



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 Reginald Freake
rfreake@gmail.com

and to: Councillor Kevin Ritchie
kritchie@grimsby.ca

Dear Sirs,

Re: Code of Conduct Complaint (Councillor Freake against Councillor Ritchie)
Complaint Reference Number: IC-193-0320

Councillor Freake brings this complaint against Councillor Ritchie primarily as a result of the introduction of a motion on January 21, 2020 in a closed session of Council. The motion purported to be part of a review of appointments of various individuals to Board of Director positions as made routinely by Grimsby Town Council. In reality it was a motion to remove Councillor Freake from his position on the Grimsby Energy Board. I see no evidence that any other Board positions were changed.

The preamble to Councillor Ritchie's motion seems to be the focal point for this complaint. The preamble reads as follows:

"One of the most important characteristics when looking to appoint individuals to any board as a director is trust. Trust to do the right thing and trust that the information is being provided to the right individuals. In my opinion over several occasions this trust has been broken. Weather [sic] it is comments about getting 10cents on the dollar or opening up pandoras box in relation to compensation, Council made a decision for compensation for the sale of biodigestor, yet Councillor Freake's actions have been disturbing and untrustworthy in this regard. His decision making has created a trust issue and it is for these reasons that I am requesting this council to replace Councillor Freake with Councillor Sharpe."

Councillor Freake points specifically to the fact that he was described as being untrustworthy and that the actions he took while a member of the Energy Board were disturbing and untrustworthy.

I reviewed these facts with Councillor Freake and he agreed that the comments by Ritchie were based generally on positions Councillor Freake had taken while a member of the Board and more specifically regarding issues with respect to the biodigestor.

Councillor Ritchie stated that he did not agree with the positions that Councillor Freake had been taking with regards to Grimsby Energy and that his remarks about trust were specifically confined to that issue and should not be defined more broadly, ie. that Councillor Ritchie had lost trust in Councillor Freake in regards to his dealing with the Grimsby Energy Board.

Councillor Freake states further in his complaint that he was discredited with allegations of Councillor Freake withholding information, lack of transparency and personal gain through his actions. Councillor Freake advised me that this was his interpretation of the motion and debate that followed and does not reflect necessarily, what was said by Councillor Ritchie.

It is regrettable that the Chairperson of the meeting allowed the motion to proceed, given the perceived inflammatory preamble that accompanied the motion. Because the motion was allowed to proceed, and given that Councillor Ritchie stated that his remarks were confined to issues relating only to Councillor Freake's positions regarding Grimsby Energy, is this enough to dismiss the allegations of misconduct? I do not believe so.

The Code of Conduct states that "A member shall not use indecent, abusive, or insulting words or expressions toward any other member...". To allege that a member's actions are "disturbing and untrustworthy" is an insult. The preamble to the motion was not an angry outburst during the course of heated debate, followed by an immediate apology and withdrawal of remarks; this was a premeditated action, drafted by Councillor Ritchie in advance of the meeting, designed to malign and insult Councillor Freake.

This motion could easily have been presented without the inflammatory language of the preamble, in order to accomplish what those who supported the motion wanted to achieve. I conclude that Councillor Ritchie has breached the Code of Conduct for the Council of the Town of Grimsby.

I have shared a draft of my reasons in advance with both Councillor Freake and Councillor Ritchie. Councillor Ritchie has thanked me for sharing the draft and has noted that "all of these comments were made in Closed Session. I do not know if this is even a consideration."

The fact that this occurred in closed session is not a justification for the comments that were made. The Code of Conduct applies equally to closed session meetings as it does for open council sessions. Closed session does not suspend the operation of the Code of Conduct.

Penalty

I would recommend that Councillor Ritchie receive the most minimal penalty, which is to be reprimanded by Council. I believe such penalty will have a rehabilitative effect on Councillor Ritchie and will send a message of deterrence of such conduct to the other members on Council.

Dated this 20th day of July 2020



Charles A. Harnick
Integrity Commissioner, Town of Grimsby