



memorandum

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COMMUNICATION
CW - JUNE 20/17
ITEM - 36

TO: HONOURABLE MAYOR AND MEMBERS OF COUNCIL

FROM: SUZANNE CRAIG, INTEGRITY COMMISSIONER

DATE: THURSDAY, JUNE 15, 2017

SUBJECT: COMMUNICATION: CODE OF CONDUCT COMPLAINT #010116(f) INVESTIGATION INTERIM REPORT IN RESPECT OF FORMER REGIONAL COUNCILLOR / DEPUTY MAYOR MICHAEL DI BIASE

Recommendation

The Integrity Commissioner recommends that:

1. That consideration of the Code of Conduct Complaint #110116(f) Investigation Interim Report in Respect of Former Regional Councillor / Deputy Mayor Michael Di Biase, be deferred to permit additional time for tabling of the Integrity Commissioner's Final report.

Contribution to Sustainability

Not applicable.

Economic Impact

Not applicable.

Communications Plan

Purpose

The purpose of this report is to update Mayor and Members of Council on the Code of Conduct Complaint Investigation Report #110116(f) and to recommend that consideration of the complaint be deferred to allow additional time for tabling of the Final Report.

Background

The Office of the Integrity Commissioner received a Code of Conduct Complaint on November 1, 2016. The Complainant wrote that he had reasonable grounds to believe that the Respondent had contravened Rule No. 7 of the Code (Improper Use of Influence). The Complaint Form/Affidavit was accompanied by 3 pages of detailed particulars of his allegations.

The complaint was provided to the Respondent with a request for his written response. The Respondent provided a written response to the complaint.

After my review of the supporting documentation to the complaint and my initial discussions with the Complainant, I determined that Rule 1(c) of the Code (which requires a Member to avoid the improper use of the influence of their office) was also engaged by the allegations, in addition to Rule 7 (Improper Use of Influence).

On May 19, 2017, the Respondent resigned as a Member of Council.

On June 6, 2017, I provided the Complainant and the Respondent with a copy of my Interim Report containing my preliminary findings of the investigation. I further advised that I would be submitting my Final Report to the City Clerk's Office on June 8th for consideration at the June 20, 2017 Committee of the Whole meeting.

On June 7, 2017, I received email correspondence from the Complainant that included comments with respect to my Interim Report.

On June 7, 2017, I received email correspondence from the Respondent in which he requested that I not proceed with the submission of my Final Complaint Investigation Report, until I had provided him with what he believed to be an equitable opportunity for reply.

On June 7, 2017, I forwarded correspondence to the Respondent advising that I am mindful of providing all Respondents to a complaint with a reasonable opportunity for any comments regarding an Interim Report. I further stated that in a recent decision of the, Ontario Superior Court of Justice, Divisional Court, Justice Marrocco stated at paragraph 118:

The [City of Vaughan] Complaint Protocol, which is a City bylaw and therefore also part of the statutory scheme, does not contemplate participation by the [Respondent to the Code Complaint] after responding to the complaint. It does not require that the subject of the investigation receive preliminary findings or get the opportunity to respond to those findings.

On June 8, 2017, I submitted my Interim Report to the City Clerk's Office, to be placed on the Committee of the Whole agenda of June 20, 2017, as required by the City of Vaughan Council and Committee process. I had intended to receive comments from the Respondent and Complainant with respect to the Interim Report and these into consideration to finalize my Final Report. The Final Report was to be tabled at the June 20, 2017 Committee of the Whole meeting.

On June 15, 2017, I received an email from the Respondent in which he stated:

"I have read your Interim Report (Committee of the Whole Item, June 20, 2017) on line that included your preliminary findings. I am at a lost to understand why you would release your preliminary findings to the Public. In your e-mail dated June 7, 2017 you stated the following:

I will allow you until June 14, 2017 to provide me with any comments that you may have regarding my Interim Report.

"I am reviewing my options in light of the information noted above. However, before I move forward with any decisions I would like to know if your preliminary findings will change to reflect the facts as noted in the information I provided to your office on June 13th, 2017."

In the interest of fairness, I have decided to provide the Respondent with a copy of the Final Report prior to submitting the same to the City Clerk's Office. Deferral of this item will provide additional time for the Respondent to review the Final Report prior to consideration by Council. The City Manager has provided a separate communication recommending that this matter be referred to a Special Committee of the Whole meeting to be scheduled at 9:30 a.m. on June 27, 2017, prior to Council.

Relationship to Vaughan Vision 2020/ Strategic Plan

This communication promotes the commitment of the City of Vaughan Mayor and Members of Council to openness and transparency in government decision-making. In addition, this communication promotes Service Excellence through the public reporting of activities of the independent ethics officer in relation to accountability and transparency in municipal government.



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Regional Implications

Not applicable

A handwritten signature in black ink, appearing to read 'Suzanne Craig', written over a horizontal line.

Suzanne Craig
Integrity Commissioner