



ADR
C H A M B E R S

Integrity Commissioner Office
for the Town of Grimsby

July 20, 2020

Sent by email to: Councillor Lianne Vardy
lvardy@grimsby.ca

Councillor Randy Vaine
rvaine@grimsby.ca

Councillor Dave Kadwell
dkadwell@grimsby.ca

Councillor Dave Sharpe
dsharpe@grimsby.ca

Dear Councillors,

Introduction

Councillor Vardy has brought complaints of breach of the Code of Conduct against Councillors Vaine, Kadwell and Sharpe. Councillor Vardy alleges that through the comments and behaviour of these other councillors, she has been subjected to a sexist attitude towards her and to behaviour that is colluding and mobbing.

In order to advance her claim, Councillor Vardy provides examples of such behavior as it pertains to each of the Councillors who are the subject of this complaint. I choose to deal with the actions of each Councillor separately. I see each complaint as independent and unrelated in terms of timing and the individuals involved.

Code of Conduct Complaint (Councillor Vardy against Councillor Vaine) **Complaint Reference Number: IC-187-0320**

At a closed session council meeting on January 21, 2020, a motion was brought to remove Councillor Freake from the Town of Grimsby Hydro Board. The motion was contentious and sparked heated debate. During the course of this debate, Councillor Vaine, in response to comments made by Councillor Vardy, yelled across the room, "You're a bully – you're the biggest bully on Council."

I have had the opportunity to speak at length with both councillors to clarify various issues related to the complaint.

Councillor Vaine agreed that he made the comment as alleged by Councillor Vardy. He advised that the Mayor did not ask him to withdraw his remarks. Quite possibly, if he has been asked to withdraw immediately, he may have done so and this complaint may not have been made.

Shortly after the comment was made, the Mayor did call for a recess to calm the situation. Following the recess, Councillor Vaine apologized to Councillor Vardy and apologized to the whole of Council for his remarks. He further apologized to Councillor Vardy by email following the meeting, even offering to meet her for coffee. Councillor Vardy acknowledges that the apologies were made by Councillor Vaine.

In Councillor Vardy's complaint, she points to other incidents regarding Councillor Vaine's behavior, one even predating both Councillors election to Council. Councillor Vardy acknowledged to me that these other incidents were not examples of contraventions of the Code and were not directed towards her; they were cited only as examples of other times where Councillor Vaine has lost his temper. I accordingly elect to make no comment regarding these other unrelated incidents.

Under the heading of "Conduct" in the members Code of Conduct:

"every member of Council has a duty to treat one another without abuse, bullying or intimidation. A member shall not use indecent, abusive or insulting words or expressions toward any other member."

Accordingly, I find that Councillor Vaine breached the members' Code of Conduct, given the comment he made at the January 21, 2020 closed Council meeting. The fact this occurred in closed session is not a justification for this behavior. The Code of Conduct applies equally to closed session meetings as it does to meetings in open Council. I further find that such breach occurred as a result of an error in judgment made in the heat of the moment with a timely apology having been made. Accordingly, I recommend that no penalty be imposed for the infraction.

**Code of Conduct Complaint (Councillor Vardy against Councillor Kadwell)
Complaint Reference Number: IC-188-0320**

Councillor Vardy was attending a meeting of the Public Works Committee chaired by Councillor Kadwell. At the conclusion of a constituent's presentation to the committee, Councillor Vardy left the committee room with the constituent to speak privately outside the committee room.

This left the committee without a quorum. Chair Kadwell went out to ask Councillor Vardy to return to the meeting. Councillor Vardy alleges that Councillor Kadwell, in front of the constituent, demanded she come back in – "now!" because there was no quorum. She believes she was deliberately embarrassed in front of a constituent and treated like a disobedient child.

Councillor Kadwell agrees that he asked her to return “now.” He alleges that Councillor Vardy slid the door between them shut. Councillor Kadwell then opened the door and said “I need you back in here for quorum.” Councillor Kadwell provided an email from Walter Basic, who was Interim Director of Planning, delivered through Bob LeRoux, which letter states: “Walter was at the meeting and he remembers you being non-aggressive with her. Thomas, Richard and Brandon don’t remember anything special about it.”

I conclude that the incident occurred and that Councillor Vardy correctly perceived that she was not treated respectfully in the circumstances. However, I also conclude that Councillor Kadwell’s motivation was to complete the agenda and he needed a quorum to do so.

I do not believe that Councillor Kadwell has breached the Code of Conduct section of the Code of Conduct for members (under the heading “Conduct”) as he was not bullying, intimidating or abusive, nor did he use indecent, abusive or insulting words (as would be required to sustain an allegation of a breach of the section of the Code of Conduct. I agree that he should have been more respectful in his approach to Councillor Vardy given that she was speaking with a constituent. I place little weight on the email referred to.

Therefore I conclude that there was no breach of the Code of Conduct in relation to this incident.

**Code of Conduct Complaint (Councillor Vardy against Councillor Sharpe)
Complaint Reference Number: IC-189-0320**

While attending the Association of Municipalities of Ontario Conference in Ottawa in August 2019, Councillor Vardy says that she was invited to Councillor Sharpe’s hotel room for a private discussion. Councillor Vardy stopped by Councillor Sharpe’s room while on her way to another commitment. In the course of a private conversation in the hotel room, Councillor Vardy states that Councillor Sharpe told Councillor Vardy that she was a bully. Councillor Vardy says that she replied by saying that Councillor Sharpe was not used to dealing with a strong woman with an opinion. Councillor Vardy confirmed that this conversation was not a heated exchange. Councillor Sharpe chose not to respond to Councillor Vardy’s complaint, so I must accept the facts, as alleged by Councillor Vardy.

I find Councillor Sharpe’s comment to Councillor Vardy troubling in that such comment was likely premeditated and bordered on bullying or intimidation, contrary to the Code of Conduct for members which states “every member of Council has a duty to treat one another without abuse, bullying or intimidation. A member should not use indecent, abusive or insulting words or expressions toward any other member.” However, Councillor Vardy confirmed to me that, at the time the comment was made, she took no offence.

It was 6 months later that Councillor Vardy reclassified this comment as being offensive, following a heated, closed session Council meeting at which Councillor Vardy was called a bully by Councillor Vaine. This complaint was initiated shortly following that incident.

I cannot ignore the fact that Councillor Vardy was not offended by the comment when made and only became offended after an unrelated occurrence involving a different Councillor.

Therefore, I conclude that there was no breach of the Code of Conduct in relation to this incident.

Conclusion

Councillor Vardy has brought allegations of breaching the Members Code of Conduct against Councillors Vaine, Kadwell and Sharpe. She has brought this forward as a single complaint. She alleges that when the incidents are seen together, they demonstrate a pattern of colluding/mobbing and sexist behavior.

While I have been critical of the behavior of Councillors Vaine, Kadwell and Sharpe as noted, I am not prepared to conclude that their behavior has been colluding/mobbing or sexist. I see each allegation as a distinct and separate event with no element of planned collusion by the councillors in combination with one another. Nor do I see the behaviour as sexist, given what I have determined has occurred.

This Council appears to be split on a five to four basis on all contentious issues it has faced; therefore, I can see how a Councillor in the minority may conclude that collusion is occurring, even if that conclusion relates only to a single episode of behaviour. I am not prepared to come to this conclusion upon my review of the incidents referred to in the complaint.

Dated this 20th day of July, 2020



Charles A. Harnick
Integrity Commissioner, Town of Grimsby