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CITY OF OSHAWA INTEGRITY COMMISSIONER, GUY GIORNO

**Citation:** Harding v. Neal, 2021 ONMIC 5

**Date:** June 30, 2021

# REPORT ON COMPLAINT

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## COMPLAINT AND INQUIRY

1. Mr. Larry Harding (Complainant) alleges that Councillor John Neal (Respondent) contravened section 10 of the Code of Conduct for Members of the Council of The Corporation of the City of Oshawa and for the Board of Management of the Oshawa Central Business District Improvement Area, By-law 51-2015, as amended (the Code).

## SUMMARY

2. The Complaint makes allegations about the Respondent's comments at a committee meeting, and the Respondent's comments in the community generally.

3. The conduct at the committee meeting was addressed by the Committee Chair when it occurred. Further, the Respondent made a full, public apology. The Complainant does not agree that those steps were sufficient, but I will not intervene.

4. As for the allegations of comments in the community, I received no evidence to substantiate the claims that the Respondent and a member of his family were spreading falsehoods about the Complainant's business activity.

5. I find no contravention of the Code of Conduct.

## BACKGROUND

6. The Complainant is the founder and operator of a Hard-Co Construction Ltd., a Whitby-based company that helps municipalities to build infrastructure.

7. In the course of business, Hard-Co must find appropriate locations to place excess clean soil from construction sites.

8. For much of the last decade, the company has taken soil to 618 Columbus Road, Oshawa. The Complainant submits that Hard-Co always acted accordance with permits issued by the City of Oshawa and other relevant authorities, including the Central Lake Ontario Conservation Authority.

9. The Complainant's company subsequently acquired a property that abuts 618 Columbus Road, and submitted to the City an application for a Site Alteration Permit.

10. The application was considered at the January 13, 2020, meeting of the Development Services Committee. The agenda, minutes and a recording of this meeting are publicly available online.

11. The Respondent was not a committee member, but he attended and participated in the meeting.

12. Five delegations were heard that afternoon. The Complainant was the third to speak.

13. The first delegation voiced environmental and health concerns about the practice of dumping fill at the Columbus Road site. The presentation included firsthand observations about the activity taking place at the site. It was suggested that the public was not receiving adequate engineering and environmental information about what was taking place, and that the activities could cause cancer, a belief that was acknowledged to be merely a suspicion.

14. The second delegation also called for a “proper, formal public hearing” where all concerned citizens could discuss the proposal and its effect on public health and the Oak Ridges Moraine. The delegation also wanted the City to update its Site Alteration by-law, which was said to be inadequate.

15. The Complainant spoke next. He explained the work of his business and addressed some “misconceptions about the application.” According to him, any environmental concerns about dumping were not the result of Hard-Co’s activity but, more likely, resulted from other businesses that were dumping fill from Toronto. He also provided information about the sampling, testing and soil analysis to confirm that his business activity would not have an adverse environmental or health impact.

16. Approximately 17 minutes into the Complainant’s presentation (1 hour, 8 minutes into the meeting, [http://video.isilive.ca/oshawa/DSC\\_2020-01-13.mp4.html](http://video.isilive.ca/oshawa/DSC_2020-01-13.mp4.html)), the Respondent raised a point of order. He asked when the City of Oshawa had conducted discussions with Hard-Co about approving a road, and said that he was not aware of the discussions. The Respondent asked:

Why would I be told by a proponent, who never followed the rules in Phase 1, sitting here, rhyming off a bunch of I don’t know what? It’s not verified by anybody, and I’ve got our staff over there like basically staring, I don’t know where they are staring at but none of these things have even been vetted with our staff, from what staff have told me. Like all this stuff being rhymed off, it doesn’t mean anything to me because staff were supposed to be doing a report, Mr. Chair ...

17. The Respondent then asked whether the staff would be providing a report on the matters being raised by the Complainant’s delegation, making clear that he wanted to hear a report from the staff, not from Hard-Co. “Am I getting a report today? Because it sure sounds like it, but I don’t like where it’s coming from.”

18. The Committee Chair, Councillor Marimpietri, asked the Respondent to wait until the conclusion of the delegation to ask these questions. The Respondent replied:

Well, it is nice to know Mr. Hard-Co [sic] is the elected representative in Ward 1, but I'm going to tell you right now I'm not going to sit and listen to a bunch of stuff that was not done in Phase 1. That's why the residents are here.

19. Councillor Chapman then raised a point of privilege, stating that the Respondent was, "attacking the delegate and that's not fair and that's not proper."

20. The Respondent replied by challenging Councillor Chapman's record on the Site Alteration by-law.

21. The Committee Chair then intervened, and asked Council members "that we not impugn one another." The chair stated that he took the concerns of all those present very seriously.

22. At this point the Respondent started talking over the Chair. He stated, "I want to know why Mr. Hard-Co [sic] was in my driveway in the spring and sent out one of his members again December 3." He asked, "I'd like to know that: what you're doing on my property." (As discussed below, the Complainant and an associate did visit Councillor Neal's property on two separate occasions to discuss the proposal).

23. The committee then voted to take a five-minute break.

24. When the meeting reconvened, the Complainant asked to discuss a handout he had prepared for the residents who were in attendance, including discussion of a soil management study.

25. At the conclusion of the delegation, Councillor Marimpietri recognized the Respondent who asked questions about the information presented by the delegation. He asked his questions through the Chair.

26. At the Tuesday, February 18, City Council meeting, the Respondent rose to apologize for his conduct at the January 13 Development Services Committee Meeting. It was a public apology, recorded along with the remainder of the meeting. It is fully available online for any member of the public to view and hear.<sup>1</sup> The Respondent stated:

I would like to take this time to apologize for some things that transpired at the Development Services Meeting last month. At the January 13 Development Services Committee Meeting that took in Oshawa Council Chambers, where I had been sitting as a visiting Councillor, I wrongly used an inappropriate tone of voice when communicating with the delegates, and the delegates were Mr. Frank, Mr. Cole, and Mr. Harding. The Committee Chair and members of the Committee sat in regards to the residents' deep concerns to hold a public meeting on the proposed 344 Wilson Road site. Furthermore, Mr. Mayor, I spoke over the Chair at times which impeded the Chair from effectively presiding over the Committee. In

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<sup>1</sup> Meeting of Oshawa City Council (February 18, 2020), online: <https://rogerstv.com/media?lid=237&rid=26&qid=328230>

general my conduct at the Committee Meeting was not in keeping with the decorum that makes committee effective in managing the public's needs. It was unnecessary for me to raise my voice and tone towards the affected parties. I am sorry Mr. Mayor for this having taken place, and I assure all my colleagues, especially those that were present at the Committee meeting, that this will not happen again under any circumstances. Thank you.

27. The Complainant makes further allegations about conduct outside the Development Services Committee meeting.

28. First, he alleges that, at a breakfast at Columbus United Church, the Respondent spoke to community members and indicated that Hard-Co's activity was contaminating drinking water in local wells and causing cancer. Despite a request to the Complainant and his legal counsel, the Complainant could not state the date when this occurred and could not name a single witness who might be able to substantiate the claim.

29. Second, when he was interviewed, the Complainant alleged that a family member of the Respondent had spread similar falsehoods while collecting signatures in opposition to the project from residents near the 618 Columbus Road site. Again, despite a request to the Complainant and his legal counsel, no specific date was provided and no witness who might substantiate the claim was identified.

## POSITIONS OF THE PARTIES

### Complainant

30. The Complainant's position is that Councillor Neal's Conduct at the January 13 meeting of the Development Services Committee violates section 10 of the Code, which states as follows:

#### Conduct Respecting Others

10. Each Member has the duty and responsibility to treat members of the public, each other Member and staff appropriately and without abuse, bullying or intimidation, and to ensure that the City's work environment is free from discrimination and Harassment. Without limitation, a Member shall not:

- (a) use indecent, abusive or insulting words or expressions toward any other Member, any member of staff or any member of the public;
- (b) speak in a manner that is discriminatory to any individual, based on that person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability; or
- (c) engage in any Harassment of any other Member, any member of staff or any member of the public

31. He submits that Councillor Neal made him feel as though he was "being attacked, belittled, humiliated and that [his] personal and business reputation was being harmed" by Councillor Neal's accusations.

32. The Complainant further submits that Councillor Neal's statement that he's "glad to know Mr. Hard-Co is the elected Representative of Ward 1" was a derogatory statement made in malice.

33. He also submits that his businesses always operate in accordance with permits from relevant legal authorities, including the City of Oshawa and Central Lake Ontario Conservation Authority, adding that his business answers all requests for information to the satisfaction of local authorities. He believes this fact is relevant because the Respondent had alleged during the January 13 meeting that Hard-Co did not "follow the rules" during Phase 1 of the project. He reiterates that at no point was his business in breach of any conditions of permits.

### **Respondent's Position**

34. Councillor Neal submits that the Complainant spent much of his delegation speaking of his business accomplishments and providing environmental and engineering information that was not vetted by City staff or accompanied by any Staff report. Instead, the Complainant's delegation was supposed to speak to the actual substance of the application at issue, which was a request to hold a public meeting of Council where these facts would then be discussed. He submits this was in direct contravention of Article 6.6(c) of the Procedure By-law which protects against "solicitation of business" during delegations.

35. He also submits that the result of this was that the Complainant was presenting public "with his own unverified environmental and engineering information reports on the proposed site application, without first being scrutinized by Oshawa city staff, and not recall who he had spoken to on Staff." He raised the point of order because he was concerned the information the Complainant was providing through his delegation was presenting as fact important issues that the committee had to consider, even though this information was not vetted or endorsed by City staff.

36. His position is that he was also frustrated by the fact that the Complainant was afforded other liberties and leeway at Committee in direct contravention of the rules under the Procedure By-law while other delegations were reminded of, and limited by, the procedural rules. As an example, Councillor Neal noted that the Complainant had surpassed the allotted time limit of 10 minutes under the Procedure By-law.<sup>2</sup>

37. His frustration at the meeting was compounded by the fact that the Complainant and his associates made repeated attempts to confront him about the permit applications associated with 618 Columbus Road. The Complainant had visited Councillor Neal's private residence at some point in early 2019 to speak about the application and, because

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<sup>2</sup> The Rules of Procedure, By-law 111-2017, s. 6.7(f). s. 6.7(g) provide for the possibility of a two-minute extension, but only on a two-thirds majority vote by Council or the Committee.

Councillor Neal was not home, the Complainant approached his spouse to discuss the matter. Councillor Neal adds that on December 3, 2019, an employee of the Complainant's company visited his private residence and, when the associate discovered that Councillor Neal was not home, he also attempted to speak to his spouse about the matter.

38. He also submits that he was confronted by another associate of the Complainant on his way into the January 13, 2020 meeting of the Development Services Committee. The associate was evidently waiting for Councillor Neal, informed him that he drove the Complainant to the meeting and then asked for a meeting with Councillor Neal.

39. The Respondent submits that the repeated attempts by the Complainant to confront him to lobby him on his business interests was unethical and indicated that the Complainant was not acting in good faith on an important public issue.

40. Regarding the allegation that Councillor Neal attended a meeting at Columbus United Church and spread falsehoods about serious health ramifications to the community as a result of the Complainant's business activity, Councillor Neal categorically denies that any such comments took place, both in his written submissions and during his interview. He submits that he spoke to members of the community at that Church on a number of occasions and never made any such allegations. He points out that the Complainant could not recall the date that the alleged statements were made, was not in attendance himself, nor could he offer any witness to corroborate that the statements were made.

41. In his written submissions, Councillor Neal acknowledged that his tone at the January 13 meeting was not in keeping with decorum and he promised to apologize to apologize to the Complainant, the Committee Chair and to other committee members for his tone during the January 13 meeting. As previously mentioned, he did, in fact, apologize at a public Council meeting.

## **PROCESS FOLLOWED**

42. This inquiry was delayed by factors outside my control including communications with the parties.

43. In operating under the Code, I follow a process that ensures fairness to both the individual(s) bringing a Complaint and the Council Member responding to the Complaint. This process is based on the Complaint Procedure that was adopted by Council and is appended to the Code as Schedule A.

44. I received the initial Complaint on January 30, 2020.



45. I received Councillor Neal's Response on February 17, 2020.

46. As set out above, the very next day, during the February 18 City Council meeting, the Respondent, of his own volition, stood to apologize for his conduct at the January 13 Development Services Committee meeting. The apology was directed to both his colleagues and the delegations, including the Complainant who was identified by name.

47. At the time the Complaint was submitted, an apology had not yet been made. It was reasonable to ask that Complainant whether, in light of the apology, he still wished to pursue the Complaint.

48. On Tuesday, March 17, 2020, Ontario declared a state of emergency. During the state of emergency, having regard to the impact of COVID-19 on both residents and municipal governments, I originally suspended processing of Code of Conduct complaints and paused others.

49. Because Oshawa and the rest of Ontario were still dealing with the pandemic, I proceeded slowly and gave first priority to certain inquiries on the basis of urgency and next priority to inquiries that were appropriately dealt with sooner. These included *Foster v. Chapman*, 2020 ONMIC 17 (CanLII), *Gobin v. Giberson*, 2020 ONMIC 14 (CanLII), *Gobin v. Nicholson*, 2020 ONMIC 13 (CanLII), and *Gregory v. Kerr*, 2021 ONMIC 2 (CanLII). The inquiry in *Davis v. Carter*, 2020 ONMIC 5 (CanLII), was also completed while this inquiry was ongoing, but prior to the first state of emergency. I should add that three of these inquiries were conducted under the *Municipal Conflict of Interest Act*, so their gravity was obvious.

50. An Integrity Commissioner's *Municipal Act* discretion to conduct inquiries includes the discretion to order the sequencing of multiple inquiries. An Integrity Commissioner needs this flexibility, not only because the discretion and operational independence conferred by the *Municipal Act* require it, but also so that the Integrity Commissioner can handle inquiries in a reasonable, fair, efficient, and financially responsible manner.

51. On September 14, the Province revoked Ontario Regulation 73/20, which had provided for the suspension of deadlines and limitation periods in various legal proceedings. While the regulation had not applied to code of conduct inquiries by Integrity Commissioners, its revocation was relevant to the exercise of my discretion.

52. I resumed the inquiry. On September 27, I provided Councillor Neal's response to the Complainant. I specifically asked whether the Complainant wanted to continue, now that the Respondent had issued a public apology.

53. On September 28, the Complainant replied that he would follow-up with me. He did not.

54. During the week of December 8, both I and a lawyer who works with me asked again whether Complainant wished to pursue the Complaint after the Respondent had apologized.

55. The Complainant replied on December 13 explaining that his delay was not due to disinterest in pursuing the Complaint but resulted from a death in his family: specifically, the passing of his brother, who had been his business partner and was the co-founder of Hard-Co Construction. The Complainant requested that I keep the file open until January 2021. I granted the requested extension on compassionate grounds.

56. On January 29, the Complainant followed-up by email. He acknowledged the Respondent's apology but stated that he continued to disagree with the Respondent's position. He said he wanted the opportunity to provide reasons, but did not include those reasons in his email.

57. Since I did not hear again from the Complainant, in late February my office attempted to contact the Complainant by email and telephone, but received no response.

58. In March, I wrote the Complainant a letter that mentioned the lack of communication since January and again raised the issue of the Respondent's apology. I stated that that I intended to close the file by April 1 unless I heard from the Complainant.

59. On April 1, the Complainant emailed me and asked that I hold the file open until April 7 so he could provide an answer.

60. On April 7, the Complainant firmly rejected Councillor Neal's apology, and requested that I explain how the inquiry would move forward.

61. I offered each party the opportunity of an oral interview, at which the party could, if desired, be supported by legal counsel. Both parties accepted the offer of interviews, which were conducted by a lawyer who works with me, pursuant to a delegation I issued under Part V.1 of the *Municipal Act*.

62. The interview with the Complainant took place on May 11 and the interview with the Respondent took place on June 2. At his interview, the Complainant was accompanied by legal counsel.

63. On May 14, my associate, the lawyer who conducted the interview, asked the Complainant and his legal counsel for information that would identify witnesses who might be able to verify the Complainant's claims. Neither my associate nor I received any response to that request.

64. As detailed above, I have given the Complainant a great degree of latitude, and I have provided both parties a fair and reasonable opportunity to be heard.

65. Because the January 13 Development Services Committee meeting was recorded, it was unnecessary to gather witness recollections of what happened at that meeting.

66. I did, however, ask the Complainant and his legal counsel to identify witnesses who could verify the claims that the Respondent spread falsehood about Hard-Co during a community meeting at Columbus United Church, and that a member of the Respondent's family had spread falsehood while collecting signatures in opposition to the permit. The Complainant did not identify any witnesses.

## **FINDINGS OF FACT**

67. Findings of fact are based on the civil standard of the balance of probabilities.

68. I find as a fact that the Complainant did speak for more than the allotted 10 minutes while providing his delegation.

69. I find as a fact that prior to the January 13 committee meeting the City staff had not prepared or put forward any formal report regarding the environmental and engineering issues that the Complainant was discussing during his delegation.

70. I find as a fact that on two separate occasions – once in Spring 2019 and again in December 2019 – the Complainant or a representative of his company attended at the Respondent's private residence to discuss the permit application for 618 Columbus Road. Councillor Neal's submissions contained particulars about the visits and included email exchanges between himself and City staff that documented the occurrence. During his interview, the Complainant acknowledged that both of these visits took place

71. I find as a fact that Respondent became noticeably irritated as he asked questions to the Complainant during the January 13 meeting. The frustration is evident from the recording but Councillor Neal also acknowledged his frustration.

72. I find as a fact that the Committee Chair, Councillor Marimpietri, exercised his authority as the presiding officer to preserve order and uphold decorum.

73. I find as a fact that the Respondent provided a detailed and specific public apology for his January 13 conduct and comments.

74. I see no independent evidence that the Respondent or a family member was spreading falsehoods about the Complainant's business activity at a community meeting at the Columbus United Church or when collecting signatures in opposition to the permit, respectively. The Complainant was not able to offer me any witnesses to corroborate these allegations.

## ISSUES AND ANALYSIS

75. I have considered the following issues:
- A. Does an Integrity Commissioner have jurisdiction over statements made during a meeting?
  - B. What is the Integrity Commissioner's role after the presiding officer has dealt with a matter at a meeting?
  - C. Did the Respondent breach the Code by making false allegations about the health effects off Hard-Co's business activity?

### **A. JURISDICTION: DOES AN INTEGRITY COMMISSIONER HAVE JURISDICTION OVER STATEMENTS MADE DURING A COMMITTEE MEETING ?**

76. I am generally of the view that an Integrity Commissioner does not have authority to inquire into comments made during a meeting of Council or committee, since the presiding officer is responsible for the meeting, and the Procedure By-law makes it the presiding officer's duty to restrain Members within the rules of order and to enforce the observance of order and decorum.

77. In the case of the City of Oshawa, this position is further supported by the fact that the Code contains as separate section that explicitly deals with the conduct of Members at meetings. It states:

#### Conduct at Meetings

- 9. Each Member shall conduct herself or himself properly and in a civil manner at Council, Committee and other meetings, and in accordance with the provisions of the Procedure By-law 111-2017 as from time to time amended, this Code of Conduct, the procedural rules adopted by the DOBOM and other applicable law.

78. The Procedure By-law contains clear rules that make the Chair of a meeting the presiding officer.<sup>3</sup> It also sets out clear obligations for the Chair as the presiding officer, which includes, among other things:

- b) Enforcing rules and decorum;
- ...
- d) Ensuring that Meetings are conducted in an orderly fashion...
- ...
- e) Deciding and ruling on all Points of Order and Points of Personal Privilege at a meeting

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<sup>3</sup> Procedure By-law, s. 7.1.

79. The combined effect of these provisions is to require all Members to conduct themselves in accordance the Procedure By-law and to give the presiding officer the power to uphold the requirement

80. The recording of the January 13 committee meeting demonstrates that the presiding officer intervened in the Respondent's conduct so as to restore order and decorum.

**B. What is the Integrity Commissioner's role after the presiding officer has dealt with a matter at a meeting?**

81. In my view, once the presiding officer of a meeting has dealt with an issue of order or decorum, the Integrity Commissioner should not duplicate that work by making parallel findings under the Code of Conduct.

82. The presiding officer clearly and unambiguously intervened in the Respondent's comments and upheld the Procedural By-law.

83. In inquiries under other municipalities' codes of conduct, I have exercised my discretion not to deal with a complaint whose subject matter falls squarely within the boundaries of the rules and enforcement mechanisms of the relevant procedure by-law: *Dhillon v. Moore*, 2018 ONMIC 15 (CanLII), at para. 82; *Moore v. Maika*, 2018 ONMIC 7 (CanLII), at para. 72.

84. In the City of Toronto, Integrity Commissioners have consistently taken the position that they do not have jurisdiction over the behaviour of Council Members during Council and committee meetings. Professor David Mullan, the first municipal Integrity Commissioner ever appointed in Canada, noted that the *Municipal Act* requires that each municipality pass a procedure by-law<sup>4</sup> and that the procedure by-law provides a clear mechanism for enforcing decorum and orderly conduct during meetings. Integrity Commissioner Mullan concluded:

In general, the Integrity Commissioner does not have authority under the Code of Conduct to review complaints about the behaviour of Councillors at Council and Committee meetings. The behaviour of Councillors at Council, while regulated by the Code of Conduct, is the responsibility of Council (acting primarily through the Mayor or his deputy). Absent a resolution of Council requesting the Integrity Commissioner to become involved, this self-policing is part of the statutory rights and privileges of Council.<sup>5</sup>

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<sup>4</sup> *Municipal Act, 2001*, subsection 238(2).

<sup>5</sup> City of Toronto, Report on Complaint (April 6, 2005), Integrity Commissioner David Mullan, at 4.

85. Subsequently, Toronto's Interim Integrity Commissioner Lorne Sossin,<sup>6</sup> Integrity Commissioner Janet Leiper,<sup>7</sup> and Integrity Commissioner Valerie Jepson,<sup>8</sup> all declined to exercise jurisdiction over comments made during meetings. As Integrity Commissioner Jepson explained:

The strong policy principle behind this approach is that the Integrity Commissioner ought not to interfere with the conduct and management of any particular meeting. This makes good sense. The Speaker, or any Chair of a meeting, requires a certain degree of autonomy to ensure that a meeting is conducted in accordance with the procedural bylaw and as specifically stated therein, to oversee order and behaviour of members (s. 27-43(C)). So, if a councillor uses an insulting term against another councillor, in an effort to ensure decorum, the speaker might rule the question out of order and seek some remedial measure such as an apology or – in a serious case – an ejection from the meeting. In most cases, these issues are resolved and the meeting proceeds. There would be little gained by a subsequent referral to the Integrity Commissioner to review the actions.<sup>9</sup>

86. I also note, as Toronto's Integrity Commissioners have observed, that federal and provincial integrity commissioners/ethics commissioners do not exercise jurisdiction over comments made in the House or in committee. In Parliament, the Legislature, and committees, responsibility for enforcing order rests with the Speakers and the committee chairs.

87. Oshawa's Procedure By-law, By-law 111-2017, sets clear rules of decorum and gives the presiding officer all the tools necessary to enforce order.

88. Section 7.5 provides that the roles of Members include: refraining from using indecent or offensive language or behavior; refraining from engaging in debate with persons appearing before Council or Committee; being respectful of each other's roles and responsibilities; and respecting and following the decisions of Council and Committees. (Interestingly, section 7.5 also expressly recognizes the role of Members to seek information and advice from staff prior to and during a meeting.)

89. Section 7.2 provides that it is the role of the Chair of a meeting to enforce rules and decorum, and to ensure that meetings are conducted in an orderly fashion.

90. In addition to subsection 241(1) of the *Municipal Act*, which provides for expulsion, section 7.7 of the Procedure By-law empowers the Chair to enforce decorum and order through measures that include a formal verbal warning, calling a Member to order,

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<sup>6</sup> City of Toronto, Integrity Commissioner Annual Report-2009 (July 29, 2009), Interim Integrity Commissioner Lorne Sossin, at 12.

<sup>7</sup> City of Toronto, Integrity Commissioner Annual Report-2010 (June 28, 2010), Integrity Commissioner Janet Leiper, at 4.

<sup>8</sup> City of Toronto, Report from the Integrity Commissioner on Violation of Code of Conduct: then-Mayor Rob Ford (September 22, 2015), Integrity Commissioner Valerie Jepson, at 10.

<sup>9</sup> *Ibid.* Note that in Toronto a Speaker, and not the Mayor, chairs meetings of Council.

ordering a Member to leave (and requesting the assistance of the security staff), and allowing a Member to apologize.

91. Councillor Marimpietri, the Chair, was exercising these powers when he interrupted the Respondent to restore order. In my view, nothing would be gained by having me review meeting conduct that was already dealt with by the Committee Chair.

92. In exercising my discretion I have also taken into account the fact that the Respondent made a full public apology at the February 18 meeting of City Council.

**C. Did the Respondent breach the Code by making false allegations about the health effects of Hard-Co's business activity?**

93. I have no basis to conclude that he did.

94. The Complainant alleges that at a meeting of local residents at the Columbus United Church, the Respondent made false allegations about the Complainant's business activity contaminating local wells and "causing cancer."

95. Councillor Neal responds to this allegation by pointing out that he has attended numerous meetings at the Church in order to hear the concerns of local residents. He submits that he was there only to listen and respond to their concerns and never made any allegation about the Complainant's business activity causing cancer.

96. The Complainant did not provide a date or identify any witness that could verify the Complainant's bald allegation.

97. In his submissions, the Complainant was adamant that his business operates in accordance with all applicable law and permits. With respect, that does not serve as evidence that Councillor Neal made the impugned comments and is therefore not relevant to the determination of whether he contravened the Code.

98. As a result, I do not find that Councillor Neal breached the Code.

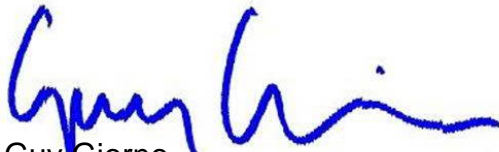
**RECOMMENDATIONS**

99. I recommend that Council receive this report.

**CONTENT**

100. Subsection 223.6 (2) of the *Municipal Act* states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Guy Giorno". The signature is fluid and cursive, with a prominent initial "G" and a long, sweeping tail.

Guy Giorno  
Integrity Commissioner  
City of Oshawa

June 30, 2021

(reissued with typographical error corrected, September 24, 2021)