

**John E. Fleming  
Integrity Commissioner  
The Town of Caledon**

**Report to the Council  
RE: CODE OF CONDUCT COMPLAINTS  
COUNCILLOR ANNETTE GROVES  
AND  
COUNCILLOR BARB SHAUGHNESSY  
DECEMBER 18, 2017**

**Background**

I have been appointed by Council as the Integrity Commissioner for the Town of Caledon to serve in that role for the full 2014-2018 term of Council.

As Integrity Commissioner, it is my function to:

- a. Provide information and education to the Council and the public regarding the Code of Conduct and the role of the Integrity Commissioner
- b. Provide advice to members of Council regarding their ethical obligations and responsibilities under the Code of Conduct, and any other procedures, rules or policies covering their ethical behaviour; and
- c. Conduct inquiries and investigations of alleged contraventions of the Code of Conduct in accordance with the procedures set out in the Code, and make decisions, including the imposition of penalties, in regard to such alleged contraventions.

I received on October 25 two Code of Conduct complaints filed with my office by Mayor Allan Thompson, concerning alleged breaches by Councillors Annette Groves and Barb Shaughnessy.

I received on Nov. 21 a third complaint, about the same issue and an additional issue from a member of the public, also concerning Councillors Groves and Shaughnessy.

The Code requires that a series of steps be followed when formal complaints are filed with the General Manager of Corporate Services/Town Clerk. All three of the complaints were largely compliant with the requirements of the Code, and all required steps have been followed. A copy of each complaint was forwarded to the respondent Councillors, providing them with the opportunity to respond within 10 days. Both responded in a timely manner, and their responses were subsequently forwarded to the respective complainants, who then had a further 10 days to comment on the response, to me.

On November 7, I brought the parties to the first 2 complaints together in an attempt to find informal resolution of the complaints, pursuant to Sections 10.1, 10.2, 10.3 and 12.1 of the Code. That attempt was ultimately unsuccessful. Inasmuch as this step took several days to organize, I extended the deadline for the first round of submissions to those 2 complaints, to ensure that the respondents had the full 10 day period required by the Code, to respond.

I have been provided with extensive documentation by both complainants and respondents, and in each case I have reviewed that extensive documentation carefully. Copies of numerous emails have been

provided to me, including several unsolicited messages from members of the public, who wished to offer comments about the issues at hand.

I thank those citizens for taking the time and effort to write to me.

Finally, I have conducted interviews wherever I felt it necessary to do so with individuals who have knowledge of the matters complained about.

I note that under the Code I am to determine whether or not complaints fall within the jurisdiction of the Integrity Commissioner, and whether or not they are frivolous or vexatious. I have received submissions from the respondents regarding all three complaints that I should dismiss them as being either frivolous and/or vexatious. On my preliminary review of all 3 complaints, prior to my conducting an investigation, I concluded that there were sufficient grounds to proceed to the next step, i.e. an investigation, and I did so. It is, on occasion, difficult to determine the motivation that lies behind the filing of a complaint in this context, and I made the decision, which is mine to make, to explore each of the complaints further before making any determination on each of them.

While there are *three separate complaints* this single report will comment on my investigation, findings, and conclusions of all three, as they are all in respect to the alleged actions of the same two members of Council, and largely about the same issues.

**Each specific complaint will be addressed separately within this report.**

For easy reference, I have attached to this report Appendix A, which sets out the wording of the relevant sections of Caledon's Code of Conduct.

### **The complaints**

#	Complainant	Respondent	Code Section	The complaint
1	Allan Thompson	Annette Groves	2	Matters pertaining to a confidential issue (negotiations concerning a potential property acquisition discussed by Council In Camera) were discussed in a public meeting and on social media.
2	Allan Thompson	Barb Shaughnessy	2	Matters pertaining to a confidential issue (negotiations concerning a potential property acquisition discussed by Council In Camera) were discussed in a public meeting and on social media.
3	A member of the public	Annette Groves And Barb Shaughnessy	1.1 1.2 2.1 2.2 2.3 3.1 3.2 3.3	Matters pertaining to a confidential issue (negotiations concerning a potential property acquisition discussed by Council In Camera) were discussed in a public meeting and on social media. Further, alleging misinformation regarding statements about public transportation in Caledon.



### **The identity of complainants and respondents**

Caledon's Code of Conduct provides only limited direction on the matter of the disclosure of the identity of the parties to complaints. Section 16.1 of the Code states that "The Integrity Commissioner .....shall preserve confidentiality *where appropriate* and where this does not interfere with the course of any investigation, except as required by law and as required by this complaints protocol."

Given the rather significant public discussion and knowledge that I have been engaged on these matters, I have determined that it is appropriate for me to identify both the complainants and respondents in the first 2 complaints before me. I have chosen not to identify the complainant in the third complaint.

I have not identified the property owner whose land offer is the subject of these complaints, although the property address is a matter of public record.

### **The context**

I believe it is important in my reporting on matters such as these to set out the context in which the complaints arose. The Town is and will be addressing in the future significant change. Within the "Places to Grow" strategy of the Province of Ontario, significant growth will come to Caledon, resulting in a number of pressures on the elected council, as development moves the Town forward from its long tradition as an agricultural community. There are innumerable land development and planning issues that will arise as that growth takes place; equally, there are important community issues that will be of concern as to how the needs of the growing community will be met.

One such issue is the provision of health care.

Over the past number of years, one property owner has made known to various public bodies and officials a willingness to donate a piece of the family farm for the use of the community for health care purposes, whether it be a hospital or some type of urgent care or seniors care facility. Past attempts to bring closure to that property owner's offer have not met with a conclusive plan or agreement, for a number of reasons. I understand that, while there may not have been broad public awareness of this proposal, neither was it held to be secret by such bodies as the Region of Peel or the Central West Local Health Integration Network, a public body operating under the Ontario Ministry of Health and Long-term Care.

For whatever reason, in 2017 the property owner renewed the offer to donate a specified amount of land to the Town of Caledon, with a number of quite specific and detailed conditions.

The offer was the subject of continued negotiation between the owner and Town officials, leading to the staff report to Town Council in September and October 2017, during which time staff sought direction from the Council as to the detailed conditions put forth by its current owner.

**All of the documentation submitted to Town Council at both its General Committee meeting of Sept. 26 and the Council on October 10, and the discussion of it was and remains Confidential, with consideration held at all times "In Camera."**

**As is the Council's custom, following such In Camera meetings, a motion to adopt "the General Committee recommendation regarding Confidential Staff Report 2017 -26 re: A proposed or pending acquisition of land by the municipality or local board – 13068 Humber Station Road" was adopted in public session on a recorded vote, with 8 votes affirmative and 1 negative. The wording**

of that motion and the details of the recorded vote represent *the entirety of the public reporting of the matter*.

Subsequently, on October 23 Councillor Groves held a community meeting, also attended by Councillor Barb Shaughnessy, during which the subject of the offer by the land owner to donate this property was *raised by a member of the public* attending. Considerable discussion of the matter ensued, with a number of statements being made by various parties as to how the Town was or was not addressing this offer, and the importance/validity of the intended use versus other possible competing uses.

At that same community meeting there were comments made about transportation services provided for two new industrial uses in Caledon, the cost of those services, and who was bearing those costs. That discussion also continued in social media.

### **The complaints**

#### **Complaint #1**

The complainant, Mayor Allan Thompson, expressed his concern immediately following the reporting of the community meeting, and since, that information from the confidential session of the recent Council meetings had been disclosed by Councillor Groves in the community meeting and in subsequent social media 'conversations' about the proposed donation of land, and – importantly – the perceptions surrounding the stance of the Council regarding that proposed gift.

Ultimately, the Mayor filed the first of his two complaints, alleging that the Code of Conduct, Section 2 pertaining to the release of confidential information, had been breached by Councillor Groves.

#### **Complaint #2**

This complaint by Mayor Thompson is identical to Complaint #1, except that the subject of this complaint is Councillor Barb Shaughnessy, who was in attendance at the community meeting held by Councillor Groves. She had also included in her social media accounts similar 'conversations' on the topic of the proposed gift, and the perceptions surrounding the stance of the Council regarding that proposed gift.

#### **Complaint #3**

The member of the public alleges breaches under the Code of Conduct, under numerous sections, including the breach of confidentiality on the part of the respondents as in Complaints #1 and #2. Further, though, the complaint alleges violation of other sections of the Code as a result of misinformation provided during that meeting about the cost of transportation services to support two new industrial areas in Caledon, those breaches being of the Code provisions regarding the general obligations and responsibilities of Members as to fairness and diversity and pertaining to Members showing respect for the decision making process of Council, and communicating them accurately.

### **General observations**

My review of the extensive documentation provided to me by parties to all 3 complaints indicates that there are three separate aspects to this issue, although there are overlaps among them:

- i. The matter of the proposed donation of land, which dates back several years, and while perhaps not in full public view over that period of time, was accessible and therefore open to public review, and most certainly not confidential or secret. I



understand that the property owner from time to time may have discussed the offer made with various individuals.

- ii. The matter of the specific terms and conditions under which the property owner was prepared to 'donate' the land to the Town. These conditions were the subject of the staff report considered In Camera by the General Committee and Council.

I have had the opportunity as Integrity Commissioner to fully review the confidential documents considered by Council at those meetings, and from that review I know that there are real differences between the parties to the negotiations. Those differences have significant implications for the Town and for future planning and servicing considerations for Caledon and the Region of Peel.

- iii. The matter of planning and land use considerations are at present before the Ontario Municipal Board. Given the adjacency of the proposed lands to be donated to the issues at the Board, one can only conclude that the considerations to be made by the Town on this proposal donation are complex.

I am unaware of the current status of the negotiations on the proposed land transaction.

It is not within my mandate to consider the land use and planning issues. Suffice it to say that I fully understand that different sectors of the community will have different perspectives about the best use of the portion of the farm the owner proposes to donate. Final decisions about those matters rest with the appropriate public bodies and processes in Ontario. I raise the issue only because it has coloured the perception of the public discussion that took place.

I empathize with those in the public who have expressed frustration with the Town but who do not (and at this stage cannot) know all the details of the issue in play. Understandably, this has placed the Council in the awkward position of not being able to respond to the public discussion or indeed to comment on the vote taken on October 10.

In the meantime, feelings understandably run high in those different sectors of the community, and make more challenging the task facing the property owner and the Town in coming to settlement on the details of the transfer. From all of that difficulty comes the consternation about whether or not there was a leak of confidential information from the two Councillors, in the public debate on the broader issues.

The documentation filed with me by the member of the public alleges violations of additional sections of the Code, and supports those allegations largely by means of lengthy statements about individuals that range beyond the two Councillors in their criticism

While that complaint documentation does make specific reference to the public discussion of the matter of the proposed land donation, it also contains references to disputed facts and statements, originating in the community meeting, regarding transportation facilities in place for what I gather are new industrial facilities. I found it difficult given the style of the evidence submitted to summarize the complaints under the Code, which requires some level of specificity,

in order to properly adjudicate complaint #3. Much of that became clearer to me in the two-stage response process, enabling me to reach a decision.

In summary, it seems that statements were made during the meeting, and afterward in social media, about the costs of those transportation services (both as to amount and who was bearing the cost) that were not entirely accurate. Reviewing all of the social media posts, I find that the confusing array of facts was ultimately set straight by both a post from Councillor Groves that she had made “a mistake” and by Mayor Thompson clarifying the history of the issue.

The member of the public in the complaint took issue with the fact, as I understand it, that Councillor Groves did not accompany her admission of error with a fulsome apology.

### **Findings and conclusions**

- There is no doubt that the matter of the proposed land donation was in the public domain, whether or not it was widely known
- It is clear that there are outstanding issues at the overall planning level about this area in Caledon, and that the conditions attached to the proposed donation of land for a health care use *might* have implications for the planning process in the future.
- It is equally clear that there is wide support for eventual health care land uses in this area. I have found no indication of opposition to that from the Town in any of the evidence provided to me.
- Different sectors of the community will have different perspectives about the best use of the portion of the farm the owner proposes to donate.
- I find no clear-cut evidence that either Shaughnessy or Groves made public any of the *details* of the negotiation (i.e. (ii)) between the Town and the property owner regarding the proposed land donation.
- I believe that there was, and most likely still is, confusion in the minds of the public among the issues set out as (i), (ii) and (iii) above. In my opinion, the concern about the leak of confidential information stemming from (ii) flows from that confusion.
- Regrettably, none of the parties to this matter took steps to stop or set straight the discussion that began the evening of that public meeting, and the confusion that resulted. It would not have been a breach for any of the Town officials to make a public statement that an issue related to the overall matter was being considered through a confidential process unfolding at the Town. As much as that might have allayed some of the controversy that followed, I do not believe that the absence of an attempt by the respondents to stop the public discussion already underway is contraindicated by the Code.
- It seems clear to me that the result of this unfortunate process has led to an environment where future negotiations between the Town and the property owner will be more difficult.
- There was some misinformation and confusion regarding the facts as to the cost of shuttle and bus service to Canadian Tire and Tullamore (contentious land use decisions, as I understand it) that led to heated social media commentary.
- I am satisfied that Councillor Groves did take steps in a subsequent social media posting to set the record straight as to the costs about which she misspoke during the meeting.



## Decision

**I cannot and do not find that either Councillor Groves or Councillor Shaughnessy breached the Code of Conduct, specifically as alleged by Mayor Thompson in complaints #1 and #2.**

I have reached a similar conclusion in respect to complaint #3 by the member of the public. While I originally had some difficulty in determining the precise breaches that person alleges took place, I am now satisfied that I understand the complaint, and **I cannot and do not find that either Councillor Groves or Councillor Shaughnessy breached the Code of Conduct, as alleged in complaint #3.**

## Recommendation

There are lessons to be learned from issues such as this in public, political life. The facts and arguments surrounding these complaints are complex. They are certainly fueled in this new era of social media.

As I considered the decisions set out in this report, I had in mind Sections 1, 2 and 3 of the Code of Conduct (excerpted in Appendix A) pertaining to the importance of diversity of views in the community, confidentiality, and respect for the decision making process of Council and accurate communication of the decisions of Council.

The circumstances here, i.e. the intersection of the 3 different aspects discussed above, (i.e. (i), (ii) and (iii)) were complex and led to confusion and misapprehension on the part of the public. Members of Council were constrained from explaining the full picture; public discussion of one aspect of the issue inevitably led to questions about other parts not in the public domain. That in turn put some Members in an extremely compromised position, unable to explain what appeared to be an illogical decision on the vote recorded on Oct. 10.

While it's difficult to generalize from such a unique case, I suggest that in future such situations Council collectively *and all Members of Council* should carefully consider appropriate messaging about complex issues that are discussed In Camera, and finalized only in very general terms in public, in order to assist the public in having a fair and balanced understanding of Council's actions and decisions in such situations.

The balance between the Code requirements for Section 2 (Confidentiality) and Section 3 (Communication) on sensitive matters can at times be challenging. I urge the Council collectively and Members individually to heighten their efforts to address both sides of that balance.

I have no further comments to offer in the matter of the confusion surrounding the transportation issues. However that might have arisen, in my assessment of it, the essence of the matter stems from public differences of recent land use and development decisions, as noted above. Such is the business of political bodies making decisions on contentious issues of change.

All of which is respectfully submitted.

John E. Fleming

Integrity Commissioner