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OFFICE OF THE INTEGRITY COMMISSIONER

OPEN SESSION REPORT

TO: Mayor and Members of Greater Sudbury Council

FROM: Robert Swayze, Integrity Commissioner

DATE: May 31, 2022

MEETING DATE: June 28, 2022

SUBJECT: Code of Conduct Complaints against Councillor Vagnini

Recommendation:

It is recommended:

That the compensation paid to Councillor Vagnini as a member of Council be suspended for a period of forty (40) days commencing with the next pay period.

Background:

I received three complaints against Councillor Vagnini, two from Councillor Leduc and one from Mr. Ed Archer, CAO, all in the month of January 2022. I gave notice for each of the three complaints to the Respondent and requested a response to me within the 10 days as prescribed by the *Code of Conduct for Members of Council and Local Boards* (the "Code"). One of the complaints was referred to the Police and, as required by the Code, I stayed all three until the police investigation was completed. I resumed my investigation on April 5, 2022, when I was advised that the police investigation was terminated.

First Complaint

The first complaint from Councillor Leduc related to statements made by Councillor Vagnini in a video of a meeting he organized and posted on social media which included homeless people. City staff were not asked to participate in this video. He chaired the

video meeting and the press report quotes what he and the other participants alleged on the video as follows:

- “Two frozen bodies were pulled out of downtown tents two to three weeks ago.
- A woman froze to death in a tent outside of Tom Davies Square last Thursday.
- There was a double stabbing at a shelter in the city recently.
- The city has been evicting people from their tents.
- There’s \$300 million “sitting there” in a city bank ready to be used to aid in the city’s homelessness crisis.”

The complaint also referred to statements he made at a Finance Committee meeting held on January 18, 2022. City staff from the Social Services Division were present and were asked whether these statements are true. They confirmed there is a homeless problem in Sudbury which is under control. They refuted the statements made in the video and I found the staff response to be both professional and credible. At that meeting Councillor Vagnini indicated that he did not believe the information presented by staff.

In a subsequent press report on January 20, 2022, he was quoted as confirming the above facts relating to homeless people and disbelieving the staff comments.

The complainant alleged that these were false statements, disrespectful of staff and contrary to the following sections of the Code:

16 (2): *“Every Member should refrain from making statements known to be false or with the intent to mislead Council or the Local Board as the case may be, or the public.” and*

14(2): *“Every Member shall be respectful of the role of City officers and employees to provide professional service and advice based on political neutrality and objectivity, and without undue influence from any one or more Members.”*

Second Complaint

The second complaint, also from Councillor Leduc, alleged that Councillor Vagnini made a phone call to Councillor Leduc’s cell phone on January 25, 2022 using vulgar words and threatening his life. The complainant initially refused to tell me the exact words used in

the phone call. However, on April 4, 2022, he sent me an E-mail quoting words from the Councillor which were vulgar and did threaten his life. Councillor Leduc also called the police regarding this phone call and I have been advised that the police investigation has been terminated with no charge laid.

Third Complaint

The third complaint from Mr. Archer was in support of staff of the fire service who refused a request of Councillor Vagnini to supply a fire truck and other bunker gear to a funeral of a former volunteer firefighter who was a friend of the Councillor. The Deputy Chief of the department politely refused to supply the apparatus to the funeral home because of the extreme cold and the risk of damage to the equipment. He was responded to on the phone with:

1. "This is bull****t ****. Don't play that f****ing game with me.
2. F**** off, I can't believe you won't do this.
3. Don't try to tell me this s****."

After the complaint was filed with me, apparently on legal advice, he apologized to the staff member by E-mail.

The Complainant quoted Section 15 of the Code which he alleged was contravened, as follows:

"15.(1) Every Member shall:

- (a) treat other Members, City officers and employees, and members of the public, appropriately, and without abuse, intimidation, harassment or violence; and*
- (b) make all reasonable efforts to ensure that their work environment is free from discrimination, harassment and violence.*

(2) Every Member shall act in compliance with the Ontario Human Rights Code and the Occupational Health and Safety Act, and where applicable, the City's Workplace Violence, Harassment and Discrimination Prevention Policy and Program.

Analysis:

I received a thorough response to the complaints from Counsel retained by the respondent. Respecting the first complaint, he quotes one of my many reports to Councils where I have backed vigorous debate by a councillor in support of their views.

In my opinion, suggesting publicly that staff lied and omitted or misrepresented facts is beyond vigorous debate.

He then suggests that the Councillor did not accuse the staff of lying about the homeless situation but only that he defended his right to raise the information he learned from homeless people. I reject this argument because the detail he presented in his video as quoted in the press, such as people “freezing to death” would have been known by staff. I believe that any such information would have been provided to the meeting if it happened.

On the second complaint, Counsel argues that I had no complaint until Councillor Leduc finally advised me of the actual words spoken on the phone call which was beyond the 60 day limitation on filing complaints. I reject that argument because the formal complaint was sent to me shortly after the phone call. I find that completing the evidentiary support of a complaint does not constitute a new filing of one. However, I was provided with no corroborating evidence to substantiate the life-threatening statements by the respondent and I take note that after an investigation by the police, no charge was laid. I have insufficient evidence to find that the Code was contravened with this phone call and the second complaint is hereby dismissed.

Regarding the third complaint, his vulgar response to the Deputy Fire Chief is clearly contrary to Section 15 quoted above. His Counsel refers to the “laudable” effort to have an appropriate memorial for the deceased as an excuse for the profane language and disrespect of staff which I do not accept.

Before finalizing this report, I served an excerpt of it on the respondent and his Counsel for comment. I rejected most of the comments that were made but did make changes to the report including reducing my recommendation for salary suspension.

It is clear to me that the first and third complaints result from inappropriate behaviour towards staff and a fellow Councillor contrary to the Code and this must stop.

Decision

I find that the cumulative effect of the testimony I have heard in these two complaints reveals an elected member of Council who feels he can be vulgar and disrespectful to his work associates, whether members of staff or Council. It is contrary to the Code sections cited above and I am recommending forty (40) days suspension of the compensation paid to him as a member of Council.

It is important that this member of Council be penalized in a meaningful way so that he changes his behaviour and that he understands that a repeat of this conduct will result in a recommendation from me of a suspension of the maximum ninety (90) days salary.

A handwritten signature in blue ink, appearing to be 'RS', with a long horizontal flourish extending to the right.

Robert Swayze
Integrity Commissioner