

Dean Hickey
M.F.I.P.P.A 14(1)

Sept 18, 2024

Mayor Carter and Council
c/o Legislative Services
Oshawa City Hall
50 Centre St. S.
Oshawa, ON L1H 3Z7

Mr. Mayor and Council:

**Re: CNCL-24-103 - Principles Integrity
Recommendation Report regarding Councillor Derek Giberson**

As Council prepares to consider a report by Principles Integrity, I would like to urge that councillor Giberson be sanctioned for having breached the Council Code of Conduct (hereinafter referred to as the "Code").

Although the Report stops short of recommending sanctions be imposed in this matter, Section 52 of the Code offers Council the option of doing just that, by way of the following provision:

Upon receipt of a report from an Integrity Commissioner that, in the Integrity Commissioner's opinion, a Member has contravened this Code of Conduct, Council or the DOBOM, as applicable, shall decide whether to impose either of the penalties prescribed by subsection 223.4(5) of the Municipal Act, 2001 as follows:

- (a) A reprimand; or
- (b) Suspension of the remuneration paid to the Member in respect of her or his services as a Member for a period of up to 90 days

The decision by councillor Giberson to allow himself the liberty of bringing into question the reputation and character of a private citizen by seeking to cast doubt on that person's past activities, without any supporting evidence, was an abuse of his office and a total disregard as to the damage it could cause.

Councillor Giberson assumed far too much in deciding what was or was not "newsworthy" in a matter that will be before the courts. Further, it was not within councillor Giberson's scope of office to try to affect the public's opinion of a private individual in the first place.

There are a few fundamental issues that should guide Council in its consideration of the Report, as outlined by the Integrity Commissioner:

[27] Commenting on a court proceeding is recognized as inappropriate. While elected officials may hold their own views regarding legal proceedings, they are constrained from publicly commenting on proceedings before the courts, and this extends to matters under criminal investigation by the police.

[28] This is particularly the case where an arrest has been made and charges are proceeding. **A post that suggests there is much more to the story than evident on the face of the charges seems to imply that the accused need not be accorded a presumption of innocence.** (*Highlight mine*)

[38] The Respondent's comments clearly implied that there was other criminal activity not previously disclosed about the accused, and that the charges laid were warranted if not overdue.

The text contained within the Report clearly implies the likely probability that an attempt was made by councillor Giberson to subvert the course of justice. Such action on the part of an elected official is monstrous and cannot go unpunished.

In addition, the social media comments posted by councillor Giberson on May 3, 2024, that were the subject of the I.C. Report, are still active on his Facebook page as of the date of this letter. Councillor Giberson clearly has no remorse in this matter.

Based on the Integrity Commissioner's decision, it would seem paramount for Council to, not only demand councillor Giberson write a letter of apology to the individual concerned, but to ensure he is sanctioned in such a way as to show the citizens of Oshawa that Council as a whole, wishes to distance itself from the reckless activity shown by councillor Giberson.

The people of Oshawa will be watching closely as Council proceeds to make its decision on this issue.

Regards,



Dean Hickey