

**REPORT OF THE INTEGRITY COMMISSIONER**

**TOWN OF ERIN**

**COMPLAINT EIC070413**

**(July 4, 2013)**

**John E. Craig**

**Integrity Commissioner**

**November 27, 2013**

## **1. THE CODE OF ETHICS COMPLAINT**

A complaint dated July 4, 2013 was received from Councillor Josie Wintersinger alleging that Mayor Lou Maieron had violated several sections of the Town of Erin Code of Ethics. The rules alleged to have been violated were as follows:

- Rule 1 (Mayor Maieron revealed confidential information to the public).
- Rule 3 (Mayor Maieron accepted an improper payment as a gift relating to the costs of a trip to China).
- Rule 7 (Mayor Maieron left a Council meeting while it was in progress).
- Rule 9 (Mayor Maieron knowingly provided false information to the public on the process for recruiting a new CAO).
- Rules 14, 16 (Mayor Maieron spoke and wrote emails that were disrespectful, intimidating, demeaning and/or impugned upon the professional or ethical reputation of staff and others).

## **2. TOWN OF ERIN CODE OF ETHICS**

The Municipal Act provides authority for municipalities to adopt codes of conduct (ethics):

*223.2 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality. 2006, c. 32, Sched. A, s. 98.*

The Town of Erin adopted a Code of Ethics on March 19, 2013 to “ensure that members of Council share a common basis of acceptable conduct”. It is meant to be consistent with existing legislation governing the conduct of members of Council.

The Code of Ethics includes statements on the role of Council and the role of the Head of Council, seventeen “Rules” of behaviour, provision for the seeking of advice on the application of the Code and a protocol for enforcement of the Code including the appointment of an independent Integrity Commissioner.

## **3. INTEGRITY COMMISSIONER**

The Municipal Act also provides authority for municipalities to appoint Integrity Commissioners:

*223.3 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is*

*responsible for performing in an independent manner the functions assigned by the municipality with respect to,*

*(a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;*

*(b) the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them; or*

*(c) both of clauses (a) and (b). 2006, c. 32, Sched. A, s. 98.*

The Town Council retained the services of John Craig Consulting to act as its Integrity Commissioner for the purposes of responding to this complaint in accordance with the Code's compliance and enforcement protocol, consistent with the governing legislation.

#### **4. COMPLAINT INVESTIGATION PROCESS**

The following process was used to comply with the Code of Ethics formal complaint procedure and accepted procedural fairness practises.

- I. The complaint was reviewed by the Integrity Commissioner for completeness and clarity. Some clarification was required. This was provided in a follow-up email to me from the complainant dated August 2, 2013.
- II. The Integrity Commissioner determined that all or a portion of the complaint appeared to be within his jurisdiction. The complaint provided sufficient evidence to warrant an investigation and on its face did not appear to be frivolous, vexatious or made in bad faith.
- III. A full copy of the complaint including the noted email was forwarded to the Member (Mayor Lou Maieron) named to have allegedly breached the Code with a request to provide a response back to the Integrity Commissioner on the allegations in the complaint. (Please note that Mayor Maieron required 3 weeks to respond.)
- IV. Once received, the Member's response was forwarded to the complainant for a response back to me.
- V. Upon receiving the above information from the complainant and the respondent I sought further background and evidence leading to my findings and conclusions.
- VI. The Integrity Commissioner's draft report on findings was forwarded to the complainant and the accused member for their independent responses. (Please note that Mayor Maieron required 5 weeks to respond to the draft findings.)
- VII. The responses were considered by the Integrity Commissioner in preparing the final report.
- VIII. The final report was prepared and forwarded to Council for consideration at a meeting that is open to the public.

Throughout the investigation and in my report the identity of individuals interviewed or providing information to me have been kept confidential.

## 5. THE COMPLAINT INVESTIGATION AND FINDINGS

The allegations arising from the complaint focus on five themes. The findings and conclusions from the investigation are organised in this report based on these themes.

### 1. Mayor Maieron revealed confidential information to the public.

During a debate at the Council meeting on June 25, 2013, Mayor Maieron revealed that the previous Chief Administrative Officer (CAO) for the Town had been “terminated” by the Council. This action took place at a previous meeting in early May. The allegation is that this information was deemed confidential under the Code of Ethics and should not have been released to the public.

The Mayor’s announcement was heard by many people and reported in the press. Mayor Maieron admits to having made this statement but indicated that he didn’t intentionally reveal confidential information and that he really didn’t think it was confidential anymore. He believed the information was already generally known among the public at the time.

The Code defines the term “Confidential” as follows:

*“Confidential” means information that is marked “Confidential”. The following is in no way an exhaustive list of information that may be marked confidential, but it shall provide guidance as to the nature of the information likely to be marked “confidential” and not for public dissemination;*

- *Personal data of employees or others*
- *Records related to internal policies and practices, which if disclosed, may prejudice the effective performance of a municipal operation*
- *Records of a financial nature reflecting information given or accumulated in confidence*
- *Files prepared in connection with litigation and adjudicative proceedings*
- *Confidential reports of consultants, policy drafts and/or internal communications, which, if disclosed, may prejudice the effective operation of the municipality*

- *Reports and correspondence considered during In-Camera meetings of Council shall be returned to the Clerk at the end of each meeting.*

Paragraph 1.12 of the Code states as follows:

*1.12 Members of Council shall ensure that confidential information and matters discussed during in-camera sessions are kept confidential.*

Rule 4 of the Code states as follows:

*4.1 No Member shall permit any persons other than those entitled thereto to have access to confidential information.*

*4.2 No Member shall access or attempt to gain access to confidential information in the custody of the Town unless it is necessary for the performance of his/her duties.*

*4.3 No Member shall disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office, except when required by law or authorized by Council to do so.*

*4.4 No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.*

*4.5 No Member shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of Town property or assets.*

*4.6 No Member shall disclose the content of any matter, or the substance of deliberations, of the in-camera meetings until the Council discusses the information at a meeting that is open to the public or otherwise releases the information to the public.*

*4.7 No Member shall access or attempt to gain access to confidential information in the custody of the Town unless it is necessary for the performance of their duties and not prohibited by Council policy.*

The line between the protection of personal information and the right of public access to information regarding the termination of employees has been well documented in decisions handed down by the Privacy Commissioner of Ontario. If in fact the former CAO was “terminated” by the Council, I do not see how this fact could be considered “confidential information” within the definition given in Section B) 4. of the Code or taken from the view of protecting personal information under the Municipal Freedom of Information a Protection of Privacy Act.

In my view it is in the public's interest to know that a senior employee has been hired, terminated, resigned or retired. This is not personal information. Some of the settlement details for a terminated employee may be considered personal information but not the fact itself. An application to the Ontario Privacy Commissioner for such information would surely require the municipality to reveal this information.

I would somewhat agree with Mayor Maieron that it is likely that the public would have assumed that the CAO was terminated by the way his departure from the organization was announced. Hiring, retirements and resignations are always announced as such. In this case most people would jump to the probable conclusion that he was terminated.

That leaves us with paragraphs 1.12 and 4.6, which prohibit the disclosure of the content of any matter, or the substance of deliberations, of in-camera meetings until the Council discusses the information at an open meeting or otherwise reveals it.

It is clear the statement that the CAO had been "terminated", being the part of the substance of the deliberations in a closed meeting, should not have been made as 4.6 prohibits a member of Council from revealing such information.

However, given that the Council revealed the most significant portion of the "content" and/or "substance" of the deliberations leading to the departure the former CAO at an open meeting, in a subsequent press release and staff announcement, the statement made by the Mayor was not a particularly noteworthy nor harmful revelation.

It is not for one member to unilaterally decide what is or is not confidential information without understanding the definition of the term. However, to be enforceable an established rule of ethical behaviour must be written and interpreted in a manner that is consistent with current interpretations of applicable law. Just as it is doubtful that the definition of "confidential" in the code of ethics reflects a valid interpretation of the term, it is equally doubtful that the information in the Mayor's statement was truly confidential.

***I find therefore that while the Mayor did technically breach paragraph 4.6 of the Code of Ethics, it was not a significant transgression and most likely due to an error in judgment.***

***In addition, the breach is based on a definition that in my view does not represent current best practices or a lawful understanding of the term "confidential information".***

2. Mayor Maieron accepted an improper payment as a gift relating to the costs of a trip to China.

Heads of Council have an important role to play in representing and promoting the municipality. The activities commonly carried out relating to these functions involves ribbon cutting, meeting with potential industrial, commercial, institutional or residential investors and nurturing existing businesses in the municipality.

Trips to foreign countries for the purpose of promoting economic development have always been a topic of controversy, especially in small municipalities. The cost can be substantial and benefits are often elusive. Nevertheless many municipalities have participated in this kind of exercise. However, best practice principals would have the municipality pay the costs of such a trip as an investment in potential economic development and to protect the reputation of the municipality against the perception of improper lobbying practices.

In a small municipality the exceptional nature of a visit to a foreign country for economic development purposes brings matters of cost and benefit under very close scrutiny. Ideally a member of council or staff would ask their council for permission to join in one of these trips. This was not the case in Erin, although the Council was informed by the Mayor after he had decided to join the excursion. The question of “who pays” apparently did not come up.

The Mayor argues that his attendance on the China visit is consistent with 3.3.i:

*i. An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member’s duties of Office (i.e. for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is considered to be the fulfillment of an official function or duty.*

I do not accept this argument. This paragraph should be read in the context of the normal duties of a Mayor in the Town of Erin such as a ribbon-cutting event or a local charity banquet. A “function” so extraordinary as an expenses paid trip to China would not likely have been imagined when the expenses policy or this section of the Code were written. It is certainly well beyond what I consider to be covered by this piece of the Code.

The question the complainant poses, however, is not whether the Mayor should have taken the journey but whether the funding was appropriate, given the Code of Ethics rules regarding the acceptance of gifts and benefits.

Rule 3 - gifts and benefits states as follows:

*3.1 No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of Office, unless permitted by the exceptions listed below.*

*3.2 For these purposes, a fee or advance paid to or a gift or benefit provided with the member's knowledge to a member's spouse, child or parent or to a member's staff that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member.*

*3.3 The following are recognized as exceptions to Rule 3.1:*

- a. Compensation authorized by by-law;*
- b. Such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligations – value must not be in excess of \$100.00;*
- c. A political contribution otherwise reported by law;*
- d. Services provided without compensation by persons volunteering their time;*
- e. A suitable memento of a function honouring the member;*
- f. Food, lodging, transportation and entertainment provided by provincial, regional/county or local governments or political subdivisions of them, by the Federal government or by a foreign country;*
- g. Food and beverages consumed at banquets, receptions or similar events, if;*
  - Attendance serves a legitimate purpose;*
  - The person extending the invitation or a representative of the organization is in attendance; and*
  - The value is reasonable and the invitations infrequent*
- h. Communication to the offices of a member, including subscriptions to newspapers and periodicals.*
- i. An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member's duties of Office (i.e. for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is considered to be the fulfillment of an official function or duty.*



Mayor Maieron indicated that he attended this economic development “conference” as a member of Wellington County Council and as the Mayor of the Town of Erin. Furthermore, he stated, “I am fairly certain that no Mayor knew exactly who was paying for what. There were language and other barriers to overcome to determine the most basic information regarding this trip.”

The Mayor argues that other Mayors also attended this tour under the same circumstances. I understand that there were a handful of other Mayors travelling with this tour. It is not my role to pass judgment on their obligations. Not all municipalities have adopted codes of conduct, and municipal codes are not all identical. Some Mayors may have had council consent and others may have an accepted tradition of such travel. What is relevant and important here is the agreed standard adopted by the Council of the Town of Erin. The Code of Ethics prevails as long as its contents are lawful, do not exceed the authority of the municipality and preferably are in keeping with applicable best practices.

On the surface it initially appeared that the *Canada China Investment Association* (a non-profit Canadian Corporation) was responsible for at least some of the costs as it claimed to be the sponsor for the trip. Nevertheless I attempted to determine who paid for the costs of the trip through the Chinese Consul in Toronto, however, consular officials would not communicate with me directly, despite several attempts to satisfy their protocols. I chose not to pursue this information directly by other legal methods available to me due to the potential costs involved and the eventual disclosures of Mayor Maieron.

Unfortunately, it was not until five months after he returned, challenged by this complaint that the Mayor ultimately undertook his own due diligence to determine who paid for his trip. According to Mr. Mu Jianfeng of the Chinese Consulate in Toronto, local governments of China paid the costs. This was revealed to me through an email provided by Mayor Maieron from Mr. Jianfeng dated October 24<sup>th</sup>, which states “I checked with Mme. Sun Xiaoming, the organizer of your trip to China, and got her clear reply that: all the accommodation and meals in China for you and other colleagues are provided by local governments of China in different provinces.”

***I find that the evidence available to me does not support the allegation that Mayor Maieron breached Section 3.1 of the Code of Ethics by accepting gifts not permitted by the exceptions listed in Section 3.3.***

3. Mayor Maieron left a Council meeting while it was in progress.

Mayor Maieron does not dispute that he left the Council meeting on June 25<sup>th</sup>, 2013. He has stated that he felt compelled to leave as his protests that Council was not following the rules in his view were falling on deaf ears. He has stated that this action was also taken to protect himself.

It is not for me to determine whether the meeting in question was properly called and conducted in accordance with the procedure bylaw. That is for Council to decide (however, its decision may be subject to review by the courts, upon application).

The Council meeting procedure bylaw and the Code of Ethics require the Mayor to maintain order and decorum in Council meetings.

Section 7 of the Procedure Bylaw puts responsibility on the Mayor to follow the meeting agenda and enforce the rules of order:

- b) to announce the business before the Council in the order in which it is to be acted upon;*
- c) to receive and submit, in the proper manner, all resolutions presented by the members of Council;*
- d) to put to a vote all questions which are regularly moved and seconded, or necessarily arise in the course of proceedings, and*
- e) to announce the results;*
- f) to decline to put to vote resolutions which infringe upon the rules of procedure;*
- g) to restrain the members, within the rules of order, when engaged in debate;*
- h) to call by name any member persisting in breach of the rules of order of the Council, thereby ordering him/her to vacate the Council Chambers;*
- j) to inform or advise the Council on points of order or usage;*
- k) to represent and support the council, declaring its will and implicitly obeying its decisions in all things;*
- l) to ensure that the decisions of council are in conformity with the laws and by-laws governing the activities of the Council;*

Rule 7 of the Code of Ethics states as follows:

- 7.1 Members shall conduct themselves with decorum at Council Meetings in accordance with the provisions of the Council Procedural By-law.*
- 7.2 Members of Council shall show respect for delegations and for fellow members and staff at Council and Committee meetings.*

- 7.3 *Council Members shall show courtesy and not detract from the business of the Council during presentations and when other Members have the floor.*
- 7.4 *Members of Council shall promote healthy debate when discussing matters of public interest*
- 7.5 *Members of Council shall in the holding of a debate do so with dignity, and with respect for the opinions of others*
- 7.6 *Members of Council when making decisions shall balance the diverse values aspirations, priorities and competing interests of the whole community*
- 7.7 *The Mayor and Members of Council shall embrace and encourage constructive disagreement and discussion while avoiding discouraging, destructive conflict*
- 7.8 *Members of Council shall make a reasonable attempt to build consensus on issues and failing that will respect the majority vote of Council.*

As the Head of Council Mayor Maieron is required by the Municipal Act to provide leadership to the Council. He is obliged to preside over meetings of Council. Council meetings are to be conducted in accordance with the Procedure Bylaw which also provides that disagreements on the interpretation of rules and order are decided by the Council through majority vote. There is no provision in the bylaw requiring members to leave a meeting except in the case of a conflict of interest or if expelled in accordance with 7 (h) or 19 (d). There is also no provision prohibiting a member from voluntarily leaving a meeting.

Mayor Maieron correctly points out that the Municipal Act similarly does not address (except the minimal attendance requirement) a member's decision to absent themselves from a meeting. How is a Head of Council to preside over the meetings of council when he absents himself from the meetings?

As previously stated the Municipal Act permits the municipality to adopt a code of conduct. Erin's code addresses behavioural matters and establishes standards that apply to all members of council. The Code of Ethics requires the Mayor to build consensus, avoid discouraging and destructive conflict, and conduct himself with decorum in accordance with the Procedure Bylaw. As previously stated there are provisions in the bylaw for dealing with procedural disputes and the bylaw requires all members to abide by the decisions of Council on procedural questions.

There is no conflict between the Municipal Act and the Code of Ethics. In fact they are complimentary. A member is not prohibited by law from leaving a meeting, however, the Code of Ethics by articulating appropriate behaviour expresses an expectation in my

opinion as to whether a member should leave. Just because doing something is legal does not mean that it is therefore the right thing to do.

In this situation we find a Mayor who has chosen to not lead, build consensus, avoid discouraging and destructive conflict, and conduct himself with decorum in accordance with the Procedure Bylaw.

***I find that Mayor Maieron breached Rule 7 of the Code of Ethics by leaving the Council meeting on June 25<sup>th</sup>, 2013.***

4. Mayor Maieron knowingly provided false information to the public on the process for recruiting a new CAO.

Rule 9 of the Code of Ethics states as follows:

- 9.1 *Members of Council shall accurately communicate the decisions of the Town of Erin Council, even if they disagree with a majority decision of Council.*
- 9.2 *Members of Council may state publically that they did not support a decision or that they voted against the decision.*
- 9.3 *Member of Council shall refrain from making disparaging comments about other Members of Council and the Council's processes and decisions.*

The allegation raised in the complaint centers around comments made to the press and an email sent to members of Council. The allegation is that Mayor Maieron was dishonest in his remarks by stating that there had been no discussion on the process followed to select a CAO. I have found no evidence of this. In all of the evidence I have located the Mayor complained that the process to be followed was not discussed in a **meeting that was open to the public** – this does not appear to be an incorrect statement. In addition, the Mayor stated his opinion that the June 25<sup>th</sup> meeting was improperly held. Members may state an honest opinion in a public debate. If his opinion was incorrect this does not constitute a “dishonest statement”.

I would note one caution for the Mayor in future remarks and editorials - that he be cognisant of section 9.3 of the Code in which it specifies:

- 9.3 *Members of Council shall refrain from making disparaging comments about other Members of Council and the Council's processes and decisions.*

I have chosen not to comment on the correctness of the meeting procedures as this is not my role in these matters. The municipality has appointed a Closed Meeting Investigator to deal with complaints regarding closed meeting procedures.

***I find that although coming close to breaching Section 9.3, Mayor Maieron did not breach Rule 9 as cited in his communications with the press, public or other members of Council.***

5. Mayor Maieron spoke and/or wrote emails in a manner that was disrespectful, intimidating, demeaning and/or impugned upon the professional or ethical reputation of staff and others.

On July 8<sup>th</sup> to 13<sup>th</sup> Mayor Maieron wrote emails to a resident, staff and councillors wherein he chastised staff and council members, deliberately impugning their professionalism, reputation and performance. He has not denied writing these emails.

Rule 14 of the Code states:

- 14.1 *Members shall be respectful of the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any individual member or group of members of Council.*
- 14.2 *Members should be respectful of the fact that staff carry out directions of Council and administer the policies of the municipality, and are required to do so without any undue influence from any individual member or group of members of Council.*
- 14.3 *No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.*
- 14.4 *No member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.*
- 14.5 *Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or group of members of Council.*

- 14.6 *No member shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff.*
- 14.7 *Members of Council shall show respect for the professional capacities of staff.*
- 14.8 *Members of Council shall recognize that only Council as a whole has the capacity to direct Staff members to carry-out specific tasks or functions.*
- 14.9 *Members of Council shall respect that the Town Manager and the Administration serve Council as a whole and the combined interest of all Members as expressed through resolution of Council.*
- 14.10 *No member shall request Staff to undertake extensive work or prepare lengthy reports other than pursuant to a Council direction.*
- 14.11 *No Member of Council shall attempt to influence Staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application.*
- 14.12 *No Member of Council shall ask for or receive materials from Staff that are not also offered to other Members of Council.*
- 14.13 *No Member of Council shall involve him or herself in matters of Administration or Departmental Management as those fall within the jurisdiction of the Town Manager.*

Rule 16 of the Code states:

- 16.1 *Harassment of another member, staff or any member of the public is misconduct. It is the policy of the Town that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment.*
- 16.2 *While harassment is prohibited under both the Occupational Health and Safety Act and the Ontario Human Rights Code, in addition to this, workplace harassment, whether it occurs inside or outside the workplace but is related to the work environment or activities of elected office, is considered to be workplace harassment under this Code and is inappropriate and prohibited behaviour for the purpose of this Code.*
- 16.3 *Members of Council shall not bully, threaten, coerce, or otherwise harass, or intimidate employees or volunteers of the municipal organization, municipal contractors, the public, or his/her colleagues.*

*16.4 Members of Council shall not engage in any form of slanderous, malicious, or demeaning communications in regards to other members of Council, municipal staff, or the public.*

My role as Integrity Commissioner is to investigate a complaint filed under the Town's Code of Ethics regarding allegations against Mayor Maieron not to judge whether someone else's behaviour was appropriate. I do not deny, however, what some evidence provided to me suggests: there is plenty of ill will to go around at Town Hall.

It was easy to conclude from my interviews that most of the acrimony surrounds the relations involving Mayor Maieron. There is strong evidence of harsh feelings expressed in emails, press reporting and during meetings of Council. Some of this evidence reveals a serious and persistent level of tension and grinding frustration in the workplace (including at the Council table). It is probable that information is not being fully and properly shared with the Mayor because of the anguish caused by anticipation of another potentially relentless round of contrarian argument and criticism. Consequently, it is highly likely that informed public debate on important matters is being suppressed.

There is an abundance of both recorded and anecdotal evidence revealing the Mayor's leadership traits, communicating style and interpersonal skills. With the exception of meetings, the Mayor communicates mainly and copiously by email and to a lesser extent by telephone. Most people contacted indicated that he is rarely seen in the office except for attendance at meetings. He responds to this observation by claiming to be afraid to attend at Town Hall except when the public is attendance for fear that anything he does or says may lead to an accusation of Code of Ethics violations. I find this to be a ridiculous assertion - unbecoming of a person in a leadership position, yet consistent with his self-portrayal as the victim.

I have been made aware of examples where the Mayor has chastised members of staff in public and through written communications shared with the public. The reproach of others, when necessary, should be done in a proper setting. To criticise and rebuke someone in a public way risks impugning an individual's reputation (14.6) and demonstrates weak leadership skills.

Mayor Maieron's contrarian and argumentative style in his email messages and personal interactions is relentless. It has been reported to me by multiple independent sources that he can be condescending (particularly towards females) and sometimes intimidating - verbally and in emails. I have read many emails from the Mayor, a person

with power, where the tone could easily induce feelings of intimidation in those with less or little power. Intimidation is defined as the act of discouraging through fear or threatening. Such behaviour is also prohibited under the Code (14.4, 16.3). Some staff members have reported feeling uncomfortable and fearful of their jobs after meeting or otherwise communicating with the Mayor. However, some reported his style to be not threatening but poorly received and simply annoying.

It has been reported and I have noticed that the Mayor is quick to lay blame ahead of finding solutions to problems. He often takes an approach to questioning or challenging a matter by personalizing the debate – attacking the individual rather dealing impersonally with the topic at hand. This approach is typically where the demeaning and disrespectful language and tone is mostly identified (14.7, 16.4).

I also note that there have been occasions reported where the Mayor is suspected of excluding people from conversations, debate or issue management who should rightly have been involved but may not have been supportive of his approach. This is a form of discrimination and constitutes threatening, over-controlling and bullying behaviour.

Evidence supports the fact that much of the poor behaviour displayed by the Mayor has been ongoing for quite some time and continues.

Recent examples include:

- At the August 13<sup>th</sup> Council meeting he publicly berated staff.
- In an email dated July 4<sup>th</sup> he implied some covert action by a staff member.
- In the same memo he writes, “What are you going to do to resolve this problem – new CAO” in a belligerent tone.
- A similar tone was used in a June 21st email - writing, “Madame Clerk – NO one Elected you”.

Calling out sensitive information in public, leaving meetings in a huff, arguing minutia ad infinitum, lecturing, and constantly challenging the assertions of others – these are all typical bully tactics.

Workplace harassment means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. Vexatious comment can be annoying, bothersome, galling, irritating, upsetting, pesky, pestering, or teasing and is prohibited under paragraph 16.1, 16.2, and 16.3 of the Code of Ethics.



In his defence the Mayor claims that he has been treated in a condescending and demeaning way. He described his frequent frustration with the responsiveness to citizen complaints, unresolved web mail problems and the lack of consultation and information sharing. He supplied several solicited letters from residents and businessmen in the community, some of which were in the form of character references. These letters were sometimes critical of staff and the lack of positive outcomes on local issues but often positive in their views of the Mayor. Some wrote that they witnessed staff and councillors acting disrespectfully towards the Mayor. Several also echoed the view that the Council and staff were not functioning well together, lacked leadership and seemed to not have a handle on "who does what".

One of his supporters described the Mayor as "obstreperous or obdurate" stating that "the intransigence of the municipal bureaucracy necessitates dynamic leadership". I agree that dynamic leadership is required but obstreperous and obdurate (rowdy and inflexible) are terms not usually associated with dynamic leadership.

I must say that I have personally read communications to the Mayor that are disrespectful and inappropriate towards the Office of Mayor. However, I note that this is most often in response to a perceived personal slight or contrarian comment or action.

Even in his communications with me (over 65 emails and two hundred pages of response material) there were attempts to intimidate with insulting accusations about my independence and integrity, citing completely fictitious personal and outrageous references. In fact, of the nearly two hundred pages of his responses to the allegations and my findings, only several paragraphs were actually relevant to the allegations. Most of the evidence in his defence came from elsewhere.

When called to account for his behaviour, he immediately becomes argumentative, aggressively denying everything, then counter-attacks with distorted or fabricated criticisms and allegations; if this is insufficient, he quickly feigns victimhood to evade accountability by trying to manipulate others through the use of guilt. It is clear that he does not care in the least to examine his own behaviour, even as it may be seen by others.

To me, his responses indicate an overbearing belief in his qualities of leadership but he seems unable to distinguish between the true qualities of leadership (maturity, decisiveness, assertiveness, trust and integrity) and traits of a bully (immaturity, impulsiveness, aggression, distrust and deceitfulness).

How much of this behaviour is to be expected and tolerated in this environment? Is there any room for such behaviour?

It has been said that politics is a contact sport and anyone wishing to participate should only do so if they are born with a thick skin. Passionate debates can easily turn into a heated arguments. However, a prolonged course of contrarian, argumentative behaviour using tone and language that personalized issues in a disrespectful, demeaning and intimidating manner will inevitably cause dysfunctional behaviour throughout the organization.

As a general comment my experience tells me that a certain amount of discourse and tension in a political organization should be expected and is usually healthy, provided it is respectful and within expected standards of conduct. However, behaviour in a working relationship demands an approach that recognizes the power disparity. The person with the most power in a relationship has more control of interactions, processes and outcomes. The larger the disparity, the more self-discipline and structure is required to maintain dignity and respect. This is where leadership fits in.

In my view the Mayor has demonstrated behaviour towards staff and other members of Council that is disrespectful and demeaning (14.7, 16.4). His public admonishment of staff falls within the description of 'impugning or injuring the professional or ethical reputation of staff and others' (14.6). Members of staff have felt intimidated by him.

***I find that Mayor Maieron repeatedly breached Sections 14.4, 14.6, 14.7, 16.1, 16.2, 16.3, and 16.4 of the Code of Ethics. Although taken separately the offensives may be considered somewhat low on the range of misconduct, the Mayor's behaviour repeatedly crossed the line into forbidden territory. Considered together I judge the pattern of his transgressions to be harmful on a personal, corporate and community level demanding immediate corrective action.***

## 6. CONCLUSIONS AND RECOMMENDATIONS

As previously noted Mayor Maieron was provided ample opportunity to respond to the allegations. He was allowed three weeks to respond to the initial allegations. In addition, I interviewed him personally. Once I had come to the point of drafting my initial findings he argued for more time to respond and was eventually given an unlimited amount of time. His response was provided in parts over a 5 week period. In all I received over 65 emails and nearly 200 pages of material. I have tried to provide a summary of his replies throughout this report but I thought it would be useful to include his final submission (based on my draft findings report), emailed to me on November 26, 2013. It has been redacted only where names of private individuals were identified. I believe this reply is a summary of his position on the matters he disagreed with from my initial findings, only one of which has changed substantially (Number 2 – Trip to China).

The complaint filed against Mayor Maieron alleges several violations of the Erin Code of Ethics. My findings lead me to conclude as follows:

1. Mayor Maieron revealed confidential information to the public.

*I find that while the Mayor did technically breach paragraph 4.6 of the Code of Ethics, it was not a significant transgression and most likely due to an error in judgment.*

*In addition, the breach is based on a definition that in my view does not represent current best practices or lawful understanding of the term "confidential information".*

2. Mayor Maieron accepted an improper payment as a gift relating to the costs of a trip to China.

*I find that the evidence available to me does not support the allegation that Mayor Maieron breached Section 3.1 of the Code of Ethics by accepting gifts not permitted by the exceptions listed in Section 3.3.*

3. Mayor Maieron left a Council meeting while it was in progress.

*I find that Mayor Maieron breached Rule 7 of the Code of Ethics by leaving the Council meeting on June 25th, 2013.*

4. Mayor Maieron knowingly provided false information to the public on the process for recruiting a new CAO.

*I find that although coming close to breaching Section 9.3, Mayor Maieron did not breach Rule 9 as alleged in his communications with the press, public or other members of Council.*

5. Mayor Maieron spoke and/or wrote emails in a manner that was disrespectful, intimidating, demeaning and/or impugned upon the professional or ethical reputation of staff and others.

*I find that Mayor Maieron repeatedly breached Sections 14.4, 14.6, 14.7, 16.1, 16.2, 16.3, and 16.4 of the Code of Ethics. Although taken separately the offenses may be considered somewhat low on the range of misconduct, the Mayor's behaviour repeatedly crossed the line into forbidden territory. Considered together I judge the pattern of his transgressions to be harmful on a personal, corporate and community level demanding immediate corrective action.*

**I recommend that:**

**As a sanction for the various breaches of the Erin Code of Ethics, the Council suspend remuneration for Mayor Maieron for a period on one month.**

**I also recommend:**

- 1. That Council request Mayor Maieron to complete a training course designed for leadership in the public sector (funded by the Town).**
- 2. That the Council of the Town of Erin retain the services of a facilitator to help Council members and staff set a path to a more co-operative working relationship.**
- 3. That Council review its expense policy to clarify the definition of the term “conference”, and consider requiring members to seek council permission for extraordinary expenses.**
- 4. That, subsequent to Council appointing a permanent Integrity Commissioner, all members of Council and senior staff be provided training on the application of the Code of Ethics.**

## **7. DISCLAIMER**

Please note that my comments and conclusions are limited to matters concerning the complaint received. I express no opinion concerning any other facts or matters disclosed in the information I have received.

**John E. Craig,  
Integrity Commissioner**

## **ATTACHMENT TO THE REPORT OF THE INTEGRITY COMMISSIONER – PAGE 1**

Concluding statement on the Five Code of Conduct charges against Mayor Maieron as alleged by Councillor Wintersinger:

- When I first read Councillor Wintersinger's complaint there were not any specific violations of the Code indicated other than general headings which were unsubstantiated with any materials or evidence provided by her.
- I don't think it is up to you as the Integrity Commissioner to suggest the contraventions of the Code – perhaps you exceeded your authority on this matter, because by doing so you are now becoming the accuser as well as judge, jury and executioner.
- I do think it is up to you as Integrity Commissioner to outline the process you will utilize prior to commencing the investigation, and not only at the draft report phase – by then it is too late, but I guess that is all part of the overall plan
- Wintersinger's evidence provided in her package had no connection with the violations you allege in any instance so her complaint truly was frivolous, vexatious and a waste of everyone's time and energies
- You agreed when I provided you with a draft complaint, that this is the style Wintersinger's complaint should be in, but you didn't require her to do the homework necessary to make the appropriate accusations/charges. Instead you took it upon yourself to determine which violations of the Code might apply, and then sought to prove them when you became judge, jury and executioner
- In your process everyone needs to be aware that you are employing Sections 1 and 2 of the Inquiries Act – that needs to be clearly stated at the beginning of this process so that the few rights that exist are clear to the accused, and the accused so may chose not to participate in the process and perhaps further implicate themselves. In a criminal situation the accused has the right to remain silent
- Truly your process should have been clearly spelled out. Knowing what I know today I probably would not have initially participated. Why add fuel to a fire that serves me no purpose? I would have just responded to the draft report. But at the time I thought this was an educational process, not a witch hunt.
- As Integrity Commissioner your duty, as I have discovered, is to be a resource for Councillors and provide them with training and advice on situations as they arise. This has not happened at all
- The Town enacting a Code of Conduct in March has yet to do any education or training at all, and we are now almost in December, so this is a serious failing on the part of the Corporation of the Town of Erin, which puts its Councillors and Mayor in harm's way
- On the China charge that I accepted gifts – there was no evidence provided by Councillor Wintersinger that I accepted any gifts other than 15 pages of anti-Chinese investment rhetoric
- You, sir, didn't provide any evidence either on this charge to substantiate your draft conclusion; I am not aware of any evidence that you obtained on this China matter; you didn't speak with the CCIA or the Consul General's office, or any other source. You just arrived at an

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- unsubstantiated conclusion of my guilt in the matter. Was that your mandate or was it to provide an independent investigation?
- You just assumed that meals, lodging and travel were paid for by some other entity than the Chinese government
- Even when I provided you with facts that the Consul General said himself that “he made this trip happen for us Mayor’s” and I provided you with an email indicating the same you question the validity of it. Why?
- Yet I am not provided the opportunity to question your witnesses, or know what evidence they have provided you to arrive at your conclusions. This is very biased and unfair. It is very difficult to provide a defense to conclusions that are unsupported by any facts, but I managed to do so
- I also found it quite disconcerting that initially you provide me with a total of a day and a half to respond to your draft report. Then the weekend, and then when I involved my lawyer and looked up my limited rights in this process I was afforded all the time necessary to garner some evidence so to construct a reply. But it is interesting that initially I was only offered 1.5 days to vindicate myself of your conclusions and allegations. In politics a person’s reputation is paramount, so your time limits were not fair
- Your conclusions on 3 of the charges were very surprising especially in trying to resolve the matter as your only statement to me was that” you would not dialogue with me any further, and that it was up to me to find evidence in my defense”. To which I was provided only 36 hours to provide evidence.
- Your draft report found me guilty on 3 charges: China expenses, leaving a meeting, and tone of emails
- Your conclusions on the China expenses are totally refuted by the Consul’s General letter
- Your lack of willingness to accept the letter on face value speaks volumes
- Leaving a meeting is totally refuted by the Ministry of Municipal Affairs letter
- The tone of emails is way out of the scope with what Wintersinger’s one email provided as evidence.
- Your investigations of Staff only are refuted by the residents’ letters
- I find your conclusion that my actions are “harmful on the personal, corporate and community level” very disturbing and destructive without any basis in fact
- My emails may be abrupt on a personal level, but they would not be so if Staff would follow proper procedures on all matters, especially health and safety matters. The public deserves fair treatment and I was elected to represent the public
- It is my duty to act on health and safety matters in the interest of the municipality. You have been provided with a number of examples on how inadequately Staff deals with residents’ concerns.

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- I think that if you stated that some Staff behaviour, because we do have some good staff, is harmful on a “personal, corporate and community level” your conclusion would be much more accurate and gain greater public support.
- The 12 resident letters identify a very dysfunctional council, but they don’t blame the Mayor for this dysfunctionality.
- These resident letters also point to a power struggle between a former Mayor and the currently elected Mayor and a sense of entitled behaviour that exists in the municipal offices.
- The resident letters generally speak for the most part of a hard working Mayor, a dysfunctional Council and a privileged Staff
- I was extremely surprised and welcome that 12 residents, out of the 14 asked, would let their letters stand. That is a 90% turnout so obviously the people see it as I see it. Call any of them if you so wish. Call XXXXXXXXXXXX, call XXXXXXXXXXXX, call any one of them.
- Where is the Integrity Commissioner as a resource for Council? Where is the training required?
- Staff has a requirement not only to train themselves but also Councillors with respect to labour laws, code of conduct, human rights, etc. This has not happened
- Personal connections between you and CAO Ironmonger as former Clerks; as holding high positions in AMCTO; Ironmonger providing Council with only one choice, you, as Integrity Commissioner; whatever connection you have with Suzanne Craig, Integrity Commissioner of Vaughan; the Ramara Township case and Councillor O’Donnel; only doing this one investigation for the Town of Erin; claiming to be too busy when you have only done 2 previous investigations; and other factors previously mentioned to you raise many concerns.
- All these coincidences add up, and even if a direct conflict of interest does not exist, the perception of a conflict existing, given your draft conclusions in this matter and how these conclusions have been discredited on the evidence I have provided, all seem to lead to the conclusion that this is a well organized witch hunt to discredit the Mayor and make sure he is un-electable next term
- After all, this is where I started with Staff 3 years ago, at the beginning of this term of Council – unwanted, unwelcome, and disrespected as the elected Mayor.
- Nothing has changed, except for my behaviour in the last 6 months that I will not cover up for Staff inadequacies any longer nor keep all the secrets from the public
- Staff are exposing their inadequacies in these matters and the light of public scrutiny is finally shining down upon this municipality. This has been on-going for more than 10 years but public scrutiny is finally coming to bear. So now we need to shoot the messenger, the Mayor. Nice try.
- The public is becoming more and more aware of this witch hunt and now I receive comments of support quite regularly
- CAO Ironmonger’s latest quest of wanting to control Council by opening private letters addressed to them has the public weighing in with their own, very serious, opinions on this matter

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- People I have never met are coming to the conclusion that the Mayor is being singled out here and is being subject to a witch hunt. To discredit his many good works his open, transparent and accountable style. I certainly hope that I have convinced you not to participate in this process.

I have provided you with evidence to discredit your conclusions in your draft report. You can either accept the evidence or not. That is not up to me although I think the evidence I have provided you is quite strong. As I understand it, you have a requirement for confidentiality. My lawyer, Mr. Sherkin, assures me that I don't have such a requirement for confidentiality and if need be the conclusions you draw will be aired out in the court of public opinion.

This process has been very disturbing to me, time consuming, and of very little practical use. Although I must admit that having to dedicate approximately 3 weeks of my life to it I have learned a great deal. Proves the old adage - what doesn't kill you makes you stronger.

To summarize, the Municipal Act makes it very clear that I in my role as Mayor is to "represent the public and consider the well-being and interests of the municipality"; not necessarily that of the Corporation or Staff, but the public interest. It also requires me to "ensure the accountability and transparency of the operations of the municipality, including the activities of senior staff of the municipality (Van Wyck, Ironmonger and Lesley Russell). As CAO I am "to uphold and promote the purposes of the municipality" which means to me what is in the best interests of the shareholders of the municipality, e.g. the public; and "b) to promote the public's involvement in the municipality's activities." Finally, to "participate and foster activities that enhance the economic, social and environmental well being of the municipality and its residents". I strive to achieve those objectives every day as Mayor. Your draft Code of Conduct allegations only try to minimize me in that role.

I find the process you have used in this investigation to be contradictory to my role as described in the Municipal Act. This Code of Conduct is being used as a deterrent to silence well-intentioned representatives from doing their job on behalf of the public. Regardless of what you decide I will enlighten those who have instituted this process as to its inherent flaws and negative repercussions. Just to see how far out of line this process has gone I have forwarded Wintersinger's accusations and evidentiary package to another Integrity Commissionaire to have a look and see at, and will be comparing that analysis to your draft findings to see if they are at all similar.

I think reading John Snobelen's column "Actions best measure of integrity," was timely. Snobelen equates integrity with honesty and trustworthiness.

A person and a Mayor – I may have some faults as we all do and some people like me and some don't, but in my 50 odd years in this world no one has yet accused me of being dishonest or un-



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trustworthy . That is one of my virtues, Sir; I call it as I see it and that upsets some people. I am pretty much a black and white guy in a very grey world, regardless of whether I am liked or not most people appreciate the fact that I tell the truth. It is often said that “Lou will tell you the way it is. You may not like it, but that is the way it is.” So your accusations to besmirch my good name in this Code of Conduct matter are very much out of line.

Regards,  
Lou Maieron