



ADR
CHAMBERS

Integrity Commissioner Office
for the Township of Wainfleet

July 25, 2018

SENT BY EMAIL TO:

Mayor April Jeffs
11425 Morgan's Point Road
R.R. #2
Port Colborne, ON L3K 5V4
ajeffs@wainfleet.ca

Alderman Terry Gilmore
53021 Perry Road
R.R. #1
Wainfleet, ON L0S 1V0
tgilmore@wainfleet.ca

Alderman Richard Dykstra
41634 Forks Road
Wainfleet, ON L0S 1V0
rdykstra@wainfleet.ca

Alderman Ted Hessels
73272 Robertson Road
R.R. #3
Wellandport, ON L0R 2J0
thessels@wainfleet.ca

**Re: Complaint Reference Number IC-25-0518
Alderman Betty Konc**

Dear Mayor Jeffs, Alderman Gilmore, Alderman Dykstra, and Alderman Hessels:

I am the Integrity Commissioner for the Township of Wainfleet.

On May 7, 2018, a complaint was received by the Office of the Integrity Commissioner for the Township of Wainfleet with respect to alleged breaches by Alderman Konc of the Code of Conduct for Council Policy (the "Code").

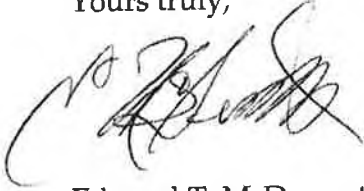
I determined the complaint to be within my mandate and, pursuant to section 223.3(3) of the *Municipal Act, 2001*, I delegated to Mr. Michael Maynard my powers and duties as Integrity Commissioner to inquire into, investigate and, if warranted, prepare a report thereon subject to my review and approval.

The process followed by Mr. Maynard is set out in his report, a copy of which is attached herewith, along with a letter of reprimand issued to Alderman Konc. You are being provided with my transmittal letter to the Township Clerk, along with the report and letter of reprimand in accordance with sections 17(g)(iii) and 17(g)(iv)(5) of the Code.

I note that, pursuant to section 17(g)(vi) of the Code, this report has been filed with the Clerk of the Township and the Clerk is to place the report on the next available Council agenda as an information item.

This matter is now concluded.

Yours truly,

A handwritten signature in black ink, appearing to read 'E. McDermott', written in a cursive style.

Edward T. McDermott
Integrity Commissioner
Office of the Integrity Commissioner for the Township of Wainfleet

Encl.



ADR
CHAMBERS

Integrity Commissioner Office
for the Township of Wainfleet

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

July 25, 2018

SENT BY COURIER AND EMAIL TO:

William Kolasa
Chief Administrative Officer
Township of Wainfleet
31940 Highway 3, P.O. Box 40
Wainfleet, ON L0S 1V0
WKolasa@wainfleet.ca

**Re: Complaint Reference Number IC-25-0518
Alderman Betty Konc**

Dear Mr. Kolasa:

Delegation of Investigative Powers

Pursuant to a written delegation of powers dated May 14, 2018, Edward T. McDermott, in his capacity as Integrity Commissioner for the Township of Wainfleet, 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 was forwarded to Mr. McDermott by the Township on May 7, 2018, following his appointment as Integrity Commissioner for the Township.

The Complaint

The complaint I have investigated (the "complaint") is made against Alderman Betty Konc ("Alderman Konc") by municipal employee Ms. Sarah Ivins (the

"Complainant") (collectively, "the parties"). The Complainant is employed as the Planner for the Township of Wainfleet (the "Township"). By way of an affidavit sworn February 9, 2018, the Complainant alleges that Alderman Konc has breached the following sections of the Township's Code of Conduct for Council Policy ("the Code"):

- **Section 5 (a):** Under the direction of the Chief Administrative Officer, Staff serves the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Members shall be respectful of the role of Staff to provide advice based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.

Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of Staff, and all Members shall show respect for the professional capacities of Staff.

- **Section 5 (c):** Nor shall any Member use, or attempt to use, their authority or influence for the purposes of intimidating, threatening, coercing, commanding, or influencing Staff with the intent of interfering with that person's duties, including the duty to disclose improper activity. In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Members when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as a standing committee member, participating as chair of a standing committee, and participating as Council's representative on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of Staff in both the carrying out of their responsibilities and in dealing with the Council.
- **Section 5 (e):** Members shall be respectful of the role of Staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of Council.
- **Section 5 (g):** No Member shall attempt to influence Staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application.

- **Section 12 (a):** Members shall treat members of the public, one another, and Staff appropriately and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

Facts and Evidence

My investigation included a review of correspondence and documentation provided by the Complainant as part of her affidavit, as well as additional documentation provided in person by the Complainant and her legal counsel. I also reviewed a written response to the complaint by Alderman Konc. On June 12, 2018, I conducted in-person interviews with the parties.

Documentation and Interview with the Complainant

A condominium development, referred to as the "Lakewood Beach Development" ("Lakewood Development") has been proceeding through various stages of application and approval through the Township and the Ontario government, including the Ministry of Natural Resources and Forestry ("MNRF") and the Ontario Municipal Board ("OMB"). The project has been the subject of some controversy in Wainfleet, with media reports of public opposition and a divided Council. Alderman Konc is a vocal opponent of the Lakewood Development.

Over several months in the autumn and winter of 2017, the Township had received dozens of telephone calls and emails from residents regarding certain work that was taking place on the Lakewood property. At the time, the matter was under appeal to the OMB, and as such, no development work was to take place. The Township investigated and was provided with a copy of an Overall Benefit Permit (the "permit") by the developer, which had been issued to them by the MNRF. The permit allowed for certain work to be done on the property, which was being carried out. The developer informed the Township that the permit was not to be shared publicly but was provided for the Township staff's reference in responding to residents' concerns. That the document was not to be shared publicly was confirmed by the MNRF by way of a voice-mail from an MNRF employee ("MNRF voice-mail"), which stated, in part:

"Um you had asked about the permit being public knowledge. Its public knowledge that they have one for sure. Um I just can't get you a copy of it. This is a legal document so we can't provide a copy of it as it is signed between the Crown and between the proponent. Um there is some summary of information on the environmental um

board that people can look at um this was posted quite a while back before it was all approved..."

On December 7, 2017, Alderman Konc sent an email to the Complainant, copying all members of Council and the then Acting CAO, requesting a copy of the permit. Alderman Konc also expressed a level of discontent with having received a volume of reports all at one time stating:

"As they came in they should have come to council so we would be apprised of what was going on. It is disconcerting to tell residents that reports have been kept from us so therefore we had no knowledge of what was going on in our own township."

On December 8, the Complainant responded by email to Alderman Konc, copying the rest of Council, explaining her understanding that the MNRF permit was only provided to staff as a courtesy, that only necessary staff have access to it, and that staff have no authority to copy or distribute it. She also provided the contact information for the MNRF Vineland Field Office for Members of Council to inquire about obtaining a copy from the MNRF directly. According to the Complainant, she understood from both the developer and the MNRF that she had no authority to provide a copy of the permit to anyone. The Complainant therefore felt it was only appropriate to provide the contact information for the MNRF. An excerpt from that email is copied below:

The developer provided a copy of the MNR permit as a courtesy to Township staff so that we could better understand the work that was being done on the property. The understanding is that only the necessary staff are to have access to the permit. The Township has no jurisdiction over the work being done under that permit and we do not have the authority to copy or distribute the permit. You can contact the Ministry to inquire whether you can obtain a copy of the permit from them – the Vineland Field Office can be reached at [REDACTED]. The only jurisdiction the Township has is over the demolition permit issued by the Township. The developer has granted Mark access to the property to monitor the activities even though we have no authority to stop any work being done under the MNR permit.

In that email, the Complainant also catalogued the various occasions and ways she had advised Council on how to access reports on the project which the Township had on file and what reports would be forthcoming should the OMB uphold Council's decision and the project were to go forward.

On December 21, 2017, Alderman Konc sent an email to Council, copying the Complainant, the then Acting CAO, and two other Township staff: the Communications, Health & Safety and HR Specialist, and the Deputy Clerk. A copy of the email appears below:

From: Betty Konc [REDACTED]
Sent: Thursday, December 21, 2017 11:59 AM
To: April Jeffs; tedhessels[REDACTED]; Richard Dykstra; Terry Gilmore
Cc: A [REDACTED] C [REDACTED] Sarah Ivins; L [REDACTED] G [REDACTED]; M [REDACTED] [REDACTED]
Subject: Fwd: Lakewood benefit permit

Good morning,

Not all that long ago I enquired about the permit issued to Lakewood by the MNR, to see if I could get a copy, I was told by Sarah in an email that nope she could not give me a copy as there was an agreement with the developer to not share it with anyone other than staff who may have to deal with the site. As you can see by the email Mr. D [REDACTED] sent, it is a public document.

Really?? An agreement not to share a public document, made by our staff with the developer, what the hell is going on here?? does our planner have the authority to do that? Kinda seems like all those opinions swirling around out there that the twsp is bending over backwards to help this developer is true.

I really am not impressed with these actions by staff. I also know that the rest of council doesn't give a hoot about this, but the optics from my perspective are pretty bad, let alone those out in the community, but hey this is a done deal right?

Disgusted.
Betty Konc

Sent from my iPhone

The above email was sent following an email exchange between Alderman Konc and a Resource Management Supervisor at the MNRF, which was forwarded as part of the above email. I have included the forwarded emails, rearranged in chronological order, as follows:

From: Betty Konc [mailto:[REDACTED]]
Sent: December 21, 2017 8:01 AM
To: D [REDACTED] J [REDACTED] (MNRF)
Subject: Lakewood benefit permit

Good morning,

As an Alderman in Wainfleet I have asked to have a copy of the overall benefit permit issued to Lakewood Development. Our planner informed me that that was not possible as there had been an agreement with the developer that the permit would not be shared with anyone other than staff dealing with that property.

My question is why is this permit not available to the public? There are a fair number of conditions listed on the approval on the website, are there more conditions? Are those conditions expanded upon in the actual permit? Why is this document such a huge secret? I have been asked about this numerous times, I would like an answer to the questions.

Respectfully,
Betty Konc
Alderman, Wainfleet

Sent from my iPhone

From: "D [REDACTED] J [REDACTED] (MNRF)" <[REDACTED]@ontario.ca>
Date: December 21, 2017 at 9:59:00 AM EST
To: Betty Konc <[REDACTED]>
Subject: RE: Lakewood benefit permit

Ms. Konc - not sure about any agreement but that doesn't sound right since the permit is already available in the Updated Environmental Impact Study, easily found on the internet - I have provided the link:

<http://www.wainfleet.ca/images/sections/planning/documents/Lakewood/2016-05-03-SEIS%20Lakewood%20Beach%20Properties%20Ltd.pdf>

The copy of the permit in this document is the permit - there is no other permit, nor expanded conditions, nor any other documentation to accompany the permit.

Normally - Overall Benefit Permits are requested through a FIPPA request, to ensure no personal information is given out - however - since this permit is included in the above noted report, and there is no personal information in the permit, it may be shared. As for it being a huge secret - not sure where that comes from - as it is readily available in this report.

MNRF has been onsite and are satisfied that the conditions are being met. MNRF has no role in the demolition of the site outside the Overall Benefit Permit area, as there are no significant natural heritage features on site, other than Species at Risk that are covered off by our permit.

Hope that helps.

With the Complainant away on vacation at the time, the Acting CAO replied to Alderman Konc's email, copying the same parties, later that day. He explained his impression that a misunderstanding of the situation seemed to have taken place. The Acting CAO offered the same explanation as the Complainant above; namely, that the Township lacked the authority to copy or distribute the permit, that the Complainant recommended that the MNRF could be contacted should anyone wish to request a copy of it, and that the Complainant acted in accordance with the information received from the Ministry, per the MNRF voice-mail, which was attached for reference. He concluded:

"I think what was done by staff was prudent given what information we had. When it comes to personal privacy and protection it is imperative that the Township error on the side of caution rather than get accused of providing information that we shouldn't have."

On December 22, 2017, Alderman Konc replied to all parties on the email thread rejecting the notion of any misunderstanding on her part. She also stated her belief that staff knew the permit was a publicly available document, and posited

that the Complainant "made a deal with the developer to not give a copy of that permit to anyone..."

The email appears below:

From: Betty Konc
Sent: Friday, December 22, 2017 9:19 AM
To: A [REDACTED] C [REDACTED]
Cc: April Jeffs; Richard Dykstra; Terry Gilmore; Ted Hessels; Sarah Ivins; L [REDACTED] G [REDACTED]
Subject: Re: Lakewood benefit permit

Good morning,

There has been no misunderstanding on my part. I do agree that yes we had no authority over work done on the Lakewood site under permit 012-1446 issued by the MNR.

Interpretation is everything that is written, my interpretation of Sarah's email where it states "that understanding is that only the necessary staff are to have access" is that she made a deal with the developer to not give a copy of that permit to anyone ... this is a public document which can be obtained by going on the EBR website!!

I am pretty sure the planning staff knew this was a public document since it has been on the EBR website since Jan 27, 2016. It has no personal information in it as this permit was issued under a Corporate name not to an identifiable individual.

No "understanding" should have been given to the developer who also knew this is a public document. It wasn't necessary, but hey let's keep the residents in the dark so they can do whatever they want on that site.

My interpretation of Sarah's email is that she obfuscated the truth and made a deal with a developer which in turn put the credibility of the twsp at even more peril than it is now. I was emailed a copy of the permit promptly by Mr. D [REDACTED] which is what Sarah could have done but she chose not to, and I didn't have to go through an FOI request.

Betty Konc

The Complainant stated that she returned from vacation on January 2, 2018, to discover the above email correspondence. In her affidavit, she described "feeling ill and professionally at risk." She stated that other members of Council and staff expressed personal concern for her well-being. The Complainant felt that if Alderman Konc had concerns regarding her conduct, she could have approached the Complainant directly rather than copying all of Council, the Acting CAO and other members of staff. She stated that Alderman Konc's emails included "...unfounded allegations [that] target my professional ethics and reputation and have the potential to significantly compromise my career."

Escalation of Harassing Communications

In her Affidavit, the Complainant also made reference to "...a history of harassing communications with Alderman Betty Konc, particularly as they pertain to the Lakewood Beach Development." Hard copies of several emails were provided to me. They were discussed in person with the Complainant and her counsel. The Complainant stated that these communications, in addition to the MNR permit

emails discussed above, have contributed to a toxic work environment for the Complainant and, she contends, for other staff members as well.

Summaries of those additional communications are as follows:

1. On August 3, 2017, Alderman Konc sent an email to the Complainant, Members of Council, and a number of staff members stating: "I am probably the only one outraged that one of our residents was given a date of Aug 8th for filing an appeal and then we have another staff member sending us all a notice today that the date is Aug 23rd."

The Complainant responded with information that cleared up Alderman Konc's misunderstanding, as in fact, the two dates were deadlines for different processes - one for appealing the Plan of Condominium Application, and the other for appealing the Zoning Bylaw Amendment.

2. On August 23, 2017, the Complainant sent an email to Alderman Konc in response to comments made by her at the previous evening's Council Meeting. The Complainant alleges that the comments were publicly critical, implying that the Complainant was not capable of doing her job properly.

I reviewed the video of the meeting on the Township's YouTube page. In it, Alderman Konc states: "I sent in an email and I wasn't happy with the answer that I got, so I am going to ask it again." She then questions the expenditure for appointing a third-party planning consultant to assist the Township with the Lakewood Development, stating "We have a planner that we pay full paycheques to...". The question regarding the expenditure was answered by another member of staff.

3. On December 18, 2017, Alderman Konc sent an email to the Complainant and "ES", a Planning Technician for the Township who assists the Complainant, copying the other Members of Council. In the email, Alderman Konc asks: "How is it that we are having a public meeting with regards this property on Jan 9th, and a few days later it is going to the COA? Isn't there a 30 day period of objections? Seems to me like there is a rush to push this through."

The Complainant expressed to me her concern with this email, as to her understanding, it alleges the Complainant was circumventing the procedural requirements to push through a particular application. The

Complainant explained that all laws were followed, the dates are set by statute, and that any suggestion to the contrary is false.

4. On February 26, 2018, Alderman Konc sent an email to "LS", a Member of the Wainfleet Committee of Adjustment ("CoA"), copying ES. In the email, Alderman Konc uses some mild profanity. She expresses that "It kinda pisses me off..." that certain types of CoA applications are being made, and, with respect to the minor variance requests, "...the damn bylaw is there for a reason, follow it for goodness sake." She expresses her belief that the rejection of a particular application "...is a no brainer the answer should be no."

The Complainant expressed her concern to me regarding this email, claiming the suggestion being made, as understood by the Complainant, is that she should do a better job of enforcing the existing bylaws rather than referring certain applications on for consideration by the CoA. In other words, the Complainant believes Alderman Konc was openly questioning her professional competence and performance.

Summary of the Complaint

With respect to the various email exchanges about the permit, the Complainant takes the position that Alderman Konc contravened the Code by attempting to "...injure and undermine [her] professional reputation," and "...influence [her] performance through intimidation and attempting to circumvent what [she] understood to be the normal process." She claims Alderman Konc has been disrespectful and abusive toward her, making unfounded accusations of dishonesty, impropriety and incompetence in communications which included a spectrum of staff and Members of Council.

Written Response and Interview with Alderman Betty Konc

Alderman Konc provided a written response to the complaint. Additionally, I conducted an interview with her at the Wainfleet Townhall on June 12, 2018. As much of the information provided in writing was also the subject of our interview, I have synthesized it as follows:

Alderman Konc described the history and background of the Lakewood Development, and told of her longstanding opposition to it. She said she feels personally connected to the issue, having previously been resident on the lakeshore. Because of this connection, she has become a conduit for the concerns

of residents regarding this development. She regularly receives many questions and comments from her constituents. She described receiving a flood of emails about the Lakewood Development, stating: "I know that one resident in particular made 40 plus emails to council and staff, however I received to my personal email just as many from other residents and as many phone calls which I felt was my duty to respond to their questions of me as their elected official." Among those questions and comments, constituents wondered about certain work being carried out on the Lakewood site, despite the development being subject to appeal at the OMB. For that reason, Alderman Konc made the above described inquiries about the permit.

Alderman Konc explained that her comment in the December 7, 2017 email about staff keeping information from Council was "...in reaction to learning that there were 14 studies from the proponent that had been sent to the township and at that point in time (I believe that was in Feb of 2017) council had not seen any of them." She stated she was disconcerted that another document (i.e. the permit) was on file and not being shared with Council, particularly on request. Her later communications with the Resource Management Supervisor at the MNRF compounded her belief that documents related to the Lakewood Development were purposefully being kept secret from Council by staff in general, and by the Complainant in particular. Alderman Konc wrote: "I felt she [the Complainant] purposely left out the information that the permit was available online and that there was no reason for any sort of agreement with the developer to keep the permit under lockdown so to speak."

Alderman Konc expressed her belief that she did nothing wrong in her emailed communications regarding the permit. She believes she was doing her best to serve her constituents by obtaining the requested information. She maintains that the Complainant ought to have been more forthcoming with the fact that the MNRF permit was a publicly available document. Alderman Konc described being "shocked that [the Complainant] didn't tell me it was available."

Alderman Konc stated that she copied the Members of Council and staff on the emails because she believes in "open communications" and told me that wherever possible "everyone needs to know everything about everything". She claimed that nothing in the communications was intended to be malicious. Rather, Alderman Konc believes "I was just doing my job" by representing residents who feel that Township staff are bending over backwards for the Lakewood developer.

Alderman Konc stated that she did not intend "...to create the impression that [the Complainant] would lose her job," noting that "No member of council has that ability alone to fire or let staff go." She further rejected the notion that she had been disrespectful and threatening to the Complainant, stating: "I feel that the accusation of trying to influence [the Complainant] through intimidation is inflammatory as I have never threatened her or used foul language. I have asked straight up questions and expect straight up answers."

Alderman Konc also expressed that she personally likes the Complainant, noting "...as a matter of fact [I] have made her a counted cross stitch Wedding announcement which took me untold hours of painstaking work to complete. One does not do something of that magnitude of time if you are intent on hurting them."

The additional hard copy emails were presented to Alderman Konc and discussed during the interview. Alderman Konc rejected the notion that she had been disrespectful toward the Complainant in any of those instances. She disagreed with the Complainant's view of those communications.

1. Regarding the August 3, 2017 email, Alderman Konc claims not to have expressed any particular disrespect towards the Complainant; rather, she was generally, and it turns out mistakenly, disconcerted over an apparent discrepancy in information coming from staff.
2. Regarding her August 22, 2017 Council meeting comments, Alderman Konc stated she intended nothing malicious; rather, she was just seeking information as to why the consulting firm was involved and at what cost.
3. Regarding the December 18, 2017 email, Alderman Konc offered no comment in response.
4. Regarding the February 26, 2018 email, Alderman Konc rejected the Complainant's view that she was accusing the Complainant of pushing applications through to the CoA. She stated she was merely expressing her opinion about certain applications to a member of the CoA.

In addition to presenting and discussing these additional emails at our in-person interview, Alderman Konc was provided with the dates for each of the above emails so she could access them directly from her email account. She was advised that if she had any further comments, she could provide them in writing. No further comments were received.

Analysis

This complaint alleges that Alderman Konc acted in contravention of several sections of the Code in a number of emailed communications with and about the Complainant. These emails were made against the backdrop of a number of other communications from Alderman Konc which are viewed by the Complainant as negative and/or unprofessional.

Did Alderman Konc contravene the Section 5 (a) of the Code?

This section states that "no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of Staff, and all Members shall show respect for the professional capacities of Staff."

In her email of December 21, 2017, Alderman Konc questioned the authority of the Complainant to enter into an agreement with the developer to not share the permit, asking "what the hell is going on here? ". She also appeared to question the Complainant's professionalism, stating "Kinda seems like all those opinions swirling around out there that the [Township] is bending over backwards to help this developer is true".

In her email of December 22, 2017, Alderman Konc stated her belief that the Complainant made a deal with the developer to keep the permit a secret, despite it being publicly available. Moreover, she accused the Complainant of being dishonest, stating "...she obfuscated the truth and made a deal with a developer which in turn put the credibility of the [Township] at even more peril than it is now."

Although it had been explained to Alderman Konc that the Complainant was acting in accordance with information received directly from both the developer and the MNRF that the permit was not to be copied or distributed, Alderman Konc took - and continues to take - the position that the Complainant was attempting to deny or hide access to the permit due to a deal she had made with the developer to keep it under wraps. Conversely, the Complainant's position is that because the Township is not a party to the permit, she lacked the authority to copy or distribute it. This understanding was backed up by the MNRF voice-mail. That the permit was not intended to be distributed was also impressed upon the Township by the developer when it provided a copy of the permit for the Township's convenience. In addition to the Complainant's position, her manager, the Acting CAO, expressed his belief that the Complainant acted

prudently, given the information and direction from each of the principals to whom that permit applies.

It should be noted that Alderman Konc has some justification for her ongoing bafflement over why the developer and the Complainant, seemingly confirmed by MNRF, took the position that the permit was not to be made public when it was already publicly available in the appendix of the published Updated Environmental Impact Study. I was able to access both the permit and the summary referenced in the MNRF voice-mail online.

There is perhaps also a case to be made that the permit could have been shared with Council Members, even under the mistaken belief it was not already published, because Township staff and Council Members are all agents of the same corporate body. For example, instructions could have been given to Council Members, just as they had been to staff, not to copy or distribute it publicly. This is ultimately a matter of corporate policy within the Township, however, and as has been noted, even the Acting CAO took the position that an abundance of caution was in fact the best approach.

Based on the written evidence and the interviews I conducted, it is my view that the Complainant acted in keeping with the information and directions staff received from the developer and the MNRF, and did so in good faith, whether those instructions were flawed or not. I do not believe the Complainant was acting in bad faith to obfuscate the truth; rather, I accept the Complainant's explanation that she genuinely believed she did not have the authority to copy or distribute the permit. The Complainant claims that she provided the MNRF contact information to Alderman Konc and other Members of Council in order to be as helpful as she believed she could be in the circumstances. This is not the action of someone who wants to obfuscate the truth or otherwise provide an improper level of assistance (i.e., "bend over backwards") to the developer.

Aside from the tone and nature of Alderman Konc's accusations in the December 21 and December 22 emails, the fact that they were copied broadly to Members of Council and staff, in my view, could only serve to undermine the Complainant's professional and ethical reputation among her peers and superiors. Though Alderman Konc denies any intended malice, it is hard to see how sharing these accusations of dishonesty and professional impropriety with so many parties could be regarded as being anything other than intended to cause injury to the Complainant's reputation. Alderman Konc's philosophical defence for being so indiscrete with her criticisms and accusations - her belief in "open communications" and statement that "everyone needs to know everything about

everything"- does not in these circumstances diminish the impact of her actions and public communications on the Complainant. I therefore find that Alderman Konc did contravene Section 5 (a) of the Code.

Did Alderman Konc contravene the Section 5 (c) of the Code?

Section 5 (c) of the Code states in part: "Nor shall any Member use, or attempt to use, their authority or influence for the purposes of intimidating, threatening, coercing, commanding, or influencing Staff with the intent of interfering with that person's duties..."

The Complainant stated in her affidavit that she believes Alderman Konc "...was attempting to influence my performance through intimidation..." For practical reasons, I do not agree.

The email correspondence regarding the permit wherein Alderman Konc makes the subject accusations against the Complainant were all written and sent after she had already received access to a copy of the permit from the MNRF. Indeed, the fact that the MNRF Resource Management Supervisor had readily directed her to a published report containing the permit was the primary basis for Alderman Konc's accusations against the Complainant. At no time in her emails does Alderman Konc suggest or demand the performance of anything. The emails may well have been intimidating, but they did not appear to be intended to interfere with the Complainant's duties; rather, they appear intended to criticize the Complainant's performance of her duties and publicly communicate that criticism to Members of Council and several members of staff.

Did Alderman Konc contravene the Section 5 (e) of the Code?

This section of the Code states that "Members shall be respectful of the role of Staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of Council."

I do not find this section to be relevant to the Complaint. I do not find that Alderman Konc attempted to create or influence political bias or hamper the Complainant's political objectivity.

Did Alderman Konc contravene the Section 5 (g) of the Code?

Section 5 (g) states: "No Member shall attempt to influence Staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application."

For the same reasons I cannot agree with the allegations that Alderman Konc contravened Section 5 (c) of the Code, I also do not find she contravened Section 5 (g). Alderman Konc had already obtained through the MNRF access to a copy of the permit she initially sought from the Complainant. She was no longer seeking a copy. The emails from Alderman Konc were critical of the Complainant's past actions; they did not attempt to influence future actions.

Did Alderman Konc contravene Section 12 of the Code?

This Section states: "Members shall treat members of the public, one another, and Staff appropriately and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment."

As noted, I have found the MNRF permit emails to be inappropriate in tone and content, and intended to injure the Complainant's reputation by having been shared unnecessarily with Members of Council and certain other staff. In addition to the MNRF permit emails, the Complainant provided copies of other emails and directed my attention to comments made by Alderman Konc at a meeting of Council (supra "Escalation of Harassing Communications" at pages 7-8). The critical comments range from ill-informed incredulity to unjustified implications of impropriety. Though Alderman Konc denies any ill intent, I find these additional emails and Council meeting comments demonstrate a growing trend of public criticism and doubt regarding the Complainant and her work. They show a history of wilful disregard for the Complainant's reputation at best, and culminate in the open hostility of the MNRF permit emails.

I have already found Alderman Konc to be in contravention of Section 5 (a). I also find her to be in contravention of Section 12 because, it is my opinion that the MNRF permit emails unjustifiably accuse the Complainant of dishonesty and are inappropriate and abusive in nature, particularly because they were so widely copied among people with and for whom the Complainant works. That they follow a pattern of increasing hostility belies Alderman Konc's defence that no reputational injury was intended.

Conclusion

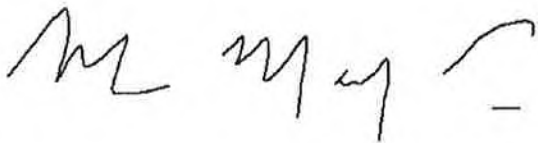
Based on the foregoing, I find Alderman Konc to be in contravention of Sections 5 (a) and 12 of the Code.

I therefore recommend Council issue a reprimand to Alderman Konc in accordance with Section 17(f)(i)(1) of the Code. I further recommend that Alderman Konc issue a letter of apology to the Complainant in accordance with Section 17(f)(ii)(5) of the Code.

I note that a copy of this report was sent to the Complainant, through her counsel, and to Alderman Konc for their review and comment. No substantive comments were received from either party.

Yours truly,

ADR CHAMBERS INC.

A handwritten signature in black ink, appearing to read "Michael L. Maynard". The signature is stylized and cursive, with a prominent "M" and "L" at the beginning, followed by "Maynard" and a flourish at the end.

Michael L. Maynard
Office of the Integrity Commissioner

N.B. The names of third parties and personal email addresses have been redacted where appropriate.



ADR
CHAMBERS

Integrity Commissioner Office
for the Township of Wainfleet

July 25, 2018

SENT BY EMAIL TO:

Alderman Betty Konc
831 Highway #3 East
Port Colborne, ON L3K 5V3
bkonc@wainfleet.ca

**Re: Complaint Reference Number IC-25-0518
Alderman Betty Konc**

Dear Alderman Konc:

This letter will serve to confirm that you are hereby reprimanded for the contraventions of the Code of Conduct referred to in the attached report prepared by Mr. Michael Maynard, the Investigator to whom I have delegated the responsibility to investigate, inquire into and report on this complaint. I have reviewed and am in agreement with that report.

Yours truly,

Edward T. McDermott
Integrity Commissioner
Office of the Integrity Commissioner for the Township of Wainfleet



ADR
CHAMBERS

Integrity Commissioner Office
for the Township of Wainfleet

July 25, 2018

SENT BY EMAIL AND COURIER TO:

William Kolasa
Chief Administrative Officer
Township of Wainfleet
31940 Highway 3, P.O. Box 40
Wainfleet, ON L0S 1V0
WKolasa@wainfleet.ca

**Re: Complaint Reference Number IC-25-0518
Alderman Betty Konc**

Dear Mr. Kolasa:

I am attaching herewith the report of Mr. Maynard, the Investigator to whom I have delegated the responsibility to investigate, inquire into and report on this complaint. I have reviewed the report and am in agreement therewith.

I am accordingly attaching herewith a letter of reprimand which, in accordance with the terms of the Township's Code of Conduct for Council Policy (the "Code"), is hereby issued to Alderman Konc.

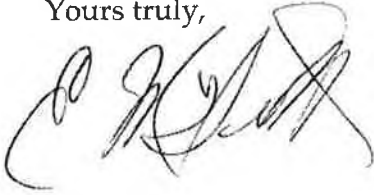
I further recommend that Council request Alderman Konc to prepare and deliver to the Complainant an apology (verbal or in writing) for the contraventions of the Code of Conduct referred to in this report.

I note that copies of this letter and its attachments have been sent via email to counsel for the Complainant, to Alderman Konc, and to each Member of Council pursuant to sections 17(g)(iii) and 17(g)(iv)(5) of the Code. A copy of the reporting letter sent to each Member of Council is also attached herewith for your records.

Pursuant to section 17(g)(vi) of the Code, you are to place the report on the next available Council agenda as an information item.

This matter is now concluded.

Yours truly,

A handwritten signature in black ink, appearing to read 'E. McDermott', written in a cursive style.

Edward T. McDermott
Integrity Commissioner
Office of the Integrity Commissioner for the Township of Wainfleet

Encl.