

Township of Bonfield Integrity Commissioner- David C. King
Citation: Councillor Sylvie Beaudoin v. Mayor Randall McLaren
Date: March 28, 2021

Notice: Municipal Integrity Commissioners provide investigation reports to their respective municipal council and, in most cases, make recommendations for imposition of penalty or other remedial action to the municipal Council.

Because this is an inquiry under the *Municipal Conflict of Interest Act*, (MCIA) neither the Township of Bonfield Council nor I, have the authority to impose penalties. This may only be done by a judge in accordance with sections 9 & 10 of the MCIA.

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(ii). Did the Respondent speak in detail and at length on the notice of motion and influence voting on Notice of Motion 7.6?

(iii). Should I make an application to a judge?

CONCLUSION

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CONTEXT

1. Municipal Integrity Commissioners in Ontario conduct inquiries into applications alleging that council members or members of local boards have contravened the MCIA.
2. At the end of such an inquiry, the Integrity Commissioner shall decide whether to apply to a judge under [section 8](#) of the [MCIA](#) for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of that Act, and shall publish reasons for the decision.
3. Such decision is not subject to approval of the municipal council and does not take the form of a recommendation to council. There is, therefore, no municipal council resolution necessary to give effect to the decision.

THE APPLICATION

4. [Section 223.4.1](#) of the [Municipal Act](#) allows an elector or a person demonstrably acting in the public interest to apply in writing to the Integrity Commissioner for an inquiry concerning an alleged contravention of [section 5](#), [5.1](#) or [5.2](#) of the [MCIA](#) by a member of council or a member of a local board.
5. Councillor Sylvie Beaudoin (the Applicant) alleges that Mayor Randall McLaren (the Respondent), violated sections 5.1(a,b&c) of the MCIA by not disclosing a pecuniary interest at the November 10, 2020 regular meeting of Council regarding Notice of Motion 7.6, and proceeded to discuss and influence the voting on this motion.
6. The application for a MCIA inquiry was submitted on December 14, 2020 and was deemed to be complete by me on December 16, 2020.

DECISION

7. [Subsection 223.4.1\(15\)](#) of the [Municipal Act](#) states that, upon completion of an inquiry, the Integrity Commissioner may, if the Integrity Commissioner considers it appropriate, apply to a judge under [section 8](#) of the [MCIA](#) for a determination whether the Member has contravened section 5, 5.1 or 5.2 of that Act.

8. In this instance, I have determined that the Respondent did not contravene sections 5.1(a,b&c) of the [MCIA](#) and I will not be applying to a judge.

BACKGROUND

9. On November 19, 2020, the Applicant sends me an email alleging that during the November 10, 2020 regular meeting of the Township of Bonfield Council, the Respondent violated the Township's Procedural by-law, the MCIA, and the Council Code of Conduct.

10. On December 11, 2020 I respond to the Applicant's emails of November 19 & 23, 2020 confirming that the scope of my authority, as Integrity Commissioner, is limited to the application of the Code of Conduct; the Municipal Conflict of Interest Act and the application of any rules and policies of the Township and Local boards governing the ethical behaviour of members of Council and of Local Boards.

11. As part of the response, the Applicant was provided with a copy of the MCIA and an application for an inquiry. I also confirmed that I would not be investigating or providing comment on the attendance of the Township's lawyer at the meeting, alleged contraventions of the Municipal Act, or the other procedural matters beyond my jurisdiction.

12. On December 14, 2020 the Applicant submits her MCIA application and I deem it to be complete on December 16, 2020.

13. On December 18, 2020 the Applicant requests a copy of my agreement with the Township of Bonfield regarding the provision of integrity commissioner services. I respond the same day and provide a copy of Township By-law 2017-41 being a by-law to appoint me as the Integrity Commissioner for the Township of Bonfield.

PROCESS

14. The Municipal Act does not direct the procedure that an Integrity Commissioner must follow in handling MCIA applications. In this instance and in light of the Covid 19 situation I have chosen to undertake the following:

- (i) Review the MCIA application for completeness.
- (ii) Notify the Respondent about the MCIA application and the Applicant's name and provide the Respondent with the opportunity to respond to the alleged contraventions
- (iv) Contact the Township of Bonfield CAO/ Clerk to provide information requested (meeting minutes, etc..).

SCOPE OF INQUIRY

15. The application filed by the Applicant relies on her observations and participation at the November 10, 2020 regular meeting of Council.

16. Under subsection 223.4.1(7) of the Municipal Act, whether to conduct an inquiry into an Application alleging breach of the MCIA lies within the Integrity Commissioner's discretion. I determined that I would inquire into the Respondents direct or indirect pecuniary interest.

POSITIONS OF THE PARTIES

POSITION OF THE APPLICANT

17. According to the Applicant:

Note: The following is an excerpt from the Applicants supporting records provided as part of her MICA allegation. The amended motion referenced in the following paragraphs is resolution No.3 of the Regular Meeting of Council, June 9, 2020 (See appendix 1)

During the General Meeting of Council dated November 10, 2020
"Mayor Randall McLaren spoke in detail and at length on this amended motion but failed to disclose the interest and general nature thereof he had in relation to the amended motion given that he is currently suing the Township in relation to the very resolution this amended motion was to

address. This violation occurs at section 5 (1) (a) of the Municipal Conflict of Interest Act.

Further, the Mayor; Randall McLaren, spoke in detail and at length on this amended motion and was prevented from doing so but did so regardless. This violation occurs at section 5 (1) (b) of the Municipal Conflict of Interest Act.

Finally; Mayor; Randall McLaren, spoke in detail and at length on this amended motion and influenced the voting on this question. This violation occurs at section 5 (1) (c) of the Municipal Conflict of Interest Act”

POSITION OF THE RESPONDENT

18. According to the Respondent:

Note: The following is an excerpt of the Respondents response to the allegations of the Applicant:

“The crux of the allegation is that I spoke to litigation during a municipal council meeting knowing I had a pecuniary interest in such litigation. This is false.

Mr. Veldboom, municipal solicitor was in virtual attendance at the meeting due to the fact in the very first virtual meeting (June 9/20), Councillor Beaudoin did harm to the corporation by her careless and reckless policy actions.

The motion mandated that “all communications” by the Mayor and CAO be shared amongst many not entitled to such information as protected by MFIPPA and other acts. If this were not egregious enough, it mandated that it be applied retroactively to a point 6 months prior.

The day after this policy was adopted, Councillor Beaudoin sought to have further Council discussion on the matter to seek amendment to her shoddy policy drafting. She sought to bring further enhancement and awareness to the fact a great harm had been done.

CAO for the Township, Peter Johnston, served the municipality with legal notice of defamation as soon as practical after the June 9/20 meeting. I served the municipality with “cautionary notice” weeks later.

Both Johnston and I, hoped intelligence would prevail and negate need for litigation to resolve this circumstance. Intelligence did not prevail.

Speaking only to my situation, up and until early March 2021, there was no statement of claim filed against the Township of Bonfield by me. There is now an official “lawsuit” in place involving myself and the defendant as the municipal corporation since the first week of March 2021.

In the November 10th meeting of Council only broad overview mention was made related to the cautions that had been served by Johnston and me against the municipality. Further, this conversation did not in any way shape or form or cause a decision to be made related to the potentially pending statement of claim.

I continue to hold great interest in the matter that is nonpecuniary. This is my right, but also my responsibility as head of the corporation. The communications policy remains in force and effect to this day despite numerous advisements to Council by various entities that it is “problematic”.

Further again to this, the subject matter triggering the dialogue I contributed, that being a “notice of motion” to amend the previously described debacle policy of June 9/20 was ultimately withdrawn.

Councillor Beaudoin is alleging that I contravened an event that did not occur. It was not in any way, shape, or form, a monetary “notice of motion”.

In recap.

- The motion was never tabled for vote by Council,
- At the point in time the “notice of motion” was discussed, no statement of claim existed between me and the Township of Bonfield,
- Any dialogue I provided during the meeting of November 10/20 served to only permit the matter to be referenced by parties present.
- As demonstrated by my declaration earlier in the meeting of a livestock compensation payment made to me, I am aware of the concept of pecuniary interest and if any such interest had existed

related to the communications policy, I would have declared such interest.”

ISSUES

19. I have considered the following issues:

- (i) Did the Respondent fail to disclose his pecuniary interest (direct or indirect) and the general nature thereof, regarding Notice of Motion 7.6?
- (ii) Did the Respondent speak in detail and at length on the notice of motion and influence voting on Notice of Motion 7.6?
- (iii) Should I make an application to a judge?

ANALYSIS AND FINDINGS

(I). DID THE RESPONDENT FAIL TO DISCLOSE HIS PECUNIARY INTEREST (DIRECT OR INDIRECT) AND THE GENERAL NATURE THEREOF, REGARDING NOTICE OF MOTION 7.6?

20. No.

21. While the MICA lacks a specific definition of pecuniary interest, the Courts have come to a consensus on the meaning of the term, in that it is restricted to a financial, monetary, or economic interest.¹

22. At the outset of the November 10, 2020 meeting, the minutes indicate the Respondent declared a pecuniary interest regarding the Township’s disbursements relating to the Ontario Wildlife Compensation. As indicated in the Respondent’ response to the allegation, he is “aware of the concept of pecuniary interest and if any such interest had existed related to the communications policy (Resolution No. 3), I would have declared such interest.”

23. The allegation by the Applicant is that the Respondent had a pecuniary interest related to Notice of Motion 7.6 as he is suing the Township in relation to Resolution No. 3 passed at the June 9, 2020 Council meeting and stands to gain financially from his legal action.

¹ Municipal Conflict of Interest Act, A Handbook, M. Rick O’Connor & David White

24. In my February 26, 2021, Code of Conduct Report, Councillor Sylvie Beaudoin v. Mayor Randall McLaren, at paragraph 26, the Respondent advises Council that he would be seeking his own legal assistance to serve claim against the municipality for damages he suffered resulting from the June 9, 2020 resolution.

25. On March 4, 2021, The Township of Bonfield receives a letter from Larmer Stickland, a legal firm representing Mayor Randall McLaren that they intend to advance a claim for damages.

26. The following is the video broadcast of the November 10, 2020 meeting of the Township of Bonfield Council starting at 2:50:41

<https://us02web.zoom.us/rec/share/epw668Pc684meErGsVlfXmELTtXDqX7GRBP-vCFdVCLNLxcSBBPL6Apsx4-1NNsH.57dMOGTewwfZhLsV>

and my observations of the proceedings:

- a) Mayor McLaren reads Notice of Motion 7.6 to Council.
- b) Mayor McLaren invites Councillor Beaudoin to speak to the notice of motion.
- c) Councillor Beaudoin explains the need for the motion.
- d) Councillor Vaillancourt asks if the information being requested is in paper form or just a cc. of an email. Councillor Beaudoin clarifies that just a cc. of an email is being requested.
- e) Mayor McLaren reminds Council of the history related to Resolution 3.
- f) The Township's lawyer provides advice to Council indicating the proposed amendments to Resolution 3 is too broad in nature. It could result in administrative and legal issues in regard to the Municipal Freedom of Information and Protection of Privacy Act, (MFIPPA) and does not think the motion should be considered. "Not the legitimate way to go about it".
- f) Councillor Lagassie states that she feels well informed. Staff help her to answer questions from the public. She calls the office weekly. All of Council could have the same information if they asked for it.
- g) Mayor McLaren asks Council "are we willing to table this motion"?
- h) The motion was not moved or seconded, and Council did not vote on the motion.

27. Based on the preceding paragraphs 21-25 and my observations of the November 10, 2020 Council meeting, I have arrived at the conclusion that the Respondent did not have a direct or indirect pecuniary interest relating to Notice of Motion 7.6. Legal action against the Township by the Respondent was not served until March 4, 2021 and the Notice of Motion was tabled with no decision, for or against it.

(II). DID THE RESPONDENT SPEAK IN DETAIL AND AT LENGTH ON THE NOTICE OF MOTION AND INFLUENCE VOTING ON NOTICE OF MOTION 7.6?

28. It is clear from the video broadcast of the November 10, 2020 meeting the Respondent participated in the discussion regarding the Notice of Motion along with other members of Council and the Township's lawyer.

29. Given that I have determined the Respondent did not have a pecuniary interest relating to Notice of Motion 7.6, his participation in the discussion during the meeting was not inappropriate.

30. I do not support the argument that the Respondent influenced voting on the Notice of Motion 7.6. The motion was tabled, and no vote was taken.

(III). SHOULD I MAKE AN APPLICATION TO A JUDGE?

31. Whether to make an application to a judge is a decision that the [Municipal Act](#) leaves to the Integrity Commissioner, based on what the Integrity Commissioner feels is appropriate.

32. I do not consider it appropriate for me to apply to a judge for a determination as to whether the Respondent has contravened the [MCIA](#).

CONCLUSION

33. I will not apply to a judge under [sections 5.1\(a\)&\(b\)](#) of the [MCIA](#) for a determination as to whether the respondent contravened the legislation on November 10, 2020.

PUBLICATION

34. The [Municipal Act](#) requires that after deciding whether or not to apply to a judge, the Integrity Commissioner shall publish written reasons for the decision. This decision will be published by providing it to the Municipality of Bonfield to make public and by posting on the free, online CanLII database.

35. [Subsection 223.5\(2.3\)](#) of the [Municipal Act](#) states that I may disclose in these written reasons such information as in my opinion is necessary. All the content of these reasons is, in my opinion, necessary.

David C. King
Integrity Commissioner
Township of Bonfield

March 28, 2021

Notice of Motion 7.6

Regular Council Meeting, November 10th, 2020

A motion to amend a motion submitted by: Councillor Sylvie Beaudoin Resolution No.3 at the Regular Meeting of Council June 09, 2020, A Motion to ensure Council as a Whole is equally informed of activities related to municipal business to be included on the agenda for the regular Meeting of Council November 10, 2020.

WHEREAS; Council has a responsibility to adequately and equally be informed of Municipal business conducted in relation to the Municipality.

NOW THEREFORE, I move to Amend the motion, Resolution No. 3 passed at the Regular Council Meeting held June 9th, 2020 **by striking out the following paragraph;** 'WHEREAS; over a lengthy period of time, Council members have not been adequately and equally furnished with information in relation to all departments within the Corporation and further that, concerns have been identified by Council regarding e-mails and text messaging having been sent to Department Head/s and or Manager/s of the Corporation from the current CAO and Mayor of the Corporation;' **and replacing it with;**

'**WHEREAS;** over a lengthy period of time, Council members have not been adequately and equally furnished with information in relation to all departments within the Corporation of the Township of Bonfield;'

AND FURTHER; I move to Amend the motion, Resolution No. 3 passed at the Regular Council Meeting held June 9th, 2020 **by striking out the following paragraph;** 'AND WHEREAS; Council as a whole should be made aware of situations happening with all municipal departments;' **and replacing it with;**

'**AND WHEREAS;** Council as a whole should be adequately and equally furnished with all information pertaining to all departments within the Corporation of the Township of Bonfield;'

AND FURTHER; I move to Amend the motion, Resolution No. 3 passed at the Regular Council Meeting held June 9th, 2020 **by striking out the following paragraph;** 'BE IT HEREBY RESOLVED; that effective immediately, Council requests that all communications and or

correspondence through e-mail and or text messages sent by the current Township's Mayor and CAO be copied to all Members of Council at all times;' **and replacing it with;**

'NOW, THEREFORE, BE IT HEREBY RESOLVED; that effective immediately and from this day forward, Council requests that all correspondence through e-mail and or text messages sent by any Council member, the Mayor, Chief Administrative Officer (CAO) to any Municipal Employee, Department Head/s and or Manager/s pertaining to Municipal related business, permitted by all applicable laws, be carbon copied to all members of Council, the Mayor and Chief Administrative Officer (CAO);

AND FURTHER; I move to Amend the motion, Resolution No. 3 passed at the Regular Council Meeting held June 9th, 2020 **by striking out the following paragraph;** 'AND FURTHER; that all previous communications and or correspondence through email and or text messages sent and or directed to any Department Head/s and or Manager/s for the past six months be printed and forwarded to Council by Tuesday, June 30th, 2020;'

AND FURTHER; I move to Amend the motion, Resolution No. 3 passed at the Regular Council Meeting held June 9th , **by striking out the following paragraph;** 'AND FURTHER that this resolution be forwarded to all Department Heads and or Managers of the Township of Bonfield.' **and replacing it with;**

AND FURTHER; that this resolution be provided in paper form, to all members of Council, the Mayor, Chief Administrative Officer (CAO), all Municipal Employees, Department Head/s and or Manager/s of the Township of Bonfield,'

AND THAT Resolution No. 3 passed at the Regular Council Meeting held June 9th, 2020 be amended accordingly.