

THE CORPORATION OF THE TOWNSHIP OF HILTON

A G E N D A

Special Meeting of Council

July 24, 2024 – 6:30 pm

Council Chamber - Hilton Township Municipal Building

1. Call to Order
2. Declarations of pecuniary interest
3. Motion to accept agenda as presented
4. Delegations:
 - a) Mr. John R. Hart– Integrity Commissioner’s Final Report Presentation
5. Confirmatory By-law
6. Adjourn

Integrity Commissioner's Report

For

The Township of Hilton

Investigation of Complaint #2024-1

Date of Request for Investigation	:	March 08, 2024
Date of Presentation of Report	:	July 24, 2024
Integrity Commissioner	:	John R. Hart, B.Comm, LLB Barrister & Solicitor

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INTEGRITY COMMISSIONER'S REPORT FOR THE TOWNSHIP OF HILTON

The Parties

The Complainant herein is Mary Lynn Duguay. Prior to the date on which the incident complained of occurred, namely February 02, 2024, Ms. Duguay was employed by the Township of Hilton ("Hilton") pursuant to a written contract of employment made between Township of Hilton and her ("Employment Agreement"). Ms. Duguay's position was Clerk/Treasurer/Administrator. Her employment was effective as of October 02, 2023, and the Employment Agreement was approved by By-Law 1398-23 passed on December 06, 2023. Article 10 of the Employment Agreement dealt with "Termination". In that Article, Ms. Duguay had certain termination rights and Hilton had certain termination rights. There were no provisions in that Article by which Hilton delegated any termination rights to any other party. Hilton retained such rights by virtue of the Employment Agreement.

It is the action of Rodney Wood taken on February 02, 2024 about the employment status of Ms. Duguay that is the subject matter of this Complaint, not the rationale for the taking of such action, and accordingly I offer no comment on such rationale. Rodney Wood is the Reeve of the Township of Hilton. In this position, Reeve Wood is head of Township Council and accordingly is afforded the statutory powers provided to Heads of Council in Section 225 of the *Municipal Act, 2001*. Those statutory powers are:

- (a) to act as chief executive officer of the municipality;
- (b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to the council;
- (c.1) without limiting clause (c), to provide information and recommendation to the council with respect to the role of council described in clauses 224(d) and (d.1) of the *Municipal Act, 2001*;
- (d) to represent the municipality at official functions; and
- (e) to carry out the duties of the head of council under the *Municipal Act, 2001* or any other Act.

The Code of Conduct

The Code of Conduct for Council and Local Boards of Hilton (“Code of Conduct”) was established by By-law No.1234-19 passed on February 06, 2019 and is found as Schedule “A” thereto.

The sections of the Code of Conduct that are relevant for this Complaint are:

1. Purpose
2. Influence on Staff

The following provisions are set out under the Purpose section of the Code of Conduct:

1. “Members are expected to perform their duties in office in a manner that promotes public confidence and will bear close public scrutiny”; and
2. “Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature and Township Council.”

The following provisions are set out under the Influence on Staff section of the Code of Conduct:

1. “Only Council as a whole has the authority to approve budget, policy, committee processes and other such matters”;
2. “Council directs the business of the Township and passes by-laws or resolutions, as appropriate, for decisions adopted by Council”; and
3. “...nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person’s duties”.

Request for Investigation

Pursuant to the provisions of the Complaint Protocol for Code of Conduct (Council and Local Boards) found at Appendix “A” to the Code of Conduct, Mary Lynn Duguay submitted a Request for Investigation on the basis that she had reasonable and probable grounds to believe that Reeve Rodney Wood had contravened the Code of Conduct of Hilton. The sections within the Code of

Conduct upon which her grounds were based were the Purpose section and the Influence on Staff section, referenced above.

The reasonable and probable grounds upon which Ms. Duguay's Request for Investigation was based were stated to be:

1. "On February 02, 2024 in the afternoon, Reeve Woods attended the Municipal Office and told me to pack my things and go home, that I was being put on administrative leave. I questioned the reason but received no response. He did not provide me with a reason, or a letter, or a resolution from Council".

The Incident

The incident upon which the Complaint is based occurred on February 02, 2024. Both Reeve Wood and Ms. Duguay agreed on the following facts:

1. Reeve Wood attended at Hilton's Municipal office.
2. Reeve Wood met with Ms. Duguay and advised her that she was being placed on "administrative leave".
3. No meeting of Township Council had been convened prior to that time for the purposes of:
 - (i) considering actions to take regarding the employment of Ms. Duguay;
 - (ii) delegating authority to Reeve Wood to advise Ms. Duguay of her "administrative leave".
4. Subsequently, a meeting of Township Council was convened for the purpose of addressing this matter and Township Council placed Ms. Duguay on administrative leave.

Analysis and Conclusion

The action complained of did occur and the action complained of was not sanctioned by Township Council prior to it occurring.

The resolution of Township Council occurred subsequent to Reeve Wood's action, meaning that at the time that he took his action, Reeve Wood had been provided with no authority from Township Council (i) to take the action that he took, and (ii) to deliver the advice of such action to Ms. Duguay.

The two other possible written sources of authority upon which Reeve Wood could possibly rely are (i) the provisions in the *Municipal Act, 2001* wherein the “Head of Council” is provided with certain powers (see above) and/or the provisions within the Employment Agreement between the Township and Ms. Duguay. I have reviewed these potential written sources of authority and conclude that neither provides Reeve Wood with the authority to do what he did.

During my interview with Reeve Wood, he advised me that he contacted Antoniette Blunt, a person retained by Hilton from time to time to provide Hilton with Human Resources services. Reeve Wood spoke with Ms. Blunt about Ms. Duguay’s employment situation and about placing Ms. Duguay on administrative leave. During these conversations, Reeve Wood never mentioned that the employment status of Ms. Duguay had not yet been considered by Township Council.

During my interview with Ms. Blunt, she confirmed that she had spoken with Reeve Wood about the employment situation involving Ms. Duguay. She was not aware that Township Council had not taken any action regarding Ms. Duguay and assumed that Reeve Wood was discussing this matter with her on the direction of Township Council. Ms. Blunt only became aware of Reeve Wood’s lack of jurisdiction after Reeve Wood had placed Ms. Duguay on administrative leave. While the point was not raised by either Reeve Wood or Ms. Blunt during their conversation with each other, one would presume that Ms. Blunt’s conclusion would be that Reeve Wood had the authority from Township Council to contact her regarding the possible administrative suspension of Ms. Duguay, given Reeve Wood’s lengthy experience of over 30 years on Township Council.

Given that Ms. Blunt’s advice to Reeve Wood regarding handling of this matter was premised on her understanding that authority had been provided by Township Council to Reeve Wood, I do not accept Ms. Blunt’s advice to Reeve Wood as a possible source of authority upon which Reeve Wood can rely in this situation.

Having found that Reeve Wood was without authority to place Ms. Duguay on administrative leave, I turn to whether the taking of such action by Reeve Wood against Ms. Duguay constitutes a breach of the Code of Conduct.

By acting without authority, I find that Reeve Wood breached the Purpose section of the Code of Conduct, in that he did not “serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature and Township Council.”

I also find that Reeve Wood breached the influence on staff section of the Code of Conduct in that he used his apparent authority, notwithstanding that he had none at the time, for the purpose of “commanding” Ms. Duguay “with the intent of interfering with (her) duties”.

Imposition of Penalty

The provisions of the *Municipal Act 2001*, and more particularly Section 223.4 (5), set out the penalties which may be imposed by the Township where a report is presented to the Township that concludes that a contravention of the Code of Conduct has occurred. Those penalties are:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council for a period of up to 90 days.

I note that on February 21st, 2024, Reeve Wood wrote to Ms. Duguay and I wish to set out the full text of that letter below:

“This email is sent in response to your email of February 14th, 2024, at 2:51 pm. As your Reeve, I want to express my sincere apologies to you. The council was unaware on February 2nd, 2024, that I had placed you on a paid administrative leave. Last night I apologized to Council as well. At the closed session of the meeting, last night the Council did pass a resolution approving that course of action I took on February 2nd, 2024, that was presented to Council on February 8th, 2024. The meeting held on February 8th, 2024, and last night’s meeting, were held in accordance with Section 239 (2) of the

Municipal Act. Given these were closed sessions, you were not entitled to receive any notes or minutes.

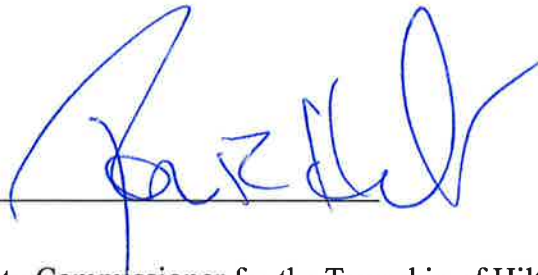
The resolution passed in open session last evening following the closed session will be available to you; given once the minutes are completed, they will be signed and posted to the website.”

Of particular note in that letter is the fact that Reeve Wood expressed his “sincere apologies” to Ms. Duguay about his actions prior to Ms. Duguay commencing this Code of Conduct investigation.

I also note that Township Council did pass a resolution wherein Ms. Duguay was placed on administrative suspension.

Given all of the above, it would be my recommendation to Township Council that Reeve Wood be reprimanded by Township Council for his breach of the Code of Conduct of the Township.

Submitted on this 8th day of July 2024.



John R. Hart
(Acting) Integrity Commissioner for the Township of Hilton