

HALDIMAND COUNTY INTEGRITY COMMISSIONER, DAVID G. BOGHOSIAN

Citation: Complaint re: Councillors Patterson, Lawrence, Shirton, O’Neill and Metcalfe and Mayor Bentley – DGB-Haldimand County ICI-2024-01

Date: September 17, 2024

REPORT ON COMPLAINT

Introduction

[1] On June 27, 2024, I received a Complaint from a Complainant (hereinafter, “the Complainant”) who wishes to remain anonymous concerning the conduct of Councillors Patterson, Lawrence, Shirton, O’Neill and Metcalfe (“the Male Councillors”) at the June 19, 2024 Council in Committee meeting and the June 24, 2024 Council meeting which was alleged to violate the Haldimand County Council Code of Conduct (“COC, “Code of Conduct” or “Code”). To preserve the Complainant’s anonymity, I will use gender-neutral pronouns when referring to the Complainant.

[2] In the course of my investigation of the original Complaint, I came across a statement by Mayor Bentley that could potentially amount to a Code of Conduct breach. For the reasons set out below, I decided to also investigate that statement.

[3] I have ultimately found that Cllr. Shirton (only) breached the Code of Conduct. The rest of the Complaints are therefore dismissed.

Complaint

Overview

[4] The Complaint stated that at the June 24, 2024 Council meeting, the male Councillors breached the Code by failing to:

- Provide good government in respect of all matters within its jurisdiction;
- Be seen serving the community in a contentious [sic],¹ ethical and diligent manner;
- Perform their duties with integrity;

¹ This section of the Complaint alleges a violation of the key principles outlined in Part 1 of the Code. The Complainant likely meant “conscientious, ethical and diligent manner” as per Part 1, s. (2.) of the Code.

- Truly, faithfully and impartially exercise the office of counsellor to the best of their knowledge and ability;
- Inspire public confidence in the abilities and integrity of Council;
- Respect the dignity of individual females,² specifically MPP Bobbi Ann Brady, Marie Trainer, Ward 4 Cllr and Shelley Ann Bentley, Mayor of Haldimand County.

[5] The sections of the Code alleged to have been breached were ss. 1 to 6 of Part I and ss. 1 to 3 and 4(d), (g), (h) and (k) of Part 7.

[6] According to the Complaint, there were “tons” of protestors at the June 24 Council meeting. Despite their presence, Council maintained its 5-2 vote in favour of a motion directing staff to advise MPP Brady via letter that the Haldimand County delegations with Provincial Government Ministries at the Association of Municipalities of Ontario (“AMO”) conference were considered private, and that Council is not inviting her to attend these delegations. The Complaint alleges that Council did not listen to the citizens of Haldimand when passing this motion.

[7] The Complaint stated that at a meeting of Council on June 20, 2024,³ Cllr Patterson asked to waive notification requirements and put forward a motion to direct County staff to send a letter to MPP Brady stating:

Haldimand County delegations with various provincial government ministries and the Association of Municipalities of Ontario are considered private and that Council does not wish the MPP for Haldimand Norfolk to attend these delegations.
[Emphasis added by the Complainant]

[8] The Complainant alleges that waiving notification requirements and putting forward the above motion (hereinafter, the “Letter Motion”) was undemocratic. Haldimand County “spoke” when it voted for MPP Brady and that Council’s actions appear “politically excluding, shunning and silencing...unacceptable...and inappropriate”.

[9] The Complainant stated that Cllr Lawrence said at the June 24th Council meeting that “you are working against a decision that we made as a body and that is not supporting Haldimand;”⁴ that Council is also not supporting Haldimand by excluding MPP Brady from its delegations; and that the constituents of Haldimand voted for MPP Brady and that they want her in attendance for delegations.

² The gender of those disrespected is relevant due to the allegations of gender-based discrimination on the part of the Male Councillors.

³ Council moved this at the June 19, 2024 Council in Committee meeting.

⁴ Presumably he said this to MPP Brady, but this is not made clear in the Complaint.

[10] At the June 20, 2024 Council meeting,⁵ Cllr Shirton noted that there was social media discussion which reflected negatively on Haldimand County. The Complaint then listed comments from community members characterizing what is presumably the Letter Motion as “disgusting”, “undemocratic” and other pejorative descriptors.⁶

[11] The Complaint alludes to Premier Ford harbouring a dislike for MPP Brady but writes that this alleged animus does not affect whether Haldimand County receives funding from the Province. Further, it states that despite the actions or attitudes of the Premier,⁷ MPP Brady deserves respect and should not be excluded from Council meetings.

[12] Cllr O’Neill allegedly stated on June 20, 2024⁸ that MPP Brady “is not going to have a job”.⁹

[13] The Complaint further asserts that MPP Brady was invited to the Haldimand Volunteer Recognition Night in Fisherville in October of 2023 (“Volunteer Recognition Night”) but she was not given the opportunity to speak. The Complaint concludes by stating that female government representatives have been excluded and shunned, and that Council has demonstrated gender bias.

Councillor Conduct

[14] The Complaint alleges that Cllr O’Neill spoke to MPP Brady in a degrading manner and challenged her “integrity publicly” at the June 24, 2024 Meeting of Council. It further alleges that:

- June 19, 2024 Committee in Council Meeting - Cllr Shirton turned to Cllr Trainer and advised her that “you need to stop drinking the Kool-aid”,¹⁰ and
- June 24, 2024 Committee Meeting - Cllr Shirton stated that Mayor Bentley was “out of her mind” for wanting to defer the Council meeting.

Additional Information Provided and Further Allegations

[15] On July 15, 2024, my office requested further details from the Complainant and asked whether they Complainant wished to remain anonymous.

[16] On July 16, 2024, the Complainant advised that they wished to remain anonymous and provided additional details and further clarified the Complaint. The complaint also phoned my office on July 16, 2024 and August 7, 2024 during the investigation of Complaint. For procedural

⁵ Again, this was at the June 19, 2024 Council meeting.

⁶ It is not clear if the comments listed in the Complaint are exact quotes from social media posts or if the Complainant has paraphrased certain comments.

⁷ No specific actions are particularized.

⁸ June 19 Council meeting.

¹⁰ The Complainant later clarified that this statement was made at the June 18, 2024 meeting.

fairness purposes, they were told that any submissions that were intended to form part of the Complaint needed to be submitted in writing, as per the Code.

[17] The Complainant advised that Cllr. Shirton made “Kool Aid” remarks at the *June 18, 2024* Council in Committee Meeting, not the June 19, 2024 Council in Committee meeting. They allege that Cllr. Shirton can be heard saying “pushed by someone drinking Kool-Aid from Norfolk” and “you need to drink the Kool-Aid Marie” to Cllr. Marie Trainer. This was in the course of discussion of the Nanticoke Development proposal which will be defined and explained in more detail below.

[18] The Complainant reiterated that there had been a suppression of female government representatives. It was alleged that the MP for Haldimand Norfolk, Ms. Leslyn Lewis (“MP Lewis”) and MPP Brady were prevented from speaking to attendees at the Volunteer Recognition Night. The Complainant also alleged that the Male Councillors in attendance advised a member of County staff that they did not want MP Lewis or MPP Brady to speak at Volunteer Recognition Night.

[19] The Complainant noted another example of the suppression of female representatives occurred at the Dunnville Business and Community Recognition Awards Ceremony held in February 2024 (the “Recognition Awards”). Councillors Shirton and O’Neill allegedly refused to invite any female government representatives to the Recognition Awards but instead invited former Haldimand County Mayor Ken Hewitt to speak and present awards. They stated that Mr. Hewitt was invited because he is “buddy buddy” with all the Male Councillors. The Complainant alleged that this was morally and ethically inappropriate and disrespectful to the current female elected government officials and was another example of the “boys club” not being inclusive.

[20] The Complainant also alleged that former Cllr. Natalie Stam resigned her position due to the Male Councillors mistreating her. Ms. Stam was purportedly elected by a huge majority, was confident and wanted to make a difference. However, due to disrespectful conduct on the part of Male Councillors, she resigned and Cllr. Trainer was elected to replace her.

[21] The Complainant also alleged that “backdoor meetings” took place between the Male Councillors before the Letter Motion was brought before Council. When asked for particulars, they were only able to speculate that Cllr. Patterson must have met with other Male Councillors in advance of the Letter Motion based on their expectant reaction to it.

[22] On August 17, 2024, the Complainant submitted a copy of the 2023 Haldimand County Volunteer Recognition Night program.

[23] On August 21, 2024, in response to a request for clarification from my office, the Complainant advised that the Integrity Commissioner was not required to investigate the circumstances of why former Cllr. Natalie Stam resigned and that the Complainant was not personal friends with the MPP for Haldimand-Norfolk, Bobbi Ann Brady (“MPP Brady”). The Complainant detailed all instances of contact with MPP Brady.

COC Issue Related to Mayor Bentley Raised by The Integrity Commissioner

[24] In the course of my investigation, I learned that at the [June 19, 2024](#) Council in Committee Meeting, following the vote on the “Letter Motion” which was passed despite her having voted

against it, Mayor Bentley commented “interesting...disgusting really.” This comment potentially constituted a breach of Part 8 Conduct, s. 2., which states: “A member who expresses disagreement with a decision of the board or Council shall make it clear that he or she is expressing a personal opinion.”

[25] The Integrity Commissioner has the power to reformulate a complaint received from a member of the public and investigate the complaint as reformulated.¹¹

[26] The purpose of the Code is to ensure that members adhere to a prescribed standard of ethical behaviour. It would make little sense to apply resources, find evidence that a member did not meet said standard, but do nothing because they were not mentioned in the Complaint. In my view, it is not open to an Integrity Commissioner who becomes aware of a potential breach of the Code in the course of an investigation into another matter to do nothing. For those reasons, I find that I have jurisdiction to make findings concerning a member who was not directly included in the original complaint, being, in this case, Mayor Bentley.

Investigation

What is the Nanticoke Development Proposal and Minister’s Zoning Order?

[27] In February 2022, Empire Communities Inc. (“Empire”) gave a presentation to Haldimand County Council regarding a proposed new community on 4200 acres of land located in the Nanticoke area (the “Nanticoke Development Proposal” or “Proposal”). The Proposal would include:

- 40,000 residents in 15,000 dwellings;
- 7,500 to 11,000 new jobs on employment land;
- 7,000 to 8,000 on jobs on commercial and institutional lands, including retail, education, health care, financial services, and social services; and
- Approximately 100 acres of waterfront property that would be improved and dedicated to the County as a recreational asset.

[28] According to a Staff Report CAO-01-2022 Request for Minister’s Zoning Order – Proposed New Community in Nanticoke, the addition of this community would almost double the current population of the County. It also notes that Provincial support will be required as the Proposal would conflict with existing Provincial policy. For that reason, a Minister’s Zoning Order was required to implement it.

[29] A Minister’s Zoning Order (“MZO”) is made by the Minister of Municipal Affairs and Housing as part of their authority stemming from section 47 of the *Planning Act*. An MZO overrides any other zoning by-law in effect for areas subject to the order. The Minister can also include provisions in an MZO that policy statements, provincial plans and official plans do not apply for the purposes of a license, permit, approval, permissions or any other matter required

¹¹ [Michael Di Biase v City of Vaughan](#), 2016 ONSC 5620 (CanLII) at para 38.

before the use outlined in the MZO may be established. In effect, the Minister has complete authority to regulate land use on lands subject to an MZO.¹²

[30] The Province advised the County that it needed to pass a Council Resolution requesting an MZO in order to obtain its approval of the Nanticoke Development Proposal. Staff Report CAO-01-2022 Request for Minister's Zoning Order – Proposed New Community in Nanticoke was commissioned based on Empire's request that the County pass a resolution requesting an MZO from the Province for the project. Council in Committee considered such a resolution on March 1, 2022. On March 7, 2022, Council passed a resolution to support the request for an MZO and a formal request for an MZO was submitted to the Minister of Municipal Affairs and Housing the following day. Council reconfirmed its support for the MZO by passing a new resolution in May of 2023.

[31] On April 10, 2024, the Minister of Municipal Affairs introduced a new MZO framework and issued a letter to the County Mayor advising that the previous Nanticoke MZO request was closed and that a new submission which met the new requirements needed to be filed with the Ministry.

[32] Following this letter from the Minister, County staff drafted Report CDS-06-2024 Minister's Zoning Order Framework – Implications and Options, which was presented for consideration by Council in Committee on June 18, 2024 (the "MZO Report"). It provided three options to Council:

1. Do nothing – this option meant that the prior MZO file would remain closed and that no further development on the Proposal would occur;
2. Pass a resolution of support and direct staff to complete all work for the submission expectations laid out in the framework; or
3. Pass a resolution of support and require Empire to make a submission under the new framework, completing all of the work relating to the submission expectations and note that it supports Empire doing all the work as the requestor.

[33] On June 18, 2024, Council voted in favour of Option 3.

Who is MPP Bobbi Ann Brady?

[34] According to Wikipedia, MPP Brady stood for election in 2022 as an independent. She previously worked for the Haldimand-Norfolk MPP, Toby Barrett, who announced his retirement prior to the 2022 election. MPP Brady intended to run for the PC nomination to replace Barrett, but before she could do so, the PC party's central office directly appointed then Haldimand County Mayor, Ken Hewitt, as the new candidate, without consulting the local PC electoral district association. MPP Brady defeated Hewitt in the 2022 election.

¹² *Planning Act*, RSO 1990, c P.13, s 47(1)(a), (3) and (4.0.1).

[35] As reported by local journalists, the central focus of MPP Brady’s campaign in 2022 was to oppose the County’s request for an MZO for the Nanticoke Development Proposal.¹³

Volunteer Recognition Night

[36] As per the County’s [website](#), Volunteer Recognition Night is a municipal event to celebrate volunteers that make the County “a vibrant and engaging place to live”. Volunteer nominations are submitted via a form on the County website or by contacting the County via email or by phone. Invitations are sent to nominees, community groups, organizations and agencies.

Recognition Awards

[37] The Recognition Awards is hosted by the Dunnville Chamber of Commerce. The Facebook event for the Recognition Awards is light on the description. The Dunnville Chamber of Commerce website includes a list of winners for “of the year” categories, including; business, charitable organization, employer, and citizen. As per the Dunnville Chamber of Commerce website, both Councillors O’Neill and Shirton sit on its board.

June 18, 2024 Council in Committee Meeting

[38] My office reviewed the portion of the June 18, 2024 Council in Committee meeting during which the second MZO Staff Report was considered to determine whether Cllr. Shirton made the impugned statements complained of:

- 4:05:00 to 4:05:43 – Cllr. Shirton began discussing the MZO Report and emphasized his support for option 3. In doing so, he stated that “if you’ve done your homework...realizing these 40,000 homes are all being pushed by someone drinking Kool-aid who lives in Norfolk.”
- 4:05:45 – Mayor Bentley interrupts to say “that is not fair”, to which Cllr. Shirton responds with “I’m talking”, to which Mayor Bentley says it is a “point of order”.
- 4:06:00 – Cllr Shirton continued to advocate for option 3.
- 4:06:50 – Cllr Trainer asks staff why there is not an option 4, being to ask the province not to support any MZOs on the Nanticoke property.
- 4:07:10 – Cllr Shirton turns his microphone off, but can be heard saying “keep drinking the Kool-aid Marie.”¹⁴

¹³ Mike Renzella, “Nanticoke MZO back at square one?” *The Haldimand Press* (May 23, 2024), online: < <https://haldimandpress.com/nanticoke-mzo-back-at-square-one/>>; J.P. Antonacci, “Haldimand council still split over giant Nanticoke development” *Simcoe Reformer* (June 23, 2024), online: < <https://www.simcoereformer.ca/news/local-news/haldimand-council-still-split-over-giant-nanticoke-development>>.

¹⁴ It is not clear from a review of the video whether Mayor Bentley, who was chairing the meeting, heard Cllr Shirton make this comment.

June 19, 2024 Council in Committee Meeting

[39] My office reviewed the portion of the [June 19, 2024](#) Council in Committee Meeting involving discussion of the “Letter Motion” which is summarized as follows:

- 3:35:00 – Cllr. Patterson makes a motion to waive to the notification requirements of the Procedure By-law to discuss MPP Brady’s attendance at the 2023 AMO conference. He states that MPP Brady’s attendance would have a negative influence on the County’s funding request because MPP Brady sits as an independent. This motion to waive the procedural requirements was carried 5 to 2.
- 3:40:00 – Cllr Patterson then introduced the Letter Motion.
- 3:41:00 to 3:52:00 – Council discusses the Letter Motion.
 - 3:41:20 – Cllr Shirton states that “lots of social media happening out there that probably doesn’t reflect good on Haldimand” and questions whether MPP Brady is working for Haldimand.
 - 3:43:45 – Cllr Trainer speaks in support of MPP Brady and that this motion is a “slam” towards her.
 - 3:44:10 – Mayor Bentley also speaks in favour of MPP Brady.
 - 3:45:45 – Cllr Lawrence states that MPP Brady “gets an A+” for effort but that the political system works against an independent and that municipalities must “play ball” with the Province. He also notes that MPP Brady had previously not been supportive of Council decisions, like its decision in favour of Nanticoke Development and the request for an MZO for it.
 - 3:49:18 – Cllr O’Neill questions why the Letter Motion is even a surprise because “the Premier said she is not going to have a job”, which he said demonstrates the level of contention between MPP Brady and the Premier. Mayor Bentley did interject twice: (1) stating that the voters determine whether MPP Brady has a job; and (2) to contradict the argument that MPP Brady delayed a bridge from being built in Caledonia.
 - 3:51:20 – Mayor Bentley called for the vote and after it was finished said “interesting...disgusting really.”
 - 3:51:45 – Cllr Patterson asks Mayor Bentley to elaborate on what part of the motion was “disgusting” because he thought it was a democratic process. Mayor Bentley agrees that it was a democratic process, reiterating that MPP Brady was elected and that “we are shunning her” and that she totally disagrees with the Cllr. Patterson’s position. She also agreed with

Cllr. Patterson’s comment that after leaving chambers, Council would be of one voice and one opinion.

June 24, 2024 Council Meeting

[40] My office reviewed the portion of the [June 24, 2024](#) Council Meeting dealing with Delegations and the adoption of the Letter Motion:

- 7:16 – Delegate #1 makes submissions to Council.
- 13:07 – Hecklers interrupt the Delegate #1’s submissions with calls directed at Cllr. O’Neill to “go home.”
- 17:45 – Cllr. O’Neill asks if there will be a recess if there is another outburst. What sounds like another outburst of heckling erupts from the crowd, to which Cllr O’Neill states “I’m out, see ya.”¹⁵
- 18:08 – Cllr Shirton then twice aggressively asks Mayor Bentley “why [she] is laughing.”
- 18:16 – Mayor Bentley suggests that she can “defer it” and asks Council for a vote to defer the meeting.
- 18:26 – Someone off-camera can be heard saying “she’s out of her mind.”
- 18:30 to 19:30 – Mayor Bentley confers with the CAO and Clerk on whether to defer the meeting and addresses the audience stating that she can put a deferral on the floor to defer the meeting.
- 20:11 to 30:00 - MPP Brady makes submissions responding to the Letter Motion. She notes that her election platform was based on two issues: (1) standing up for democracy and (2) opposing the Nanticoke Development Proposal and that she has continued to stand up for Haldimand Norfolk in the Provincial legislature. MPP Brady addressed the Male Councillors, all of whom voted in favour of the motion, asking what threat her presence at the AMO conference is to the County. She questioned the motives of Council in bringing the Letter Motion a day after Empire applied for the MZO and rhetorically asks who actually drafted the Letter Motion.
- 30:30 to 39:54 – Cllr O’Neill asks a series of questions of MPP Brady. Her responses are included beside each question:
 - Is this the first time she was a delegate in County chambers? No, second time. Her first appearance was to address the Proposal.

¹⁵ Despite stating this, Cllr. O’Neill remained for the remainder of the meeting.

- Was the result of the delegation productive/were you happy with the result? No, the Proposal is still proceeding.
- After the vote in the first delegation, did you make any public comments on the County decision? Likely yes. She stated that she writes articles weekly and she presumes that she wrote an article against the Proposal.
- Were her public comments in support or against the Haldimand Council decision? They were against those who made the decision.
- Since taking office, have you made a public statement in support of a Haldimand Council decision? I have supported many things, like the Tri-County water project, the gas well issues, and the construction of the Caledonia bridge.
- Cllr O’Neill goes on to state that MPP Brady has not made any positive public comments about Council decisions, which MPP Brady characterizes as incorrect.
- Have you formally met with each of the Haldimand councillors one-on-one? MPP Brady responded that would be in violation of County by-laws.¹⁶
- 36:41: Cllr. O’Neill states “no respect out there” in response to some jeers from those in attendance and states that “you guys can keep yelling all you want.”
- After the 2024 AMO delegation requests were voted for at the May 27, 2024 Council in Committee meeting, did you reach out to any councillors to discuss a strategy or ascertain councillor positions before the delegations? No because the delegations were not approved.
- Have you ever attended AMO or any other delegation while acting as MPP? I attended AMO in 2023 and attended the Rural Ontario Municipalities Association this “past winter.”
- How many delegations did you attend? I don’t know the exact number.
- 39:54 to 40:50 – Cllr. Trainor congratulates MPP Brady on earning her black-belt and that she will “need it” when visiting Haldimand County Council.¹⁷
- 41:30 to 49:45– Delegate #2 makes submissions on what they characterize as MPP Brady being prevented from attending AMO and a number of other

¹⁶ It is later clarified at the end of the Council meeting that meeting with councillors one-on-one would not violate any County By-laws.

¹⁷ Although superficially seeming to be supportive, it could be taken as an ominous warning.

comments about how the rights of constituents in Haldimand County were being violated. The delegate requests that “Integrity complaints” be issued.¹⁸

- 49:47 to 52:33– Delegate #3 makes submissions on the MZO hearing, indicating that they were concerned about the disrespectful conduct at that hearing and spoke in support of MPP Brady.
- 52:30 to 1:00:24 – Delegate #4 made submissions about the Proposal.
- 1:01:00 to 1:03:00 – Delegate #5 made submissions in support of MPP Brady.
- 1:03:00 to 1:06:00– Delegate #6 made submissions in support of MPP Brady and asks for a copy of the draft letter to be sent as part of the Letter Motion.
- 1:06:00 to 1:10:00– The motion to receive the preceding delegations is received and the May 28, 2024 Committee of the Whole minutes were approved.
- 1:10:30 to 1:20:15– A motion was put forward to approve the minutes from the June 19, 2024 Council in Committee meeting. Mayor Bentley moved to have the Letter Motion considered separately and to explain why she voted against it. She said that she does not support the Letter Motion and was “embarrassed” that it was passed.¹⁹ The June 19 Council in Committee minutes were passed separately.
- 1:20:20 to 1:40:00– Council discusses the Letter Motion. Cllr. Patterson spoke in support of the Letter Motion. Cllr. O’Neill spoke in support of the MZO. He was interrupted by hecklers and in response to something inaudible, said “I don’t even know how that is possible”, “I’m just stating facts”, “go look at the numbers”, “you haven’t looked at the numbers clearly”.²⁰ Cllr. O’Neill then addressed the narrative that he and his fellow Councillors who support the MZO and the Proposal are corrupt or paid by developers. Cllr. O’Neill then invited members of the public to file complaints with the Integrity Commissioner.²¹ Cllr. Lawrence made submissions and described AMO as a “sales conference”. He also addressed the accusation that the vote was based on gender bias and said that he would vote the same way regardless of gender. Mayor Bentley made final submissions in support of MPP Brady. The motion to adopt the Letter Motion minutes carried 5-2 and Council then took a 5-minute recess.

¹⁸ This specific remark is made at 48:46.

¹⁹ This specific remark is made at 1:19:03.

²⁰ Cllr. O’Neill was discussing the breakdown of the votes to municipal, mayoral and provincial candidates in support or against the MZO development. These remarks occurred at approximately 1:25:30.

²¹ This specific remark was made at 1:29:11.

Interview with Katrina Schmitz, Manager - Community Development & Partnerships

[41] My office spoke with Ms. Katrina Schmitz via telephone on August 14, 2024. Ms. Schmitz is the manager of the County's Community Development & Partnerships Division ("CD & P" or the "Division"). She has been with the Division for a little over ten years. The Division oversees festivals, events and works with the County community and volunteers.

[42] She described the Volunteer Recognition Night as an awards dinner and as an opportunity for both the County and the Division to thank volunteers for their hard work. CD & P organizes the event. While doing so, it works with the CAO, Mayor and Council. Ms. Schmitz confirmed that the Mayor and Council are not actively involved in organizing the event, but present awards and thank the volunteers at the event. The event is roughly 3 to 3.5 hours long. The Mayor and Council do not determine who is invited to Volunteer Recognition Night. There is a set list of people invite, at the discretion of CD & P. The MP and MPP were invited and asked to meet with volunteers, but they were not asked to speak at the event. Only the Mayor and a professional MC hired for the event are permitted to speak.

[43] The restriction on who may speak at Volunteer Recognition Nights relates back to a policy choice that was made roughly 10 years ago. Volunteer Recognitions Nights prior to the past 10 years were much more modest - but much longer - than they are now. Most of the County's volunteers are seniors. Responses to a survey asking for feedback to improve the event indicated that volunteers specifically wanted fewer speeches. Following this feedback, a decision was made by the CD & P to restrict the number of speeches. Ms. Schmitz advised that Council at the time supported the decision by way of email correspondence. Prior to this change, the MP and MPP were permitted to deliver remarks, so long as the event was not held during an election year. Volunteer Recognition Night is purposefully not political and permitting elected officials to deliver remarks in the lead up to an election may be perceived as political in nature.

[44] In advance of the 2023 Volunteer Recognition Night, Ms. Schmitz recalls learning that MPP Brady was preparing a speech and planning to deliver remarks and that she thought that this would not be received well by Council. She advised that this was because Council did not think that Volunteer Recognition Night was a political event. Instead, it was a corporate event put on by the County to host volunteers and Council. Ms. Schmitz noted that she was advised by councillors that only the Mayor should speak. She has no reason to believe that Council was aware of the topic of MPP Brady's speech, she believes they simply did not want other speeches.

[45] On the evening of the event, CAO Cathy Case approached Ms. Schmitz and told her that MPP Brady planned to speak and asked Ms. Schmitz to speak with her to dissuade her from doing so. She could not remember if she had been approached by any members of Council to request that MPP Brady not speak, or to ensure that there would be no additional speeches without specifically mentioning MPP Brady.

[46] Ms. Schmitz did in fact speak with MPP Brady. She noted that MPP Brady was standing with MP Lewis and Mayor Bentley, having a conversation. Ms. Schmitz advised MPP Brady that the County was happy to have her in attendance at the event but that she would not be permitted to deliver remarks. MPP Brady responded that she had prepared and wanted to deliver her speech. At this point, Ms. Schmitz states that MP Lewis interjected and told MPP Brady that there was no

need for her to speak and that they (i.e. her and MPP Brady) had been invited as guests. Ms. Schmitz recalled the MPP asking whether she could give remarks for a few minutes. She could tell that MPP Brady was unhappy with not being allowed to speak. Mayor Bentley did not say anything when Ms. Schmitz advised the MPP that she could not deliver remarks.

Emails re: Haldimand County's Annual Volunteer Recognition Night - October 2023

[47] On August 19, 2024, Ms. Schmitz provided my office with emails exchanged between councillors in advance of the Volunteer Recognition Night.

[48] On October 6, 2023, Ms. Schmitz wrote to all of members of Council, as well as Cathy Case, Chief Administrative Office and Mike Evers, General Manager for Community and Development Services. Ms. Schmitz advises Council that Volunteer Recognition Night is around the corner and that both MPP Brady and MP Lewis indicated that they would be attending the event. Ms. Schmitz noted that, although speeches are not encouraged, MPP Brady had asked to say a few words and she is not sure if MP Lewis would like to speak as well. Ms. Schmitz then encourages the members of Council to let her know if they have any questions or want more information.

[49] That same day, Mayor Bentley and Cllrs. Shirton, Metcalfe, Lawrence and Trainer responded to Ms. Schmitz. Cllr. Shirton replied to all that “my 2 cents we do not need Bobbi Ann to speak - attend and acknowledge is my preference.” Cllr. Metcalfe replied only to Ms. Schmitz, stating that he would be unable to attend but that he agreed with Cllr Shirton, stating “I would also be of the same thinking as councillor Shirton, acknowledge, but not to speak, Haldimand 's night not hers or the province.” Cllr. Lawrence wrote “IMO only Mayor Bentley can be the only politician speaking to welcome and thank "our" volunteers.” Mayor Bentley responded to Ms. Schmitz, stating “That is so nice that Bobbi Ann wants to bring greetings. Look forward to her words.” Ms. Schmitz responded to Mayor Bentley within the hour, noting that the County had “moved away from speeches, we will of course let Bobbi Ann bring greetings if she really wants to.” Ms. Schmitz added that “the reason we moved away from political greetings was because of how long some of the representatives spoke at the event... the evening is about the volunteers and is designed for their enjoyment and to celebrate them, which is why we moved to the approach to thank the MP/MPP for coming to the event that honours our amazing volunteers.” The Mayor then stated that MPP Brady would still b speaking, which Ms. Schmitz confirmed. Cllr. Trainer wrote to all that she thought “it would be an insult not to allow [sic] either to speak especially since Bobbie ann [sic] has specifically asked and this is an extremely important night plus we want them both to help us at their levels.” Ms. Schmitz indicated that Cllrs. Patterson and O’Neill did not respond to her October 6, 2023 email.²²

Volunteer Recognition Night Invitation

[50] On August 26, 2024, Ms. Schmitz provided my office with a copy of the invitation for the Volunteer Recognition Night that was sent to MPP Brady. She noted during our phone call that invitations are a template and not personalized. The invitation provided only included space for

²² I note that this entire email exchange violates the “open meeting principle” set out in s. 239 of the *Municipal Act, 2001*, S.O. 2001, c. 25, in that the e-mails involved a quorum of councillors and furthered Council’s discussion of a proposed decision or issue; as such, they constitute a meeting which must be conducted in public, not behind closed doors, including by email.

an attendee's name and details concerning the date and time of the event. There is nothing on the invite sent to MPP Brady that would indicate she was being asked to prepare and or deliver remarks at Volunteer Recognition Night.

Cathy Case, Chief Administrative Officer

2023 Haldimand County Volunteer Recognition Night

[51] My office spoke with Ms. Case via phone on August 26, 2024. Ms. Case was not sure if there were any emails exchanged in advance of the Volunteer Recognition Night. After our discussion, she emailed me to confirm that she could not locate any copies of emails pertaining to that event, although she added that simply because she did not have copies did not mean that they did not exist.

[52] She could not recall exactly when or from whom, but she had heard prior to the event that MPP Brady was planning to speak. She was told by either Mike Evers or Katrina Schmitz that the regular procedure was not to have the MPP speak. Ms. Case noted that MPP Brady was invited as a dignitary to "mingle" with volunteer award recipients, as were members of Council and the County senior management team. The only attendees who were the intended speakers were the Mayor and an external MC who was hired for the event. Occasionally at these events, Ms. Schmitz would deliver closing remarks.

[53] Ms. Case remembered hearing from Mike Evers that MPP Brady was upset that she was not going to be allowed to speak. In her past experience, then-MP Diane Finley attended Volunteer Recognition Night but did not deliver remarks. At the time, Ms. Finley was a cabinet minister. Ms. Case could not remember if she directed Katrina Schmitz to advise MPP Brady not to speak. She did note that she agreed with the policy that only the Mayor and an external MC should give remarks. She stated that she learned about this policy from Mike Evers and Katrina Schmitz.

Dunnville Business and Community Recognition Awards

[54] Ms. Case said that she was not very familiar with the Recognition Awards and that she only knew that some of the Chambers of Commerce hosted these types of events. She did not personally attend the Recognition Awards. Ms. Case noted that there was no policy about inviting members of a legislative body or Council to such events. According to her, invitations were completely at the discretion of the Chamber of Commerce or the Business Improvement Area that was hosting the event and the County was not involved. Ms. Case stated that she was aware that former Mayor Hewitt had been invited and had sponsored an award. She was aware that the current Mayor had not been invited to the 2023 Awards night, which seemed odd to her, but there was nothing requiring the Dunnville Chamber of Commerce to invite her. The Dunnville Chamber of Commerce did invite the economic manager for the County, Lidy Romanuk.

[55] According to Ms. Case, events like the Recognition Awards have no connection to the County. They are not paid for by the County and there is no County policy governing their affairs.

Letter Motion

[56] While giving the context for this question, Ms. Case was quick to note that the Letter Motion did not bar the MPP from attending AMO at large – it only stated that she was not *invited* to attend the delegations that were granted to the County. Generally, the Mayor and the councillor(s) who requested the delegation will attend.

[57] The County applied for six delegations, were only given two, and ended up only attending one. The delegation that the County did attend was with the Ministry of Seniors and Accessibility. Mayor Bentley and Cllr. Metcalf attended this delegation with the parliamentary assistant rather than the Minister.

[58] The only conversation to Ms. Case’s knowledge that occurred before the Letter Motion was between her and Cllr. Patterson, during which he asked her for advice on how the Letter Motion should be brought forward (i.e. whether it should be brought during an open or closed session of Council). Ms. Case was advised by the Clerk that the Letter Motion had been submitted to him to assist in drafting it.

Councillor Trainer

[59] My office spoke with Cllr. Trainer via the phone on August 23, 2024.

2023 Haldimand County Volunteer Recognition Night

[60] Cllr. Trainer attended the Volunteer Recognition Night. She advised that other councillors did not want MPP Brady to speak at this event. Neither MPP Brady nor MP Lewis were allowed to speak. Cllr. Trainer was previously Mayor of Haldimand County until she lost to Ken Hewitt in 2010. She noted that in her time as mayor, the Provincial and Federal legislative representatives were permitted to speak at Volunteer Recognition Nights. She thought that Mayor Hewitt had ended the practice of allowing them to speak. Cllr. Trainer could not remember specifics of the discussion involving Council or County staff regarding MPP Brady speaking at Volunteer Recognition Night. She noted that there had been an email exchange amongst councillors about who would speak at the Recognition Night and all five of the male councillors were against permitting MPP Brady to speak.

[61] Cllr. Trainer went on to opine that the male councillors were upset because MPP Brady had defeated Mayor Hewitt when he ran in the 2022 provincial election and because Mayor Hewitt subsequently lost the municipal election to Mayor Bentley. She believed that the male councillors were close with Mayor Hewitt. She has not personally been advised by any of the male councillors that they were upset by either Ken Hewitt’s election losses.

[62] Cllr. Trainer attended Volunteer Recognition Night and noted that both MPP Brady and MP Lewis also attended. She spoke with both of them. She often sees them at public events, but would not describe herself as “buddy buddy” with either of them and they do not engage socially outside of public events. Cllr. Trainer and MPP Brady were seated at different tables. MPP Brady told Cllr. Trainer that she was upset when she was advised by Katrina Schmitz that she would be unable to speak. The MPP did note that she was afforded the opportunity, along with MP Lewis, to distribute certificates to the winning volunteers at the event.

Dunnville Business and Community Recognition Awards

[63] Cllr. Trainer was familiar with the Recognition Awards but did not attend the event. It was a Dunnville-specific event. She noted that Ken Hewitt attended the Recognition Awards. He had been invited to attend and hand out awards. Cllr. Trainer said that Mayor Bentley and MPP Brady were not invited, but she is not sure if MP Lewis was invited. Cllr. Trainer learned that Mayor Bentley was not invited to the event because she noted as much at a Council meeting on February 29th, 2024.²³ Mayor Bentley had been receiving calls from residents asking why she did not attend and wanted to advise them that she had not been invited to the event.

[64] Cllr. Trainer advised that Councillors Shirton and O'Neill sit on the board for the Dunnville Chamber of Commerce. She was not sure if the Chamber had organized the event. She noted that the Chamber does come before Council once per year to give an overview of its organization and to ask for grants. Cllr. Trainer is not sure how the event was organized or who specifically would have been tasked with inviting attendees.

[65] She noted that the 2024 Recognition Awards was the first ever held by the Dunnville Chamber of Commerce. There are similar events held by the Hagersville, Caledonia and Haldimand County Chambers which are organized by their respective Chambers of Commerce or Business Improvement Areas. When Cllr. Trainer was Mayor of Haldimand County (2003-2010), she was invited to these events and asked to speak.

Letter Motion

[66] Cllr. Trainer stated that the Letter Motion hit her and Mayor Bentley "like a slap in the face." She advised that Mayor Bentley is close to MPP Brady and was quite upset by the Letter Motion. Cllr. Trainer could not say whether MPP Brady and Mayor Bentley were friends, but said that they often spoke at public events to which they were both invited.

[67] Cllr. Trainer could not confirm and does not have knowledge of whether the male Councillors met to discuss the Letter Motion before the June 19, 2024 Council in Committee meeting. She thought that they had discussed it prior to the meeting based on how each of them reacted at the meeting (i.e. they did not seem surprised by the motion and seemed to be expecting it). She does not have evidence that they had met in person.

[68] When asked whether she was aware of any instances of gender-based discrimination perpetrated by members of Council, Cllr. Trainer could only point to the way in which members often voted (i.e. the Male Councillors would often side with each other and against the position taken by Mayor Bentley and Cllr. Trainer). She added that all the male councillors "are very kind to her even though they often disagree." However, she thought that they were not kind to Mayor Bentley. She could not provide any specifics of instances where the Male Councillors were unpleasant to Mayor Bentley, aside from saying that they would occasionally not listen to her during meetings because she does not agree with some of their motions or that they will occasionally make snide comments directed toward her during meetings. Cllr. Trainer said that Mayor Bentley would need to be asked for specifics.

²³ My office reviewed the Special Council Meeting on February 29, 2024 and confirmed that Mayor Bentley states that she was not invited at 4:06:12.

Responses to the Complaint

Councillor Shirton

[69] On July 17, 2024, I passed on the particulars of the Complaint concerning his comments at the June 19 and June 24, 2024 meetings, but not the identity of the Complainant, to Cllr. Shirton.²⁴ I included links to the recordings of both the June 19 and 24, 2024 meetings.

[70] On July 23, 2024, I had a conversation with Cllr. Shirton over the phone at which time I provided an explanation of the complaint process.

[71] On July 31, 2024, I received Cllr. Shirton's Response to the Complaint. It states that he has been a Haldimand County councillor since 2010. He understands the importance of respecting the views of other members of Council and that members may hold different opinions on various issues. Cllr. Shirton states that the Municipal Zoning Order for the proposed Nanticoke Development has been a challenging issue for Council and one that it has been dealing with since its previous term. He acknowledges that those on either side of the issue hold strong views.

[72] Concerning his comments toward Cllr. Trainer at the June 19, 2024 Committee in Council Meeting, Cllr. Shirton acknowledged that he made the statement, noting that his choice of wording was poor. Cllr. Shirton believes that the Municipal Zoning Order will be beneficial to the County and was frustrated because he believes that Cllr. Trainer's position was influenced by false information – based on few facts and many assumptions – shared via social media.

[73] Concerning his comments at the June 24 Council meeting, Cllr. Shirton acknowledged that he stated “she is out of her mind”, which can be heard off-camera. He was frustrated at that meeting by the comments and suggestions made by other members of Council and those attending the meeting. He again acknowledged that his choice of words was poor. He did not intend his comments to be taken personally by Mayor Bentley or those in attendance. Cllr. Shirton did not intend to insult Mayor Bentley but strongly disagreed with her proposal to defer the meeting. He believed that deferring the meeting would not resolve the issue, as it was the last Council meeting until the fall session.²⁵

[74] Cllr. Shirton advised that he was willing to apologize to Council at the upcoming meeting. He states that the term starting in 2022 [sic] has been the most challenging for him and suspects that other Councillors feel the same way. He further states that he is genuinely sorry for his impugned comments and that he will refrain from making similar ones in the future. Cllr. Shirton believes that he has a workable relationship with all members of Council, adding that he will go out of his way to help Cllr. Trainer with technology when meetings are being livestreamed. He also stated that he tries to be available to take calls from Cllr. Trainer when he is able.

²⁴ I did not pass along the particulars of the gender-based discrimination at that point because that aspect of the Complaint was still being investigated.

²⁵ Though not identified, the issue is likely the disruptions of the June 24 Council meeting by constituents in attendance.

Response of Mayor Bentley

[75] On July 17, 2024, I advised Mayor Bentley by email that at the June 19, 2024 Council in Committee she could be heard commenting on the Letter Motion calling it “interesting...disgusting really”. I further advised her that although there was no formal complaint lodged as a result of this comment, I was investigating it for breach of the COC as it was made in the course of the same exchange out of which other complaints arose and I felt bound not to overlook her remarks.

[76] On July 31, 2024, Mayor Bentley responded and acknowledged that she did say “interesting...disgusting really” in response to the Letter Motion. She added that she was “blindsided” by the motion and that it was her personal opinion that the motion was contrary to the democratic process. Mayor Bentley advised that she signed the motion at the following meeting of Council where it was ratified and that she has not discussed the motion on social media or in any other capacity since the vote was taken.

[77] On August 2, 2024, I asked Mayor Bentley to clarify what she found “disgusting” about the Motion. She responded on August 6, 2024, noting that she felt it was misogynistic for the five Male Councillors to vote in favour of motion requesting that an “elected independent woman”, MPP Brady, not attend County Delegations with the Province at the upcoming AMO conference. Mayor Bentley also referred to the same quote from Cllr. O’Neill from the June 19, 2024 Council Meeting at which he stated that “the Premier said [MPP Brady] is not going to have a job [after the next election]”. This quote made her feel annoyed, angry, that “we are losing our democracy” and that it was unfair to taxpayers.

[78] Mayor Bentley also noted that at the time the Letter Motion was passed, Haldimand County had no confirmed delegations at the upcoming AMO conference. Since the motion, Mayor Bentley advised that two Ministries had declined the County’s request for a delegation, one Ministry had not responded and that the County had to cancel a delegation because it hosted the Minister of Infrastructure on a tour of the County’s water treatment plant. This tour was attended by some councillors as well as MPP Brady.

Reply and Further Submissions of the Complainant

August 7, 2024 Reply from the Complainant

[79] On August 7, 2024, the Complainant provided their reply to Cllr. Shirton’s response to the Complaint. They noted that they were pleased that he admitted to making his impugned statements, but that it would be “hard not to...when there is a video recording to confirm” that he made them. As Cllr. Shirton has, by his own account, been a councillor for over 14 years, there is no excuse for his conduct towards these female government officials. Regardless of whether one is frustrated or feeling challenged, one must never say or accuse anyone of being “out of [their] mind] or state that “[they] need to drink the kool-aid”. The Complainant reiterated that Cllr. Shirton’s comments were degrading and demoralizing, especially because they were made in a public setting. In addition to apologizing to Cllr. Trainer and Mayor Bentley, they feel that Cllr. Shirton needs to apologize to the residents of Haldimand County because there should be zero tolerance for his impugned statements.

[80] The Complainant also noted that they did not think that Cllr. O'Neill should be permitted to say that "our MPP is not going to have a job." They note that such a comment is demoralizing and unacceptable in a public setting and could be interpreted as a threat to County residents. In addition, Cllr. O'Neill's line of question directed towards MPP Brady was inaccurate and he was challenged her integrity as a government official. The Complainant expressed that there should be zero tolerance to say that MPP Brady is not going to have a job because doing so is a threat.

[81] The Complainant then went onto note that they "trust that [the Integrity Commissioner] will be conducting a thorough investigation by sending letters to Shelly Ann Bentley, Marie Trainer and Bobbi Ann Brady to confirm...the disrespect and mistreated of the male councillors to our female government officials." They were "very frustrated to know that [their] complaint about the two volunteer recognition nights is [sic] not being considered as part of the gender bias that is taking place in Haldimand County...these were just two other examples to support the gender bias and disrespect to our current government officials." They noted that "the county (both male and female residents) are extremely frustrated and disappointed by the pattern of behaviour and treatment by the male Councillors of the female Councillors – "that has been going on for years."

[82] The Complainant further noted that they trusted that the Integrity Commissioner will be sending Cllr. Patterson correspondence requesting why he had one on one meetings with each of the other male councillors "prior to presenting his proposal to ban Bobbi Ann Brady from the meeting" and why he "did not have 1:1 meetings with the female representatives ahead of the council meeting" and that this was "another example of shunning the female representatives."

[83] According to the Complainant, citizens of the County feel strongly that they need more female representatives on Council to prevent continued gender bias as against the current female representatives. There has been a long history of the "boys club" and now females are running for municipal office to change that mentality.

August 7, 2024 Phone Call with the Complainant

[84] In a phone call with the Complainant on August 7, 2024, my office was able to get more details of their first-hand knowledge concerning the subject matter of the Complaint.

[85] The Complainant personally attended the Volunteer Recognition Night and was seated next to MPP Brady. MPP Brady told the Complainant that she had been invited to speak and had prepared remarks. According to the Complainant, either Cllr. Trainer or Mayor Bentley approached MPP Brady and spoke with her briefly. The Complainant could not remember which member of Council spoke to MPP Brady. After the conversation, MPP Brady returned to their table and told the Complainant that she had been advised by Katrina Schmitz, the municipal employee who had invited her to the event, that she would not be allowed to speak at the behest of Cllr. O'Neill and the other Male Councillors. The Complainant suggested that I speak with Ms. Schmitz to get more information.

[86] The Complainant did not attend the Recognition Awards but heard about it through social media. Cllr. Marie Trainer advised the Complainant that no female government representatives were invited to the Recognition Awards. The Complainant noted that Dunnville is within the

wards represented by Councillors Shirton and O'Neill and that it was custom for all local politicians, including MPs and MPPs, to be invited to events like these.

[87] The Complainant advised that Cllr. Trainer told them that Cllr. Paterson met one-on-one with the other male Councillors before bringing the Letter Motion. The Complainant had few details on how Cllr. Trainer knew these meetings took place, but was adamant that Cllr. Trainer knew they did.

[88] The Complainant also noted that they had spoken with former Cllr. Stam, who had told them that she had been treated well by all other councillors. This was also confirmed in writing by the Complainant on August 21, 2024.

August 17, 2024 submission from the Complainant

[89] On August 17, 2024, the Complainant sent my office an itinerary or program for the Volunteer Recognition Night. The program indicates that at 7:30 p.m. there will be introductions in the following order, reproduced here:

Emcee Rock "N" Ray Michaels,

Mayor Shelly Ann Bentley

Dignitaries

[90] The Complainant submitted that MPP Brady and MP Lewis were the dignitaries referred to in the program and that Councillors O'Neill and Shirton refused to allow them to be introduced or say words of welcome. They also alleged that MPP Brady was prevented from sitting at the head table and was required to sit at a general table.

[91] The Complainant again advised that they were waiting for a response from Cllrs. Shirton and O'Neill concerning their direction to Katrina Schmitz that MPP Brady should not be able to make remarks at Volunteer Recognition Night.

August 21, 2024 Correspondence with the Complainant

[92] On August 21, 2024, my office asked the Complainant to confirm that:

1. It was no longer necessary to investigate whether former Cllr. Stam resigned from Council as Cllr. Stam had advised that she had been treated well by the other members of Council; and
2. The Complainant is not personal friends with MPP Brady.

[93] On that same day, the Complainant advised that it was no longer necessary to investigate Cllr. Stam because she was treated "fine" by all members of Council. The Complainant further noted that, although they had met MPP Brady and conversed with her on several occasions, they are not personal friends.

Relevant Legislation, Policies and Procedures

COC

[94] The relevant provisions of the Code are as follows:

Part 1 Background

Section 223.2 of the Municipal Act, 2001 (Act), requires that a municipality shall establish a code of conduct for members of the council of a municipality and of its local boards.

The key principles which form the basis of this Code of Conduct are the following:

1. Council is responsible to its constituents to provide good government in respect of all matters within its jurisdiction.
2. All members shall serve and shall be seen to serve their community in a conscientious, ethical and diligent manner.
3. All members shall be committed to performing their duties with integrity.
4. All members shall truly, faithfully and impartially exercise the office of councillor to the best of their knowledge and ability.
5. All members shall uphold the letter and spirit of this Code of Conduct and shall discharge their duties in a manner that will inspire public confidence in the abilities and integrity of Council and its local boards;
6. All members shall discharge their duties in a manner that respects the dignity of individuals and in accordance with the Ontario Human Rights Code and the Charter of Rights and Freedoms (Canada).

Part 7 Personal Behaviour

1. Members shall familiarize themselves with and abide by the provisions of the Ontario Human Rights Code. In doing so, members shall treat every person, including other members, staff, contract providers and the public with dignity, understanding and respect for the right to equality and the right to an environment that is safe and free from harassment and discrimination.
2. Members shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same sex partnership status, family status or disability. These terms are defined in accordance with the definitions provided in the Ontario Human Rights Code.

3. In accordance with the Ontario Human Rights Code, harassment constitutes engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
4. Without limiting the generality of the foregoing, members shall not:
 - (a) make racial, homophobic, sexist or ethnic slurs;
 - (b) display pornographic, homophobic, sexist, racist or other offensive or derogatory material;
 - (c) make leering (suggestive staring) or other offensive gestures;
 - (d) make written or verbal abuse or threats;
 - (e) vandalize the personal property of others;
 - (f) commit physical or sexual assault;
 - (g) make unwelcome remarks, jokes, innuendos or taunting statements about a person's physical appearance, racial background, colour, ethnic origin, place of origin, citizenship, ancestry, creed (religion or belief), sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, disability (physical or mental);
 - (h) make unwelcome remarks, insulting gestures or jokes which cause embarrassment or awkwardness;
 - (i) refuse to converse or interact with anyone because of their racial or ethnic background, colour, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability;
 - (j) make unnecessary or unwanted physical contact, including touching, patting, or pinching; and
 - (k) harass any person or persons when such harassment occurs in the course of or in any way related to the performance of duties by a member.

Part 8 Conduct

Members shall conduct themselves at board and Council meetings in accordance with the provisions of the County's [Procedural By-law](#).

1. No member shall purport to speak on behalf of the board or Council unless he or she is authorized by the board or Council to do so.

2. A member who expresses disagreement with a decision of the board or Council shall make it clear that he or she is expressing a personal opinion.

Part 9 Haldimand County Policies

1. The provisions of this Code of Conduct are in addition and supplemental to the obligations pursuant to the following Haldimand County polices:
 - (i) Council/Staff Protocol
 - (ii) Respect in the Workplace
 - (iii) Information Technology Acceptable Usage;
 - (iv) Expectations of Council Appointees to Corporate Bodies;
 - (v) Expense Reimbursement;
 - (vi) Election Protocol.
2. Any alleged action or inaction by a member which results in a breach of any of the above noted policies shall be deemed to be in breach of this Code of Conduct.

Council/Staff Protocol

7. Public/Media Comment

(a) Council and Staff Roles and Expectations

This paragraph deals with public or media comments and applies to those comments respecting Staff reports, Council decisions, Council or Staff criticism and County issues generally.

Staff comments to the media are restricted by the County's Code of Conduct (Policy No. 01/19).

...

Councillors can and should speak publicly on issues, but in doing so should refrain from public criticism of Council decisions, other Councillors or Staff.

...

(b) Rationale

The basis for the provisions relating to media and public comment is founded in the roles of Council and of Staff, mutual respect for those roles, and mutual common courtesy.

Staff's role in Council's decision making process is to provide background and advice on an issue. Council's role is to consider that background and advice, plus other factors it considers relevant, and decide the issue.

If the process is correct (i.e. if Staff have provided, and Council has considered, a complete and accurate report on an issue plus other information it considers relevant), then the decision will be correct, and cannot be second guessed or criticized by individual Councillors or by Staff members who may disagree with the decision.

Findings

Summary of the Complaint

Original Complaint

[95] I understand the Complaint to pertain to following conduct:

1. Cllr Shirton's conduct towards Cllr Trainer at the June 19, 2024 Council in Committee meeting advising her to "stop drinking the Kool-aid";
2. Cllr Shirton's conduct towards Mayor Bentley at the June 24, 2024 Council meeting, stating that she was "out of her mind" for wanting to defer the Council meeting;
3. Cllr O'Neill's conduct towards MPP Brady at the June 24, 2024 Council meeting, including his alleged statement that she "will not have a job;"
4. The suppression of female representatives and gender-based discrimination on the part of the Male Councillors, as allegedly evidenced by the following conduct of the Male Councillors:
 - a. Prevented MP Lewis and MPP Brady from speaking at the Volunteer Recognition Night. In particular, Councillors Shirton and O'Neill allegedly prompted a municipal employee, Katrina Schmitz, to advise MPP Brady that she was not able to deliver remarks at Volunteer Recognition Night;
 - b. Gender-based discrimination on the part of Councillors Shirton and O'Neill Councillors Shirton and O'Neill by allegedly not inviting any female representatives to the Recognition Awards;
 - c. Voted in favour of the Letter Motion and adopting the minutes of the June 19, 2024 Council in Committee on June 24, 2024.
5. "Backdoor meetings" between Cllr. Patterson and each of the other male councillors, namely Councillors Lawrence, Shirton, O'Neill and Metcalfe prior to bringing the Letter Motion before Council.

[96] As stated above, the Complainant confirmed via email on August 21, 2024 that it was not necessary to investigate why former Cllr. Stam resigned because, contrary to the Complainant's previous submissions, Cllr. Stam said she had been properly treated by all members of Council, including the Male Councillors.

[97] The Complainant also confirmed via email on July 16, 2024 that she learned or became aware of the Volunteer Recognition Night and Recognition Awards within six weeks of when they occurred.

Additional Complaint re: Mayor Bentley

[98] As indicated above, I have formulated a further complaint with respect to Mayor Bentley for stating at the [June 19, 2024](#) Council in Committee Meeting, following the vote on the "Letter Motion": "interesting...disgusting really."

Preliminary Legal Issues

Applicable Standard of Proof

[99] The standard of proof for Integrity Commissioners to conclude that a member has breached the Code is a balance of probabilities. This standard requires that it be more likely than not that the breach occurred. I have made the findings below based on that standard.

Limitation Period for Lodging a Complaint

[100] Two of the allegations of gender bias on the part of male Councillors date back to October 2023 in the case of the Volunteer Recognition Night and February 2024 in the case of the Recognition Awards (Allegations 4a. and b. from the Summary of the Complaint section above). The Code states that the request for an investigation shall be submitted within six weeks of the Complainant becoming aware of the alleged contraventions.²⁶ The Complainant confirmed to my office that they became aware of these allegations more than six weeks before they submitted the complaint. For that reason, those allegations were not treated as complaints in and of themselves, but only as potential evidence of misogynistic attitudes on the part of some councillors of possible relevance to the councillors' more recent conduct.

Can a Member Breach the Preamble of the Code?

[101] The Complaint alleges a breach of the "Background" section of the Code. As I found in *Councillor Danko Tweet (Re)*, 2024 ONMIC 11 (CanLII), statements of principle in Codes of Conduct are merely guides to the interpretation of the other, operative sections of the Code and do not set out separately enforceable obligations. Though not specifically labelled a "preamble", Part 1 of the Code is titled "Background" and is based on key principles which form the basis for the Code. These cannot form the basis of a complaint.

²⁶ Haldimand County Code of Conduct, B Formal Complaint Procedure: Integrity Commissioner, 2. Complaint.

[102] For that reason, all aspects of the Complaint alleging a breach of Part 1 of the Code are dismissed.

Do I have Jurisdiction to Review Legislative Decisions of Council?

[103] The Superior Court of Justice has stated that the decisions of Council are not reviewable by the Integrity Commissioner.²⁷ Further, Integrity Commissioners have held that it is not within their jurisdiction to determine whether a Committee followed proper procedure or made the correct decision.²⁸ An Integrity Commissioner is limited to considering the Code, policies and procedures incorporated by reference into it governing ethical behaviour of members and the *Municipal Conflict of Interest Act*. It is not the role of an Integrity Commissioner to second guess the decisions made by members of Council.

[104] I therefore find that the content of the Letter Motion and adoption of the June 19th Committee Minutes passed at the June 24th Council meeting (Issue 4c. from the Summary of the Complaint section above) cannot be the subject of a Code complaint.

Should an Integrity Commissioner Inquire into an Allegation of Harassment Made by Someone Other Than the Alleged Victim?

[105] Other Integrity Commissioners have held that investigations into alleged harassment should only be pursued when the Complainant is the person alleged to have been harassed. This is especially so when the alleged victim is an experienced politician and when the alleged harassment consists of words. Instead, public debate and communication, especially via social media, offer sufficient recourse and are preferable to having an Integrity Commissioner investigate and essentially police debate.²⁹

[106] I tend to agree with the position from the standpoint of general principles, subject to exceptional cases; however, for the sake of completeness, I will explain why I have found that the alleged conduct does not constitute harassment or discrimination in any event.

Did Councillors Patterson, Lawrence, Shirton, O'Neill and Metcalfe Engage in Gender-Based Discrimination and Harassment?

[107] There is insufficient evidence to find that the Male Councillors on Haldimand County Council, or any of them, engaged in gender-based discrimination contrary to Part 7, section 2 of the Code.

Volunteer Recognition Night

[108] The Complaint alleges that male councillors prevented MPP Brady from speaking at Volunteer Recognition Night. Evidence from Ms. Schmitz indicates that it had long been a County

²⁷ [Chiarelli v. Ottawa \(City of\)](#), 2021 ONSC 8256 (CanLII) at para 68.

²⁸ [Stewart v Meadows](#), 2021 ONMIC 17 (CanLII) at para 4.

²⁹ [Chan v Therrien](#), 2021 ONMIC 6 (CanLII) at paras 92 to 96.

practice to only allow the Mayor to address attendees out of concern for the length of the event. At the event, Ms. Schmitz was prompted by Ms. Case, not any of the male councillors, to advise MPP Brady that she would not be permitted to deliver remarks. Though Ms. Case does not remember doing so, this is clearly not a situation in which male councillors conspired to prevent all *female* government representatives from speaking. They were in fact supportive of the Mayor, a female, delivering remarks.

[109] MPP Brady was precluded from giving her speech to prevent the event from running overtime, not because she is female. I put no weight on the Volunteer Recognition Night program provided by the Complainant. The term “dignitaries” is not clearly defined to include MPP Brady or MP Lewis nor does it indicate they will be able to give a speech.

Recognition Awards

[110] The Recognition Awards was hosted by the Dunnville Chamber of Commerce. As indicated on the Dunnville Chamber’s website, both Councillors O’Neill and Shirton sit on its board.

[111] Based on the evidence provided by Ms. Case, this was a private event hosted by the Chamber of Commerce without any County involvement. From her understanding, there was no legal requirement that members of a legislative body or Council be invited. She was adamant that these events are not paid for by the County and that there is no policy governing their affairs. Ms. Case also advised that the Dunnville Chamber of Commerce did invite the economic manager for the County, Lidy Romanuk, a female.

[112] Failing to invite MPP Brady does not constitute discrimination pursuant to Part 7 (2) of the Code. It is not clear whether Part 7 (2) requires members not to discriminate in *any capacity* or in accordance with the particular circumstances requiring equal treatment outlined in the Ontario *Human Rights Code*, namely in providing services, accommodation and employment.³⁰ Assuming that it is the former and that members must not discriminate in any capacity, even in their personal lives or in positions held as members of the Board for a private organization, there is still no evidence that Councillors Shirton and O’Neill did so.

[113] To establish discrimination under the *Human Rights Code*, an applicant must establish that (1) they are a member of a protected group under the *Code*, (2) they were subject to adverse treatment, and (3) that their membership in a protected group was a factor in the adverse treatment. These three elements must be established based on clear and cogent evidence.³¹ There no evidence that MPP Brady was not invited to the Recognition Awards based on her gender. Anything to the contrary is entirely speculative.

The Letter Motion

[114] I have already found that I do not have jurisdiction to review decisions of Council, including motions.

³⁰ *Human Rights Code*, RSO 1990, c H.19.

³¹ *Lampitoc v. Actv8 Marketing Inc.*, at paras 21 to 24.

[115] Further, there is no evidence that Cllr. Patterson met with or spoke to the other Male Councillors in advance of the motion. There are no facts on which to conclude that such meetings ever occurred.

Conclusion

[116] Simply put, there is no evidence that MPP Brady was prohibited from speaking at the Volunteer Recognition Night or that her, Mayor Bentley, and MP Lewis were not invited to the Recognition Awards because they are female, or that the Letter Motion was passed in whole or in part because of MPP Brady's gender, or following secret meetings between the Male Councillors as alleged. The aspects of the Complaint reflected in Issues 4. and 5. from the Summary of the Complaint section above, and the general allegations of gender discrimination implicit in the Complaint, are hereby dismissed.

Did Councillor O'Neill Breach the COC?

[117] Cllr. O'Neill did not breach the Code based on his conduct at the June 24, 2024 meeting of Council.

[118] Regarding Issue 3. from the Summary of the Complaint section above, the Complaint misquotes Cllr. O'Neill by stating that the councillor said MPP Brady "is not going to have a job" when in fact his full quote is that "Doug Ford said [MPP Brady] will not have a job". The full quote changes the nature of his statement from what is plausibly an unfounded personal comment to one which merely indicates that the Premier may harbor a personal animus towards MPP Brady as a reason for not including her in the meetings with Provincial representatives at AMO.

[119] The Complaint also alleges that Cllr. O'Neill "challenged [MPP Brady's] integrity publicly and that doing so was degrading." Based on a review of the June 24, 2024 Council Meeting, Cllr. O'Neill's conduct was not degrading. He maintained respect for MPP Brady while asking her a series of questions following her delegation.

Did Councillor Shirton Breach the COC?

Did He Engage in "Harassment"?

[120] As Part I of the Code does not contain enforceable obligations, the remaining sections of the Code which the Complainant alleges Cllr. Shirton breached are ss. 1 to 3, 4 (d), (g), (h) and (k) of Part 7. I find that Cllr. Shirton did not breach the above sections based on his comments to Cllr. Trainer and Mayor Bentley on June 19 and 24, 2024, respectively.

[121] Other Integrity Commissioners have interpreted the term "harassment" in Codes of Conduct to have both a subject and objective element. The impugned conduct must be subjectively unwelcome to the Complainant and the respondent must either know or reasonably ought to have known that the conduct was unwelcome.³² Harassment must also be a course of conduct or pattern;

³² *Clancy v Therrien*, 2021 ONMIC 12 (CanLII) at para 92.

unless it is particularly severe, a single incident does not qualify as a course of conduct and does not amount to harassment.³³

[122] The Ontario Human Rights Tribunal has held that factors to consider as part of whether a single comment can constitute harassment include: the egregiousness or virulence of the comment, the relationship between the parties, the context in which the comment was made, whether an apology was offered and whether the recipient was a member of a historically discriminated group.³⁴

[123] Other Integrity Commissioners have found that back-to-back comments made at a Committee of Council meeting stating that the Complainant was “going crazy buying and spending” and “going off on her own tangents and buying and doing and assuming that we are paying for it all” did not amount to harassment.³⁵

[124] I do not find that Cllr. Shirton’s comments over the course of two meetings are a course of conduct qualifying as harassment, or that they were so severe, looked at individually, as to constitute harassment.

Did Councillor Shirton Breach the Council/Staff Protocol and Thereby the Code of Conduct?

[125] Part 9 of the Code provides that the Code is in addition and supplemental to the obligations contained in, among others, the Council/Staff Protocol and a breach of any such policies is deemed a breach of the Code.

[126] I find that I have jurisdiction to review and treat the Council/Staff Protocol as an extension of the Code and to treat any breaches of the Protocol as a breach of the Code. The Council/Staff Protocol, unlike the Respect in the Workplace policy, does not contain an internal investigation or complaint procedure. I find that I have jurisdiction because if there is no internal complaint or investigation procedure, then there is no other process by which member conduct will be reviewed pursuant to the Protocol and no other method to determine whether the Protocol has been breached. For Part 9 of the Code to have any teeth, where a policy does not an internal review mechanism, I will assume jurisdiction and determine whether the policy, and by extension, the Code, has been breached.

[127] Cllr. Shirton’s two impugned comments to Cllr. Trainer and Mayor Bentley on June 19 and 24, 2024, respectively, breached section 7 (a) of the Council/Staff Protocol (Issues 1. and 2. from the Summary of the Complaint section above). This provision requires councillors to refrain from public criticism of, among other things, other councillors, when making public or media comments. The rationale for this section is that the provisions for public comment require mutual respect and mutual common courtesy. Though this section is oriented more towards ensuring the legitimacy of decisions, I think that it is applicable in the circumstances.

³³ *Madawaska Valley (Council Member) (Re)*, 2018 ONMIC 10 (CanLII)

³⁴ *B.C. v. London Police Services Board*, 2011 HRT0 1644 (CanLII) at para 48.

³⁵ *Moore v Maika*, 2018 ONMIC 7 (CanLII) at para 102.

[128] I find that Cllr. Shirton breached section 7 (a) of the Council/Staff Protocol and by virtue of that, Part 9 (2.) of the Code, in making the impugned comments at the June 19 and 24, 2024 meetings.

Did Mayor Bentley Breach the COC?

[129] I find that Mayor Bentley did not breach the Code.

[130] Part 8 of the Code requires that members who express disagreement with a decision of Council make it clear that they are expressing a personal opinion. Initially, Mayor Bentley called the Letter Motion “interesting...disgusting really,” without qualifying that this was her personal opinion. Subsequently, in conversation with Cllr. Patterson, Mayor Bentley noted that she disagreed with the Letter Motion but agreed with him that after leaving chambers, Council would be of one voice and one opinion.

[131] In her Response, Mayor Bentley noted that it was her personal opinion that the motion was contrary to the democratic process. She also noted that she signed the motion after it was ratified and did not discuss it in any way after the vote was taken.

[132] I find that Mayor Bentley clarified that her comment calling the Letter Motion “disgusting” was her personal opinion within a reasonable amount of time following the initial statement, such that her comment is not a Code violation. I note that without the subsequent clarification during her conversation with Cllr. Patterson, her comments would have been found to constitute a breach of the Code.

Appropriate Penalty

[133] Based on my review of the meetings at issue, particularly the June 24, 2024 Council meeting, it is clear that the Letter Motion and the Nanticoke Development Proposal were highly contentious issues for both the residents of Haldimand County and members of Council. It was clear that there were strong emotions on both sides. In total, there were six delegations to Council. A running theme among the delegations was their frustration with Council for, in part, passing the Letter Motion. There was also heckling of members of Council by those in attendance and threats from members that they would leave the chamber.³⁶ Mayor Bentley almost deferred the meeting. There were also numerous calls from both delegates and members of Council for the Integrity Commissioner to launch an investigation or investigations.³⁷ Needless to say, this was likely not a

³⁶ Hecklers interrupt Delegate #1 with calls (directed towards Cllr O’Neill) to “go home” (13:07). Cllr O’Neill asked if there would be a recess following the next outburst. There is what sounds like another outburst from the crowd, to which Cllr O’Neill states “I’m out, see ya” (17:45);

Cllr. O’Neill states “no respect out there” in response to some cheers and states that “you guys can keep yelling all you want.” (36:41);

Cllr. O’Neill also spoke to the MZO. He was interrupted by hecklers and in response to something inaudible, said “I don’t even know how that is possible”, “I’m just stating facts”, “go look at the numbers”, “you haven’t looked at the numbers clearly” (1:25:30).

³⁷ Delegate #2 asked that the Integrity Commissioner investigate whether the rights of the constituents of Haldimand County were violated due to the Letter Motion. Cllr. O’Neill also invited members of the public to file complaints

representative meeting of County Council. I have factored that into my assessment of the appropriate penalty for Cllr. Shirton.

[134] In his written response to the Complaint and during our verbal discussion with him, Cllr. Shirton was reflective and acknowledged that his choice of words was poor. He offered to apologize publicly for his comments.

[135] In all of the circumstances, I recommend that Cllr. Shirton be reprimanded by Council and that he apologize to Cllr. Trainer and Mayor Bentley for his comments at the June 19 and 24, 2024 meetings, respectively, at the meeting of Council at which this Report is considered.

Concluding Remarks

[136] I have found that Cllr. Shirton breached the Code of Conduct and I am recommending that he be reprimanded and that he make a public apology to Cllr. Trainer and Mayor Bentley at the next meeting of Council. I have otherwise dismissed all other complaints against him and all complaints against Mayor Bentley and Councillors O'Neill, Patterson, Lawrence and Metcalfe.

[137] This concludes my investigation.

Respectfully Submitted,



David G. Boghosian,
Integrity Commissioner,
Haldimand County

with the Integrity Commissioner to determine whether he and his fellow councillors in favour of the MZO were corrupt or had been paid by developers.