



THE REGIONAL MUNICIPALITY OF NIAGARA COUNCIL ORDER OF BUSINESS

CL 17-2018

Thursday, November 1, 2018

6:30 p.m.

Council Chamber

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

Pages

1. CALL TO ORDER
2. MOMENT OF SILENCE
3. SINGING OF 'O CANADA'
4. ADOPTION OF AGENDA
 - 4.1 Addition of Items
 - 4.2 Changes in Order of Items
5. DISCLOSURES OF PECUNIARY INTEREST
6. PRESENTATIONS
7. CHAIR'S REPORTS, ANNOUNCEMENTS, REMARKS
 - 7.1 Chair's Report
 - 7.2 Opportunity for Remarks by Outgoing Councillors
 - 7.3 Chair's Remarks
8. DELEGATIONS

9. **ADOPTION OF MINUTES**

9.1 Council Minutes CL 16-2018
Thursday, October 4, 2018

Rigby

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These minutes are presented for errors and/or omissions only.

10. **CORRESPONDENCE**

10.1 Receive and/or Refer
None.

10.2 For Consideration

10.2.1 CL-C 69-2018
Report on Code of Conduct Complaint - IC-30-0718 -
Councillor Tony Quirk

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11. **COMMITTEE REPORTS - OPEN SESSION**

None.

12. **CHIEF ADMINISTRATIVE OFFICER'S REPORT(S)**

None.

13. **MOTIONS**

13.1 Selection of Members to the Niagara Peninsula
Conservation Authority (NPCA) Board of Directors

Augustyn

36 - 37

In accordance with the notice and submission deadline requirements of Sections 18.1 (b) and 11.3, respectively, of Niagara Region's Procedural By-law, the Regional Clerk received from Councillor Augustyn a motion to be brought forward for consideration at the October 4, 2018 Council meeting respecting Selection of Members to the Niagara Peninsula Conservation Authority (NPCA) Board of Directors.

This item was not dealt with at the Regional Council meeting held on October 4, 2018.

13.2	<u>Proposed Amendment to the Procedural By-law respecting the Calling of Special Meetings by Petition</u>	Baty	38
	In accordance with the notice and submission deadline requirements of Sections 18.1 (b) and 11.3, respectively, of Niagara Region's Procedural By-law, the Regional Clerk received from Councillor Baty a motion to be brought forward for consideration at the October 4, 2018 Council meeting respecting Proposed Amendment to the Procedural By-law respecting the Calling of Special Meetings by Petition.		
	<i>This item was not dealt with at the Regional Council meeting held on October 4, 2018.</i>		
13.3	<u>Cancellation of the Economic Development Master Plan</u>	Heit	
	In accordance with the notice requirements of Section 18.1 (b) of Niagara Region's Procedural By-law, Councillor Heit advised he would bring forward a motion for consideration at the November 1, 2018 Council meeting respecting Cancellation of the Economic Development Master Plan.		
	At the time of releasing the Council agenda, the Clerk's Office had not received the motion.		
14.	<u>NOTICES OF MOTION</u>		
15.	<u>OTHER BUSINESS</u>		
16.	<u>MOTION FOR CLOSED SESSION</u>		
17.	<u>CLOSED SESSION</u>		
17.1	<u>Council Minutes</u>		
	17.1.1	Council Minutes - Closed Session (October 4, 2018)	
18.	<u>REPORT FROM CLOSED SESSION</u>		
19.	<u>BY-LAWS</u>	Timms	
19.1	<u>Bill 2018-80</u>		39
	A by-law to amend Section 11 "Council Agenda" of By-law No. 120-2010, the Procedural By-law.		
19.2	<u>Bill 2018-81</u>		40
	A by-law to adopt, ratify and confirm the actions of Regional Council at its meeting held on November 1, 2018.		
20.	<u>ADJOURNMENT</u>		

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisory Coordinator at 905-980-6000 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).

**THE REGIONAL MUNICIPALITY OF NIAGARA
PROCEEDINGS OF COUNCIL
OPEN SESSION**

**CL 16-2018
Thursday, October 4, 2018
Council Chamber
Niagara Region Headquarters, Campbell West
1815 Sir Isaac Brock Way, Thorold, ON**

Council: Caslin (Regional Chair), Augustyn, Barrick, Baty, Bentley, Champion, D'Angela, Easton, Edgar, Gale, Grenier, Heit, Hodgson, Joyner, Luciani, MacGregor, Marshall, Quirk, Redekop, Rigby, Sendzik, Timms, Volpatti

Absent/Regrets: Annunziata, Burroughs, Darte, Diodati, Jeffs, Maloney, Maves, Petrowski

Staff: C. Carter, General Manager, H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, C. D'Angelo, Chief Administrative Officer, D. Gibbs, Director, Legal & Court Services, J. Gilston, Legislative Coordinator, T. Harrison, Commissioner/Treasurer, Enterprise Resource Management Services, Dr. M. Hirji, Acting Medical Officer of Health, A. Jugley, Commissioner, Community Services, M. Jurczyk, Director, Internal Controls & Organizational Performance, R. Mostacci, Commissioner, Planning & Development Services, A.-M. Norio, Regional Clerk, J. Tamming, Director, Strategic Communications & Public Affairs, M. Trennum, Legislative Coordinator, R. Tripp, Commissioner, Public Works, D. Ursini, Director, Economic Development, P. Wadsworth, Director, Human Resources, S. Wood, Legal Counsel

1. CALL TO ORDER

Regional Chair Caslin called the meeting to order at 6:39 p.m.

2. MOMENT OF SILENCE

Regional Chair Caslin asked all in attendance to rise for a moment of silence.

3. SINGING OF 'O CANADA'

Regional Chair Caslin asked all in attendance to stand for the singing of 'O Canada'.

4. ADOPTION OF AGENDA

4.1 Addition of Items

There were no items added to the agenda.

4.2 Changes in Order of Items

Moved by Councillor Sendzik
Seconded by Councillor Rigby

That the order of the agenda **BE AMENDED** to move the consideration of the Confidential Item respecting A Matter of Advice that is Subject to Solicitor-Client Privilege - Legal Advice Respecting Employment Matters - Chief Administrative Officer Contract (Agenda Item 17.2.1) to immediately following the delegation respecting Follow-up Joint Staff Report on the Proposed Hybrid Model Within the Alternative Service Delivery Review of Social Housing (Agenda Item 8.1).

Carried

Moved by Councillor Volpatti
Seconded by Councillor Easton

That the order of the agenda **BE AMENDED** to move the consideration of Report COM 26-2018 respecting Follow-up Joint Staff Report on the Proposed Hybrid Model Within the Alternative Service Delivery Review of Social Housing (Agenda Item 10.2.1) and Committee Report COTW 2-2018, being the Committee of the Whole Open Session Minutes from Thursday July 19, 2018 (Agenda Item 11.1), to immediately following the delegation respecting on this matter.

Carried

Moved by Councillor Bentley
Seconded by Councillor Rigby

That the Council Agenda CL-16-2018, as amended, **BE ADOPTED**.

Carried

5. DISCLOSURES OF PECUNIARY INTEREST

Councillor Barrick declared a pecuniary interest with respect to the motion respecting selection of members to the Niagara Peninsula Conservation Authority Board of Directors (Agenda Item 13.3), as it deals with the Niagara Peninsula Conservation Authority (NPCA) and he is an employee of the NPCA.

6. PRESENTATIONS

There were no presentations.

7. CHAIR'S REPORTS, ANNOUNCEMENTS, REMARKS

Cops for Cancer Results

Regional Chair Caslin announced that he participated in the Cops for Cancer Tour de Horseshoe ride with Niagara Regional Police. The event included 28 riders from across the region who rode 400km over four days to raise more than \$175,000 for pediatric cancer research. Chair Caslin thanked everyone who contributed to this great cause.

Donation for DSBN Education Foundation

Chair Caslin announced that he presented the Education Foundation of Niagara with a \$5,000 donation from the contributions from the 2018 Niagara Regional Chair's Charity Golf Tournament. This donation will help ensure every student has access to all of the enriching opportunities school life has to offer. Chair Caslin thanked all of the participants and sponsors of this year's tournament.

8. DELEGATIONS

8.1 Follow-up Joint Staff Report on the Proposed Hybrid Model within the Alternative Service Delivery Review of Social Housing (COM 26-2018) (Agenda Item 10.2.1)

James Hyatt, Vice-Chair, Niagara Regional Housing Board of Directors, appeared before Council in support of the Joint Staff Report on the Proposed Hybrid Model within the Alternative Service Delivery Review of Social Housing.

10. **CORRESPONDENCE**

10.2 **For Consideration**

10.2.1 COM 26-2018

Follow-up Joint Staff Report on the Proposed Hybrid Model within the Alternative Service Delivery Review of Social Housing

Moved by Councillor Volpatti

Seconded by Councillor D'Angela

That COM 26-2018, dated October 4, 2018, respecting Follow-up Joint Staff Report on the Proposed Hybrid Model within the Alternative Service Delivery Review of Social Housing, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That upon approval of the implementation of the Hybrid Model for Social Housing as outlined in Report COM 22-2018, staff **BE DIRECTED** to include all considerations and strategies outlined in Report COM 26-2018 as part of the implementation plan.

The following friendly ***amendment*** was accepted by the Regional Chair, and the mover and seconder of the motion as follows:

1. That ~~upon approval of the implementation of the Hybrid Model for Social Housing as outlined in Report COM 22-2018~~ **BE APPROVED in principle; and**
2. ***That*** staff **BE DIRECTED** to include all considerations and strategies outlined in Report COM 26-2018 as part of the implementation plan ***to be presented to Council for approval prior to embarking on any organizational change.***

The Regional Chair called the vote on the motion as amended, as follows:

That COM 26-2018, dated October 4, 2018, respecting Follow-up Joint Staff Report on the Proposed Hybrid Model within the Alternative Service Delivery Review of Social Housing, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the hybrid model for social housing as outlined in Report COM 22-2018 **BE APPROVED** in principle; and

2. That staff **BE DIRECTED** to include all considerations and strategies outlined in Report COM 26-2018 as part of the implementation plan to be presented to Council for approval prior to embarking on any organizational change.

Recorded Vote:

Yes (21): Augustyn, Barrick, Baty, Bentley, Campion, D'Angela, Easton, Edgar, Gale, Grenier, Heit, Hodgson, Joyner, Luciani, MacGregor, Marshall, Quirk, Redekop, Rigby, Sendzik, Volpatti.

No (1): Timms.

Carried

11. COMMITTEE REPORTS - OPEN SESSION

11.1 Committee of the Whole

Minutes COTW 02-2018, Thursday, July 19, 2018

Moved by Councillor Easton
Seconded by Councillor Heit

That Report COTW 2-2018, being the Open Session minutes of the Committee of the Whole meeting held on Thursday, July 19, 2018, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Carried

16. MOTION FOR CLOSED SESSION

Moved by Councillor Heit
Seconded by Councillor Edgar

That this Council **DO NOW MOVE** into Closed Session for the purposes of receiving information of a confidential nature respecting:

A Matter of Advice that is Subject to Solicitor-Client Privilege - Legal Advice
Respecting Employment Matters - Chief Administrative Officer Contract

Carried

17. CLOSED SESSION

Council resolved into closed session at 7:49 p.m.

18. REPORT FROM CLOSED SESSION

Council reconvened in open session at 9:43 p.m. with the following individuals in attendance:

Council: Caslin (Regional Chair), Augustyn, Barrick, Baty, Bentley, Champion, D'Angela, Easton, Edgar, Gale, Grenier, Heit, Joyner, Luciani, MacGregor, Marshall, Quirk, Redekop, Rigby, Sendzik, Timms, Volpatti

Absent/Regrets: Annunziata, Burroughs, Dart, Diodati, Hodgson, Jeffs, Maloney, Maves, Petrowski

Staff: C. Carter, General Manager, H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, C. D'Angelo, Chief Administrative Officer, D. Gibbs, Director, Legal & Court Services, J. Gilston, Legislative Coordinator, T. Harrison, Commissioner/Treasurer, Enterprise Resource Management Services, Dr. M. Hirji, Acting Medical Officer of Health, A. Jugley, Commissioner, Community Services, M. Jurczyk, Director, Internal Controls & Organizational Performance, A.-M. Norio, Acting Regional Clerk, J. Tamming, Director, Strategic Communications & Public Affairs, M. Trennum, Legislative Coordinator, R. Tripp, Commissioner, Public Works, D. Ursini, Director, Economic Development, P. Wadsworth, Director, Human Resources, S. Wood, Legal Counsel

18.1 Legal Advice Respecting Employment Matters - Chief Administrative Officer Contract

A Matter of Advice that is Subject to Solicitor-Client Privilege - legal advice respecting Employment Matters - Chief Administrative Officer Contract

Moved by Councillor Bentley
Seconded by Councillor Redekop

That staff **PROCEED** as directed in closed session.

Recorded Vote:

Yes (15): Augustyn, Baty, Bentley, Campion, D'Angela, Edgar, Gale, Grenier, Joyner, MacGregor, Marshall, Quirk, Redekop, Timms, Volpatti.

No (4): Easton, Heit, Rigby, Sendzik.

Carried

9. ADOPTION OF MINUTES

9.1 Council Minutes CL 15-2018

Thursday, September 13, 2018

Moved by Councillor Heit
Seconded by Councillor Edgar

That Minutes CL 15-2018, being the Open Session minutes of the Regional Council meeting held on Thursday, September 13, 2018, **BE ADOPTED.**

Carried

10. CORRESPONDENCE

10.1 Receive and/or Refer

Moved by Councillor Timms
Seconded by Councillor Bentley

That the following items **BE DEALT WITH** as follows:

CWCD 311-2018 respecting Correspondence by email dated September 19, 2018 from the Association of Local Public Health Agencies (alPHA) seeking input from Ontario board of health members on alPHA's Board of Health Orientation Manual, **BE RECEIVED** and **REFERRED** to the Regional Clerk for inclusion in the Council Orientation package;

CWCD 307-2018 respecting a Memorandum dated September 21, 2018 from Carolyn Ryall, Director, Transportation Services regarding the Phragmites Pilot Project, **BE RECEIVED**;

CL-C 64-2018 respecting "Fact Book" Niagara Region Independent External Governance Auditor, Andrew Sancton Consulting, **BE RECEIVED**; and,

CL-C 67-2018 respecting a memorandum from Ann-Marie Norio regarding Notice of Procedural By-Law Amendment, **BE RECEIVED.**

Carried

10. CORRESPONDENCE

10.2 For Consideration

10.2.2 GM 15-2018

2019 Council Member Remuneration – Impacts due to elimination of the non-taxable ‘Municipal Officers Expense Allowance’ under the Income Tax Act

Moved by Councillor Bentley
Seconded by Councillor Timms

That Report GM 15-2018, dated October 4, 2018, respecting 2019 Council Member Remuneration – Impacts due to elimination of the non-taxable ‘Municipal Officers’ Expense Allowance’ under the *Income Tax Act*, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That this report respecting ‘2019 Municipal Officers Expense Allowance’ taxation changes, effective January 1, 2019, and its impact on Council Member Remuneration **BE RECEIVED**;
2. That a one-time increase in the 2019 base remuneration for council members, including the Chair as indicated under Option 2 of Report GM 15, 2018 **BE REFERRED** for consideration to Council’s current Independent External Governance Auditor’s review and to the Budget Review Committee of the Whole for consideration as part of the 2019 budget deliberations; and,
3. That any increase to Council remuneration rates which result from the current Council approved methodology **BE DEFERRED** pending the analysis and review of the Independent External Auditor as part of their review of Councillor and Chair remuneration.

Carried

10.2 For Consideration

10.2.3 PDS 34-2018

Glendale Niagara District Plan – Completion of Phase 1 and
Request for Endorsement of Vision and Concept Plan

Moved by Councillor Joyner
Seconded by Councillor Timms

That Report PDS 34-2018, dated September 5, 2018, respecting
Glendale Niagara District Plan - Completion of Phase 1 and
Request for Endorsement of Vision and Concept Plan, **BE
RECEIVED** and the following recommendations **BE APPROVED**:

1. That the consultant report by The Planning Partnership,
respecting Phase 1 of the Glendale Niagara District Plan (Vision
and Conceptual Development Plan), attached as Appendix 2 to
Report PDS 34-2018, **BE RECEIVED**;
2. That the Vision and Conceptual Development Plan for the
Glendale Niagara District, as described in the report attached as
Appendix 2 to Report PDS 34-2018 **BE ENDORSED** and form
the basis for the development of a detailed District Plan under
Phase 2 of this project; and,
3. That a copy of Report PDS 34-2018 **BE FORWARDED** to the
Town of Niagara-on-the-Lake and the City of St. Catharines for
their information.

Carried

10.2.4 CL-C 61-2018

Recommendations for Consideration from the Waste Management
Planning Steering Committee meeting held on September 17, 2018

Moved by Councillor Rigby
Seconded by Councillor Marshall

That Correspondence Item CL-C 61-2018 respecting
recommendations from the Waste Management Planning Steering
Committee, **BE RECEIVED** and the recommendations contained
therein **BE APPROVED**.

Carried

10.2.5 CL-C 63-2018

Recommendations for Consideration from the Linking Niagara Transit Committee meeting held on September 12, 2018

Moved by Councillor Quirk
Seconded by Councillor Volpatti

That Correspondence Item CL-C 63-2018 respecting recommendations from the Linking Niagara Transit Committee, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Moved by Councillor Augustyn
Seconded by Councillor Baty

That clause 9 of Minute Item 5.2 **BE AMENDED** as follows:

9. That Niagara Region **CONSIDER** funding the cost of the ***Pelham***, Port Colborne and Fort Erie feeder routes effective January 1, 2019.

Carried

The Regional Chair called the vote on the motion, as amended, as follows:

That Correspondence Item CL-C 63-2018 respecting recommendations from the Linking Niagara Transit Committee, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**, as amended.

Carried

12. CHIEF ADMINISTRATIVE OFFICER'S REPORT(S)

There were no Chief Administrative Officer reports.

Moved by Councillor Rigby
Seconded by Councillor Timms

That Regional Council **EXTEND** this meeting's curfew to 11:00 p.m.

Recorded Vote:

Yes (8): Augustyn, D'Angela, Easton, Heit, Joyner, MacGregor, Rigby, Timms.

No (12): Barrick, Baty, Bentley, Campion, Edgar, Gale, Grenier, Luciani, Marshall, Quirk, Redekop, Volpatti.

Defeated

13. **MOTIONS**

13.1 Phragmites Project

Moved by Councillor Timms
Seconded by Councillor Bentley

WHEREAS Phragmites (European Common Reed) is an aggressive, invasive alien plant species, that out competes most native vegetation and forms dense colonies; choking out other plants and wetland and beach ecosystems that support wildlife;

WHEREAS this plant species reduces Ontario's biodiversity and the amount of open water; negatively impacting wetland species, including approximately 20 per cent of Ontario's species at risk;

WHEREAS Invasive Phragmites is a perennial grass that has been damaging ecosystems in Ontario for decades;

WHEREAS the Municipality of Niagara-on-the-Lake has already begun pilot projects seeking knowledge and experience of the Ministry of Transportation (MTO), the Ministry of Environment (MOE) and other municipalities outside Niagara Region to assist with the control and eradication of this invasive species within their large bodies of water, drainage and irrigation ditches within their Town limits; and,

WHEREAS Niagara Region has encountered Phragmites throughout the Regional Network; whereby the root mass is interfering with roadside drainage.

NOW THEREFORE BE IT RESOLVED:

That Niagara Region Transportation Services Division **SUPPORT** the Town of Niagara-on-the-Lake and the City of St. Catharines, if requested, with a pilot project along a Regional Road within those municipalities forthwith.

Carried

18. REPORT FROM CLOSED SESSION

18.2 Public Works Committee - Closed Session Minutes from September 4, 2018

Moved by Councillor Quirk
Seconded by Councillor Rigby

That Report PWC 11-2018 being the Closed Session minutes of the Public Works Committee meeting held on Tuesday, September 4, 2018, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Carried

18.3 Confidential CL-C 62-2018

Moved by Councillor Quirk
Seconded by Councillor Rigby

That Confidential Report CL-C 68-2018, dated October 4, 2018, respecting A Matter of Labour Relations - CUPE 1019 Collective Agreement, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Carried

Due to time constraints, Council did not deal with Confidential Report CSD 57-2018 (Agenda 17.2.2), being A Matter of Advice that is Subject to Solicitor-Client Privilege under s. 239(2) of the Municipal Act, 2001 - Follow Up to Council Direction of July 26, 2018 Special Council Meeting regarding Ombudsman Report, and Confidential Report CL-C 62-2018 (Agenda Item 17.2.3), being A Matter Respecting an Ongoing Investigation Respecting the Municipality by the Ombudsman appointed under the Ombudsman Act and Legal Advice that is Subject to Solicitor-Client Privilege.

13. MOTIONS

13.2 Leadership of the Public Health and Social Services Committee

Moved by Councillor Baty
Seconded by Councillor Luciani

That the Public Health and Social Services Committee **BE REORGANIZED** to be chaired by a Chair and Vice-Chair rather than Co-chairs effective with the commencement of the next term of council; and,

That the Procedural By-law **BE AMENDED** as necessary.

Moved by Councillor Augustyn
Seconded by Councillor Barrick

That the motion respecting the leadership of the Public Health and Social Services Committee **BE REFERRED** to the external governance auditor for consideration as part of the on-going governance review.

Carried

14. NOTICES OF MOTION

There were no notices of motion.

19. BY-LAWS

Moved by D'Angela
Seconded by Heit

That the following Bills **BE NOW READ** and **DO PASS**:

Bill 2018-78 - A by-law to accept, assume and dedicate part of township lot 158, in the City of Thorold, as part of Regional Road no. 20 (Highway 20).

Bill 2018-79 - A by-law to adopt, ratify and confirm the actions of Regional Council at its meeting held on October 4, 2018.

Carried

15. OTHER BUSINESS

15.1 Murdered and Missing Indigenous Women and Children

Councillor Grenier announced that October 4, 2018 was the national day of observance for murdered and missing indigenous women and children and asked that everyone keep these families in their thoughts.

20. ADJOURNMENT

There being no further business, the meeting adjourned at 10:26 p.m.

Alan Caslin
Regional Chair

Matthew Trennum
Legislative Coordinator

Ann-Marie Norio
Regional Clerk



ADR
CHAMBERS

Integrity Commissioner Office
for Niagara Region

October 18, 2018

SENT BY EMAIL TO:

Ann-Marie Norio
Regional Clerk
Office of the Regional Clerk
Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7
Ann-Marie.Norio@niagararegion.ca

**Re: Niagara Region Integrity Commissioner
Complaint Reference No. IC-30-0718**

Dear Ms. Norio:

I am enclosing herewith the report of my investigator who was delegated by me pursuant to section 223.3(3) of the Code of Conduct, to investigate and report on the subject matter of this complaint.

I can advise that I have fully reviewed the evidence, process and results of the investigation as well as the report, recommendations and addendum and I am in agreement with them.

This matter is now concluded.

Yours truly,

Edward T. McDermott
Integrity Commissioner
Office of the Integrity Commissioner for Niagara Region



ADR
CHAMBERS

Integrity Commissioner Office
for Niagara Region

MICHAEL L. MAYNARD
E-mail: mmaynard@adr.ca

October 18, 2018

SENT BY COURIER AND EMAIL TO:

Ms. Ann-Marie Norio
Regional Clerk
Office of the Regional Clerk
Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7
Ann-Marie.Norio@niagararegion.ca

Re: Complaint Reference Number IC-30-0718

Dear Ms. Norio:

Delegation of Investigative Powers

Pursuant to a written delegation of powers dated July 31, 2018, Edward T. McDermott, in his capacity as Integrity Commissioner for the Regional Municipality of Niagara, delegated to the undersigned pursuant to section 223.3(3) of the *Municipal Act, 2001*, certain of his powers and duties as Integrity Commissioner to inquire into, investigate, and prepare a report (subject to his review and approval) with respect to the complaint described herein.

The Complaint

The complaint I have investigated (the "complaint") is made against Regional Councillor Tony Quirk ("Councillor Quirk" or "Tony") by Mr. Ted Mouradian (the "Complainant" or "Ted") (collectively, the "parties"), alleging a breach of the Regional Municipality of Niagara's Code of Conduct for Members of Council (as most recently amended by By-law No. 65-2015) (the "Code").

Specifically, it is alleged Councillor Quirk breached the following sections (with applicable excerpts of the Code included):

- *Scope of the Code of Conduct:*
 - These standards should serve to enhance public confidence that Regional Municipality of Niagara's elected representatives operate from a base of integrity, justice and **courtesy**.
- *Foster Respect for Decision-making Process*
 - All Members of Council shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.
- *Respect, Truth, Honesty and Integrity*
 - Members of Council shall not impose their personal, moral or religious standards on others as every person is an individual with specific rights, values, beliefs and personality traits to be respected at all times.
- *Conduct*
 - As representatives of the Region, every member of Council has the duty and responsibility to treat members of the public...appropriately and without abuse, bullying or intimidation.
 - A member shall not use indecent, abusive, or insulting words or expressions toward any other member, any member of staff or any member of the public.

Investigation

My investigation included a review of the documentation provided by the Complainant and Councillor Quirk. Additionally, I conducted in-person interviews with the parties, meeting on August 29 with Councillor Quirk and on September 6 with the Complainant.

Complaint Particulars

On July 22, 2018, the Complainant sent an email to all Members of Council expressing his opinion that the Chief Administrative Officer (the "CAO") for the Regional Municipality of Niagara (the "Region") should be terminated from his employment for cause and that the Regional Chair (the "Chair") should be sanctioned by reason of their alleged incompetence including their responsibility as the Chair and CAO of the Region for an incident which, according to the Complainant, resulted in the removal of a reporter and citizen blogger from Council and the seizure of their recording equipment. In the reply-all email exchange that followed, it is alleged by the Complainant that Councillor Quirk contravened the Code by:

1. Dismissing the Complainant's opinion by attempting to discredit and humiliate him. Specifically, Councillor Quirk accused the Complainant of sending out "false, misleading and forged documentation" and stated the Complainant had an "inability to separate fact from fiction on the internet"; and accused him of a "lack of ethics" contrary to the *Scope* and *Conduct* sections of the Code;
2. Calling the Complainant's sincerity into question by imputing "ulterior motives" contrary to the *Scope* and *Conduct* sections of the Code;
3. Demonstrating a conflict of interest or a bias and attempting to bully his Council colleagues by pre-emptively noting his intention to legally challenge any move by Council to terminate the employment of the Region's CAO (i.e. stating he will testify on behalf of the CAO in a hypothetical wrongful dismissal lawsuit) contrary to the *Foster Respect for Decision-making Process* section of the Code;
4. Making a false statement about an "illegal recording device". This comment referred to the above referenced matter which was dealt with in an Ontario Ombudsman's investigation regarding a citizen-blogger's recording device left on during a closed session of Council. Here, the Complainant states that the Ombudsman's investigation did not find the recording device to be "illegal" contrary to Councillor Quirk's assertion and contrary to the *Foster Respect for Decision-making Process* and *Respect, Truth, Honesty and Integrity* sections of the Code;
5. Making a negative statement about the Complainant's aptitude or ability as a university instructor contrary to the *Scope* and *Conduct* sections of the Code;

6. Attempting to discredit the Complainant with repeated references to a prior private meeting between them that was not relevant to the issue raised by the Complainant. Specifically, he "misstated the reason for the meeting", made an unnecessary reference to the Complainant's use of profanity at said meeting and called into question the Complainant's ethics with respect to his conduct in that meeting, contrary to the *Scope, Respect, Truth, Honesty and Integrity and Conduct* sections of the Code;
7. Intimidating the Complainant by stating "Bring it on, Ted" and explaining he had never had an Integrity Commissioner complaint against him succeed, contrary to the *Conduct* section of the Code.

The Complainant believes that Councillor Quirk's decision to use "reply-all" when responding is indicative of his intent to discredit the Complainant in front of all Members of Council.

Facts and Evidence

Chronology

On July 22, 2018 at 12:58 p.m., the Complainant sent an email to all Members of Council stating his opinion that the Region's CAO should be fired following an Ontario Ombudsman's report (*supra* at page 3). In the following email exchange, both parties used reply-all throughout.

At 1:50 p.m., Councillor Quirk responded as follows:

I will take this missive with a grain of salt coming from you Ted as someone who circulated a report to your contact list that contained false, misleading and forged documentation without waiting to determine if the allegations were true or not.

Your agenda is pretty clear so I will just say this: I look forward to testifying on behalf of [the CAO] in his wrongful dismissal suit, should anyone be fired with cause.

I also look forward to reminding everyone in Niagara who it was that said we should "call the police" when the illegal recording device was found.

At 4:58 p.m., the Complainant responded. Addressing the issue of his "agenda", he explained that he had developed a "relationship model" to "fix corrupt, broken

and mismanaged organizations" and that he uses that model in business and would be teaching it to instructors and professors at a university in Mexico. He claimed his "agenda" was based on that model, and his intention was to "eliminate incompetence, bullying, corruption and mismanagement by leaders and people in positions of power in every organization that contracts me to do so." He admitted to "bragging" about his work, and concluded:

There is an old saying...when the student is ready the teacher arrives...sometimes though Tony, the teacher arrives but the student is not ready. It is now time for the ready students in this council to stand up to those students who are not ready and move them aside for the betterment of all of the citizens of Niagara.

At 5:30 p.m., Councillor Quirk responded:

That sounds all very impressive but given your inability to separate fact from fiction on the internet and the lack of ethics demonstrated in circulating a fraudulent document with the hopes of discrediting a public servant, I don't think your students will be well served. But that is just my opinion. Good luck in Mexico.

At 5:50 p.m., the Complainant replied again, stating: "Attacking my ethics or integrity does not change the facts Tony, but I guess only history will reveal the truth." The Complainant then imparted a parable about Gandhi refusing to accept the "gift" of a heckler's taunts.

At 5:55 p.m., Councillor Quirk responded, stating:

Thanks again for all the insights Ted but given your response to me when I suggested an apology was in order for your circulating of a fraudulent document was: "That's not going to f—king happen!" I don't think I will be accepting any advice on ethics from you. Cheers and have a great trip.

Following a response from another Councillor stating her hopes that all Members of Council are doing their best to educate their children and grandchildren about civics, and specifically about what is going on at the Region, Councillor Quirk replied at 7:40 p.m.: "Yes. I was surprised that Ted would use language like that at our first ever meeting."

At 7:59 p.m. the Complainant responded:

Tony...you have publicly and personally attacked my character with issues that have nothing to do with my original email. I can only assume that you are trying to discredit me and my right to ask for the resignation of [the CAO] as a citizen of the region.

Tomorrow I will be filing a formal complaint with the Ombudsman for your conduct during this public discussion.

This conversation is now over.

A longer and more detailed reply came from Councillor Quirk at 8:21 p.m.:

Well Ted, that would assume you have any credibility with me in the first place.

I was personally disgusted to find out in the emails shared by [Third Party] in his testimony that you were distributing the "call for accountability" without any regard for the truth of the document and that you presented yourself to me for our meeting as an independent third party trying to find a solution to the [Third Party] lawsuit. That is when you lost any credibility you might have had.

So just make sure you have your facts straight.

The meeting between us took place on December 7th, 2016 at 2 pm at the Four Points Sheraton in Thorold. You sent and (sic) email to me the next day thanking me for the meeting. I can share that with the Ombudsman or the Integrity Commissioner.

You were trying to find a way to end the [Third Party] lawsuit. I told you that if [Third Party] apologized for using the forged document that we probably could find a way out but your response to me was "There is no f—king way that is going to happen!"

I was shocked that you would feel so comfortable swearing in a meeting where we had just met, and I personally swear

at a level that would make a Tyrion Lannister blush but not with someone I had just met.

I would also state that to the Ombudsman or the Integrity Commissioner that this behaviour wasn't out of character for you, as I would remind you of the email you sent when you felt the need to apologize for swearing publicly on April 12, 2017 when you repeatedly said "b-l s-t" in an open and public forum and stormed out. Great ethical behaviour.

So bring it on Ted. Looking forward to the report. I will be happy to share my meeting notes with either the ombudsman or the integrity commissioner. I would also point out that I have yet to have an integrity commissioner complaint succeed as I don't lie, I don't need to, especially when the facts are on my side.

Wishing you all the best on your trip to Mexico and good luck with your complaint filings.

On July 25, 2018, prior to filing the complaint, the Complainant emailed Councillor Quirk, copying all those included in the initial email exchange (*supra*) and requested an apology by the end of the following day in exchange for the withdrawal of the complaint. Councillor Quirk quickly declined.

Councillor Quirk's Response

Councillor Quirk provided a written response dated August 10, 2018 and provided a supplementary verbal response during our interview on August 29, 2018.

In his written response, Councillor Quirk raised an issue of confidentiality regarding the Complainant's July 25, 2018 apology request email, stating:

I am disappointed that, despite understanding the confidentiality of the process, Mr. Mouradian has already violated this requirement by sending the complaint via email to full Council and demanding an apology or else he would complain. This was a direct attempt to circumvent the process and engage in public shaming, the very conduct Mr. Mouradian is complaining about.

Commenting generally on the Code and the nature of the Complaint, Councillor Quirk suggested that while the Code exists to compel Councillors "to act in a respectful manner", it does not require him to "respect an individual", nor is it "in place to limit public debate, deny Councillors the right to hold opinions and share them with the public." He also points out that the Code does not "compel [him] to respond in a manner that [the Complainant] wishes."

Councillor Quirk then went on to list a number of reasons he does not personally respect the Complainant, the details of which he also shared with me verbally during our interview. I do not find it necessary to enumerate his several grievances here.

Response re: Scope of the Code of Conduct

In his response to this aspect of the complaint, Councillor Quirk maintains that he acted "with restraint and courtesy." He pointed out that the Complainant "...provide[d] a 'suggested' response based on his years of experience", but that he "...is under no obligation to respond how [the Complainant] would wish me to respond." He stated that the Complainant did not earn even the level of courtesy extended "...based on the fact the initial correspondence from [the Complainant] was a call for a public servant to be tried, judged and executed based solely on a newspaper article." Councillor Quirk explained to me that he saw the Complainant's emails as self-righteous and hypocritical.

Councillor Quirk told of his own history with the Complainant regarding a December 7, 2016 meeting between them with respect to the third-party lawsuit referenced and explained in his 8:21 p.m. reply email (*supra* at page 5). Councillor Quirk attended this meeting with the Complainant in his capacity as a Member of the Board for the public agency that was suing a member of the public (the "Third-Party Lawsuit"). Councillor Quirk believes the Complainant attended the meeting under false pretenses, representing his position as a benevolent peacemaker but concealing his association with one of the parties in the Third-Party Lawsuit and his own distribution of the "false, misleading and forged documentation" at the heart of the matter. Said "documentation" disparaged the CAO of the public agency, who is now the Region's CAO. This, along with a number of statements and published articles by the Complainant, has led Councillor Quirk to the conclusion that the Complainant has an agenda against the CAO. He thus endorsed his own words, including his remark "I don't think your students will be well served" and his references to the parties' December 7, 2016 meeting as an appropriate response in defence of a public servant (the CAO) who has no recourse to defend himself from the disparaging remarks of a "cry-bully". Councillor Quirk also dismissed the notion that the meeting was

"confidential" or even "private" as it was arranged via social media and expensed by him which would show up on the public accounts.

Response re: Foster Respect for Decision-making Process

Councillor Quirk disagrees with the Complainant's assessment with respect to the "illegal recording device" mentioned in the complaint. His view is that a recording device was left on in a closed session of Council contrary to law - whether intentional or otherwise - which makes it illegal. Calling it such does not equate to calling it *criminal*. According to Councillor Quirk:

...my description of the recording as "illegal" is both accurate AND does not contradict any finding or decision of Council. At no time, has Council ever publicly confirmed via statement or resolution that recording was legitimate or not illegal.

Response re: Respect, Truth, Honesty and Integrity

Councillor Quirk denied imposing his own moral views on the Complainant by referring to and criticizing the Complainant's use of profanity, and indeed, he acknowledges being quite proficient in profanity himself. He was, in his view, attempting to "...point out the hypocrisy of someone who believes quoting Ghandi (sic) while acting in the manner he has repeatedly demonstrated to me in private and to the world in public."

Response re: Conduct

Councillor Quirk denies the Complainant's charge that he bullied or intimidated his fellow councillors by commenting "I look forward to testifying in [the CAO's] wrong dismissal suit". He stated, "this is a consideration in any contract dispute", which his fellow councillors would know and would thus not be intimidated by such a comment. He stated his response was directed solely at the Complainant for his "bullying of our CAO" by calling for the termination of his employment following the Ontario Ombudsman's report into the "illegal recording device".

He further denies using "...'indecent, abusive or insulting words' except as quoted to point out [the Complainant's] actions that are incompatible with the teachings of Ghandi (sic) he insists of (sic) quoting..."

Councillor Quirk's "bring it on" comment regarding the Complainant's remarks about filing a complaint were demonstrative of his own feelings that he would

not be intimidated by a citizen who had regularly criticized his colleagues and, that he was prepared to back up his comments made in defence of the CAO.

Additional Response by the Complainant

The Complainant acknowledged that the "false, misleading and forged documentation" received by him and forwarded to others (*supra* at page 3) did indeed contain falsehoods, and that he had forwarded it to others. However, he points out that many people forwarded the document, as it was a matter of public interest, and that he received it and passed it along like anyone else. He argues that this is no reason to call his ethics and intelligence into question. He also dismissed Councillor Quirk's statement that he hid his true motives at the December 7, 2016 meeting, as both he and his politics are well known in the Region.

Analysis

The questions to be addressed by this investigation are:

1. Did Councillor Quirk contravene the *Scope* clause of the Code by showing a lack of courtesy to the Complainant?
2. Did Councillor Quirk contravene the section of the Code requiring Members of Council to *Foster Respect for [the] Decision-making Process*?
3. Did Councillor Quirk contravene the section of the Code on *Respect, Truth, Honesty and Integrity*?
4. Did Councillor Quirk contravene the section of the Code on *Conduct*?

1. Analysis re: Scope Clause

*"...false, misleading and forged documentation", prior meeting and
"ulterior motives"*

It is clear that Councillor Quirk intended to diminish the credibility of the Complainant's viewpoint in the eyes of other Members of Council. Indeed, Councillor Quirk acknowledged in our interview that he wanted all of Council to be well aware of the background behind what he sees as a long-standing campaign against the CAO by the Complainant and others. He further

acknowledged that he made specific references to the December 7, 2016 meeting and the "false, misleading and forged documentation" to give other Members of Council the context around the Complainant's call to fire the CAO, believing that the Complainant's most recent correspondence referencing the Ontario Ombudsman's report (*supra* at page 3) was not born of genuine concern but merely the latest salvo in a war being waged by the Complainant and others against a public servant who cannot defend himself.

I do not find fault with Councillor Quirk voicing his concerns about the Complainant's motives, nor referencing their prior meeting, nor even his mentioning the Complainant's role in spreading the "false, misleading and forged documentation" as each of these are related to political activities relative to the Complainant's various condemnations of the CAO and thus open to debate and criticism. The Complainant states they are irrelevant to the topic at hand. As an outside observer, however, I see them as contextually related.

Generally, the Complainant's ongoing self-inclusion in political discourse opens him up to legitimate criticism and debate regarding his views and intentions. The Complainant advised he has made bids for political office, sat on committees, and published his opinions. Whether the Complainant had or has "ulterior motives" (in this case an alleged predominant desire to challenge the legitimacy of the CAO in any way possible) is open to political discourse and debate.

"...students [not] well served"

However, I do find that in one instance, Councillor Quirk crossed a line. Insulting the quality of the Complainant's professional work as a university instructor by voicing his opinion that the Complainant's students will "[not] be well served [by his tutelage]", comes across as needlessly and intentionally demeaning and discourteous. While Councillor Quirk is entitled to disagree with the Complainant - even reasonably forcefully in the heat of debate - that does not give him license to be disagreeable to the point of making such a personal insult. I find his comment in this regard to be discourteous and unwarranted.

There is a question, however, as to whether the *Scope* clause can be breached, or whether its existence is intended to add a contextual foundation on which the more specific directive and/or prohibitive rules governing the conduct of Members of Council stand. Given my findings regarding the "false, misleading and forged documentation" comments (*supra* at page 10) and my findings under the *Conduct* section of the Code (*infra* at page 13) relative to the "...students [not] well served" comment, I do not need to further consider whether the *Scope* clause can be, or indeed was, breached at this time, as each issue in the complaint has been otherwise addressed.

2. *Analysis re: Foster Respect for [the] Decision-making Process*

"Testifying"

I agree with Councillor Quirk's assessment of his comments regarding "testifying on behalf of [the CAO] in his wrongful dismissal suit". The Complainant stated his belief that this comment is contrary to both the *Foster Respect for Decision-making Process* and *Conduct* sections of the Code. Dealing here with the former, I do not find these comments harm the legitimacy of the decision-making process, nor would they likely diminish public confidence in Council should they be made publicly. Politicians disagree, and dissent is recognized as part of a healthy democracy. Litigation is a common occurrence in politics and in employment matters. In any event, my reading of this section of the Code is that it relates specifically to Councillors being forthright in communicating decisions of Council after they are made. I do not find this aspect of the Complaint to be relevant to this section of the Code.

"Illegal Recording Device"

Councillor Quirk explained, adequately in my view, his meaning behind the words "illegal recording device". I have reviewed several news articles and the Ontario Ombudsman's report regarding this issue. That the device was left recording a closed session of council is not up for debate. Whether it was done intentionally has no bearing on whether recording a closed session is contrary to law. Section 239 of the *Municipal Act, 2001* authorizes Municipal Councils to have in-camera sessions free from public view. Recording a closed session, whether intentionally or not, infringes on this statutory right of Council to have a meeting closed to the public. Whether the response by Council, the Chair, the CAO or any other public or authority figure was proper or proportionate has no bearing on whether the device was recording contrary to the law. Calling it an "illegal recording device" may be overly broad from a semantic point of view, but it does not impute improper motives (i.e. criminality) or misstate the facts in any way that would undermine public confidence or respect for Council or its *decision-making process*.

3. *Analysis re: Respect, Truth, Honesty and Integrity provision of the Code*

"Illegal Recording Device"

Just as I did not find these comments to be in contrast with the *Foster Respect for [the] Decision-making Process* section of the Code, I likewise do not find them to be contrary to the *Respect, Truth, Honesty and Integrity* section of the Code. Having heard Councillor Quirk's explanation regarding his use of the word "illegal" (i.e.

the intended connotation was that the device was recording a closed session contrary to law) I am not satisfied that he was misrepresenting the truth. As already noted, this appears to a disagreement rooted in semantics.

Prior Meeting

The Complainant takes the position that Councillor Quirk's references to their December 7, 2016 meeting about the Third-Party Lawsuit misrepresented the true nature of the meeting. Councillor Quirk expressed that at the time he attended the meeting, he believed the Complainant attended as a neutral citizen with conflict resolution experience, and not as an associate of the Defendant in the Third-Party Lawsuit. Councillor Quirk expressed his surprise when he learned that the Complainant had the same agenda as the Third-Party against the CAO and had distributed (along with many others) the "false, misleading and forged documentation". The Complainant's dismissal of this notion by stating "It is no surprise [to Council] who Ted Mouradian is" makes the assumption that Councillor Quirk ought to have known the Complainant was not neutral. However, Councillor Quirk's responses suggest to me he was not fully aware of the Complainant's position or intentions at that time.

Profanity and Gandhi

By Councillor Quirk's own admission, he is quite adept at using profanity and it does not personally offend him. He claims he was not therefore "impos[ing] personal [or] moral...standards" on the Complainant; rather, he claims he was commenting on the contradiction in moral standards the Complainant was imposing on him: Expounding on pacifistic philosophy on one hand while using hostile and profane language on the other. Whether the use of profanity to aggressively make a point in debate or as a reaction in anger is internally consistent with a life philosophy inspired by parables of Gandhi's teachings is an arguable point. The initial comments by Councillor Quirk could be viewed as political theatrics, but to suggest they are contrary to the Code is a stretch. I do not find the discussion of profanity in the exchange represents a real or intended imposition of personal moral standards on the Complainant by Councillor Quirk.

4. Analysis re: Conduct provision of the Code

General Context, Motives

As per my analysis regarding the *Scope* of the Code, I do not find the bulk of Councillor's Quirks comments to be particularly egregious in their proper context. The cut and thrust of political debate can be sharp and unsympathetic at times. Both the Complainant and Councillor Quirk recognize that the

Complainant is no ordinary citizen speaking on one issue; he has published articles, written letters, appeared before council, and engaged in meetings and other political activities with regular frequency. It is fair to say he is today a well-known critic of the CAO. The Complainant chooses to engage in political debate, expresses strong views and argues his points with vigour. In the Complainant's own words: "It is no surprise [to Council] who Ted Mouradian is". Most of Councillor Quirk's responses to the Complainant must be viewed in this context.

"...students [not] well served"

The personal insult from Councillor Quirk regarding the Complainant's professional work as a university instructor is clearly inappropriate. The *Conduct* section of the Code states: "...every member of Council has the duty and responsibility to treat members of the public...appropriately and without abuse." It is inappropriate and abusive to impugn the capability and character of the Complainant as it relates to his work. This is true irrespective of whether the Complainant raised the topic of his work himself in a bid to bolster his own credibility. I find the comments "I don't think your students will be well served" to be incompatible with the behavioural expectations set out in the *Conduct* section of the Code.

"Testifying"

I do not find these comments to be intimidating or intended to intimidate other Members of Council. Again, political opposition is a necessary function of governing in a liberal democracy.

"Bring it on, Ted"

I do not find the comment "Bring it on, Ted" to be intimidating or otherwise contrary to the *Conduct* section of the Code. Councillor Quirk is entitled to assertively defend himself, including expressing his self-confidence in facing down any challenge based on his past experience. Though "bring it on" is a phrase found in common parlance, it is perhaps somewhat less cordial than one might expect from a councillor. However, despite its proximity to abrasiveness, I do not find that in these circumstances it was particularly intimidating or intended to intimidate.

Additional Issue - Councillor Quirk's Response re: Confidentiality

I do note that the Complainant emailed Councillor Quirk, copying all parties to the initial email exchange, on July 25, 2018, at 1:03 p.m. requesting an apology by 5:00 p.m. the following day (July 26) in exchange for the withdrawal of the

complaint. This email was sent prior to the Integrity Commissioner's Office forwarding to the Complainant a copy of its Consent and Confidentiality Agreement (i.e. prior to the complaint process commencing).

This email was copied to all of Council which is consistent with the original email exchange, also copied to all of Council. I do not find Councillor Quirk to be prejudiced by this July 25 email, nor do I find it an intentional violation of the Integrity Commissioner's investigative process.

Conclusion

Pursuant to the foregoing, I find Councillor Tony Quirk to be in contravention of the *Conduct* section of the Code specifically as it relates to his comments: "I don't think your students will be well served." I find those comments to be discourteous, inappropriate and abusive.

Placed in their proper context, I do not find the balance of Councillor Quirk's comments to be in contravention of the Code.

I therefore recommend Council issue a reprimand to Councillor Quirk in accordance with Section 223.4(5)(1) of the *Municipal Act, 2001*.

I note that an earlier version of this report was sent to the Complainant and Councillor Quirk for their review and comment. Their comments were received and considered in the attached Addendum. No revisions were made to the report.

Yours truly,
ADR CHAMBERS INC.



Michael L. Maynard
Office of the Integrity Commissioner

Encl.

Addendum to Report
Responses to the Draft Report

Councillor Quirk's Response

In response to receiving a draft of this report in accordance with the Complaint and Investigation Protocol, Councillor Quirk asserted that his reference to “students [not] well served” (see page 5 of the report) referred to members of Council who supported the Complainant's views and not to the students the Complainant would be personally teaching in Mexico. In support of this view, Councillor Quirk pointed to the Complainant's email from the initial exchange between them which made reference to the Complainant saying: “...when the student is ready the teacher arrives.” His comment was therefore, according to the Councillor, meant as a political, not a personal comment.

Viewed from an objective perspective, I do not agree that the Councillor's position in this respect is a correct interpretation of what the documentation submitted by the Complainant discloses on its face. It was also never raised by the Councillor during the course of this investigation either in written form or verbally during the personal interview with him. By way of example, I noted that in his complaint, the Complainant specifically commented that Councillor Quirk “attacked my work ethic with a current client, Tec de Monterrey”. The Councillor never refuted this interpretation at all in his written response to the complaint and when I interviewed him I specifically asked about this quote. The Councillor did not contest or deny anything said in the quote but rather responded that he wanted to point out the hypocrisy of the Complainant's email. When asked about making a negative statement about the Complainant's professional life, Councillor Quirk responded that “self-righteous hypocrites need to be called out”, further noting that the Complainant was “...attacking an unelected public servant [the CAO] who can't fight back. I was defending him.”

There is no question that Mr. Mouradian took the comment as a personal attack on his professional reputation. If, as the Councillor suggests, the comment had a different meaning to it, the Councillor had ample notice of the meaning the Complainant (and I) took from the words used and the context in which they were framed. He never denied that this was the correct interpretation of his meaning.

I am accordingly not persuaded that the Complainant misinterpreted the Councillor's comments in this respect.

The Complainant's Response

The Complainant also provided a response to the draft report in which he raised a concern as to whether the report might create two classes of citizens – those who engage in politics vigorously and those who do not. He questioned whether the findings set out in the report concluded that if he were a political neophyte rather than a long-time political activist, the conclusion may have been different. He asked whether the report creates a license for Members of Council to “disparage prominent citizens simply because they take the time and effort to be engaged.”

This concern of the Complainant is not well-founded. The conclusions of this report were not reached in a vacuum. The question is not one of an either/or nature (i.e. is a complainant politically engaged or not politically engaged). In this case, the Complainant has publicly made provocative political comments in the past regarding the Regional Chair and CAO. For example, these statements include the use of a metaphor (“the fish rots from the head”) to describe the Regional Chair and CAO in a published Op-Ed. This complaint itself arises from an email exchange initiated by the Complainant calling upon Council to terminate the employment of the CAO and sanction the Regional Chair. Therefore, the historical context,

character and tone of the Complainant's political statements related to the individuals and matters at issue were properly and fully considered in weighing the responding statements of Councillor Quirk.

The Office of the Integrity Commissioner has advised the Councillor and the Complainant that the report as drafted and submitted to the parties would be referred to Council without amendment, as the issues raised by each of them in response to the draft report have been considered and determined in this Addendum to the report, all of which has been reviewed and approved by the Integrity Commissioner.

A handwritten signature in black ink, appearing to read 'Michael L. Maynard', with a horizontal line at the end.

Michael L. Maynard
Office of the Integrity Commissioner

In accordance with the notice and submission deadline requirements of Sections 18.1 (b) and 11.3, respectively, of Niagara Region's Procedural By-law, the Regional Clerk received from Councillor Augustyn a motion to be brought forward for consideration at the October 4, 2018 Council meeting respecting Niagara Region Representation on the Niagara Peninsula Conservation Authority Board.

WHEREAS the Niagara Peninsula Conservation Authority (NPCA) is a Provincially mandated agency operating in the Region of Niagara, Haldimand County and the City of Hamilton, funded largely by the Region of Niagara;

WHEREAS the each of Niagara's 12 Cities, Towns and Township are collectors and contributors of public funds to the Region of Niagara, and, therefore, a contributor to the NPCA's funding;

WHEREAS the people of all municipalities represented on the NPCA Board deserve openness and accountability relating to how their tax dollars are being spent, how effectively our natural environment is being protected, and how representatives to the NPCA Board are appointed;

WHEREAS currently, 11 of the 12 Niagara members of the NPCA Board are municipal politicians who may not have the necessary conservation and environmental expertise suited to effectively serve on this important Board;

WHEREAS for the City of Hamilton, it has been the practice of their city council to appoint citizen representatives to the NPCA Board, thus highlighting the importance of the ability to provide appropriate knowledge, experience and expertise to the Board and establishing a precedent to support citizen appointment to the NPCA;

WHEREAS the Auditor General, in her September 27, 2018 report to the Ontario Legislative Assembly, recommended that "members of the Niagara Peninsula Conservation Authority (NPCA) Board of Directors should collectively have the skills, experience and training necessary to oversee the NPCA's activities effectively" and that the "NPCA's funding municipalities [should] ensure that their Board appointment processes consider skills and experience requirements";

WHEREAS the informal, past practice of the Niagara Regional Council has been to offer a single appointment from each of the twelve local municipalities by: first, offering appointment to the Regional Councillor(s) or Mayor of the local municipality; and, second by a process that defaults to the local municipal Councillors; and then, finally, to citizen representation; (please see attached description from NPCA website); and

WHEREAS the majority of Council's across the Niagara Peninsula recently supported a formal appointment protocol that allows the local municipalities to seek applications for appointment to the NPCA Board and that a recommendation for appointment then be subsequently provided to the Region by the local municipalities

NOW THEREFORE BE IT RESOLVED:

That Regional Council **ESTABLISH** a formal process for appointments to the Niagara Peninsula Conservation Authority Board to request and permit each of Niagara's local municipalities to publicly advertise and make recommendations for appointment of a qualified and independent citizen with appropriate skills and expertise to represent their respective municipalities, to take effect following the 2018 municipal election, or immediately should a vacancy on the NPCA Board of Directors occur; and

That a copy of this resolution **BE FORWARDED** to the Auditor General of Ontario; Minister of Natural Resources and Forestry; the current NPCA Board of Directors; Niagara MPPs; the City of Hamilton; Haldimand County; and Niagara Local Area Municipalities for information.

In accordance with the notice and submission deadline requirements of Sections 18.1 (b) and 11.3, respectively, of Niagara Region's Procedural By-law, the Regional Clerk received from Councillor Baty a motion to be brought forward for consideration at the October 4, 2018 Council meeting respecting Proposed Amendment to the Procedural By-law respecting the Calling of Special Meetings petition.

NOW THEREFORE BE IT RESOLVED:

That the Procedural By-law **BE AMENDED** to include the following clause in section 6 "Special Meetings"

That every effort should be made to circulate a petition for a call for a special meeting to all members of council.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2018-79

A BY-LAW TO AMEND SECTION 11 "COUNCIL AGENDA"
OF BY-LAW 120-2010, THE PROCEDURAL BY-LAW

WHEREAS subsection 238(2) of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, provides that every municipality shall pass a procedure by-law for governing the calling, place and proceedings of meetings; and

WHEREAS Regional Council deems it advisable to amend By-Law 120-2010, The Procedural By-Law, to amend subsection 11.1 (b) (Council Agenda);

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the following section of By-law 120-2010, **BE AMENDED** to read as follows:

11. COUNCIL AGENDA

11.1 (b) ***Land Acknowledgement Statement***

2. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

Alan Caslin, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date> by a vote of 2/3 of the members present.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO ADOPT, RATIFY AND CONFIRM THE ACTIONS OF
REGIONAL COUNCIL AT ITS MEETING
HELD NOVEMBER 1, 2018

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, Ch. 25, as amended, provides that, except if otherwise authorized, the powers of Regional Council shall be exercised by by-law; and,

WHEREAS it is deemed desirable and expedient that the actions of Regional Council as herein set forth be adopted, ratified and confirmed by by-law.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the actions of the Regional Council at its meeting held November 1, 2018, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
2. That the above-mentioned actions shall not include:
 - a) Any actions required by law to be taken by resolution; or
 - b) Any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.
3. That the Chair and proper officials of The Regional Municipality of Niagara are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
4. That unless otherwise provided, the Chair and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of The Regional Municipality of Niagara to all documents necessary to give effect to the above-mentioned actions.
5. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

Alan Caslin, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: