies, positions, and records. (On the importance of being able to disagree publicly with another politician's record, see *Gerrits v. Currie*, 2020 ONMIC 6 (CanLII), at paras. 45-47.)

71. The fourth standard of section 3.2 is that the conduct of dealings among Council Members must not be aggressive, offensive or abusive. As I have just stated, disagreeing with the policy, position or record of another politician is not prohibited by the Code. It is an expression of political opinion that lies outside an Integrity Commissioner's purview. In a democracy, this type of opinion is subject to being tested through political debate: *Miles v. Fortini*, 2018 ONMIC 22 (CanLII), at para. 49. All politicians possess the same right to explain and to defend their positions, including the right to respond to criticism,

⁹ *Ross v. New Brunswick School District No. 15*, 1996 CanLII 237 (SCC), [1996] 1 S.C.R. 825, at para. 60.

¹⁰ *Ref re Remuneration of Judges of the Prov. Court of P.E.I.*, 1997 CanLII 317 (SCC), [1997] 3 SCR 3, at para. 102, per Lamer C.J.C.

¹¹ *Reference re Alberta Statutes*, 1938 CanLII 1 (SCC), [1938] S.C.R. 100, at 133, per Duff C.J., cited by *Ref re Remuneration of Judges of the Prov. Court of P.E.I.*, note 10.

¹² *Edmonton Journal v. Alberta (Attorney General)*, [1989] 2 S.C.R. 1326, at 1336, per Cory J.

¹³ Another reason for this interpretation is that politicians must obviously be free to explain and defend their own policies, positions, and actions. The reference to "personalities" in section 3.2 cannot prevent elected officials from speaking about their own records; that would be absurd. What is true of a politician's own record is necessarily true of the records of others. All are permissible topics of political speech.

and the right to debate with others on issues. If one politician takes issue with what another politician has said, then utilizing the tools of political debate to respond to inaccuracies and exaggerations in political debate is far more appropriate than asking an Integrity Commissioner to police the political debate: *Re Maika*, 2018 ONMIC 11 (CanLII), at para. 139:

72. As a result, I find that Mayor Brown is not prevented from expressing disagreement with Councillor Taylor and the PSB, or from criticizing what he claims to be their positions, policies, and records.

73. There are additional reasons why I find no contravention of section 3.2. One is that, without hearing from Councillor Taylor on the matter, I cannot find that Mayor Brown's dealings with Councillor Taylor contravene the Code. To do so would be unfair to the Mayor. As I have held in several other cases, an Integrity Commissioner should not accept a complaint alleging ill treatment by one politician of another politician, unless the latter politician supports the complaint. See *Miller v. Bath-Hadden*, 2020 ONMIC 12 (CanLII), at paras. 65-70, and *Chan v. Therrien*, 2021 ONMIC 6 (CanLII), at paras. 95-96.

74. The Supreme Court of Canada has cautioned that it is very difficult to separate fact from opinion: the difference is "vague" and "elusive."¹⁴ Assuming that I am able to separate the letter's factual claims from the opinion, in the absence of input from the PSB and PSB Chair Taylor, I find no evidence to contradict the factual portions of the Mayor's letter, except the statement of mixed opinion and fact that Mr. Taylor "continues to advocate for one of the poorest managed police services in the history of Ontario." It is a matter of record that when Town Council voted 6-1 to move to OPP policing, Councillor Taylor was the lone, negative vote. However, it is also a fact that the Police Services Board had and has no role in deciding on OPP policing versus OPS policing, and that nobody on Council (including Councillor Taylor) is proposing to revive the OPS. The statement of opinion-fact that Councillor Taylor continues to advocate for Orangeville Police Service is questionable.

75. Nonetheless, I find that to focus on a single word ("continues") in one sentence of the Mayor's letter would be to apply to political speech a degree of scrutiny that the Code of Conduct does not contemplate and that Integrity Commissioners are not suited to police.

76. Otherwise, the Mayor was expressing his opinion, which the Code does not prevent him from doing.

¹⁴ *R. v. Zundel*, note 8, at 749-751.

Section 6.2 (influence decision-making on contracts and claims)

77. Code section 6.2 does not apply to the Mayor's letter. The Complaint does not suggest that the Mayor attempted to influence "the award of contracts or settlement of claims."

78. I understand the Complainant's argument that the Mayor was trying to influence the selection of a new PSB member, but section 6.2 is limited to influencing certain types of decisions – types of decision that involve the Town's dealings with businesses and other external entities.

79. I also note that the Mayor did not recuse himself from the vote on filling the PSB vacancy, even though his letter said he would. There was no requirement under the Code for a recusal in this case, so his failure to do so was not a contravention.

Section 12.2 (conduct at meetings)

80. Section 12.2 does not apply because the Complaint is not based on conduct during a meeting.

81. Further, aside from the references to Councillor Taylor (previously discussed), I do not find the letter to be discourteous to Council.

Section 14.2 (dignity, understanding and respect)

82. The allegation under section 3.2, already addressed, encompasses aggressive, offensive and abusive conduct, and dealings that are personality-based not issue-based. Section 14.2 covers similar ground, so considering it would be redundant and unnecessary.

83. In any event, I find that the Mayor's letter did not contravene section 14.2 of the Code.

Section 14.3 (abuse, bullying, intimidation or harassment)

84. The Complainant feels that the letter harasses and bullies Councillor Taylor.

85. I understand why Councillor Taylor is unable to comment on the letter. Nonetheless, as I have already observed, it would be unfair for me to find that Mayor Brown harassed and bullied Councillor Taylor, if Councillor Taylor himself does not take that position.

86. Further, under Ontario law, harassment typically (though not always) involves a pattern or course of conduct. This single letter does not constitute harassment. There

may have been other dealings between Mayor Brown and Councillor Taylor, not reflected in the letter, but I do not have evidence of those dealings and, because Councillor Taylor is unable to participate, do not have access to any such evidence.

87. I make the same finding on bullying. This single letter does not constitute bullying. There may be other dealings between Mayor Brown and Councillor Taylor, but these are not in evidence.

CONCLUSION

88. Given the limits of information available to me, I find no evidence to disprove the principal factual components of the Mayor's letter.

89. The remaining portions of the letter contain the Mayor's opinion on political matters, and/or opinion on political matters mixed with factual claims. Political opinion, including political opinion mixed with factual claims, is neither true nor false. It is merely someone's opinion. The Code does not tell Council Members what opinions to hold and does not allow the Integrity Commissioner to police the truth of political speech.

90. In summary, I find that the opinion (including the mixed opinion-fact) portions of the letter and the factual portions of the letter do not contravene the Code.

CONTENT

91. Subsection 223.6(2) of the *Municipal Act* states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

Respectfully submitted,



Guy Giorno
Integrity Commissioner
Town of Orangeville

July 21, 2021