



SHEARER PARNEGA
WORKPLACE INVESTIGATIONS • MEDIATION • RESTORATION

REPORT FOR THE TOWN OF ESPANOLA

RE: INVESTIGATION OF ALLEGED BREACHES OF
CODE OF CONDUCT
BY COUNCIL MEMBERS

July 12, 2018

Prepared by:

Jan Parnege

SHEARER PARNEGA LLP

First Canadian Place

100 King Street West, Suite 5700

Toronto, ON M5X 1C7

Phone (416) 915-4121

jparnege@spworklaw.com

www.spworklaw.com

Table of Contents

I.	Mandate	5
II.	Executive Summary	6
III.	Investigation Process	6
	(A) Relevant Procedures	6
	(B) Credibility and Standard.....	11
	(C) Interviews.....	11
IV.	The Parties and Background.....	13
V.	Evidence and Findings.....	14
	1. Respondent Dufour’s Comments Relating to Accessibility.....	15
	2. Respondent R. Duplessis’ Comment re Creation of “Synergies”	19
	3. Respondent’s R. Duplessis’ Comments and Treatment towards Complainant Pichor	26
	4. Respondent Dufour’s Comments Relating to Complainant Rivet	34
	5. Building Services’ Outstanding Orders to Comply against Respondent Dufour	39
	6. Respondent R. Duplessis’ Comments regarding Complainant Townsend’s Staff Report	47
	7. Respondent Malott’s Email Communications regarding Complainant Townsend’s Staff Report	53
	8. Respondent Dufour and Respondent R. Duplessis and the Decision-Making Process.....	64
	a. Respondent Dufour’s Motion to Rescind Garbage Bylaw	64
	b. Resolutions re Town’s New Fire Hall.....	68
	c. Posting Signs to Prohibit Feeding Wild Animals in Town Cemetery.....	74
	9. Disrespectful Communications towards Town Staff.....	77
	a. Respondent R. Duplessis advised Complainant Townsend not to speak to Council “unless spoken to”.....	77
	b. Respondent R. Duplessis’ Disregard for Report prepared by Public Works.....	79

c.	Respondent K. Duplessis “taken aback” by Report prepared by Public Works.....	82
d.	Respondent K. Duplessis’ request for research to address “hearsay” concern	83
e.	Respondent K. Duplessis’ comment that Council “doesn’t necessarily have a good working relationship” with Staff	84
10.	Respondent Dufour’s Implication that Staff is not enforcing the Health and Safety Policy	87
11.	Respondent Piche Failed to Meet the Role and Obligations Required of the Head of Council.....	90
12.	Disrespectful Communications as between Respondents Dufour, R. Duplessis and Piche	93
VI.	Conclusion.....	97

Table of Appendices

Appendix	Document
A	Council Code of Conduct
B	Mid-north Monitor article, December 5, 2017
C	Facebook Page Post on January 4, 2018
D	Staff Report re Sub-committee and Resolution dated January 26, 2018
E	Staff Report re Hiring Review and Summary of FTEs
F	Richard Ellis email exchange
G	Joe Kozlowski's email message
H	Facebook Page Post on March 5, 2018
I	Respondent Malott's apology email
J	Resolution dated April 10, 2018
K	Resolution dated May 1, 2018
L	Email from Councillor Foster dated April 30, 2018
M	Memo to Council dated May 1, 2015

I. Mandate

I am a partner with Shearer Parnega LLP (the "Firm"). On May 3, 2018, Wishart Law Firm LLP retained the Firm on behalf of its client, the Corporation of the Town of Espanola (the "Town"), to conduct a privileged and confidential investigation into a complaint dated March 9, 2018 and sworn by nine Department Managers of the Town: Chief Administrative Office Cynthia Townsend ("Complainant Townsend"), Clerk/Manager of Planning Services Paula Roque ("Complainant Roque"), Manager of Financial Services Cathy Tessier ("Complainant Tessier"), Manager Public Works/Leisure Services Joel Yusko ("Complainant Yusko"), Chief Building Official Dan Rivet ("Complainant Rivet"), Fire Chief Mike Pichor ("Complainant Pichor"), Manager of Provincial Offences Christine Desjardins ("Complainant Desjardins"), Program Manager/Community Economic Development Officer Cheryl Kennelly ("Complainant Kennelly") and Assistant Manager of Public Works Dave Parker ("Complainant Parker") (together, the "Complainants").

It should be noted that earlier complaints were received in late January 2018. These complaints mirrored two of the allegations included in the complaint that was sworn March 9, 2018. I was directed to incorporate these two earlier complaints into my investigation and review of the March 9, 2018 complaint (together, the "Complaint").

The Complaint addresses a series of alleged violations of the Town Council's Code of Conduct (the "Code"). The alleged violations were committed by Council Member Ray Dufour ("Respondent Dufour"), Council Member Ron Duplessis ("Respondent R. Duplessis"), Council Member Heather Malott, also known as Heather Dougan ("Respondent Malott"), Mayor Ron Piche ("Respondent Piche"), and Council Member Ken Duplessis ("Respondent K. Duplessis").

The Firm was retained to conduct interviews with relevant individuals and consider evidence we deem relevant, then make factual findings and conduct legal analysis to determine whether the allegations against the Respondents are founded or unfounded. Bylaw 2839/18 was passed on May 3, 2018, appointing the Firm as Integrity Commissioner for the purpose of investigating and reporting to Council on the Complaint.

As set out in further detail below, it should be noted that despite communications from me and Paul Cassan, legal counsel to the Town, Respondents R. Duplessis, K. Duplessis and Dufour did not participate in this Investigation. As such, my findings are based on the information I gathered during the course of the Investigation, together with relevant documents that were provided to me and the publicly available live-streamed videos of Town Council Meetings, but without the benefit of the responses from these three Respondents.

II. Executive Summary

Based on the evidence provided to me in the course of this Investigation, I find that Respondents R. Duplessis, Dufour, Malott and K. Duplessis engaged in behaviours which were contrary to the Code. Viewed cumulatively, many of these behaviours constitute a pattern of conduct that was undermining, abusive and harassing toward the Complainants in their workplace. Further, I find that Respondents R. Duplessis, Dufour, Malott and K. Duplessis knew, or ought to have known, that this pattern contributed to a negative environment for the Complainants outside of the workplace, in the form of negative attention and personal attacks on social media, and otherwise, by the public.

Respondent Piche failed to effectively direct and control the members of Council during live-streamed Council meetings. He also engaged in unprofessional and antagonistic exchanges with Respondents R. Duplessis and Dufour. This too contributed to a work environment that undermined Staff and impeded their ability to effectively perform their duties.

III. Investigation Process

(A) Relevant Procedures

I was provided the Town's Code, a copy of which is attached as **Appendix A**. I outline below the relevant provisions of the Code that I relied upon in the course of this Investigation:

ROLES AND OBLIGATIONS

Role of Head of Council (as noted in the *Municipal Act, 2001* as amended, Section 225)

- a) to act as Chief Executive Officer of the municipality;
- b) preside over Council meetings so that its business can be carried out efficiently and effectively;
- c) to provide leadership to the Council;
- d) without limiting clause iii), to provide information and recommendations to the Council with respect to the role of Council described in Section 224 (d) and (d.1) of the *Municipal Act, 2001*, as amended
- e) to represent the municipality at official functions; and
- f) to carry out the duties of the head of Council under this or any other Act.

Role of Officers and Employees (as noted in the *Municipal Act, 2001*, as amended, Section 227)

- a) to implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions;
- b) to undertake research and provide advice to Council on the policies and programs of the municipality; and
- c) to carry out other duties required under this or any Act and other duties assigned by the municipality.

...

B. STANDARDS OF CONDUCT

3. Council, Local Boards and Committee Members shall refrain from behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council, Local Boards and Committee Members shall refrain from conduct that:

...

- b) Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others.

...

- d) Divulges information that is misleading, known not to be entirely factual or misrepresents Council in anyway.

4. Statutory Provisions Regulating Conduct

This Code of Conduct is supplemental to the existing statutes governing the conduct of Council, Local Boards and Committee Members:

- a) *Municipal Act, 2001, s.223.2(1), as amended;*
- b) *Municipal Conflict of Interest Act;*

...

C. CONDUCT TO BE OBSERVED

2. Conduct Respecting Others:

As a representative of the Town of Espanola, every member has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.

- a. A member shall not use indecent, abusive, or insulting words or expressions toward any other member, any member of staff or any members of the public.

3. Conduct Respecting Staff:

Council, Local Boards and Committee Members shall be respectful of the role of staff to serve the Corporation as a whole under the overall direction of the CAO / Treasurer and to provide advice based on political neutrality and objectivity, free from undue influence.

- a. A member shall be respectful of staff's professional capacities and responsibilities.
- b. Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others.

...

- d. Divulges information that is misleading, known not to be entirely factual or misrepresents Council in anyway.

4. Conduct Respecting the Municipality and the Decision Making-Process:

Council, Local Boards and Committees Members shall accurately and adequately communicate the decisions of Council, or of the Board, even when he or she was not in the majority or in favour of the decision.

- a. A member shall respect the decision-making process.
- b. A member shall encourage respect for the Municipality and its Bylaws and Policies.

...

7. Conflict of Interest

It is the responsibility of individual Councillors to ensure that they are aware and trained in the application of the *Municipal Conflict of Interest Act* (MCIA) (e-laws: <http://www.e-laws.gov.on.ca/index/html>). The onus is on the Councillor to identify and declare a conflict of interest.

- a) Members shall recognize their obligations to follow and respect the provisions of the *Municipal Act* and the *Municipal Conflict of Interest Act*, as amended.
- b) Members shall comply with the *Municipal Conflict of Interest Act* and must not accept a gift or personal benefit that is connected with their performance of the duties of office. This does not include gifts or personal benefits received as a matter of the protocol or social obligations that normally accompany the responsibility of public office.

Finally, I relied on the following sections of the *Municipal Conflict of Interest Act* (“MCOIA”):

When present at meeting at which matter considered

5 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

- a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

(B) Credibility and Standard

The standard of proof governing this Investigation is the civil standard of the “balance of probabilities” meaning that the evidence renders an inference more probable than the other possible inferences or hypotheses. Where necessary, I have made assessments of credibility and explain my assessment.

When assessing the credibility of a statement, it is subjected to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of an individual must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

(C) Interviews

I conducted all of the Complainant interviews in respect of this Investigation. With one exception, noted below, the interviews took place in Espanola, in person, as follows:

Date	Complainant Interviewees
February 28, 2018	Complainant Pichor
February 28, 2018	Sandra Bois
May 7, 2018	Complainant Townsend
May 7, 2018	Complainant Roque
May 7, 2018	Complainant Tessier
May 15, 2018	Complainant Rivet
May 15, 2018	Complainant Desjardins
May 15, 2018	Complainant Kennelly
May 15, 2018	Complainant Yusko
May 16, 2018	Complainant Parker, via telephone

On May 25, 2018, each of the Respondents was provided with detailed particulars of the allegations made against them.

I initially received responses from Respondents Malott, Yocum, Piche and R. Duplessis, agreeing to schedule a time to meet with me. However, on June 5, 2018 Respondent R. Duplessis wrote to me to advise that he had decided against meeting with me as he believed that I did not have his “best interest in mind”. Further to this communication, Mr. Cassan wrote to all of the Respondents and urged them to participate in the Investigation. Mr. Cassan asked the Respondents to confirm with me by 5 pm on June 7, 2018 whether they would participate. Respondent K. Duplessis wrote to me later that afternoon to advise that, “on the advice of legal counsel” he would not attend an interview.

On June 8, 2018, I wrote to each of Respondents R. Duplessis, K. Duplessis and Dufour, to advise that although I had no authority to compel them to participate, I would need to proceed with the Investigation. I noted that it was my clear preference to meet with each Respondent to have the benefit of their response and understand their perspective before I make any findings regarding the information collected from the Complainants. I asked each Respondent to contact me if they reconsidered and changed their mind. Respondents R. Duplessis, K. Duplessis and Dufour did not reply.

As regards the Respondents who did participate, and one Councillor witness, I conducted all of their interviews in Espanola, in person, as follows:

Date	Respondent and Witness Interviewees
June 11, 2018	Respondent Malott
June 11, 2018	Respondent Piche
June 11, 2018	Councillor Bob Yocum

All interviewees were advised that they were required to keep the facts and content of their interviews confidential. All interviewees signed a Confidentiality Statement; I have retained the signed originals on file.

At the conclusion of each interview, each interviewee was afforded an opportunity to review and comment on the notes I had made during their interview with me. All interviewees availed themselves of this opportunity. It should be noted that Respondent

Malott was sent a copy of the notes taken of her interview, but neither confirmed nor corrected the notes. I sought to further engage Respondent Malott but she did not reply.

IV. The Parties and Background

Complainant Pichor is the Town's Fire Chief, a position he has held for over 12 years. He has been in the Fire Service for over 30 years. Apart from his part-time administrative assistant, Sandra Bois, he is the Fire Service's only employee, alongside the 28 firefighter volunteers.

Sandra Bois is the administrative assistant to the Fire Chief, a position she has held for 11 years. She was employed with the Public Works Department for a year before her current position. She works 2.5 days per week.

Complainant Townsend has been the Town's CAO for just under 7 years. It is a non-elected, full-time position. There is a staff of approximately 12 people in Complainant Townsend's office.

Complainant Roque is the Town's Clerk / Manager of Planning Services, a position she has held since 2015. She was the Deputy Clerk from 2009 to 2015, and has worked in the Clerk's office since 2004.

Complainant Tessier is the Town's Manager of Financial Services. Although she has held her current position for approximately 3 years, she was worked for the Town for 23 years in various capacities, working mostly in the area of accounting.

Complainant Rivet is the Town's Chief Building Official ("CBO"). He has been with the Municipality since 1989, a building inspector since 1996 and a certified building official since 2003. He manages the Building Department, also referred to as Building Services.

Complainant Desjardins is the Manager of the Town's Office for Provincial Offences (also referred to as the "POA"). She has held this position for 11 years; prior to that she worked as a Court administrative clerk for approximately 6 or 7 years.

Complainant Kennelly is the Town's Program Manager/Community Economic Development Officer; she has held this combined position for approximately 5 years. Prior to that she was program manager for Leisure Services for approximately 9 years.

Complainant Yusko is the Manager, Public Works / Leisure Services. He has been the Manager of Public Works for approximately 13 years, and assumed the role of Manager of Leisure Services approximately 1 year ago, when the past Manager retired.

Complainant Parker is the Assistant Manager, Public Works, a position he has held for approximately 13 years.

Respondent Malott became a Council member in November 2017 when another Council member (Stuart Meikelham) retired. She initially ran in the 2014 Municipal election as part of a "Residents First" slate of candidates (the "Slate"). Respondents Piche, R. Duplessis and Dufour were also candidates on the Slate. She advised that outside of her work on Council, she manages a group of 35 employees.

Respondent Piche was elected Mayor of the Town in 2014. Outside of his introduction to municipal politics in 2014, Respondent Piche owned a welding shop in Town.

Through the course of the Investigation, I was provided various descriptions of the backgrounds and employment histories of **Respondents Dufour, R. Duplessis** and **K. Duplessis**. Without having met any of these three Respondents, I was not able to confirm or deny these descriptions.

Councillor Yocum has been a Council member since he was elected in 2014; he did not run as part of the Slate. Outside of Council, Councillor Yocum advised that he has held various position and run various business; he retired from those businesses in 2006.

Deputy Mayor Bill Foster ("**Councillor Foster**") is the seventh member of Council.

V. Evidence and Findings

During the course of my Investigation, I was presented with documentation from the Complainants. Where relevant and/or where I rely on a document, I reference it within the evidence relating to the allegation. Not all documents provided to me were relevant

to this Investigation and therefore, not all documents have been referenced in this Comprehensive Report.

I outline below the allegations. Under the allegations, where applicable I have referenced all the relevant evidence I obtained from the Complainants and Respondents. I follow this evidence with my analysis and findings for each individual allegation. My findings regarding the Respondents' pattern of behaviour, including Policy and Code breaches, are addressed in the Conclusion section, at the end of this Comprehensive Report.

1. Respondent Dufour's Comments Relating to Accessibility

At a live-streamed Council meeting on January 23, 2018, Respondent Dufour made comments regarding the accessibility of Town buildings. These comments included the statement that the Town does not hire people who "can't do" the job, rather the Town hires people "that can do the job". These comments were contrary to Section B3b of the Code.

From the live-streamed meeting

By way of context, at the meeting of the Committee of the Whole Meeting on January 23, 2018, among other things, Council discussed the question of installing an elevator in a particular Town building. Based on my viewing of the recording of the Committee of the Whole Meeting on January 23, 2018, Respondent Dufour stated as follows:

I'm not aware of any laws that require we put in an elevator. I mean, I looked at it, I don't see where it says that. It requires six floors and it's only for certain circumstances. This here, it sounds like we've got to put one in for any circumstance. I don't understand that. I'd like to see, like a, a document on that. Just so I could look at it. This here, we're just snowballing right now, and I understand that. But talking about elevators at \$320,000 or whatever the costs might be, is quite a bit of money. And, I mean, when we put our flyers to get somebody hired and so on and so forth, I've seen it, I have been here four years, three years, and I have been in Town a lot longer, we don't hire people that can't do it, we hire people

that can, you know. And we try not to make any barriers out of that but, I mean, it is just common sense, you are going to hire someone that can do the job. I mean I'm not sure where we're going with this.

Complainant Townsend's evidence

Complainant Townsend was in attendance at the January 23, 2018 meeting in question; she advised that she heard Respondent Dufour's comments. By way of additional background, she noted that Respondent Dufour "makes frequent comments to show that he doesn't believe in accessibility". She noted that the Council received training on the topic of the *Accessibility for Ontarians with Disabilities Act* (the "AODA") in January 2015.

As regards the impact of Respondent Dufour's statement at the January 23, 2018 meeting, Complainant Townsend questioned how the Town can "attract employees with these comments from Council live-streamed?" In her view, based on such comments, "it's not an environment people want to work in, not just people with disabilities but generally any human who wants an inclusive and respectful workplace". She concluded that she did not believe that Respondent Dufour will "change his stripes" as his objections "come up every time a building issue arises".

In terms of the alleged breach of the Code, Complainant Townsend noted that Section B3b, which requires Council to refrain from conduct that "amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others," is "self-explanatory". She described Respondent Dufour's conduct in respect of this allegation as "consistent and not a one-off".

Complainant Roque's evidence

Complainant Roque shared her belief that Respondent Dufour "thinks the government has gone too far" as regards accessibility legislation. She advised that he has said that "he's read the whole Building Code and [doesn't] see anything in there about [accessibility]". According to Complainant Roque, Respondent Dufour's view is, "if they charge us then we'll do something about it ... we'll cross that bridge then".

While she believed that Respondent Dufour's comments "should have been shut down", the other members of Council "sat there silently". Complainant Roque said,

I take it personally because I don't want anyone to think that's the corporation that I work for ... It's embarrassing to work for a corporation that believes that. I don't want that reflected on me or Staff. It makes me sick that he's sitting at the wheel and making decisions.

Complainant Tessier's evidence

In Complainant Tessier's view, Respondent Dufour's comments at the January 23, 2018 meeting are "really not appropriate in this day and age with all the awareness now. There's so much out there about accessibility, they should be aware of its importance." Complainant Tessier said she was "embarrassed" by Respondent Dufour's comments.

Complainant Rivet's evidence

Complainant Rivet noted that Respondent Dufour has made multiple comments about accessibility during live-streamed meetings which "don't follow applicable laws". As discussed further below, in the context of the Fire Hall and whether to renovate or build a new Hall, multiple external experts have prepared third party reports. Complainant Rivet advised that one such expert, John Kirpatrick, P. Eng., came in to speak with the Council in early 2018. According to Complainant Rivet, Mr. Kirpatrick told the Council, "I'm here to say you *are* required to address accessibility".

Complainant Yusko's evidence

Complainant Yusko stated that he "can't believe that Council is still pushing back on accessibility". He noted that Respondent Dufour's comment, implying that "we just don't hire those people" is equally "hard to believe". Complainant Yusko added that Council took issue with the suggestion that Public Works needs to bring their washrooms "up to par". In Complainant Yusko's view, the Town "hasn't progressed".

Complainant Desjardins' evidence

Complainant Desjardins described Respondent Dufour's comments at the January 23, 2018 meeting as "really inappropriate" and "concerning" to her. She noted that the POA had an issue with accessibility, and then an elevator was put into the building two or three years ago. She notes that the courtroom is still not fully accessible, in that people can enter the courtroom but "there's no place to maneuver, or make submissions, or act as witness". She described this as "concerning because we have people who attend with some restrictions".

Complainant Kennelly's evidence

Complainant Kennelly advised that she was very concerned by Respondent Dufour's comments to the effect that the Town "wouldn't have to accommodate persons with accessibility issues because we wouldn't hire those people that couldn't do the job". She noted that she was present at the meeting, and Respondent Dufour's statement "was like a punch in the face". She said,

He just either doesn't understand, or can't comprehend the sensitivity, or just doesn't care. No one said anything in defense. No one said anything, or said "that's not appropriate". It looks like they're condoning that belief system or opinion. This is the sort of thing that I find embarrassing.

Respondent Dufour's evidence

As set out above, despite multiple communications to Respondent Dufour, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent Dufour's comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged. I find that the Council received training on accessibility issues in January 2015, and I accept that many of the Complainants were embarrassed and disturbed by Respondent Dufour's comments.

The impugned comments clearly identify Respondent Dufour's belief that someone who might require an elevator is not someone who could "do the job" at the Fire Service or Public Works, and therefore not someone that the Town would hire. Despite AODA training, Respondent Dufour has demonstrated a failure to appreciate the intimidating nature of his comments to anyone who may be concerned with accessibility. I find that his comments amount to discrimination, intimidation and adverse treatment of others, contrary to the Code.

2. Respondent R. Duplessis' Comment re Creation of "Synergies"

At a live-streamed Council meeting on January 23, 2018, Respondent R. Duplessis made comments regarding the creation of "synergies" with respect to staffing the proposed new Fire Hall. These comments were harassing and contrary to the procedural requirements regarding matters that are not to be discussed in open meetings and Sections C3A of the Code.

From the live-streamed meeting

By way of context, the Committee of the Whole (also known as the "Committee") is an ad-hoc committee which includes all Council members and is focused on matters relating to the Fire Service. At the meeting on January 23, 2018, the Committee discussed, among other things, the question of how many offices would be required in the new Fire Hall. Central to this discussion was the understanding that two Town employees from Public Works, namely the Manager and an Administrative Assistant, would be moving into the new Fire Hall. As noted above, the only permanent Fire Hall staff are Complainant Pichor and Sandra Bois, the latter of whom works part-time.

In the context of this discussion, Respondent R. Duplessis made the following statements, with the noted responses from Councillor Yocum:

R. Duplessis: I also see synergies here, if we bring over the Manager and Administrative Assistant, that Administrative Assistant can have a dual purpose. If there's important filings or whatever. So we eliminate the need of a part-time person. So there is a

savings to help off-set office space... If we're using our Administrative Assistant in both capacities, then we only need one more [office] space.

Councillor Yocum: I don't think we should be speculating about personnel in an open meeting like we just did. I think that's something not for an open meeting.

...

R. Duplessis: We're looking at one additional office, if we're going to try to save on synergies here by combining jobs.

Councillor Yocum: I guess my point was lost.

R. Duplessis: Yes it was, Bob, because we're looking at space and if we're not going to look at people we can't look at space properly. I know what you're saying. We're not saying we're getting rid of people but we're looking at synergies here, if we're going to be able to relocate people and utilize them in a different capacity. And if we do it and we're looking at space, we don't need four offices, we may only need three. Why build a fourth office if we don't need it?

Complainant Townsend's evidence

Complainant Townsend acknowledged that there is a "longstanding" history of talk in the community "about how the Fire Chief doesn't need a secretary". That said, she does not believe that Sandra Bois is being "specifically targeted", rather it is "staff generally". In her view, "no one's job is safe".

As regards Respondent R. Duplessis' suggestion that Sandra Bois' position could be eliminated, Complainant Townsend said this comment took place "without any discussion about roles and responsibilities, how much would be saved, or how many hours [Sandra Bois] works in a week". Complainant Townsend was asked to consider whether

Respondent R. Duplessis' comment about synergies is a commitment to the financial bottom line; she disagreed. She explained that she believes that Councillors are "targeting staff" because the Councillors "are not asking the questions" that would allow them to make informed decisions about cost savings. She said,

I've never had the opportunity to address the financial impact of [Sandra Bois'] position ... Through the last 10 years with the Fire Hall rebuild, I too thought about combining the jobs, but now I know how busy [the Public Works AA] and [Sandra Bois] are, and it's just not realistic. But Council doesn't understand what [these two AAs] do. They've never asked, I've never given them the information. If they wanted to know, they would ask.

Complainant Roque's evidence

Complainant Roque stated that Respondent R. Duplessis has recently repeated his comments about requiring three offices in the new Fire Hall, instead of four. In her view, this indicates that Respondent R. Duplessis "is still trying to get rid of a position" even though Council and staff have "never had one discussion about it". Complainant Roque suggested that Sandra Bois is anxious about her job security, as she has called Complainant Roque to discuss the Council's authority to set the budget and "fire people".

Complainant Roque rejected the suggestion that the Council was demonstrating fiscal responsibility, on the basis that the Council members "don't know what these AAs do". She noted that Respondent Dufour has said "he doesn't know what staff does", and Respondent R. Duplessis "has never been involved in a discussion about those positions". Complainant Roque described Respondent R. Duplessis' comments about synergies and eliminating a position as follows,

It's intimidating because we all know that he could do the same to any of us... He's just eliminating positions, it makes staff sound disposable.

Complainant Roque believed the impugned comments are "malicious and mean spirited, because they don't think [Sandra Bois] does anything" and Complainant Pichor "can do his own admin stuff". She stated that "everyone here is worried about cut backs".

Complainant Tessier's evidence

Complainant Tessier said that she thought about Sandra Bois listening to Respondent R. Duplessis' comments during the live-streamed meeting and knew that Sandra Bois "didn't feel good". Complainant Tessier further noted that other members of Town management worried that Sandra Bois would assume that they were involved with or supported Respondent R. Duplessis' comments.

As regards the impact of the comments on Town staff generally, Complainant Tessier said,

We've all felt under the gun since 2014. Part of their campaign was to cut staff. It's been very threatening. They talk about that in live-streamed meetings. It's all very discouraging to listen to talk about us as overstaffed and underworked. [Respondent R. Duplessis] talked about a report that wasn't requested. As though we have too much time on our hands. That's our job, to make recommendations. It's not necessarily that my job is in jeopardy, because [Complainant Townsend] is my supervisor, but it's belittling, and they don't even know what our job duties are. They don't know because they have no interest.

Complainant Yusko's evidence

Complainant Yusko stated that he "couldn't believe that the comment [about Sandra Bois' position] was being made in public, it had never been discussed ever before". He said that "no one ever discussed eliminating a part-time position".

Complainant Desjardins' evidence

Complainant Desjardins stated, "the morale of staff in general has been different since this Council was elected. Everyone is on edge, wondering what Council will do, based on what they said when they were campaigning". She described the Councillors' election platform "to get rid of police service and join OPP" and "eliminate certain positions such as Complex Manager, the CAO and the Building Inspection Department, too". According to Complainant Desjardins, "even though there were only a few targeted, everyone who works in the municipality is nervous about their job".

Complainant Desjardins stated that she shares the concern about job security, referencing the fact that the POA Office has a contract with Elliot Lake and Blind River. She noted that when Council was asking about the contract, she was afraid that they might want to eliminate that contract and perhaps a part-time position within the POA office.

Complainant Kennelly's evidence

Complainant Kennelly observed Respondent R. Duplessis publicly suggest that the Town could eliminate an administrative position within the Fire Department if they merged Public Works with the Fire Service. She stated that she understood that Sandra Bois watched the live-streamed meeting and noted that she could “only imagine how she felt. It’s so disrespectful.” Complainant Kennelly pointed out that Councillor Yocum spoke up to say that it was not appropriate to talk about personnel matters. She described Councillor Yocum as “definitely the exception here” and suggested that “he deserves some credit”.

As described further below, Complainant Kennelly noted that in subsequent Council meetings, Council has also threatened the job security of Building Department staff.

Councillor Yocum's evidence

Councillor Yocum stated that he couldn't believe Respondent R. Duplessis made the impugned statements. He noted that he objected to the statements on the basis of the training that the Council had received on the Code. He found it was inappropriate to discuss such matters in public meeting.

Respondent Piche's evidence

Respondent Piche acknowledged that “a lot of things were said during the campaign that were “off””. He noted that he met with Complainant Townsend on his first day in office, and he asked her if “she was afraid of [him]”. He said that she answered, “yes, because you’re going to take away my job and you’re going to do [my job]”.

Respondent Piche stated that he has come to rely on both Complainants Townsend and Roque as “resources who know what they’re doing”. That said, he conceded that “a lot of people” told him that he had to fire Complainant Townsend.

Sandra Bois’ evidence

Sandra Bois advised that she and her husband watched the live-streamed January 23, 2018 meeting at home. She noted that she was watching because the agenda for the Committee meeting included a reference to Public Works and there had been a previous discussion about a possible relocation of staff from Public Works, namely a Manager and Administrative Assistant (or “AA”), to the Fire Hall. She stated that she had “no expectations” about what might happen, or what the Committee might discuss.

Sandra Bois described the Committee’s discussion about how many offices would be needed at the new Fire Hall. She said,

[Respondent R. Duplessis] began putting it out there that we can eliminate one office and have the AA for Public Works work for [Complainant Pichor]. So he was going to eliminate my position. He said we didn’t need to plan four offices. My position wouldn’t be needed.

Sandra Bois stated that she and her husband both “immediately” understood that Respondent R. Duplessis was referring to her position. She said,

This should be discussed *in camera*. You should discuss it with affected employees first. I was annoyed that [Respondent R. Duplessis] has no idea what my job entails, or what Public Works does. Can [the Public Works AA] take on another 17.5 hours of work per week? There was no consideration.

Sandra Bois added that the impugned comments were in breach of Procedural Bylaw 2062/08, Article 27.1, which provides,

Except as provided in this section, all meetings shall be open to the public if the subject matter considered is:

...

27.1.2 personal matters about an identifiable individual including
municipal or local board employees

Respondent R. Duplessis' evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent R. Duplessis' comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

When Councillor Yocum suggested, for a second time, that personnel matters should not be discussed in an open meeting, Respondent R. Duplessis said, "I'm not saying we're getting rid of people". However, in the context of his statements that Council could "eliminate the need of a part-time person" and "save on synergies by combining jobs", the only reasonable interpretation is that he was proposing the elimination of Sandra Bois' position.

I was not presented with any evidence to suggest that Respondent R. Duplessis made inquiries into the job description or duties for either the full-time or part-time AA position in question. On the contrary, evidence from multiple Complainants, including Sandra Bois, indicated that there was no previous discussion or inquiry about the AA positions in question, and no discussion about eliminating a position. I find that Respondent R. Duplessis' suggestion that the part-time AA position could be eliminated, without evidence that he knew what her job entailed, was disrespectful of Sandra Bois' professional capacities and responsibilities, in breach of Section C3b of the Code.

Further, given the context for the discussion, I find that Respondent R. Duplessis' comments related to personal matters regarding an identifiable individual, Sandra Bois, and should not have been addressed in an open meeting, contrary to the Procedural Bylaw

2062/08, Article 27.1.2. This is particularly so when Respondent R. Duplessis had the benefit of Councillor Yocum's caution. Rather than heed the caution, Respondent R. Duplessis repeated his comments and challenged Councillor Yocum.

As regards the allegation that Respondent R. Duplessis' comments were harassing contrary to the Code, I find that the comments on their own do not rise to the level of harassment. I do find the impugned statements to be inconsiderate, unprofessional and without a factual foundation. I will discuss these comments further below, to the extent that they can be described as forming part of a pattern that contributed to a harassing environment as regards an election campaign that targeted job cuts and a prevalent fear over job security.

3. Respondent's R. Duplessis' Comments and Treatment towards Complainant Pichor

At a live-streamed Council meeting on January 23, 2018, Respondent R. Duplessis spoke to Complainant Pichor in a manner that was disrespectful of his professional capacities and responsibilities. Respondent R. Duplessis' statements to Complainant Pichor were contrary to the prohibition on harassment in the municipal work environment as per Sections C2 and C3a of the Code.

From the live-streamed meeting

At the January 23, 2018 meeting there was a discussion about the proposed new Fire Hall. Complainant Pichor was asked several questions by various Councillors. Thereafter Complainant Pichor raised his hand and asked Respondent Piche if he could speak, and Respondent Piche granted his request. Complainant Pichor stated that he wanted to "make some corrections" with respect to some comments made by the public regarding the previous meeting. Complainant Pichor stated that it had been suggested that he had "interrupted Council and the Mayor" and "spoke out of turn". Complainant Pichor said this was not accurate as he had raised his hand and had been given permission to speak at the previous meeting; Respondent Piche confirmed this was true. Complainant Pichor

concluded by saying that he wanted to “get that out in the public” because there had been “some people talking” and “going after his integrity” and this was “upsetting”. Respondent Piche said, “Good sir”, and Complainant Pichor took his seat.

Respondent R. Duplessis then asked Respondent Piche, “Are you saying, your Worship, that if the people in the audience raise their hand, we’re going to let them get up and talk during the meeting?” When Respondent Piche asked, “Where’s that coming from?” Respondent R. Duplessis identified his concern about members of the audience getting up to speak when they are not on the agenda, and noted that “the Fire Chief was not on the agenda and had not been questioned”. Respondent Piche stated that Complainant Pichor had been questioned already at the January 23rd meeting, to which Respondent R. Duplessis responded that he had not been questioned at the previous meeting. Respondent R. Duplessis made the following statement,

I was talking to [Councillor Foster] and [Complainant Pichor] said, “I’m part of this meeting”. Twice. The third time he said, “What’s wrong with you people. We have a plan here and that’s what we should be following.” He was not on the agenda and had been not asked a question. I was discussing with Bill and that’s a fact. And you can ask other people here... There’s four right here [pointing to the Councillors around the table, there were 6 in total] and I think them people were here that night too [pointing to the back of the meeting room, off camera].

Councillor Foster then spoke up and noted his understanding that Complainant Pichor had been present at the earlier meeting to answer any questions the Council had and provide some input, and that he had “not been offended” by anything Complainant Pichor had said. Respondent R. Duplessis repeated that Complainant Pichor not been asked a question and that he had been interrupted “three times”. Motioning toward Complainant Pichor, Respondent R. Duplessis said, “when he is asked a question, he is a resource... but when he’s sitting in the audience, he is only a resource, he is not part of the meeting”.

Complainant Pichor's evidence

Background

By way of context, Complainant Pichor described the previous meeting in late November 2017 which was not recorded. According to Complainant Pichor, he had been invited to the meeting as the Department Head “to discuss Fire Hall needs and requirements and to provide information”. He noted that the members of Council engaged in “a lot of discussion about the redesign of the Fire Hall without asking for [his] opinion at all ... essentially ignoring [him]”. Complainant Pichor said that, as a result, he “put up [his] hand” and, when Respondent Piche addressed him, he sought and received permission to “say a few things”. He described going over the various studies that have already been done, including the Fire Hall Master Plan that was completed “about 6 years ago”, a Fire Service “requirement needs study” by Fire Underwriters Services that was completed “about 5 years ago”, and an engineering report that was received in early 2018. Complainant Pichor summarized these reports as confirming that the current Fire Hall cannot be used.

Complainant Pichor noted that “plans and drawings” for a new Fire Hall, which cost “in excess of \$30,000”, had been provided to the former pre-2014 Council. According to Complainant Pichor, the current Council campaigned against building a new Fire Hall.

Complainant Pichor said at the November 2017 meeting, Respondent R. Duplessis told him to stop interrupting and his tone was such that the Mayor told Respondent R. Duplessis that “he needed to treat everyone with respect, no more outbursts”. Complainant Pichor stated that Respondent R. Duplessis had another outburst and the Mayor had to address him again, “about a minute later”. In Complainant Pichor’s view, it was “rude” for Respondent R. Duplessis to suggest that he “shouldn’t be talking”.

Complainant Pichor noted that the November 2017 meeting was reported by two different sources. The first was the Mid-north Monitor (also known as the “MNM”), a local newspaper. A copy of the MNM article dated December 5, 2017 is attached as **Appendix B**. The article describes the November meeting, including the Council’s discussion about

distinguishing the Fire Services' wants and needs. As regards Complainant Pichor, the article states as follows:

At this point, an annoyed Pichor interrupted saying, "Can I be included in the conversation? It's not based on what I want. We've been doing this since 2012." He told the councillors pointedly that if there were any questions he could answer them. Ron Duplessis responded with, "We have to agree on this." Duplessis also asked Pichor sarcastically, if he would like to read the report to the councillors. This brought a mild rebuke from Mayor Ron Piche who asked Duplessis to show respect. Before the meeting was over Duplessis had to be cautioned a second time to show respect.

The second source of reporting was a Facebook page administrated by David Shamess entitled "We...the Espanola People" (the "Facebook Page"), which has "a couple hundred members" (a copy of the January 4, 2018 Facebook Page post is attached as **Appendix C**). The post quotes from the MNM article and reads, in part, as follows:

When a Department Manager is in attendance at a Council Meeting, he/she is often present as a resource, to answer Council's questions or to contribute, with permission, by raising a hand. The Department Managers are generally not part of the discussion per se and it is considered improper for anyone, including a Department Manager and fellow Councillors, to interrupt a Councillor while he/she is speaking...

The implication of the MNM article is that it was Councillor Ron Duplessis who was in the wrong but in actual fact, it was the Mayor and Fire Chief who were out of line...

The Mayor would never appreciate being interrupted as the Councillor was. The Mayor delivered a public rebuke, I believe he owes Councillor Ron Duplessis a public apology.

As regards the post on the Facebook Page, Complainant Pichor said,

[David Shames] put out that I had interrupted Council, and I had been rude and inappropriate. Basically he was attacking my integrity. I took offence to it.

January 23, 2018 meeting

Complainant Pichor stated that when he raised his hand to speak at the January 23rd meeting, he was “trying to clear up misconceptions”. In his view, Respondent D. Duplessis had been “rude and degrading” when he asked the Mayor about “people in the audience” being allowed to talk. Complainant Pichor said,

His tone was, and his whole idea of going forward, was that I shouldn't speak, even as a Department Head, the person with the most knowledge. It was like I had no business speaking... The meeting was all about meeting with me to resolve Fire Department issues. As Department Head, that's my job. He was crude, disrespectful, bullying and belittling.

Complainant Pichor expressly denied that he “interrupted three times” or said, “What's wrong with you people?” He advised that he “wanted to let them know that [he] could help, going forward”, but he felt that Respondent R. Duplessis had been “totally disrespectful to [him] as a professional and in [his] responsibilities”. He said, “[Respondent R. Duplessis] made me feel like I shouldn't have been there and had no business talking”.

Complainant Pichor noted that Respondent R. Duplessis' “personal attacks should not happen”. In his view, this “isn't a personal issue, it's about resolving an issue for the municipality”. He stated that Respondent R. Duplessis “brings his feelings in”, namely he “doesn't want the Fire Hall, he doesn't like that [Complainant Pichor] defended [himself], and he felt interrupted”. Complainant Pichor acknowledged that his leads him to “bring [his own] feelings in”.

Complainant Pichor suggested that Respondent R. Duplessis' comments “have an impact on the Fire Hall issues moving forward”, and described the urgency regarding some of the decisions to be made, including the aging of the fire trucks and the timing to commence construction of the new Fire Hall. He advised that he prepared a Staff Report to

recommend a sub-committee, separate from the Committee of the Whole. The Report proposed that the sub-committee would address concerns that “little has been resolved” in the monthly meetings of the Committee of the Whole, and “time is getting very short to make some very important and time sensitive decisions”, including putting out an RFP for “engineering/planning” and scheduling an available contractor. Complainant Pichor noted that the recommendation was defeated. Complainant Pichor stated that he “doesn’t know everything” but he has “been doing this for 30 years”. A copy of a Staff Report, dated January 26, 2018, together with the resolution confirming its defeat on February 13, 2018, is attached as **Appendix D**.

Complainant Pichor stated his belief that certain Council members are meeting “outside of Council and making decisions”. He suggested that these meetings have a quorum of three or more Councillors and are therefore “illegal”. By way of example he advised that Respondents R. Duplessis, Dufour and Malott visited Fire Stations without him in Birch Island, Little Current and North Eastern Manatoulin Island (Mindemoya).

Complainant Roque’s evidence

Complainant Roque was present and observed the exchange in question. In her view, Respondent R. Duplessis’ comments were to intimidate Complainant Pichor, and his comments generated a response from the public, namely the Facebook Page post.

Complainant Tessier’s evidence

Complainant Tessier described this exchange as part of the “on-going saga with the Fire Chief”. She suggested that it is “like [the Council members] think that [Complainant Pichor] has got some personal gain with a new Hall”. She added that the proposed changes to the Fire Hall are “all things that we need” as identified by “the Province, the Fire Marshall’s Office and an engineer with 25 years’ experience”.

Complainant Yusko’s evidence

Complainant Yusko felt that the situation regarding Complainant Pichor was “personal” and, in his view, “the debate was no longer about the Fire Hall”.

Complainant Yusko noted that Respondent K. Duplessis had sought to defer making a decision on the proposed Fire Hall “again” on the basis that Council was receiving “all new information”. Complainant Yusko believed that “all the information had been in previous reports”.

Respondent R. Duplessis’ evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent R. Duplessis’ comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

It is clear that the Town has been engaged in a review of the Fire Service for several years; the Committee was established with this specific focus. I requested the Protocol for the Committee and received the following information from Complainant Roque:

1. The Fire Chief is the main resource for the Committee of the Whole that was struck to address the Fire Hall. Discussions on the issue require his input as he provides the facts that are required to make recommendations.
2. The Fire Chief is required to attend these meetings as the main resource. He is not considered a member, it is a Committee of Council, the term ‘Whole’ refers to a Committee of all of Council. The Procedural Bylaw applies to these Committee meetings with respect to Article 10, 23, 24 and parts of 26. In the case of the Committee of the Whole, the Mayor is the Presiding Officer.

I find that although Complainant Pichor is the Committee’s “main resource” but not a member of the Committee, at the meeting on January 23rd he was either answering a

question or raised his hand and received permission to speak each time he addressed Council.

Respondent R. Duplessis' initial response to Complainant Pichor's comments was to suggest that Respondent Piche had failed to adhere to proper meeting protocol by permitting discussion not reflected on the agenda. As the exchange continued, Respondent R. Duplessis' concerns turned to the November meeting, and the fact that Complainant Pichor sought to speak when he had not been asked a question. He was clearly aggravated when he stated that he had been "interrupted three times" and suggested, in a deprecating manner, that Complainant Pichor was "only a resource" and not "part of the meeting".

According to the Code, it is Complainant Pichor's role to "provide advice to Council on the policies and the programs of the municipality". I find that the exchange between Complainant Pichor and Respondent R. Duplessis was fueled by emotion and, like another exchange discussed further below, devolved into a power struggle between a person who saw himself as "the person with the most knowledge" and another who implied he didn't have to hear from a member of the audience who is "only a resource". Viewed as a whole, I find that Respondent R. Duplessis' comments and demeanor were disrespectful of Complainant Pichor's professional capacities and responsibilities, contrary to the Code.

It is alleged that Respondent R. Duplessis' comments were harassing. On their own, I do not see the comments as rising to the level of harassment, as defined in the Code. However, as will be addressed further below in the discussion on Council's pattern of conduct, I appreciate that Complainant Pichor was frustrated by the slow pace Council has taken toward the Fire Hall review, the multiple third party studies, and repeated steps backwards.

I note that, while it may be good counsel to generally leave personal feelings outside of workplace debates, an employee should be able to advance a position in the workplace without abandoning the expectation of respectful treatment.

4. Respondent Dufour's Comments Relating to Complainant Rivet

At a live-streamed Council meeting on January 23, 2018, Respondent Dufour asked for someone that the Council "can identify with" to discuss the Building Code and explain the Council's responsibilities regarding accessibility. This conduct disregarded the professional capacities and responsibilities of Complainant Rivet, the Town's CBO, contrary to Section C3a of the Code.

From the live-streamed meeting

At the meeting of the Committee of the Whole on January 23, 2018, there was a discussion about the new proposed Fire Hall and what steps would be compulsory in terms of accessibility by the 2025 AODA deadline. Respondent Dufour made the following statements:

The other thing I'm trying to get at here, in '25, I did check some of the Building Code on that and, again, a lot of us are misunderstanding the Code. And I'm probably no better than that, but I'd like to get the real, I'd like to understand it better. In which case get somebody here that we can identify with: the Building Code, one of the writers, I don't care what (laughs). But somebody that we can identify with because I think we're mis-concepting [sic] a lot of this, and if we can get a reality check on it, I think we'll be much further ahead.

Earlier in the same meeting, when Complainant Yusko was asked by Council about the status of the Public Works building and whether it was "up to Code", Complainant Yusko said, "You would have to consult the Building Department".

Complainant Rivet's evidence

Complainant Rivet stated that when the current Council was campaigning for election, "it was said that if [Respondent Dufour] gets in, he'll get rid of the Building Department". He believes that the Council "really doesn't know what [the CBO does], and they still don't understand mandatory inspections and timeframes". By way of example he noted that

Council has suggested that if an engineer is hired, “there is no need for the Building Department”. Complainant Rivet noted that this is incorrect, as the CBO “signs off on the project”. Further, he recalled being asked about the CBO’s involvement in the building of the new school; he advised that he told Council that his Department “reviewed the drawings and found mistakes and made corrections”. He stated that Respondent K. Duplessis still asked him if it was necessary for him to inspect the school building.

According to Complainant Rivet, when the current Council started, he gave them “all the literature and provincial documents [he] could find” to inform them about the Building Department’s role. He described bringing in another building inspector, Alison Orr from the Toronto area, as an “independent voice” to “explain to Council how important it is to follow provincial requirements to inspect and issue permits”.

As regards the new proposed Fire Hall, Complainant Rivet stated that he has been looking at this issue for 8 years. He said that the Staff has “done [their] homework”, and identified the various reports that have been obtained over the years, including the Fire Committee Master Plan, reports by Perry & Perry, and a presentation by John Kirpatick from McIntosh Perry. Despite these reports, which conclude that the current Fire Hall is in bad shape, Complainant Rivet believes “Council is going against Staff” and “every time [the Council] meets, it’s a step back”. He said,

There’s no clear direction on Council. After McIntosh Perry, they finally agreed to build new. Then they said 1 level and 8,000 square feet. We did that. Now they’re trying to make it even smaller. I don’t know if it’s about saving money. I really don’t know what is driving them.

Complainant Rivet said that Respondent Dufour’s comments make him think that Respondent Dufour believes that Complainant Rivet “knows nothing” and is “not trusted”. He noted that Council “keeps asking for more documents” and “keeps saying they’re unaware”, but Complainant Rivet believes that “they mostly aren’t reading” the Reports that are provided to them. Complainant Rivet advised that he found Respondent Dufour’s comments about getting someone Council could identify with “disrespectful”.

Complainant Townsend's evidence

According to Complainant Townsend, Respondent Dufour's comments "speak to the overall lack of respect for Staff". As regards Complainant Rivet specifically, she advised that Council has "no respect" for him and "they don't believe anything he says...even though he has more experience than most building officials in the area".

Complainant Townsend noted that Complainant Rivet "has had a real struggle with the Building Department and [Respondent Dufour]" (addressed further below). She too described the presentation by engineer John Kirpatrick from McIntosh Perry, and noted that Council "didn't like what he had to say, which was the same as what [Complainant Rivet] had said". Complainant Townsend advised that Mr. Kirpatrick told the Council that "it would take over a \$1M to upgrade the Fire Hall, then another \$1M to expand to fit the needs, and a new building would cost about the same, \$2M". She noted that Mr. Kirpatrick also talked about the accessibility, as Complainant Rivet had previously. She echoed the comments of other Complainants in noting that Staff has "circulated and re-circulated Staff Reports, but [Council] don't read them or acknowledge them if they are read".

Complainant Townsend stated that Council "never asked to hear from [Complainant Rivet]" and Staff knows that "they don't value him". As an extension of this, she identified Staff's "struggles trying to hire other building inspectors". By way of summary, she advised that in 2005, the Town had two building inspectors, namely Complainant Rivet and Ashley Gallanger. When Ms. Gallanger went on maternity leave, the Town hired a part-time building inspector, Dale Swan. When Ms. Gallanger moved away and Mr. Swan developed health issues, it took the Staff approximately a year to get approval to hire Joe West as a replacement full-time building inspector. She noted that a third building inspector Mike Campbell was hired in 2017 to cover 3 neighbouring municipalities: Baldwin Township, Nairn and Hyman Township, and Sables-Spanish River Township. She advised that although Mr. Campbell is technically on the Town's payroll because he works under CBO Respondent Rivet, Mr. Campbell does not serve the Town and his compensation is 100% paid for by the three municipalities he serves.¹

¹ As regards the frequently discussed topic of the Town's building inspectors, Complainant Townsend noted that Respondent Dufour frequently mis-quotes a KPMG Service Delivery Review that was done for

Complainant Townsend concluded by stating that, in her view, Respondent Dufour's comments were disrespectful to Complainant Rivet.

Complainant Roque's evidence

Complainant Roque stated that Complainant Rivet "is very highly trained" and the Town "is lucky to have him". She stated that nonetheless,

[Complainant Rivet] could be in the room and the Council won't ask him about the Building Code. They'll ignore him and ask for another expert. They're very dismissive... When the Mayor turned and asked me if we could find someone, I couldn't believe it. This shows they don't respect [Complainant Rivet].

Complainant Roque identified the Service Delivery Review done by KPMG, and noted that Council members "misquote the report and take it out of context and use it to say that we don't need that many inspectors". She clarified that the "legislation comes from province and [Staff] are supposed to enforce it, but some Councillors just don't believe it. They don't respect the legislation. They think Staff is fabricating".

Complainant Roque believed that Respondent Dufour's comments "show a challenge to Staff's knowledge".

Complainant Tessier's evidence

Complainant Tessier described Respondent Dufour's comments as "very belittling to our CBO, and not the first time". In her view, Respondent Dufour has "no respect for rules, as the *Building Code Act* is provincial legislation and has to be followed". She noted that "people get sued for improper construction" and there is "a lot of potential liability".

the Town a few years ago: whereas Respondent Dufour states that "the KPMG report said that Town *needs* 1.5 building inspectors", Complainant Townsend advised that "the KPMG report said that the Town *has* 1.5 building inspectors".

Complainant Tessier suggested that Respondent Dufour's impugned comments are another example of the "lack of trust for Staff". She noted that it "didn't use to be that way, Council used to listen to us".

Complainant Yusko's evidence

Complaint Yusko stated that Respondent Dufour's statements about Council needing to speak with someone about the Building Code "when the Town has a capable CBO with 20 plus years' experience, is just insulting".

Complainant Yusko stated that he did not believe that Respondent Dufour's understanding of the Building Code exceeds that of the CBO. He referenced the various reports obtained over the years on the issue of the Fire Hall and stated,

We keep getting more reports because they're waiting for a report that says, "We don't need a Fire Hall", which they'll wave over their heads and say, "I told you so".

Complainant Kennelly's evidence

As regards Respondent Dufour's impugned comments, Complainant Kennelly said, "this is yet another example of the lack of respect of our Staff expertise, namely the CBO".

Respondent Piche's evidence

Respondent Piche noted that it was "an error on [his] part" when he asked Complainant Roque if someone could be found to come in to address Council. He said, "I should have said that we have a CBO and that's good enough for me. When [the members of Council] get started, it's hard to know what to do."

Respondent Dufour's evidence

As set out above, despite multiple communications to Respondent Dufour, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent Dufour's comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

I find that Respondent Dufour's comments were disrespectful of Complainant Rivet's professional capacities and responsibilities, contrary to the Code. Although I have received no response from Respondent Dufour, I find that he, as a member of Council, would be familiar with Complainant Rivet and his role of advising Council about matters relating to the Building Code. Complainant Yusko's reference to the Building Department earlier in the meeting would suggest that Complainant Rivet was arguably top of mind. By stating that he wanted to hear from someone that Council "can identify with", I find that Respondent Dufour was indicating, in a disparaging manner, that Council does not identify with Complainant Rivet. As addressed further below, Respondent Dufour has taken other action with respect to the Building Department that has been construed as intimidating.

5. Building Services' Outstanding Orders to Comply against Respondent Dufour

There are two outstanding Orders to Comply against Respondent Dufour's business property and personal residence (Order 2014-24 dated December 17, 2014 and Order 2016-024 dated May 20, 2016, respectively). By continually participating in discussions and voting on items regarding Building Services, without declaring a conflict of interest, Respondent Dufour's conduct is a violation of Section C7 of the Code, the *Municipal Act* and the MCOIA.

On June 13, 2017, at a Special Meeting of Council, Council passed a resolution to enter an agreement with the Townships of Sables-Spanish Rivers, Nairn-Hyman and Baldwin for Building Inspection Services. Mike Campbell was hired into the position of building inspector. At a Council meeting on February 13, 2018, Respondent Dufour tabled a motion to have Council review Mr. Campbell's

contract, which was coming due. In presenting his motion, Respondent Dufour noted that the Town has “two building inspectors too many”, and made a disparaging comment with respect to writing out the motion form. Respondent Dufour’s conduct misrepresented and disrespected the Council’s decision on June 13, 2017, and was contrary to the Code, Section C4. The conduct was also disrespectful of the roles and responsibilities of the staff of the Building Services, contrary to Section C3.

From the live-streamed meeting

The Orders to Comply (“OTCs”) are addressed in the evidence below. By way of background, when Council voted in June 2017 in favour of the agreement with the Townships of Sables-Spanish Rivers, Nairn-Hyman and Baldwin (the “Townships”) to hire a building inspector for Building Inspection Services, Respondents Dufour and R. Duplessis voted against the agreement. As set out in the Complaint, Respondent Piche, Councillor Yocum and Councillor Foster voted in favour of the agreement and two Council members were absent. Respondent Dufour requested that the vote be recorded.

By way of additional context, at the February 13, 2018 meeting, Complainant Townsend advised Council that, based on the terms of the 2017 agreement with the Townships, there was a requirement to do an annual review of the number of permits issued in each Township, to ensure that each was paying its respective share of Mr. Campbell’s compensation. It was confirmed at the February 13th meeting that this review was to ensure proper cost allocation as between the Townships, and was not a review of the employment contract. Respondent Dufour made the following statements:

Respondent Dufour: Well I guess what I’m getting at your Worship is that we also have another building inspector in Town that could easily have done this job as well along with doing his other job. I mean we’ve got 3 inspectors. We’ve got almost 2 too many. It was noted on the KMPG that we require 1 and a half. We can’t hire a half a man, we have to hire a full 2 people in order to get that 1 and a half...

What I'm saying is that I'd like [Mike Campbell's contract] to come to Council. That's the bottom line. And if you want I can make a motion towards that... Okay, I make a motion that upon this review, it comes to Council for verification... To verify whether or not we are going to continue in the same way that we are going.

Respondent Piche: So are we just going to rip up the agreement between Massey [sic] and Baldwin, and all of that?

Respondent Dufour: Oh god, no, I don't think that we would have to do that, your Worship, as we are already adequately being provided by a second building inspector that can do this job... I don't see an argument here, I really don't.

Respondent Dufour then received a blank motion form from Complainant Roque, who gave him some direction on filling it out. As he is completing the form, Respondent Dufour can be heard saying something about having to "write this bastard".

Complainant Rivet's evidence

Complainant Rivet stated that "the whole Council is disrespectful to Staff. [Respondent Dufour] is a problem". He noted that although there are two OTCs that are outstanding against Respondent Dufour, "in his 29 years, [he has] personally charged five tickets for non-compliance". He prided himself on "always being able to talk the matter through" with people.

The first OTC in question was issued by building inspector Mr. Swan on December 17, 2014 against a business property Respondent Dufour owns at 120-122 Tudhope Street. Complainant Rivet noted that Building Services made numerous efforts to contact Respondent Dufour after the OTC was issued, both on the phone and in writing. Notwithstanding 12 communications and meetings spanning May 2015 to May 2018, Respondent Rivet advised that the subject matter of the OTC remains unresolved.

As regards the second OTC, Complainant Rivet stated that Building Services received anonymous complaints, the first in December 2015, regarding Respondent Dufour's personal property at 457 Polojko Drive. Complainant Rivet noted that he and building inspector Mr. West attended the property and "verified the complaint"; at this time Respondent Dufour acknowledged the concerns. When another anonymous complaint was received in late February 2016, a further meeting was scheduled. When remedial steps were not taken, Mr. West issued the second OTC on May 20, 2016. Complainant Rivet noted that Building Services made numerous efforts to contact Respondent Dufour after the second OTC was issued, both on the phone and in writing. Notwithstanding 8 communications and meetings spanning August 2016 to May 2018, Respondent Rivet advised that the subject matter of the second OTC remains.

As regards Respondent Dufour "wanting to see Mike Campbell's contract", Complainant Rivet shared his belief that this is largely due to a "misunderstanding of the Building Office". He referenced the Council's oft-repeated statements about the KPMG report and purported calls for fewer business inspectors, but clarified that he and Mr. West service the Town, and Mr. Campbell services "those 3 outlying municipalities". He advised that, notwithstanding the fact that Mr. Campbell "is not costing Espanola one cent", multiple people in Town do not appear to understand this, and believe that Mr. Campbell is an unnecessary third building inspector in Town. He noted that he is frequently asked about Mr. Campbell by members of the community. He said, "our taxpayers are clearly getting the wrong information. I think it's coming from our Council because our Staff doesn't talk about the work outside of work, and we know the situation". Complainant Rivet added that "it's not uncommon to see Council members having coffee with townsfolk at Tim's or MacDonald's".

Complainant Rivet stated that when he is asked to advise on a Building Code issue, he draws on his decades of experience to "interpret the Building Code in each situation", and he may refer to his peers and connections in the Northern Lights Chapter of the Ontario Building Association, with whom he speaks "quite often". He suggested that Respondent Dufour "thinks he has the better interpretation, not [Complainant Rivet]". He said,

[Respondent Dufour] always refers to the fact that he's read the Building Code three times. I've been doing this for a long time and I still don't know everything, that's why I rely on my network and the Association. [Respondent Dufour] should not have been voting on anything having to do with Building Office because he's got OTCs against him. I feel that he's been leading all discussions about Building Office, in the streamed council meetings and in discussions in the community.

Complainant Rivet advised that his family now does "most of our shopping in Sudbury, to avoid the stress for my family and my wife". He noted "it's not just [the Building Office], it's the whole office, and Public Works and Fire. The Departments are always under scrutiny". As regards the outstanding OTCs against Respondent Dufour, Complainant Rivet acknowledged that he is "probably dragging [his] feet" by not yet following up with Respondent Dufour. He said, "imagine the hell that will break free if I issue a fine".

Complainant Townsend's evidence

Complainant Townsend stated that the existence of the OTCs and Respondent Dufour's "continued comment on building inspector issues, including getting rid of them, demonstrates the conflict of interest". In her view, Respondent Dufour "wants to get rid of new inspector, who has moved [to Town], but serves the three other municipalities".

Complainant Townsend noted that Staff has "tried to coach [Respondent Piche] to address [the conflict of interest], but he won't talk to [Respondent Dufour]". As such, she stated that she does not know if Respondent Dufour "knows about the conflict of interest". She believes that he "either doesn't understand what a conflict of interest is, or if he does, he doesn't care".

Complainant Townsend stated that Respondent Dufour "should declare a conflict" and not "lead the discussions" about eliminating Building Office Staff. She noted that Respondent Piche "opens every meeting with a request to disclose any pecuniary interests, but there's never been a comment from [Respondent Dufour]". She confirmed that all Council members "did training on conflicts of interest when they first joined the Council in 2014".

Complainant Roque's evidence

Complainant Roque noted that “under the MCOIA, Staff can’t tell [Respondent Dufour] he’s got a conflict of interest, he has to declare it”. She advised that Staff has discussed this matter with Respondent Piche, as he “should be the one to discuss it with a Councillor”.

Complainant Roque pointed out that “the OTCs haven’t gone away, and [Complainant Rivet] is still trying to deal with them”. She advised that it was Complainant Rivet who brought the situation to her attention to identify a potential conflict of interest.

As regards Respondent Dufour’s statement that he wants to review the building inspector’s agreement, Complainant Roque stated,

He’s pushing back because he has an issue with the Building Department. It’s not even thinly veiled. It’s bullying because he’s pushing back to imply that one of them is going to lose his job.

Complainant Roque noted that Respondent Dufour misstated the agreement when he said, “it was always agreed that the second inspector would do the inspections for the area’s municipalities”. She advised that the agreement was endorsed by Council and provides for “full cost-recovery” regarding the third building inspector, and that this has been shown to Respondent Dufour.

Complainant Roque stated that, at the February 23rd meeting, when the nature of the agreement and the annual review was confirmed, Respondent Dufour “still wanted to review” the employment contract. In her observation, “it started with [Respondent Dufour] misinterpreting the minutes”. When Complainant Townsend pointed out that the agreement had been adopted by Council, Respondent Dufour became “madder and madder”.

With respect to Respondent Dufour’s motion, Complainant Roque noted that she has “stopped writing up [Councillors’] motions because they don’t respect or follow the Procedural Bylaw”. She described Respondent Dufour’s comments about writing “the bastard” as “hostile conduct”, but noted that “the rest of Council all supported the notice of motion right away, to review the third inspector’s agreement”.

In Complainant Roque's view, Respondent Dufour "should be abstaining" from matters regarding the Building Department, but she does not think he will. She noted that Respondent Dufour "takes down the OTCs", and without Respondent Dufour declaring a conflict of interest, "the public and Council probably don't know they exist".

Complainant Tessier's evidence

Complainant Tessier stated that, in her view, Respondent Dufour has "a definite conflict of interest", pointing to him having "these OTCs and now he's all negative about Building Office". As regards the agreement with the Townships and Mr. Campbell, she said that the Council cannot seem to appreciate the "shared services responsibility part ... and now Councillor Dufour wants to review". Complainant Tessier believes that "the Staff know about the OTCs, but that's it". In her opinion, Respondent Dufour "doesn't comply with the OTCs, doesn't like the Building Office, and has no respect for rules".

Complainant Yusko's evidence

Complainant Yusko stated his view that, when the Council is "voting on a third building inspector", it would be "reasonable to say that Respondent Dufour should be advising Council that he's got two OTCs against him and he should abstain".

Complaint Yusko advised that he does "not think that it's appropriate for Staff to bring a conflict of interest to a person's attention, rather it should be on the individual".

Respondent Dufour's evidence

As set out above, despite multiple communications to Respondent Dufour, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent Dufour's comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged. Based on the evidence presented to me, and in the absence of any evidence to the contrary, I find that two OTCs have been issued against

Respondent Dufour and remain outstanding. I also find that Mr. Campbell services the Townships and not the Town, and his compensation is fully covered by the Townships.

At the outset of the discussion, it was clarified that the review to be performed related to cost allocation, not a review of Mr. Campbell's employment contract. The fact that Respondent Dufour nonetheless persisted in moving to bring the employment contract before Council to verify whether Council would "continue in the same way", demonstrates that his purpose was to reconsider the agreement that had been adopted by Council the year before, over his objections. I find that this conduct is in breach of his obligation under the Code to respect the decision-making process.

Respondent Dufour implied, in multiple ways, that the duties of the three building inspectors (one of whom does not service the Town) could be performed by two if not one building inspector. He suggested that the third inspector's job could be performed by one of the inspectors in Town, and stated that there are "almost two too many" inspectors. I find these comments disrespectful of the Building Department's professional capacities and responsibilities, and in breach of the Code.

Respondent Dufour has been the subject of two long-outstanding OTCs issued by Building Services. Numerous communications were exchanged between Building Services and Respondent Dufour regarding the OCTs in September and November 2017 and the end of January 2018. These communications included phone calls, email messages, letters and an in-person meeting. I find that it is reasonable that Respondent Dufour knew about the outstanding OTCs in February 2018, when he moved to review Mr. Campbell's employment contract. Respondent Dufour had an interest in Complainant Rivet and Building Services. As such, prior to any consideration of matters relating to the Building Services and building inspectors, I find that Respondent Dufour should have disclosed the two outstanding OTCs against him, abstained from taking part in the discussion or vote, and ensured that he did not attempt to influence voting in any way. Instead of doing these things, Respondent Dufour brought the motion. In so doing, I find that Respondent Dufour acted contrary to the Code, the *Municipal Act* and MCOIA.

6. Respondent R. Duplessis' Comments regarding Complainant Townsend's Staff Report

At a live-streamed Council meeting on February 27, 2018, Respondent R. Duplessis was critical of a Staff Report prepared by Complainant Townsend, which sought information and direction regarding a "Hiring Freeze". Respondent R. Duplessis suggested that Staff should not prepare such reports unless they have been requested by Council. Respondent R. Duplessis' comments were disrespectful of Complainant Townsend's professional capacities and responsibilities, contrary to section C2 and C3a of the Code.

From the live-streamed meeting

By way of background, on February 13, 2018, Respondent K. Duplessis brought a motion for a resolution that, "effectively immediately, Council impose a hiring freeze for all new positions with the Town and replacement of existing positions be reviewed by Council prior to advertising". Respondent K. Duplessis amended the motion at the meeting such that the motion sought a resolution that "Council will review the replacement of existing positions that become vacant, excluding volunteer firefighters". The motion carried and the resolution was passed (the "Hiring Resolution").

In a Staff Report prepared by Complainant Townsend and dated February 15, 2018, Staff sought clarification on,

- i) whether the [Hiring Resolution] is intended to cover the Police Services Board and the Library Board,
- ii) whether the [Hiring Resolution] applies to all casual positions,
- iii) how long the hiring freeze is intended to be in effect, and
- iv) is it the intention to have Corporate Services revise the Hiring Policy?

The Staff Report also noted the following:

For Council's consideration, a summary of full-time equivalent positions in 2017 as compared to 2011 is attached for reference. This shows that in a six year period the organization has eliminated 22.18 FTE's. Council should be aware of this and be able to dispel any myths about "Quota's" which are simply not accurate.

Council should also recognize that over the years staff have taken on more and more responsibility which is continuously downloaded to municipalities. The municipality is fortunate to have the dedicated workforce that currently exists. [emphasis in original]

A copy of the Staff Report and summary is attached as **Appendix E**.

At the meeting on February 23, 2018, just before the Staff Report was discussed, multiple members of the public in the audience left the meeting. At this point, Respondent R. Duplessis said,

I can understand why there is people in the audience confused when they read this because I read it a number of times and it means virtually nothing to me. Where we lost all these jobs, I don't know where the jobs are or what they are.

Thereafter Respondent R. Duplessis and Complainant Townsend had a discussion, animated at times, about various positions that had been eliminated for various different reasons, with reference to the work performed by the employees in those positions. Complainant Townsend stated that the objective of the Report was to demonstrate "the significant amount of change" in staffing over the years. Respondent R. Duplessis agreed that "there has been changes in all the operations in all jobs and industry and government", and then said,

The hiring freeze... was not to tell Staff "don't hire people". It was that we wanted to be notified when there was a need to replace or hire people. That it would not be done without our knowledge. And that's all they asked for, these people up here.

When Respondent Piche suggested that the Hiring Resolution should be re-written, Respondent R. Duplessis did not believe that was necessary, noting “It doesn’t say that there’s not going to be a hiring, it just says it’s subject to Council’s approval”. When Respondent Piche stated that the Hiring Resolution was “worded wrong” and the “the word ‘freeze’ shouldn’t be there”, Respondent R. Duplessis said, “Well, of course it shouldn’t”.

A few minutes later, Respondent Piche asked Council members to “keep in mind that Staff is overworked now”. Respondent Dufour said, “I wouldn’t know”. A moment later, Respondent R. Duplessis had the following exchange with Respondent Piche:

Respondent R. Duplessis: Could I ask how long it took to make this Report about how many people are casual and part time and whatever? ... I would like to know how long it took because it took staff time and who requested it? And we really didn’t need it. We didn’t have a hiring freeze, we asked to be notified. And we put this [Staff Report] in here, to contradict what was done on a motion last week.

Respondent Piche: It doesn’t contradict anything.

Respondent R. Duplessis: It tried to.

Respondent Piche: It shows what kind of operations have been going on, with those amounts of people, who was here and who isn’t.

Respondent R. Duplessis: Did you request it?

Respondent Piche: No.

Respondent R. Duplessis: Neither did I. Who did?

Respondent Piche: I don’t know.

Respondent R. Duplessis: Oh. So we had time to do that then, Your Worship. We still had some time available.

Complainant Townsend's evidence

Complainant Townsend acknowledged that the word “freeze” was removed when the Hiring Resolution passed and it was agreed that Council would review all positions before advertised. She further acknowledged that she had taken Respondent K. Duplessis’ hiring freeze “personally”.

Complainant Townsend said she believed that clarification was required going forward as regards the scope and duration of the review period pursuant to the Hiring Resolution. Further, stating that “Council didn’t even know how many employees the Town has”, she advised that she decided to prepare the Report. She confirmed that it was “self-initiated”, because she had questions and she thought Council “needed to know”. Specifically, she advised that she “wanted them to know that [Staff doesn’t] just replace positions of fill quotas, [Staff] had reduced the numbers, but Council hadn’t acknowledged any of that”.

As regards her exchange with Respondent R. Duplessis, Complainant Townsend said that he was “glaring” at her. She also noted that she “could have easily explained any of those numbers [in her summary] given the opportunity, but they didn’t want to hear from [her].”

Complainant Townsend stated that “it was the most hateful that [Respondent R. Duplessis] has been towards [her]. That was the peak.” She noted that he subsequently “circled back and asked how long it took staff to prepare the Report”. Complainant Townsend noted that, in her view, Respondent R. Duplessis was “not respectful of [her] professional capacities”.

Complainant Roque's evidence

Complainant Roque said that her job has a pro-active component. By way of example, she described the need to be aware of “changes in legislation”. She said, “I don’t just react to Council’s direction, I provide research and advice, review bylaws and policies. That’s my job, to keep Council informed, so they can make informed decisions”.

According to Complainant Roque, Respondent R. Duplessis “challenged the reason for the Report, implying that [Complainant Townsend] couldn’t be that busy if she had time to do this”. She said,

The message was you do what you’re told. It undermines us and our roles. The comment was directed to [Complainant Townsend], but it was directed to management generally because that’s what we do. We advise council... We all wondered, “Why we are even here?” We prepare reports without a request all the time.

Complainant Roque described the “whole tone” of the situation as “very demeaning”, and Respondent R. Duplessis’ question about whether anyone requested the Report as “very disrespectful”. She noted that, whereas the public has elected Council, Staff are hired. She said, “we don’t deserve this abuse”. She added, “I think any one of us could have a break down at any time”.

Complainant Tessier’s evidence

Complainant Tessier noted that she helped Complainant Townsend on the Report, which was intended to be informative. In her view, the Council “thought it was running counter to their hiring freeze”. She stated that Respondent R. Duplessis’ comments “made [Staff] question their role, do we wait to be asked?”

Complainant Yusko’s evidence

Complainant Yusko confirmed that the Report “sought clarification after the hiring freeze”. In his view, Respondent R. Duplessis’ comments “suggested that she wasted her time and municipality’s time and it shows that he doesn’t understand what Staff’s role is”. He noted that the comments were also “insulting”. He said,

It felt like [Respondent R. Duplessis] was lashing out because he had was trying to discipline her, because her report was questioning or challenging the motion or something he had said... It really shows how poor the relationship is, and how there’s no respect for Staff. I still can’t really believe it.

Complainant Yusko felt that the comments about Complainant Townsend's Report are applicable to all the Managers. He noted that if they only write the reports they are asked to write, they're "going to have a lot of spare time". He stated their job "is to anticipate and research and inform and educate". By way of example he described the work he was currently doing on some obsolete language in a Bylaw regarding the cemetery, and stated, "Council would have no way to know that".

Respondent R. Duplessis' evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent R. Duplessis' comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

I find that in putting forward her Staff Report, Complainant Townsend legitimately sought clarification and direction from Council. I also find that, offended by the Hiring Resolution and the implication that Staff were filling quotas, Complainant Townsend took the opportunity to provide Council with some statistical information to show the changes from 2011 to 2017. Along with this statistical summary, she editorialized to a degree by pointing to quota "myths" and suggesting that the Municipality "is fortunate to have the dedicated workforce that currently exists".

As regards Respondent R. Duplessis, I find that he was openly critical of the Staff Report from the outset of the discussion, sarcastically suggesting that citizens in the audience were leaving the meeting because they were confused by the Report, and stating that it meant "virtually nothing" to him, although he had read it a number of times. Given the elevated volume of his voice and the speed of his questions, I found that Respondent R. Duplessis employed a somewhat aggressive tone in his discussion with Complainant Townsend about the Report. Despite this tone, I find that she answered his questions but for one as she did not have the information available to her at the time.

Respondent R. Duplessis suggested that the point of the Hiring Resolution was not to deny the right to hire someone, rather that hires would be “subject to the approval of Council”. I find that it would be reasonable for a Town manager to find this a distinction without a difference; if Council does not approve a decision to hire an individual, the individual will not be hired. Respondent R. Duplessis subsequently suggested that the Staff Report was not needed because this was not a “freeze” and Council was “only asking to be notified”. He sought to undermine the suggestion that Staff works hard as Complainant Townsend had found time to prepare this Report that had not been requested by any Councillor. I find his comments disingenuous and disrespectful of Complainant Townsend’s professional capacities and responsibilities, contrary to the Code.

I find that Respondent R. Duplessis’ conduct in this live-streamed meeting, from suggesting that the Report was “virtually meaningless”, to his aggressive questioning of Complainant Townsend, to his implication that Staff wasted time preparing a Report that was not requested, constitutes harassing conduct contrary to the Code. This conduct will be addressed below in terms of a pattern of Respondents’ behaviour.

7. Respondent Malott’s Email Communications regarding Complainant Townsend’s Staff Report

On February 28, 2018, the day after the Council meeting when Respondent R. Duplessis questioned Complainant Townsend’s Staff Report, Respondent Malott replied to an email from Richard Ellis, copying the rest of the Council, which as disrespectful to Staff. A second email dated February 28, 2017 was sent to Council by Joe Kozlowski. In his email, Mr. Kozlowski was critical of Complainant Townsend. These email communications constitute serial meetings in contravention of the *Municipal Act* regarding closed meetings, and a violation of the Code, Sections B3b, B3d, C2, C3a, C3b and C3d. These communications also constitute a failure to ensure that the municipal work environment is free from harassment, as required by the Code, Section C.

The email communications and Facebook posting

The email exchange between Mr. Ellis and Respondent Malott began with Mr. Ellis writing to all members of Council on February 28, 2018 (a copy is attached as **Appendix F**). He questioned the numbers in Complainant Townsend's Staff Report and provided a summary of his own. Mr. Ellis stated, "As far as I can ascertain the numbers have not changed dramatically since you were elected". Respondent Malott sent the following reply email to all of Council:

I agree with you. They are not going to win this one. Looks like they will have to be called on their report. As Ron D started asking questions, notice they couldn't back up their numbers. Smoke and mirror game? I'm thinking we will just keep asking them to prove their numbers. Hiring will have to pass council that's how I feel, I know for sure we have 4 that will back this. As far as accountability, hang on to your socks!

In Mr. Kozlowski's email of the same date, he quoted from the Staff Report about "dispelling any myths about "Quotas"" and called it an "embarrassing slur aimed at Council". He also described "many disturbing behaviours of our CAO" and having "overheard many complaints from concerned citizen [sic] who feel powerless in the onslaught of our CAO". A copy of Mr. Kozlowski's email is attached as **Appendix G**.

Separate and apart from these email messages was a posting on the Facebook Page that addressed the Staff Report on March 5, 2018 (a copy is attached as **Appendix H**). In the posting, Mr. Shames describes the summary attached to the Staff Report as "a bit disingenuous". He also wrote the following:

Some Councillors are not buying into the Mayor and Staff's claims of Staff being over worked...a point made by Councillor Ron Duplessis on Tuesday night is that if Staff are so busy, how did they find time to produce these documents that no Councillor had asked for, is bang on. The Mayor and Town Hall Staff need to save their breath because very few residents have patience for the over-worked and under staffed arguments.

Complainant Townsend's evidence

Complainant Townsend stated that Respondent Malott's email message was "not really about accountability" because she "could have answered questions about numbers, but Council didn't let [her] speak". In her view, this email exchange is "truly motivated by personal animus toward the CAO position and Staff". She said, "They were elected to make our lives more difficult and that's what they're doing. They're not acting in community's best interest".

Complainant Townsend identified the public commentary that takes place on the Facebook Page, and stated that the Council "encourages and condones" the negative messages and "has made this sort of exchange acceptable".

Complainant Roque's evidence

Looking at the email messages in question, Complainant Roque referred to the election Slate and the "personal attacks on Staff" that were made during the campaign. In her view, Respondent Malott's message "says it all: 'we're 4 now and they don't stand a chance'". She advised that the members of Council "don't really want the numbers, they just want to undermine". Further, she did not believe that Respondent Malott would "connect fiscal responsibility and accountability", rather she believed that Respondent Malott was "thinking of accountability as in 'explain yourself' and 'how did you have time to make this Report if you're so busy?'"

Complainant Roque stated that she sees Respondent Malott's email as demonstrating that Council is "trying to trip up Staff" because they think that Staff is "not being honest with them". As discussed further below, she noted that Respondent K. Duplessis made a public comment about Council "not having a good working relationship with staff".

Complainant Roque stated that Council has a "basic mistrust" of Staff. By way of example she described the work she had done on the garbage bylaw (addressed further below) and stated that she was asked to "prove that [she] had done research". According to Complainant Roque, Staff has "always encouraged open communication if there are questions". She noted that Respondent Piche and Councillors Foster and Yocum will ask questions, but Staff "do not hear from" Respondents K. Duplessis, Malott, Dufour or R.

Duplessis. Further, Complainant Roque stated that because there is “no relationship” with these Councillors, she “can only guess why they challenge us on all this stuff”. She asked, “Why don’t they ask questions outside of a public meeting, instead of discrediting in front of the public?”

Complainant Roque commented that “there was a concern that the last Council had too many *in camera* meetings, but the current Council is having serial meetings via email”. She noted that Respondent Malott frequently supports Respondents R. Duplessis and Dufour.

As regards the email messages from members of the public, Complainant Roque stated that “Council’s behaviour shows the environment and supports this kind of thing”. In her view, this constitutes harassment.

Complainant Tessier’s evidence

Complainant Tessier said she found Respondent Malott’s email message “very intimidating” and reminiscent of her campaign, when she “was out to get [Staff]”. She advised that she believes Council is “having meetings on their own to make sure things go their way”.

Complainant Tessier stated that there are those who are of the view that “Staff make all the decisions, but Staff are directed by Council”. Complainant Tessier noted that she avoids reading the Facebook Page and the comments “because they’re upsetting”. She stated that as a member of the Staff she does not “engage on-line” as she “represents the community and the public office”.

Complainant Yusko’s evidence

Complainant Yusko stated that he believes that “secret meetings are happening”. He acknowledged that “in public forum no one wants to look stupid, but the desire to talk about things doesn’t change the fact that it should be in public”. He noted that Staff “don’t really see any debate at meetings: one person makes a statement, then everyone supports it”.

Complainant Yusko advised that he has seen Respondent R. Duplessis talks a lot, whereas Respondent Malott “says very little”. He recalled that she once pointed out that some document had the wrong year “which she thought was amusing”. Complainant Yusko relied on this example to suggest that “there’s a mentality that we need to be put in our place”. He said, “it feels like Council is looking for something to hang their hats on so they can undermine Staff’s position; it’s like they’re hoping we make a mistake”.

As regards commentary from the public, Complainant Yusko described the Facebook Page as providing “no factual information”; it is “just hate”. He advised that he “does not believe that it actually promotes the flow of ideas or debate”. He further described a group of approximately 10 members of the public who regularly meet with certain members of Council in coffee shops in Town. In his view, this small group appears to have a lot of influence on certain members of Council, and at times it feels like resolutions proposed by Respondent R. Duplessis are “coming from the coffee shop”.

Complainant Parker’s evidence

Complainant Parker described the members of the Slate that are on the current Council, since Mr. Meikleham retired: Respondents R. Duplessis, Dufour, K. Duplessis and Malott. He suggested that these four Councillors “form a majority” and are “all on the same page”. He identified Respondent Piche, Councillor Yocum and Councillor Foster as “quite independent of the majority and each other” and stated that they “have good discussion in the meeting and agree and disagree as Council should”.

Complainant Parker stated that the Council does not appear to have much trust in the Staff. He believes this may be driven by the “group in the coffee shop”. In his view, he sees the majority as motivated by cost savings for taxpayer, noting that they campaigned on eliminating “excessive spending”. Complainant Parker suggested that “they are trying to be as frugal as possible, and have used third party firms to help find excesses”, noting the Service Delivery Review done by KPMG. He said, “I think the Council expected that KPMG would show excessive costs, but I don’t believe they got the results they hoped for. The Council suggests that Staff isn’t capable of making these assessments”. By way of examples, he pointed to the Council’s preference to “hire consultants over taking the Staff’s information like the CBO or Fire Chief”.

In terms of practical impact on his position, Complainant Parker described the Council's effort to "minimize as best they can every element of the operation with equipment... they basically want to operate to failure, instead of being proactive. And that's a bad position, because procurement takes time".

Complainant Kennelly's evidence

Complainant Kennelly stated that Council members "have their meetings at Tim Horton's with very opinionated people. The loudest people direct Council, not the information provided by staff."

Complainant Kennelly noted that "the loud members" of the public are the "same people that spew hostility on social media", identifying Mr. Shames and Mr. Ellis. She stated that Mr. Shames "worked hard to get this Council elected, so the Council feels a sense of loyalty toward him". She noted that those who campaigned as a Slate had a "shared platform based on reducing taxes and eliminating staff", namely a former manager Diane Polden and Complainant Townsend.

Complainant Kennelly advised that Council is "still motivated to save tax payer dollars" but it is "the way that they're doing it that is concerning". She said, "sadly, they've wound up wasting so much money because they don't listen to Staff or accept third party recommendations".

Councillor Yocum's evidence

Councillor Yocum identified some of the aggressive positions that some Council members have taken with various Department Managers. In his view, "it's about control and having no faith in Staff abilities". He acknowledged that Staff members "all have strengths and weaknesses" and he believes that Complainant Townsend "handles her Staff quite well". As regards the Council members, he said,

There is a small vocal group in Town, they want to appease this group. They don't trust Staff. Comments are made at Timmy's. I hear about it, I don't go to Timmy's.

Councillor Yocum said he believed that there are serial meetings, “I watch the same group bring forward a motion and it’s obvious to me that they are very well prepared for something that should be a surprise to everyone and certainly is to some of us”.

Respondent Piche’s evidence

Respondent Piche recalled seeing Respondent Malott’s email reply to Mr. Ellis’ message. He stated that he wrote to her and asked her to read her Code of Conduct. He noted that she apologized. He also advised that he does not doubt that “meetings are going on via email”, and also right after Council meetings. He stated that he has said, “this is a quorum, knock it off”, but it would happen the very next meeting.

As regards the Council generally, Respondent Piche described them as “obstinate”. He stated that he ran on a Slate with Respondents R. Duplessis, Dufour and Malott, and acknowledged that three of them, together with Respondent K. Duplessis, will “gang up” on the other Council members. He described trying to “sit down with [Respondent Malott]” when she was first appointed, to talk with her about past policies, “but the other three men got to her first, and now she votes with them”.

Respondent Piche suggested that once they were elected in, the other members of the Slate went in a different direction from him. He noted that the majority of the Council “is not working for 5,000 people, they are working for a group of 5 to 10 people”. In his view, for the majority on Council, “this is all about winning the fight and ego. They are more interested in winning than what’s best for the people”. He said,

The small group thought that I would be gang-busters. They thought I would go in and clean house, and attack anything that was detrimental to their platform... But I hadn’t been aware of all the things I had to consider. I went to all these seminars and training and did a bunch of reading about good governance. It was quite an eye opener.

Respondent Piche suggested that Mr. Shames is “leading the charge” of the small group of active residents and, in his view, Respondent Dufour “talks way too much” with Mr. Shames. Respondent Piche provided a copy of an email message from Mr. Shames to all members of Council in which he requested, among other things, copies of all minutes of

any *in camera* and public meetings. The basis for the request is the fact that Mr. Shames was named by Complainant Townsend in a complaint of workplace harassment.

Respondent Malott's evidence

Respondent Malott noted that she only joined the Council in November 2017, and it was her first time sitting on a council. She noted that she attended some "overwhelming" orientation with Mr. Cassan, and acknowledged that she didn't initially read the Code of Conduct.

With respect to Respondent R. Duplessis questioning Complainant Townsend about her Report, Respondent Malott stated that he was "correct, [Complainant Townsend] couldn't back up her numbers". She acknowledged that she "didn't fully understand what this spreadsheet said", but noted that she is "learning now". She advised that she had "no guidance and no one is helping [her], either Council Members or from the town". She said, "the Staff just gave me a binder and said if you have an issue call me. But I don't, because there's no sincerity there." I asked Respondent Malott to describe the basis for her view on the lack of sincerity; she replied, "it's just my feeling". She also noted that she does not feel that she is able to ask Staff because Complainant Townsend "slams the book down and says shut down the meeting", which she finds "intimidating".²

Respondent Malott stated that the email from Mr. Ellis was "the first email to all Council that [she] ever received". It should be noted that early in her interview, Respondent Malott asked how Staff got a copy of this email exchange. She described herself as "being naïve about what Richard Ellis had said". She noted that she "was not attacking a person, [she] was just attacking a situation that was happening in the moment". She repeated that she "didn't fully understand these numbers at the time".

Respondent Malott was asked what she meant by "smoke and mirror game" in her email reply to Mr. Ellis. She said,

They hide things, you have to dig and look harder to find things. It's hard to grasp when you're new at anything. I was a little lost at the beginning,

² This incident is addressed further below.

these Council members have 3 years' experience... No one on the Council is on the same page. You hope you have 4, but I don't know. If you have 4 you have a majority then at least something will be done.

...

It's not that the numbers are hidden, but you have to look deep and find out how they correlate together. If you're given a spreadsheet and you've never been given one before, it's hard to know how they relate. I regretted this email from the get-go. I haven't made one since.

Respondent Malott was asked what she meant when she wrote that "I know for sure we have 4 that will back this". She replied that she "didn't really know". Asked if she, Respondent R. Duplessis, Respondent Dufour and Respondent K. Duplessis make up "the 4", she said she did not think so. She confirmed that she had voted with those three Councillors in the past, but that she has also voted with Councillors Yocum and Foster.

Laughing, Respondent Malott agreed that her statement "hang on to your socks!" sounds like a rallying cry, but noted that she "didn't mean anything by that". She subsequently said, "I don't know where it came from. I'm a babe in the woods. I don't want to be involved in the drama". She described feeling "very silly" saying what she said, but advised that Mr. Cassan has given her a few books to read and "it makes a little more sense now".

Respondent Malott agreed that her email message makes it seem like Council and Staff have an "us versus them" relationship, "but it's not". She acknowledged that her message "was a little rough", but said, "that's not who I am". Respondent Malott suggested that she had been "having a very stressful day". She stated that she "did not have any sense that there was any antagonism or divide between staff and Council before [she] joined", advising that she "stayed away" because she wanted to "stayed neutral". She initially said that she did not watch the Facebook Page. When questioned further, she said she "didn't think so, didn't recall, maybe [she] commented on the Facebook Page but not since [she] was elected". She advised that, based on what she has seen now, she believes it is "just a personality conflict", and if someone feels that they are being centred out, they can "file a complaint".

Respondent Malott stated that she is “not against staff, not at all”, and her email “was a one-off”. She advised that she manages a group of 35 people outside of her role on Council, and she “never talks like that with them”. When asked what happened in relation to Mr. Ellis’ email, she replied, “maybe I was intimidated” because the other Council members “had all the knowledge about past history and experience, and they don’t usually come forward with information”. Respondent Malott acknowledged that she thinks that she was “trying to keep up with them, and it was bad, it was not good”.

Respondent Malott stated that when Respondent Piche saw her email response to Mr. Ellis, he wrote to her on March 1, 2018 and asked her to “please read [her] Code of Conduct”. She advised that she replied and apologized and said “it will never happen again”. She clarified that she apologized “to all ... for speaking out of turn and for the tone of [her] message”. A copy of her email exchange with Respondent Piche, provided after her interview, is attached as **Appendix I**. Respondent Malott’s email reply to Respondent Piche is simply, “Sorry for what I said. This will never happen again”.

Respondent Malott stated that Mr. Cassan returned to speak with Council again, and she now appreciates that she “should never have said anything”. Further, she added that she “does not open any emails from anyone unless it’s from the Town”, noting that people can “call [her] on the phone, but not email”. She suggested that she finds it easier on the phone than in an email to decide whether she wants to engage in a particular discussion. By way of explanation she said, “I have the choice to answer the phone as Heather the Councillor or person or rate-payer”.

She stated that now that she has read the Code of Conduct, she is “not going to be involved in petty stuff”. As regards the email message from Mr. Ellis, she stated that she is “done with this drama”. With respect to Mr. Kozlowski’s email message, Respondent Malott said, “This is not my beef, this is his beef. I wasn’t around for the earlier concerns.”

Analysis and Findings

Respondent Malott has admitted her statements in her email reply to Mr. Ellis’ email message to Council; as such, I find that she made the statements as alleged. I do not accept

as credible Respondent Malott's explanation that she "didn't mean anything" by her email and her self-description as a "babe in the woods".

Respondent Malott acknowledged that she "attacked the situation" described in Mr. Ellis' message, even though she repeated that she "really didn't fully understand the numbers at the time." Based on the evidence presented to me, including the evidence of Respondent Piche, I find that the Slate ran a campaign based on savings to the tax payer, which included a hard look at spending on staff. As such, I find Respondent Malott's statement, "Hiring will have to pass council that's how I feel, I know for sure we have 4 that will back this", is consistent with the Slate's campaign, rather than a "one-off".

I found Respondent Malott to not be credible when she said she "did not know why" she referred to "4 that will back this" or when she denied that she was part of "the 4" along with Respondents R. Duplessis, Dufour and K. Duplessis. She voted together with these three Councillors on numerous streamed-videos that I have viewed in the course of this Investigation. Multiple Complainants, Respondent Piche and Councillor Yocum have also identified this foursome as the majority of Council.

I find it credible that Respondent Malott was overwhelmed when she joined the Council and felt that she did not have as much knowledge and experience as the rest of the Councillors. I believe that she was motivated to write her email response to Mr. Ellis because she was "trying to keep up" with the other members of the majority of Council, and was influenced by the 5 to 10 vocal members of the community, such as Mr. Ellis. I noted, in the course of my Investigation, that Respondent Malott posted multiple comments on the Facebook Page before she joined Council.

I find that Respondent Malott's email message demonstrated an antagonistic attitude which was intimidating to Staff. While she may not have intended her response to end up in Staff's hands, an intention to harass is not a prerequisite to a finding of harassment. Further, the communication was not a private discussion between two individuals with the expectation of confidentiality. Mr. Ellis' message had come to Respondent Malott as a member of Council, and her reply was similarly distributed to all of Council and one member of the public. I find that Respondent Malott's email message constituted harassing conduct, contrary to the Code.

Based on the evidence presented to me throughout this Investigation, including evidence from Respondents Piche and Malott and Councillor Yocum, I find that serial meetings have taken place among various members of Council, contrary to the Code. For example, based on Respondent Malott's email response to Mr. Ellis, I find there was a discussion, via email, to the effect that four members of Council would demand "that hiring will have to pass Council", a position that Respondent R. Duplessis sought to distance himself from the day before at a live-streamed meeting.

As will be discussed in further detail below, there is evidence to suggest that a small group of 5 to 10 residents are active and vocal in the Town's municipal politics and that a lot of political engagement takes place in the Town's coffee shops. Mr. Shames' email, requesting copies of all minutes of public and *in camera* meetings, implies a degree of familiarity he has with Council. The negative and intimidating tone to communications from this segment of the Town's population is reinforced and perpetuated by the tone set by the majority of Council, as exemplified in Respondent Malott's email response.

8. Respondent Dufour and Respondent R. Duplessis and the Decision-Making Process

Respondents Dufour and R. Duplessis acted in a way that is disrespectful of the decision-making process, contrary to Section C4 of the Code. The following are examples of such conduct:

a. Respondent Dufour's Motion to Rescind Garbage Bylaw

On April 25, 2017, in anticipation of the Waste Free Ontario Act, Council passed a resolution to implement a move from four dark garbage bags to two clear garbage bags. On February 13, 2018, Respondent Dufour brought a motion to rescind the April 26, 2017 resolution. Respondent Dufour noted that he had seen the resolution "a long time ago" and was "tired of seeing it". Respondent R. Duplessis seconded the motion.

From the live-streamed meeting

By way of background, in April 2017 former Councillor Meikleham brought a notice of motion to change the garbage bylaw by moving from four dark garbage bags to two clear garbage bags. Respondent R. Duplessis stated his objection to the resolution on the basis that the change to two bags would only result in approximately \$7,000 in savings. Respondent Dufour opposed the resolution on the basis that *Waste Free Ontario* did not yet mandate the change, and there would be problems with the excess garbage. The remainder of Council passed a resolution to have a new two clear bag garbage collection bylaw. Respondent R. Duplessis requested a recorded vote.

At the live-streamed meeting on February 13, 2018, Respondent R. Duplessis appeared to remind Respondent Dufour that Respondent Dufour was going to “put a new motion out that we go back to the old garbage collection bylaw”. With this prompt, Respondent Dufour read from a written statement, stating that he is bringing forward a notice of motion to rescind the two clear garbage bag bylaw “at least until the Ontario government can put forth a comprehensive plan to address all the needs of the people including but not limited to proper education and oversight”. He added,

I don't think this is going to help anybody right now. I don't want to tell our people they got only two garbage bags that they can use to put half of their plastics in and then, you know. So.

Respondent R. Duplessis seconded the motion. Councillor Yocum proposed deferring the motion to rescind until the Council had the entire garbage bylaw before them, noting that there had been “hundreds of hours of effort” put into the bylaw; Respondent Piche agreed. There was a brief discussion about deferring the motion to rescind. Respondent Dufour said, “I've seen [the resolution] a long time ago; I'm tired of it”.

Respondent R. Duplessis spoke to his reasons for wanting to rescind the resolution, noting that he had been opposed to it “since the beginning”. He stated that he had spoken with many residents and visited the local recycling plant with Respondents Dufour and Malott. He then provided statistics on rates of recycling for the Town and the rest of the province,

as provided by Riverside Enterprises, a garbage removal and recycling operation in Town, to demonstrate that the Town was already exceeding recycling expectations.

Respondent K. Duplessis stated that the issue was “very controversial” and “very confusing”. He advised that Staff had done a “great job in terms of education... but it just didn’t reach the people”. The motion to rescind the resolution was carried, supported by Respondents Dufour, R. Duplessis, K. Duplessis and Malott.

Complainant Townsend’s evidence

Complainant Townsend noted that when Council passes a resolution, “everyone is supposed to support the resolution”. In her view, Respondents Dufour and R. Duplessis “kept revisiting” the garbage resolution, which is “contrary to the Code” and “gets misconstrued on social media”. Complainant Townsend observed, “it’s clear that they’re having meetings and discussions outside of the Council table, as one moves and the other supports and there’s no discussion”. She noted that this is contrary to the *Municipal Act*.

Complainant Townsend said, “with [Respondent Malott] on board, they revisited the 2-bag policy and reversed it ... without asking staff about information about delays about *Waste Free Ontario*. It’s not principled.” Although she acknowledged that Respondent K. Duplessis had attended “some on-line forums and spoke to the fact that there had been a delay”, Complainant Townsend was concerned that “if they’re doing their own research, they’re not bringing it forward”. She said,

Once it is accepted, they should be trying to accept it. If there’s no new information, and they maintain that they never supported it in the first place, it’s undermining the process of passing motions. This is tied to Meikleham’s departure and opening the door for [Respondent Malott]. The Staff put in 11 months for work, researching that bylaw. And it was just scrapped.

Complainant Roque’s evidence

Complainant Roque acknowledged that although “not everyone supports every decision, section C4 of the Code of Conduct says you have to support the resolution” once passed by

a majority of Council”. She stated that the garbage bylaw reversal “was not based on new evidence, they said they never liked it and they kept pushing back publicly stating that they don’t support it”. In her view, this is a “Code violation”.

Complainant Yusko’s evidence

Complainant Yusko noted that when the Town’s garbage collection contract expired there was some interest in moving to a 2 bag limit; he stated that this move was also reinforced by the need to better manage garbage under *Waste Free Ontario*.

Complainant Yusko stated that Staff began to promote the 2 bag limit, before the bylaw was to be passed. He noted that “there was a lot of debate out in the community” and although there were “some disgruntled citizens”, most of the public “was receptive to two clear bags”.

Respondent Dufour’s evidence

As set out above, despite multiple communications to Respondent Dufour, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Respondent R. Duplessis’ evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

The comments made by Respondents Dufour and R. Duplessis are clear on the live-streamed recording of the meeting and I find that they made them as alleged.

Although Respondent Dufour read from a prepared statement to set out his reasons for wanting to rescind the garbage resolution, I do not find that his stated desire to see the provincial government’s comprehensive plan for proper education and oversight constitutes new evidence to justify reconsidering the resolution. My view is supported by

Respondent Dufour's subsequent simplistic statements to the effect that "this isn't going to help anybody right now" and he is "tired" of seeing the resolution.

Respondent R. Duplessis advanced more detailed reasons for wanting to rescind the garbage resolution, namely a visit to the recycling plant with Respondents Dufour and Malott and statistics that indicate that the Town is ahead of provincial expectations for recycling. However, by referring to his opposition to the resolution "from the beginning", I am led to find that Respondent R. Duplessis' objection to the resolution was largely influenced by the fact that it was passed over his objection.

I find that both Respondents Dufour and R. Duplessis were disrespectful of the decision-making process, contrary to the Code.

b. Resolutions re Town's New Fire Hall

On April 10, 2018, Council passed a resolution that staff would look at a layout for approximately 8,000 square feet for a new, pre-engineered building for the Town's Fire Hall. On May 1, 2018, a motion was advanced and Council carried a resolution to request proposals for a design-build of the Town's Fire Hall with a total area of 6,800 to 7,200 square feet with space for two pumper-tankers and one rescue vehicle; the decrease in size was based on a decision to reduce the number of vehicles in the Fire Service fleet.

From the live-streamed meeting and Resolutions

As noted above, the Town has been focussed on the needs of the Fire Hall for several years. On April 10, 2018, Respondent Dufour advanced the following resolution:

Be it resolved that: As Recommended by the Committee of the Whole that:

Staff look at a lay-out for approx. 8000 sq ft with no drive through bays and no second floor. Building to be pre-engineered. Identify the compromises in space that may be required.

The motion was carried. It should be noted that Respondent Piche did not preside over the meeting due to medical issues; the meeting was chaired by Councillor Foster. A copy of the April 10th resolution is attached as **Appendix J**.

The Committee of the Whole met again on May 1, 2018. At this meeting, again chaired by Councillor Foster, there was a discussion about the needs of the Fire Service, in particular relating to vehicles and physical space. The fleet at the time included two pumper tanker fire trucks and one rescue vehicle. Councillor Foster invited Complainant Pichor to address the Council.

Complainant Pichor commenced by saying he was not sure “why this was being rehashed” and noted that these issues have been considered in “three surveys”. He listed a variety of needs that justify a new, third pumper tanker fire truck, namely to protect the number of homes, business and residents in the Town and surrounding area, as well as fighting bush fires. He also stated that the two existing fire trucks will be 20 years or older as of next year. Councillor Foster asked Complainant Pichor if the current Fire Service has sufficient volunteers to operate a third fire truck; Complainant Pichor confirmed that it does. Councillor Yocum asked about the impact three fire trucks would have on insurance rates for tax payers; Complainant Pichor stated that three trucks would definitely help the rates from getting higher. There were no further questions for Complainant Pichor.

When Council members were asked if they had any comments, Respondent R. Duplessis stated that there would be additional costs to maintaining the old fire truck, including additional space to build in the new Fire Hall, and he did not support increasing the fleet. He did not address what those costs would be. Respondent Malott said, “I feel the same way”. Respondent K. Duplessis echoed Respondent R. Duplessis’ concerns about additional costs to the tax player. Councillor Yocum noted that he was in favour of keeping a third truck, referencing the needs of homes “in the country” where there can be inadequate fire protection. He noted his view that the proposed additional costs would not be substantial and concluded that the residents were best served by keeping the three vehicles. Councillor Yocum further noted the likely future development in the outlying areas and resulting future needs, as well as his reluctance to “go back to the drawing board, again”. Respondent Dufour commented on fires in outlying areas by stating that the Fire

Service “would not make it there in time anyway if it was 5 or 10 miles away”. Respondent Dufour also responded to Complainant Pichor’s comment about bush fires, noting that “that’s not really the Town’s position to fight bush fires; we’re not equipped for that”. He concluded that financially “it’s just not a good time for us”.

Complainant Pichor raised his hand and was given permission to reply to the comments. He said, “I can’t believe that I’m actually hearing this stuff”. He noted that these are questions of “firefighter safety” and questioned whether the Council “cared about the firefighters”. Respondent Dufour called for a point of order and took issue with Complainant Dufour’s suggestion; he stated, “how dare you”. Complainant Pichor then clarified that the Fire Service does fight bush fires and has a contract with the Ministry of Natural Resources to do so. Councillor Yocum noted his agreement with the Fire Chief and advocated again to keep the third fire truck, with reference to the “substantial amount in reserves dedicated towards the Fire Department”. He also noted that his understanding that the Council had agreed 2 or 3 months beforehand to keep the three trucks. Councillor Foster supported keeping the third truck, with reference to the ability to fight fires in parts of the community where there are no hydrants; Councillor Yocum later echoed this thought when he noted, “a little water goes a long way” in remote areas.

There was a discussion that the size of the new Fire Hall build will depend on the number of vehicles in the fleet. For the purpose of issuing an RFP for drawings, each Council member was asked to vote on whether they wished to keep two or three fire trucks in the Fire Service. When Respondent Dufour was asked, he said, “I’m looking at this and it’s not something I want to see. I’m thinking 6,400 square [feet].” When the question was clarified, Respondent Dufour voted to keep 2 fire trucks, as did Respondents R. Duplessis, Malott and K. Duplessis.

The Council then turned to the desired size of the new Fire Hall, which led to a discussion about the lay out of the new building. Councillor Foster roughly calculated the dimensions of the third truck and subtracted it from the size as previously proposed. Respondent R. Duplessis moved for following resolution:

Be it resolved that: As Recommended by the Committee of the Whole
that:

A request for proposals for a design-build firehall project be prepared which will include the functional requirement included in Perry & Perry Architects report of April 20, 2018. Submissions must meet the requirements of the OBC and be able to be accommodated on the existing property. To include space for 2 pumper tankers and one rescue and a total area of 6800-7200 sq ft.

The resolution passed. A copy of the May 1st resolution is attached as **Appendix K**.

Complainant Townsend's evidence

Complainant Townsend noted that she had some advance indication that the Council might "flip flop" on the Fire Hall. On April 30, 2018, she received an email from Councillor Foster in which he wrote, "It's possible that some members of council are rethinking the need for an increase from 2 pumper tankers to 3 pumper tankers". He suggested to Complainant Townsend that Complainant Pichor should be prepared to discuss how a third pumper tanker would improve fire protection. A copy of Councillor Foster's email is attached as **Appendix L**. According to Complainant Townsend, the decision to reduce the number of vehicles, and reduce the size of the new Fire Hall, was "without evidence of cost savings or justification".

Complainant Yusko's evidence

Complainant Yusko noted that Respondent Dufour recommended that the building be smaller "without any foundation or support". He stated that this was "disheartening from a Staff perspective". Looking to the initial Fire Hall Master Plan in 2008, Complainant Yusko said there was a review of substantive questions, such as "how the firefighters fight fires and the quality of water mains", which led to the proposal that the Hall needed to be upgraded. He described the dispute among the subsequent Council about whether to implement the Plan.

Complainant Yusko said,

I fully believe in strong debate, but that's not what's happening. It feels that the minds are made up in advance and there's no true discussion.

Someone should say to [Respondent Dufour], “*why* do you think it should be smaller?”

Complainant Kennelly’s evidence

Complainant Kennelly noted that she does not work for the Fire Department, and yet when she heard the presentation by Perry & Perry presentation, she thought “that makes sense”. She stated that the response from Council was “without any basis” and had “no substantiation at all”. She described Respondent Dufour as saying, “I think we can do it for 6,000 square feet” and thinking to herself, “Where did that come from? Nowhere.” She said the situation is “really sad” for Staff, and “so dispiriting”.

Complainant Desjardins’ evidence

Complainant Desjardins stated that Complainant Pichor has “been at the rebuild of the Fire Hall since the beginning of the term, and it feels like we’re back at step 1 because Council doesn’t want to accept it”.

Councillor Yocum’s evidence

Councillor Yocum commented on the shifting size of the new proposed Fire Hall, noting that it “went from 11,000 square feet to 8,000 square feet then smaller”. He stated that he sees the whole argument as focussed on the number of vehicles, not the size of the building.

As regards Council’s change in decision regarding the number of vehicles, Councillor Yocum said,

They’re micromanaging. I have no idea how this decision was made. Some councillors are extremely antagonistic with the Fire Chief. I think 3 trucks are a benefit to our citizens. I will always stand on this.

Respondent Piche’s evidence

Respondent Piche said that the Council’s involvement to changing the size of the new proposed Fire Hall is “micromanaging and expanding the scope of their job description”.

He noted that when Respondent Dufour said that he “felt” that 6,000 square feet was a good size, he was “off” in terms of “logic and reason”.

Respondent Dufour’s evidence

As set out above, despite multiple communications to Respondent Dufour, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Respondent R. Duplessis’ evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

The comments made by Respondents Dufour and R. Duplessis are clear on the live-streamed recording of the meeting and I find that they made them as alleged.

The stated reasons for refusing to keep the third fire truck were the cost of maintenance and the additional cost to building a new Fire Hall to house the third fire truck. There was no information presented as to what those costs would be, and no response to Councillor Yocum’s comment regarding the “substantial amount in reserves” for the Fire Department. The Council members who advanced these reasons did not raise them as concerns to Complainant Pichor, rather they were put forward as comments. Respondent Dufour’s comment about the Fire Department not fighting bush fires appeared to be incorrect.

I find that the Council had previously decided that the Fire Service would keep three trucks. I base this finding on the statement from Councillor Yocum that he understood this question had been decided some months ago, Councillor Foster’s email message to Complainant Townsend indicating that some Councillor were “rethinking” the number of trucks, and the fact that the new proposed dimensions of the Fire Hall were calculated by roughly subtracting the size of a third fire truck. I find that the Councillors who decided

against keeping the third fire truck did so against the recommendation of their main resource, Complainant Pichor, and the surveys that had been obtained over the years. They also did so without putting their reasons to Complainant Pichor, when they were asked if they had questions for him.

The decision to not keep the third fire truck was the basis for deciding that the new Fire Hall should be smaller. Before the Council had voted on how many fire trucks to keep, Respondent Dufour proposed “6,400 square feet”, without providing an explanation for this number.

I find that the decision to not keep the third fire truck and thereby reduce the size of the proposed new Fire Hall did not respect the decision-making process, contrary to the Code.

c. Posting Signs to Prohibit Feeding Wild Animals in Town Cemetery

In or around September 2017, Respondent R. Duplessis approached Public Works to inquire into the possibility of posting a sign in the Town cemetery to prohibit feeding wild animals, foxes in particular. When Respondent R. Duplessis was advised that there was no known bylaw to enforce a prohibition on feeding foxes, he raised the issue in a live-streamed Council meeting on September 26, 2017. Respondent R. Duplessis repeatedly noted that “Public Works don’t like signs” and said the matter should be left in the hands of the Clerk.

From the live-streamed meeting

At the September 26, 2017 meeting, Respondent Duplessis stated that a few citizens had approached him about foxes in the cemetery. He said,

I went to Public Works. They don’t like to deal with signs. I was hoping we could put a sign and then somehow have our police enforce it. You’re not supposed to feed wild animals. Some elderly people actually went to the Ministry and the Ministry said because it’s in the community, it’s a

municipal issue ... We need to come up with something. I'm going to leave it in the hands of our Clerk. I went to Public Works, they don't like signs. We have to do something for our residents. They're afraid to get out and go and visit the plots of their loved ones now, because foxes run after them.

Complainant Yusko's evidence

Complainant Yusko stated that Respondent R. Duplessis came to his office at Public Works. Complainant Yusko believed that Respondent R. Duplessis had been asked a question at one of the coffee shops, and he was "looking for some answers". He said that Respondent R. Duplessis wanted to know if Public Works could put up a sign to address a fox that was in the cemetery last summer. Complainant Yusko noted that he told Respondent R. Duplessis that such a sign "wouldn't be in accordance with any bylaw, so Public Works could not really support it". Complainant Yusko advised that "Council passed a motion anyway, it was acknowledged that it was going to be essentially toothless".

According to Complainant Yusko, this is an example that shows that Respondent R. Duplessis "has an idea of what it wants and he's going to get it". He acknowledges that "Council doesn't always have to agree with Staff, but [he's] not sure Staff is ever going to have a good answer".

Complainant Parker's evidence

Complainant Parker noted that he had a "real concern" regarding Council's conduct in relation to the issue of foxes in the cemetery last year. He described Respondent R. Duplessis "asking him directly" whether Public Works could put up a sign prohibiting the feeding of wild animals.

According to Complainant Parker, he said that he "didn't know if there was a bylaw required so that it could be enforced and didn't know if a sign without enforcement is all that effective". He further advised, "we're not bylaw officers". Complainant Parker also stated that he did not want to put up a sign "without direction from the administration".

Complainant Parker said that when Respondent R. Duplessis brought up the issue of the foxes in the cemetery, and twice said that he had gone to Public Works and “they don’t like signs”, it was like Respondent R. Duplessis “was trying to publicize the disagreement”. Complainant Parker said, “It was like he was suggesting that I wasn’t towing the line, so maybe he’d take my authority away from me by directing the administration to direct Public Works to go put up a sign”.

Respondent R. Duplessis’ evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

The comments made by Respondent R. Duplessis are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

Without any evidence to the contrary, I accept the evidence of Complainants Yocum and Parker that Respondent R. Duplessis spoke to them directly and asked if Public Works would put up a sign to prevent the feeding of foxes in the cemetery. I further accept that they advised Respondent R. Duplessis that, without a bylaw, there would be no ability to enforce the requested prohibition. I find that Respondent R. Duplessis’ statements at the live-streamed Council meeting were an indication that he was displeased with Public Work’s reluctance to put up a sign, but I do not believe it rises to the level of disrespecting Public Work’s decision-making process. An inquiry had been made and an initial response provided, but the decision making process had not been engaged to any significant degree. As such, I do not find I do not find that they were in violation of the Code.

That said, I find that these comments in the open meeting were not professional. Noting that “something” had to be done for residents, Respondent R. Duplessis informally “left the matter with the Clerk”. I find it is reasonable that he would be aware that, under the *Municipal Act*, the Town is to exercise its authority by its Council, not individual Council members. Respondent R. Duplessis’ casual comment regarding the Clerk could leave the

public with the impression that the matter would be addressed in some fashion, which is irresponsible.

9. Disrespectful Communications towards Town Staff

Members of Council have engaged in communications with Town Staff that are disrespectful of their roles and responsibilities and impede their ability to carry out their duties as set out in Code and the *Municipal Act*, Section 227. The following are examples of such conduct:

- a. Respondent R. Duplessis advised Complainant Townsend not to speak to Council “unless spoken to”**

Complainant Townsend’s evidence

Complainant Townsend stated that Respondent R. Duplessis has advised her that she should not speak to Council “unless she is spoken to”. She said she finds this disrespectful of her role as CAO. Complainant Townsend reviewed her notes but was not able to confirm the date that Respondent R. Duplessis made this statement, or whether it was recorded at a live-streamed meeting.

Complainant Roque’s evidence

Complainant Roque stated that Respondent R. Duplessis told Complainant Townsend not to speak “unless she is spoken to”. She believed that the comment was made some time in the Fall, during a regular meeting.

Complainant Yusko’s evidence

Complainant Yusko stated that “there’s an unspoken rule that [Staff] don’t speak to Council unless spoken to”. He advised the Staff gives them “the best possible information so they can make informed decisions”. He said, “We get into trouble when Council goes in a totally unanticipated direction and we try to bring them back.”

Complainant Yusko noted that he would avoid “interjecting” as that would cause a Council Member to be “embarrassed”. That said, he pointed out that if some Council member “is giving wrong information, Staff has an obligation to other Council members to get the right information”.

Complainant Parker’s evidence

Complainant Parker was not present to observe the exchange in question. He did state, however, that he has a “very clear impression that you only speak when spoken to” at Council meetings. He noted that with previous Councils, Staff would be questioned directly, and “there would be good discussions”. With the current Council, Complainant Parker said that he does “not feel that [Staff] is permitted to ask to speak or put up their hands”. He noted that he tends to “wait to be asked a question”.

Councillor Yocum’s evidence

Councillor Yocum stated that “there is clear antagonism towards [Complainant Townsend]”. He noted that this is the case, notwithstanding the fact that all of the Council “know how valuable she is to the Town”, in that she “saved the Town millions with the Domtar tax assessment issue” both in 2012 and 2017. He advised that “they all saw the lawyer’s letter, complimenting her on this effective, comprehensive, stabilizing agreement that she negotiated and was approved by Council”. Asked whether this is a “personality clash”, Councillor Yocum said, “Maybe, and I think there’s some chauvinism too, I am embarrassed to say”. He stated that Staff “is treated in a demeaning fashion by certain councillors”, noting that this too “is very embarrassing”.

Respondent Piche’s evidence

Respondent Piche identified Council’s views of the Staff and, more specifically, Complainant Townsend. He said,

Council abuses Staff. I think they have a lady/women’s issue. They don’t want a female telling them what the score is. And for the most part, they’ll yell at the CAO to shut her up. That’s the smartest girl in the room. She’s the one you want to listen to. She doesn’t make decisions but you have to

listen to her advice. They'd like to get rid of her, in a second. A lot of people told me that I had to fire her.

Respondent R. Duplessis' evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Although I have not seen a video recording of Respondent R. Duplessis' alleged statement— that Complainant Townsend should not speak unless spoken to – I find on a balance of probabilities that he did make the statement. I make this finding based on the evidence presented during the course of investigation, including the statements of Complainants Townsend and Roque and Respondents Yocum and Piche, as well as the recording of Respondent R. Duplessis stating that no one had requested Complainant Townsend's Staff Report and as such it was not needed.

I find that Respondent R. Duplessis' comment was disrespectful of Complainant Townsend's role and responsibilities which impedes her ability to effectively perform her duties as CAO and to provide advice to Council, contrary to the Code.

b. Respondent R. Duplessis' Disregard for Report prepared by Public Works

In a live-streamed meeting of Council on March 27, 2018, Respondent R. Duplessis disregarded a Report prepared by Public Works regarding a recommendation to replace a full-time employee who was temporarily off work with a temporary employee. Respondent R. Duplessis took his position without knowledge of the relevant job qualifications and requirements.

From the live-streamed meeting

At a meeting on March 27, 2018, a motion was brought to permit Public Works to hire a temporary employee to replace a full-time employee (the “FT Employee”) who was off work on short term disability leave. Complainant Parker had prepared a report in support of hiring a temporary employee.

Respondent R. Duplessis objected to the temporary employee, on the basis that the hiring process would likely conclude around the same time that the summer students would start working, and a summer student would be able to fill the FT Employee’s position. Respondent Piche noted that he did not know whether a student would be able to perform the FT Employee’s duties at Public Works. Councillor Foster recommended asking Complainant Parker.

Complainant Parker rose and advised Council that he agreed with Respondent Piche’s assessment, as a student would not be authorized to operate any equipment as required in the Public Works role. Respondent R. Duplessis then asked Complainant Parker whether the FT Employee operates heavy equipment; Complainant Parker confirmed that he does. Respondent R. Duplessis stated that he knew that the students could drive pick-up trucks; Complainant Parker advised that was not the case, that students “only ride on mowers”.

The motion was denied.

Complainant Parker’s evidence

Complainant Parker stated that Public Works prepared the report for Council recommending the temporary hire because they have “a very ambitious construction schedule” and the FT Employee was unlikely to return until October or November. He noted that a replacement was “needed”, and the cost of a replacement “was in the budget”.

Complainant Tessiers' evidence

Complainant Tessier stated that, in her view, when Council suggested that a summer student could do the job of a Public Works operator, that was "a breach of their role". She said,

Their role is to create policy and set direction, it's not to micromanage departments, without any information. The suggestion was just disrespectful of the managers of that department. They don't ask for any information. Had they asked about the skill set for the Public Works operator, or asked what the summer students could do and what training they had, that's a different situation. But they make these decisions based on nothing. And it has such an impact on departments.

Respondent R. Duplessis' evidence

As set out above, despite multiple communications to Respondent R. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

The comments made by Respondent R. Duplessis are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

Based on Respondent R. Duplessis' questions, he appeared not to know the duties required of the full time Public Works position, nor did he know the abilities of the student; nonetheless he recommended that a student fill the Public Works vacancy rather than hire a temporary employee as recommended. Whereas members of Council are clearly permitted to accept or reject Staff's recommendations, Respondent R. Duplessis' statements and questions indicate that he did not avail himself of the information provided in the report prepared by Complainant Parker. On this basis I find that his conduct was disrespectful of Complainant Parker's role and responsibilities which impedes his ability to perform his duties of providing advice to Council, contrary to the Code.

c. Respondent K. Duplessis “taken aback” by Report prepared by Public Works

At a live-streamed meeting of Council on March 27, 2018, Respondent K. Duplessis took issue with the Report prepared by Public Works regarding a recommendation to replace a permanent employee who was temporarily off work due to sickness with a temporary employee. Respondent K. Duplessis said he was “taken aback” by a comment in the Report which requested Council’s input regarding the reduction of service levels, if the recommendation was not followed.

From the live-streamed meeting

Following the exchange between Respondent R. Duplessis and Complainant Parker, Respondent K. Duplessis stated that the Town “has a good flexible workforce ... and there’s a line of progression, and this is a good opportunity to save a few dollars”. He then noted that there was a comment in Complainant Parker’s Report with which he was “taken aback”. The comment was to the effect that if Council does not wish to fill the vacancy as requested, Council was requested to identify “where they would like to see a reduction in service levels”. Respondent K. Duplessis said,

I don’t believe that’s the responsibility of Council. We have a very experienced and knowledgeable Public Works management and they certainly can do that job and if they can’t then they have a very intelligent and competent CAO that could guide them on this.

Complainant Parker’s evidence

Complainant Parker said that he felt that Respondent K. Duplessis’ comments were “a bit sarcastic” and “a shot”.

Respondent K. Duplessis' evidence

As set out above, despite multiple communications to Respondent K. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

The comments made by Respondent K. Duplessis are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

I find that Respondent K. Duplessis taking exception to the request for direction on its own is not disrespectful of Complainant Parker's role and responsibilities. However, this statement will be discussed further below in terms of the pattern of behaviour among certain members of Council that is antagonistic towards Staff.

d. Respondent K. Duplessis' request for research to address "hearsay" concern

On March 6, 2018, at a meeting of the Corporate Services Committee, Respondent K. Duplessis asked Complainant Roque to bring copies of the municipal bylaws that she had relied on in her research, otherwise Staff is providing "just hearsay".

Complainant Roque's evidence

Complainant Roque stated that at a Corporate Services Committee meeting on March 6, 2018, Respondent K. Duplessis asked her to bring copies of the municipal bylaws she had relied on, otherwise it was "just hearsay". She advised that Corporate Services Committee meetings are not live-streamed.

Complainant Tessier's evidence

Complainant Tessier spontaneously volunteered that she was present when Respondent K. Duplessis asked Complainant Roque to "provide all her back up" research, as though

she had to “convince him”. She noted, “if Council and Staff can’t work together, how are they supposed to run the Municipality?”

Respondent K. Duplessis’ evidence

As set out above, despite multiple communications to Respondent K. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

I find on a balance of probabilities that Respondent K. Duplessis made the statement as alleged. I make this finding based on the evidence presented during the course of this Investigation, namely the evidence of Complainants Roque and Tessier, as well as the lack of evidence to the contrary.

I find that, on its own, Respondent K. Duplessis requesting to see Complainant Townsend’s research is not disrespectful of Complainant Parker’s role and responsibilities. However, his request will be discussed further below in terms of the pattern of behaviour among certain members of Council that demonstrates antagonism and mistrust toward Staff.

e. Respondent K. Duplessis’ comment that Council “doesn’t necessarily have a good working relationship” with Staff

At a live-streamed meeting of Council on February 27, 2018, Respondent K. Duplessis stated that the Councillors “don’t necessarily have a good working relationship” with Town Staff, which he attributed to the “personalities involved”.

From the live-streamed meeting

At the live-streamed Council meeting on February 27, 2018, following Respondent R. Duplessis’ comments about Complainant Townsend’s Staff Report regarding changes to staffing as between 2011 and 2017, Respondent K. Duplessis said,

This is not to criticize [Staff]. We don't necessarily have a good working relationship. That's the way it is. It's personalities involved and everywhere you go there's personalities involved. And that's the way it's going to be.

Complainant Roque's evidence

Complainant Roque stated that "the public listens to the tone that Council sets at meetings, and it carries over to treatment from the public". She said, "people treat us like we're a joke, and challenge us on items in public". She noted that she has "turned off" social media to avoid the Facebook Page. She described going to Tim Horton's or McDonalds and "it's like Council has opened the door such that people think that they can mistreat [Staff]". By way of examples, she said she can hear people talking about her in the line at the grocery store, and when she is at an event, she fears that someone is going to bring up Fire Hall. She knows that she cannot "bash Council".

Complainant Roque stated that she feels that she is "constantly defending the Town and Staff". She notes, however, that she's "either told not to do a report, or Council discredits the work [she] has done, like the garbage bylaw". She said, "They don't trust me to do my job. And then where are we?"

Complainant Tessier's evidence

Complainant Tessier noted that Respondent K. Duplessis said in a meeting something to the effect that "it's no secret that Council and Staff don't get along". She stated that Council "don't even know what [Staff's] job duties are because they have no interest". She said,

[Council members] don't bother informing us when they're not coming in. They want to change the process for reporting not coming in to meetings, in that they want to eliminate the need to contact staff and just talk amongst themselves... Staff needs to be aware of absences to ensure they have quorum for meetings.

Complainant Tessier described the "very negative environment" that has existed since 2014, noting that when she sees Councillors at grocery store, with the exception of

Respondent Piche and Councillor Yocum, “they don’t even acknowledge [her]”. She stated that the Staff “all feel the same way” in that they “don’t want to go to the hairdresser’s or grocery store in Town anymore”.

Complainant Kennelly’s evidence

Complainant Kennelly stated that the live-streamed meetings “provide ample examples of Council’s abject disrespect of Staff, lack of decorum and observance to Code of Conduct”. Further, she is “saddened and embarrassed by Council’s consistent and deliberate attacks and dismissive attitudes towards Staff”.

Complainant Kennelly described the Habitat for Humanity project in 2016 as an example of the Council “defiantly disregarding the recommendations of all department managers and our professional planning consultants”. By way of summary, she noted that the Council defeated Habitat for Humanity’s re-zoning application to build a semi-detached affordable housing unit on a property donated by a private citizen. According to Complainant Kennelly, “this total disregard of the collective expertise and opinions of their management and consultant team was a clear indication of their lack of respect for staff, research and informed decision making”. In the end, Council’s decision was appealed and overturned.

Complainant Kennelly suggested that the Council’s treatment of Staff affects members of the community:

Their hostility and disrespect to Staff is publicly evident and sets a tone in our community which condones disrespect. Many staff, including myself, no longer enjoy going to community functions because we’ve become targets for complaints, criticism and shaming... It’s like we are the enemy. The [Facebook Page] crowd treat us is like we’re the enemy. I think the Council’s conduct influences that; they condone poor treatment of Staff.

Respondent K. Duplessis' evidence

As set out above, despite multiple communications to Respondent K. Duplessis, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent K. Duplessis' comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

While this statement will be addressed below in the context of a pattern of behaviour by certain members of Council toward Staff, I find that on its own this statement was disrespectful of Staff generally and impedes their ability to effectively perform their duties, contrary to the Code. The comment is personal in nature, in that Respondent K. Duplessis explains that the Council does not have a good working relationship with Staff, not because of budget cuts or workloads, but rather due to the "personalities" involved. He noted, with some finality, "That's the way it is... And that's the way it's going to be".

I find that Respondent K. Duplessis' public comment bluntly identified the tension between Council and Staff and contributed to the Staff having a difficult time effectively performing their duties. As noted here and elsewhere in this Comprehensive Report, this disrespectful and antagonistic approach undermines Staff and, according to Complainant Roque, any member of the Staff "could have a break down at any time".

10. Respondent Dufour's Implication that Staff is not enforcing the Health and Safety Policy

At a live-streamed Council meeting on February 13, 2018, Respondent Dufour was disrespectful of Staff when he suggested that the Health and Safety Policy was not being enforced and implied that Staff is keeping things from Council. Respondent Dufour's comments questioned the integrity of the Staff and were contrary to the Code, Section B3 and C3.

From the live-streamed meeting

At the meeting on February 13, 2018, the Corporate Services Committee recommended a resolution that Council endorse the policy statement and requested that the Joint Health and Safety Committee review the policy to ensure it reflects the most recent legislation.

When the resolution was read, Respondent Dufour made the following statement:

I agree with this Health and Safety Policy, this is a great thing. I would hope though in the future that the Policy is enforced. There are sometimes things are going on here and Council don't hear about it... I would like to hear about everything. If there's accidents, I don't care how minor they are. If material is being broken or taken, and equipment being broken, I want to hear about all that. I think it's Council's commitment to the Town. So that when I'm walking down the street and someone asks me how come this thing was broken and I don't know anything about it, no, I don't think I like that.

Complainant Townsend's evidence

Complainant Townsend stated that Respondent Dufour's comments called Staff into question, "as though Staff is not complying with the Health and Safety Policy". She noted that this had to do with a snowplow going off the road on an icy hill and a broken taillight. She said that Respondent Dufour "feels that he needs to know about these things, although they're not covered by the Health and Safety Policy". She recalled that he also asked "whether employees were disciplined for driving off the road", but Council is not party to discipline records.

Complainant Roque's evidence

Complainant Roque noted that the Health and Safety Policy has to be reviewed annually. She was of the view that Respondent Dufour's statement "suggested that Staff is not complying, but there is nothing to substantiate his comment". She stated that "Staff's

integrity and the integrity of the corporation are called into question”, which constitutes a Code violation.

Complainant Tessier’s evidence

Complainant Tessier noted that she and Complainant Roque had just been at training where they were reminded to conduct the annual review of the Health and Safety Policy, and post it in the building. She stated that when this resolution was read out to Council, Respondent Dufour “took it as an opportunity to suggest that the Health and Safety Policy was not being enforced”. In her view, this shows that “Council thinks that Staff is always trying to get away with something, as though [Staff] have some sort of hidden agenda”.

Complainant Yusko’s evidence

Complainant Yusko stated that Respondent Dufour’s comment related to when “one of [Public Work’s] snow plows was in the ditch”. He advised that he did not know what issue there was about “not following the Health and Safety Policy”. He further noted that he does not know “why [Respondent Dufour] needs to know”. Complainant Yusko suggested that this is “just more coffee shop talk, and [Respondent Dufour] wants to be in the know”. He said, “This runs into micromanaging. How much do we really need to communicate?”

Respondent Dufour’s evidence

As set out above, despite multiple communications to Respondent Dufour, he did not participate in this Investigation. As such, I have no evidence or response from him to this allegation.

Analysis and Findings

Respondent Dufour’s comments are clear on the live-streamed recording of the meeting and I find that he made them as alleged.

Respondent Dufour publicly noted his displeasure at not knowing about accidents, regardless of “how minor”, or when equipment is taken or broken. Further, he suggested that Staff’s failure to inform Council of such things was a failure to comply with the Health and Safety Policy. Respondent Dufour’s comments were made without any specific

examples or any foundation other than his desire to be informed. I find that these comments publicly impugned the Staff's professional and ethical reputation, contrary to the Code.

11. Respondent Piche Failed to Meet the Role and Obligations Required of the Head of Council

Respondent Piche has failed to meet the role and obligations required of the Head of Council as required by the Code and the Municipal Act, Section 225. Specifically, he has failed to i) preside over Council meetings so that its business can be carried out efficiently and effectively, ii) provide leadership to Council, and iii) provide information and recommendations to the Council with respect to the role of Council.

Complainant Townsend's evidence

Complainant Townsend described the exchange between Complainant Pichor and Respondent R. Duplessis at the meeting on January 23rd (when Complainant Pichor "tried to clear up misconceptions" about having interrupted Council) as "just another example" of Respondent Piche failing to control Council. She noted that he permitted "all the back and forth" such that she finally said, "bang your gavel, I think we're done". She said, "he allowed the situation", and it "was all over social media".

Complainant Townsend noted that she and Complainant Roque have discussed Council meetings with Respondent Piche to assist him. She stated that she likes Respondent Piche and knows he wants to do a good job but, in her view, had there been a "more controlling mayor... much of this could have been avoided and half of those comments wouldn't be said".

Complainant Roque's evidence

Complainant Roque, who sits immediately to Respondent Piche's left during Council meetings, stated that he "needs to be able recognize concerns". She noted that Respondent

Piche asked for and received some coaching and training, as regards the procedural bylaws and running Council meetings.

Complainant Roque stated her belief that “this has all taken off” because of a lack of control. She said, “it makes us physically sick anticipating what’s going to happen at Council meetings and we can’t sleep for days before a meeting”.

Complainant Tessier’s evidence

Complainant Tessier described a lack of control at Council meetings, and suggested that Council does not respect Respondent Piche.

Complainant Yusko’s evidence

Complainant Yusko stated that Respondent Piche’s “heart is in the right place. He was on the Slate that ran together, but then he started reading the staff reports”. Complainant Yusko suggested that it is “too bad” that Respondent Piche “can’t manage or control Council”.

Complainant Desjardins’ evidence

Complainant Desjardins noted that, based on her observations, Respondent Piche “doesn’t have much control over the Council”. She identified the time that Complainant Townsend had to say, “that’s enough; hit your gavel”.

Complainant Desjardins said she thinks Respondent Piche has come to realize what he can and cannot do, and it appears that it is “pretty much everyone against the Mayor”.

Complainant Kennelly’s evidence

Complainant Kennelly stated that it is unfortunate that Respondent Piche “does not speak to the inappropriateness of the Council or the audience”.

She noted that Respondent Piche spends a lot of time at Town Hall, and now understands that Staff’s job is to make Council look good. In her view, he “learned quite quickly that he needed Staff” and Staff are “competent and well-informed, and want to give Council the knowledge to make informed decisions and have a good reputation in the community”.

Complainant Kennelly said Respondent Piche “doesn't have control over meetings and Council”.

Councillor Yocum's evidence

Councillor Yocum noted his concern that Respondent Piche “is unable to run the Council”.

Respondent Piche's evidence

Respondent Piche acknowledged that members of Council “don't recognize procedure” and the “atmosphere is not conducive to good governance”. He said he first identified this problem in March 2015, only months after the Council was elected. He provided a copy of a memo that he sent to Council in an effort to improve conduct, a copy of which is attached as **Appendix M**.

As noted in the memo, Respondent Piche identified various articles from the Town's Procedural Bylaw 2062/08, including the Mayor's duty to preside over the conduct of Council meetings and preserve “good order and decorum”, as well as Mayor's duty to “restrain the Members, within the rules of order, when engaged in debate”.

Asked whether his memo improved the conduct, Respondent Piche stated,

I think it was crumpled up in the waste basket. It didn't have the desired impact. No one came to me to ask why the memo was delivered.

As regards the group that he sees as the majority on Council, Respondent Piche stated that “these four monopolize Council” such that he's “not able to do the necessary procedures under the *Municipal Act*”. As regards the allegation that he has failed to meet his role and obligations under the Code, he said he “takes some responsibility for that, but not all of it. It kind of numbs you down”.

Respondent Piche noted that the Council includes many past supervisors and foremen at the pulp mill, which can make leadership more difficult. Respondent Piche said, in his view, he did not get training on how to deal with five supervisors, or how to deal with “pushing and shoving or obstinacy”. By way of example, he described Respondent R.

Duplessis “writing notes and telling [Respondent Dufour] what to do. It feels like bullying and ganging up.”

In an effort to improve his leadership, Respondent Piche stated that he would prepare in advance of meetings with the agenda. He also described watching recorded Council meetings, noting that he “didn’t like what [he] saw”. He said that he believed that although it is “late in the term”, he can preside over council meetings.

Analysis and Findings

Respondent Piche admitted that he has failed to meet his obligations under the Code and the *Municipal Act*. He said he assumes “some responsibility” for this, but also points to his early efforts to curb poor behaviour (his 2015 memo) as well as inadequate training and a bullying majority of Council.

Based on the evidence presented to me during this Investigation, including the evidence of multiple Complainants, Councillor Yocum, Respondent Piche’s admissions and my review of multiple recorded Council meetings, I find that Respondent Piche failed to meet his obligations as the Head of Council under the Code and the *Municipal Act*.

12. Disrespectful Communications as between Respondents Dufour, R. Duplessis and Piche

Respondents Dufour, Duplessis and Piche have engaged in communications that are inconsistent with the Code, Section C, in that they are disrespectful. As an example, at a live-streamed meeting of Council on February 27, 2018, Respondent Dufour and Mayor Piche went back and forth regarding whether people had “jumped all over” each other, and who had told whom to “shut up” or “be quiet”. As a further example, at a live-streamed meeting of Council on February 13, 2018, Respondent R. Duplessis and Respondent Piche went back and forth regarding the Fire Hall and new fire truck that was not respectful. In that meeting Respondent R. Duplessis also suggested that Respondent Piche’s notice of motion was “illegal”.

From the live-streamed meeting

At the meeting on February 27, 2018, following Respondent Duplessis' comment about Staff having enough time to prepare Complainant Townsend's Staff Report, Respondents Piche and Dufour had the following exchange:

Respondent Piche: (Laughing) If I open my mouth he'll just climb all over me every time. Anybody else got questions or comments?
Councillor Ray?

Respondent Dufour: The intention is not to jump all over you, in case you were wondering. I mean, but you shouldn't jump all over us either though.

Respondent Piche I didn't jump all over you.

Respondent Dufour Oh come on, I don't know how many times you told this man to shut up. I don't know.

Respondent Piche You're making that up.

Respondent Dufour You said be quiet.

Respondent Piche That's not shut up.

Thereafter there was laughter around the Council table and in the meeting room, and Respondent R. Dufour called a point of order.

At the meeting on February 13, 2018, in the context of discussion regarding the Fire Hall, Respondent Piche made numerous statements regarding his frustration regarding the pace of the Fire Hall review, considering the volume of information and drawings and plans already obtained. He said as follows:

We can look at the footprint that we already have plans for and size it... instead of sitting around her and arguing back and forth about what we're going to do next and can we hire another engineer... This municipality has about \$85,000 wrapped up in consulting fees and engineers looking

at this, and we haven't moved yet. And I don't know why, I don't know what the reason is. If you think Espanola doesn't need a Fire Hall. We've got a truck that's passed due. I don't like the way that's going.

By way of reply, Respondent R. Duplessis made numerous statements. He noted that the truck "isn't passed due yet", there is a year and a half to get a new truck, and the Council is prepared to order a new truck once it receives the specifications. He also disagreed with the quantum of the engineering fees, but confirmed the need for additional information from the engineers to advise whether a new building is required or whether an addition can be made to the existing building. Respondent Piche stated that "there has been a lot of conversations about the Fire Hall, but there's no progress".

A few moments later, Complainant Roque introduced a motion put forward by Respondent Piche proposing an opportunity for citizens to vote on "whether to go to OPP or not". Respondent R. Duplessis questioned whether this was being introduced by notice of motion, and suggested that the motion "must have been illegal because it wasn't signed". When Complainant Roque addressed his concerns, he spoke over her. Respondent R. Duplessis further objected to the notice of motion containing "a lot of personal comments" that he did not think belonged in motions but, he stated, "I guess we're there".

Complainant Townsend's evidence

Complainant Townsend described these situations as "bickering" that Respondent Piche "condones". She stated there is "no respect among Council members" and it makes Staff's job "more difficult".

Complainant Roque's evidence

Complainant Roque stated that the disrespectful comments amongst the Council has an impact on Staff and "is embarrassment". She noted that Council members "need to set the tone and provide the example".

Complainant Tessier's evidence

Complainant Tessier stated that Council has “no professionalism” and “no respect for meeting procedures”.

Complainant Yusko's evidence

Complainant Yusko described Council as “a bunch of bickering kids”.

Respondent Piche's evidence

Respondent Piche described being “overpowered” by the majority of the Council which leads to “arguments and bantering back and forth, that just keep going”. He said that when he pushes back against the majority of Council “it creates more bickering”. He acknowledged that he “gets into the banter with them” and that he “has got to stop that too”. He said,

I can offer opinions and ideas, but I can't get into it. I don't need to go there... But bickering is not the way to move Council in the right direction... I admit I fly off the handle when things get dumb. And it goes on and on.

He said he knew “way back in March 2015 that it would be an uphill battle”.

Analysis and Findings

The comments made by Respondents Dufour, Duplessis and Piche are clear on the live-streamed recording of the meeting and I find that they made them as alleged.

I find that the examples identified in this allegation establish a pattern of antagonistic and unprofessional communications as between Respondents Dufour, R. Duplessis and Piche that do not reflect a respectful workplace. This pattern of behaviour contributed to the municipal workplace environment that was marked by undermining, abusive and harassing conduct, contrary to the Code.

VI. Conclusion

Findings

I make the following findings against Respondent R. Duplessis:

- I find that Respondent R. Duplessis' suggestion that the part-time AA position could be eliminated, without evidence that he knew what her job entailed, was disrespectful of Sandra Bois' professional capacities and responsibilities, in breach of the Code. Further, I find that his suggestion, in an open meeting, that the position could be eliminated, was contrary to the Procedural Bylaw 2062/08, Article 27.1.2
- I find that Respondent R. Duplessis' comments and demeanor at the January 23, 2018 meeting were disrespectful of Complainant Pichor's professional capacities and responsibilities, contrary to the Code.
- I find that Respondent R. Duplessis' conduct in this live-streamed meeting regarding Complainant Townsend's Staff Report was disrespectful of Complainant Townsend's professional capacities and responsibilities, and amounted to harassing conduct, contrary to the Code.
- I find that Respondent R. Duplessis was disrespectful of the decision-making process, contrary to the Code, as regards the garbage bylaw, the number of fire trucks and the size of the new Fire Hall.
- I find that Respondent R. Duplessis' comment that Complainant Townsend should only speak when spoken to was disrespectful of her role and responsibilities, which impedes her ability perform her duties as CAO to provide advice to Council, contrary to the Code.
- I find that Respondent R. Duplessis' recommendation that a student fill the Public Works vacancy, without considering Complainant Parker's report and recommendation, was disrespectful of Complainant Parker's roles and

responsibilities which impedes his ability to perform his duties of providing advice to Council, contrary to the Code.

- I find that Respondent R. Duplessis engaged in a pattern of antagonistic and unprofessional communications with Respondent Piche, which contributed to a municipal workplace environment that was marked by undermining, abusive and harassing conduct, contrary to the Code.

I make the following findings against Respondent Dufour:

- I find that Respondent Dufour's comments regarding accessibility and "hiring people who can do the job" constitute discrimination, intimidation and adverse treatment of others, contrary to the Code.
- I find that Respondent Dufour's comments requesting someone the Council "could identify with" were disrespectful of Complainant Rivet's professional capacities and responsibilities, contrary to the Code.
- I find Respondent Dufour's statements to the effect that there are too many building inspectors was disrespectful of the Building Department's professional capacities and responsibilities, and in breach of the Code.
- I find that Respondent Dufour should have disclosed the two outstanding OTCs against him, abstained from taking part in the discussion or vote regarding Mr. Campbell's building inspector employment contract, and ensured that he did not attempt to influence voting in any way. By failing to do so, and in bringing the motion to review the employment contract, Respondent Dufour acted contrary to the Code, the *Municipal Act* and MCOIA.
- I find that Respondent Dufour was disrespectful of the decision-making process, contrary to the Code, as regards the garbage bylaw, the number of fire trucks and the size of the new Fire Hall.

- I find Respondent Dufour's suggestion that Staff were not complying with the Health and Safety Policy, without substantiation, publicly impugned the Staff's professional and ethical reputation, contrary to the Code.
- I find that Respondent Dufour engaged in a pattern of antagonistic and unprofessional communications with Respondent Piche, which contributed to a municipal workplace environment that was marked by undermining, abusive and harassing conduct, contrary to the Code.

I make the following findings against Respondent Malott:

- I find that Respondent Malott's email message demonstrated an antagonistic attitude which was intimidating to Staff and constituted workplace harassment, contrary to the Code.
- I find that Respondent Malott participated in a serial meeting, contrary to the Code.

I make the following finding against Respondent K. Duplessis:

- I find that Respondent K. Duplessis' public statement that Council does not have a good working relationship with Staff on account of personalities was disrespectful to Staff generally and impeded their ability to perform their duties, contrary to the Code.

I make the following findings against Respondent Piche:

- I find that Respondent Piche failed to meet his obligations as the Head of Council under the Code and the *Municipal Act*.
- I find that Respondent Piche engaged in a pattern of antagonistic and unprofessional communications with Respondents R. Duplessis and Dufour, which contributed to a municipal workplace environment that was marked by undermining, abusive and harassing conduct, contrary to the Code.

Pattern of Conduct

As stated throughout this Comprehensive Report, I find that much of the impugned conduct, including instances that would not on their own rise to the level of a Code violation, forms a pattern of behaviour that was undermining, abusive and harassing towards the Complainants. I list below the impugned conduct that, considered alongside the above findings, forms this pattern of behaviour:

- Respondent R. Duplessis' suggestion in an open meeting that Sandra Bois' position could be eliminated
 - In the context of the Council's campaign of budget cuts, the suggestion promoted fears regarding job security.
- Respondent R. Duplessis' dismissive comments regarding Complainant Pichor being a resource in the audience
 - In the context of a frustratingly slow pace of the Fire Services review, where multiple third party reports were obtained and little progress was made, the comments undermined Complainant Pichor.
- Respondent Dufour's desire to review Mr. Campbell's employment contract, while employing hostile language, notwithstanding his conflict of interest and the fact that the annual review related to cost allocation, not employment
 - In the context of the Council's campaign of budget cuts, and disrespectful comments regarding Building Services, the comments promoted fears regarding job security, as well as fears of the imagined "hell that would break free" if Building Services issued Respondent Dufour a fine.
- Respondent R. Duplessis' criticism of Complainant Townsend's Staff Report as "virtually meaningless", as well as his aggressive questioning and his implication that Staff wasted time preparing a Report that was not requested
 - These comments called into question all of the Complainants' job descriptions, to the extent that all managers are expected to advise Council,

both pro-actively and reactively, so that Council can make informed decisions.

- Respondent K. Duplessis taking exception to the request for direction as regards reduced services when a temporary employee was not approved
 - In the context of the Council's willingness to engage in management level decision-making (such as suggesting a student could be used in lieu of hiring a temporary employee), when Council is "taken aback" by Staff's request for direction on reduction of services, the effect is that Staff is provided mixed messages as to Council's expectations. This promoted mistrust and undermined Staff's ability to perform their duties.
- Respondent K. Duplessis' request for the bylaws that supported Complainant Roque's research, otherwise it was "hearsay"
 - It is reasonable to ask for supporting information where one wants to fully understand a result. However, in an environment where Staff's work and value were questioned (i.e. Complainant Townsends' Staff Report, challenges to the Building Department), to suggest that the result is "hearsay" without the bylaws promoted mistrust and undermined Complainant Roque.
- Respondent K. Duplessis' statement that Council and Staff do not necessarily have a good working relationship, based on personalities
 - This comment suggested that the differences in personality between Council and Staff was an acceptable basis for a poor working relationship, which undermined Staff's professional roles and responsibilities.
- Bickering and disrespectful communications amongst Council members
 - Such communications detract from what is expected to be a professional, respectful municipal workplace, and sets a poor tone.

The effect of Council's conduct on the public's treatment of Staff

As noted throughout this Report, there were multiple occasions that the statements and conduct in the live-streamed meetings were echoed in postings on the Facebook Page and in email messages from the public. By way of example, I refer to the parallel sentiments expressed by Respondent R. Duplessis and the Facebook Page post in January 2018 regarding Complainant Pichor's "interruptions", and the symmetry between Respondents R. Duplessis and Malott, Mr. Ellis' email and the Facebook Page post in March 2018 regarding Complainant Townsend's Staff Report.


Additionally, many of the Complainants, as well as Respondent Piche and Councillor Yocum, addressed the influence that a few residents appear to have over the majority of Council. Many of the Complainants also said that the undermining and demeaning treatment they receive from Council effectively sets the tone for the public and serves to both condone and perpetuate public negativity toward Staff. Given the influence and close relationship between certain members of Council and certain members of the public, I find that Council members knew, or ought to have known, that their impugned conduct would have this effect on the public.

My finding that the Council knew, or ought to have known about the connection between their conduct and the conduct of the certain residents is further supported by an investigation I was retained to perform for the Town in late 2017 (the "Previous Investigation"). The Previous Investigation concerned a complaint of workplace harassment made by Complainant Townsend against Mr. Shames with respect to postings on the Facebook Page. By way of general overview, I found that although Mr. Shames had engaged in a pattern of making insulting and disrespectful Facebook Page posts regarding Complainant Townsend, the posts did not constitute workplace harassment because the Facebook Page was not sufficiently connected to Complainant Townsend's workplace.

With respect to the current Investigation and the connection between Council and resident conduct, I refer to the report I prepared for the Previous Investigation. Based on the evidence presented to me, on August 15, 2017, Complainant Townsend wrote to Council, advising that she had just received a letter from Mr. Shames that contained

information that had been discussed at an *in camera* Council meeting. She reminded Councillors of their obligation to maintain confidentiality over sensitive, *in camera* information. Two days later, at an *in camera* meeting with Council, Complainant Townsend shared her concerns with Council regarding Mr. Shames' increasing posts about her on the Facebook Page, and her concern that members of Council were "feeding" Mr. Shames information. The Council obtained legal advice and ultimately initiated the Previous Investigation.

In all of these circumstances, it is reasonable that Council appreciated that their conduct influenced members of the public, not the least of whom was Mr. Shames.



Dated July 12, 2018

Jan Parnega