

Commissioner rules Shaughnessy breached Code of Conduct

By Bill Rea

It looks like Councillor Barb Shaughnessy is going to be docked a week's pay from the Town, and attend a special training session dealing with rules, protocols and procedures pertaining to councillors.

These were the recommendations contained in a report from John Fleming, integrity commissioner for the Town of Caledon, dealing with Code of Conduct complaints against Shaughnessy. The report was received by council Tuesday after lengthy and sometimes heated discussion.

Shaughnessy excused herself from these discussions, but in a statement issued late in the day, she called the report "biased and unprofessional."

In his report, Fleming said Councillor Johanna Downey had launched a complaint regarding a letter Shaughnessy sent to a local newspaper dealing with confidential matters involving a case before the Ontario Municipal Board (OMB). In another complaint, Downey said there had been a lack of respect shown for the decision-making process of council, charging accurate information was not reflected in public blog comments.

Councillor Jennifer Innis had launched complaints stating that Shaughnessy had made it appear that Town staff were not following standard procedures regarding the matter before OMB, as well as concerns there had been a violation of confidentiality involving requests for information regarding the hearing.

Town CAO Mike Galloway had launched complaints alleging Shaughnessy had repeatedly portrayed staff in a negative manner, requested confidential information that was not appropriate for her to have and had undermined staff, using her position to try to influence staff.

In his report, Fleming concluded there was no breach of the Code in sending the letter to the newspaper.

Regarding Downey's complaint about respect for the decision-making process, Fleming concluded there had been a breach of the Code.

"Numerous incidents have been related to me, describing occasions when Councillor Shaughnessy, during meetings of council or committees, has used unparliamentary language, engaged in name-calling and stormed out of meetings," he wrote. "Such behaviour does not reflect respect for the decision-making process of council, nor does it promote public confidence."

He added such incidents, viewed individually, might not be taken seriously. But collectively, he said they represented a breach.

Regarding Innis's and Galloway's complaints about the way staff has been treated, Fleming cited a provision in the Code that states councillors are expected to "refrain from publicly criticizing employees in a way that casts aspersions on their professional confidence and credibility."

That complaint refers to comments Shaughnessy made in her letter to the newspaper.

"It is clear that Councillor Shaughnessy does not agree with the process in place, but publicly maligning professional staff of the Town is not the way to address that disagreement," he wrote.

Regarding the complaint that Shaughnessy requested information that was not appropriate for her to have, Fleming said it wasn't clear if she realized she was seeking confidential information, so he made no finding on that issue.

On the other issues involving staff, Fleming wrote that he interviewed 10 employees, including the CAO.

He also wrote that Shaughnessy has a reputation of approaching staff for information and advice. There have been indications that she can be aggressive, and some staffers used the word "intimidated."

He also said Shaughnessy has expressed concerns to her colleagues and staff when she was not able to have input in staff reports.

Fleming cited recent "eloquently expressed" comments from Councillor Rob Mezzapelli, stating he does not expect to have input on reports. "My job is to have my influence here, amongst my peers," Mezzapelli said.

Fleming was not completely negative in his assessment of Shaughnessy.

"I have come to know her as a dedicated, hard-working and highly determined representative of her community," he wrote.

But he also expressed a concern that Shaughnessy might have trouble changing her approach, adding that if this conduct continues, he anticipates more complaints. In that event, "I will impose more onerous sanctions," he stated.

Shaughnessy declared an interest and left the council table while the report was being discussed before general committee of council. Innis, who usually chairs the committee, handed that task over to Mezzapelli, but she stayed in the council chambers for the discussion, as did Downey.

Several members of the public spoke in support of Shaughnessy, including her husband Tim Forster.

He questioned whether Innis and Downey should remain in the room.

‘Anyone who knows Barb knows that she is open to accepting the tough assignments,’ he remarked. ‘She is a champion of the little guy, and isn't afraid to go that extra mile when something is amiss, or there is a problem to fix.’

He added she doesn't bring up issues ‘on a whim or in isolation.’

Regarding the OMB issue, Forster said he has emails from staff from the Town and OMB that the information that she was seeking was public.

‘In fact, this is exactly why the OMB staff provided me with everything that was in the file,’ he declared.

Forster said he was never interviewed by Fleming, adding his wife was never contacted for clarification on her responses to the complaints.

Former councillor Ian Sinclair also spoke on Shaughnessy's behalf, commenting that much of the evidence against her was hearsay. He also agreed the names of staff members who were interviewed should not be disclosed, but the evidence resulting from those conversations should be revealed, and he said there's been no indication that was the case.

‘It should be noted that where the credibility of the individual is at issue, the principles of natural justice and procedural fairness usually require an interview or an oral hearing before making a decision,’ Sinclair said. ‘Councillor Shaughnessy has not had the opportunity to present her case, as the issue evolved in secret from the original three complaints.’

He added there was no invitation for Shaughnessy to respond to the report before it went to council.

‘The accused must have the opportunity to disabuse the commissioner of his concerns,’ he said. ‘The statutory provision for representations respecting the adverse report and recommendation has been arbitrarily denied.’

‘The commissioner's report is not properly before council,’ he added.

‘This is not an easy situation to be in,’ Terra Cotta resident John Rutter remarked as he spoke in Shaughnessy's defence.

‘I have known Barbara for some time now, and have found her to be very approachable and very willing to go out of her way to help me with any council issue that I may have,’ he said. ‘I do believe that many of the issues complained about have a lot to do with her personality and mannerisms.’

‘Is she honest?’ he added. ‘Is she tenacious? Does she represent her constituents? Can she be intimidating (maybe not offensively)? Is she like a bull in a china shop? The answer to all these questions is ‘absolutely!’’

Rutter added he has sat through a lot of council meetings.

‘In no way have I ever seen or even suspected Councillor Shaughnessy of being in contravention of the councillors' Code of Conduct,’ he said.

Area resident Michael Ellis opened his remarks by asking Innis to stop smirking (something she denied doing, stating she was smiling toward staff to offer encouragement), then read a letter from former local MP Garth Turner, who owns Belfountain General Store.

While he stated he couldn't comment on the complaints against her, Turner did have things to say about her performance as a councillor, especially when he contacted her about taking on the store.

‘She provide me with frank, unvarnished, practical and very useful information, focused on the statement that ‘nobody wants a dead building in the heart of the hamlet,’ he wrote.

‘As a local business owner, Caledon resident and former elected official, I understand the complexities of representing many competing interests simultaneously, yet retaining one's own opinions and motivations for seeking office,’ Turner added. ‘This is overwhelming, especially in the first few years of public life. The best we can expect of politicians is to listen, be fair, be consistent, then willingly submit to judgement by those they have impacted. In our experience, Councillor Shaughnessy has thus far passed the test.’

Ellis lashed out at Galloway for not doing enough to solve the problems before reaching this stage.

‘It has to be resolved,’ Ellis said. ‘He didn't do his job.’

He also said if a councillor takes a position different from that of staff, that is not influencing staff.

Councillor Annette Groves also supported Shaughnessy, saying she was disappointed with the report.

Regarding the reference to Shaughnessy storming out of meetings, Groves pointed out the whole Caledon contingent walked out of a Peel Regional council meeting about two years ago over an issue, breaking quorum in the process.

‘It's really the pot calling the kettle black,’ she observed.

She also said Fleming's report will encourage more disfunction at the council table.

Councillor Nick deBoer expressed the wish that councillors had dealt with this among themselves. He said he's been the target of some of Shaughnessy's comments. ‘I'm not letting it bother me,’ he said.

‘This shouldn't be considered a high point within how we operate here,’ he added. ‘I'd like to move on.’

?I never saw anything so embarrassing as this,? Councillor Gord McClure declared. ?This is something we just don't do.?

?We should take the damned thing, rip it up and throw it in the garbage,? he added.

Mayor Allan Thompson also expressed disappointment that things had reached this point, although he said Fleming had done his job.

?I like spirited council,? he said, adding that's how good decisions are made.

Thompson also said Galloway acted for staff on this, and that's his job.

Groves said this has been brewing for a long time, and now it was on the council table.

?I really think this is about fairness, and I don't believe the councillor was treated fairly,? she remarked.

Downey said she submitted her complaint in writing, and she received a response from Shaughnessy.

?There was back and forth,? she said, maintaining it was an open process.

In her statement, Shaughnessy took exception to Fleming stating in the report that his intention was to go beyond his mandate; link three separate issues into one complaint; claiming to know her future state of mind to the point of assuming what impending actions she would take; and not referencing any of her responses when he rendered his opinion.

?In my opinion, giving predictions instead of working from a set of facts is problematic and not good legal practice?, she added.

?My legal counsel informed me that my actions and the questions that I raised on behalf of Caledon residents posed no concern, conflict or breach of the Code of Conduct,? she stated. ?In my view, the allegations against me are unfounded and are an attempt to silence me from asking the tough questions.?

Shaughnessy also maintained she has a positive relationship with staff, adding that prior to Galloway's complaint, no CAO has ever brought a staff issue to her attention or requested a change in her behavior, either formally or informally.

While no decision has been made yet, Shaughnessy indicated she was reserving the right to appeal the issue.

?When it comes to asking the tough questions on behalf of Caledon residents, I will not be muzzled,? she said. ?I will continue to be an advocate and representative on their behalf and shine a light on areas of public concern.?