

Integrity Commissioner finds mayor interfered in two bylaw enforcement matters

By **ZACHARY ROMAN**

Local Journalism Initiative Reporter

Caledon's integrity commissioner has found that Mayor Annette Groves interfered in two bylaw investigations this year.

In a November 8 report submitted to Caledon Council at its November 14 meeting, Integrity Commissioner John Fleming said he'd be issuing Groves a four-week suspension of pay for her transgressions.

Groves said she disagrees with the findings of Fleming's report.

Fleming received a formal complaint about Groves' conduct on August 7 and began investigating it. He didn't identify the complainant in his report to Council, choosing instead to protect their identity.

The complainant alleged that on two separate occasions, Groves tried to "improperly influence or direct the Town of Caledon's bylaw staff and/or interfere in the execution of their duties."

The first occasion regarded bylaw enforcement action being taken at an under-construction asphalt plant at 12415 Coleraine Drive.

The owner of 12415 Coleraine Drive will be building an asphalt plant there; however, their initial applications to do so were denied by a previous term of Caledon Council. The owner appealed to the Ontario Land Tribunal (OLT), which permitted the plant's construction subject to certain conditions that were to be met before any work on the site began.

"I have reviewed extensive evidence that the owner/proponent of the property proceeded with the delivery, installation and partial construction of the proposed plant, with none of the required approvals in place," said Fleming in his report.

Due to this, Caledon's former Director of Building & Municipal Law Enforcement Services Mark Sraga "and his staff" issued an order to comply and a stop work order to the property owner on April 14 and a further order to comply on April 20.

Fleming's report said Groves, citing the support of Councillors Mario Russo (Regional, Wards 4, 5 and 6), Tony Rosa (Ward 5), and Cosimo Napoli (Ward 6), emailed Sraga on May 3 and said, "we wish to have no further actions taken against the property located at 12415 Coleraine Dr. either from building or bylaw."

According to Fleming's report, Sraga said his position was that Groves was trying to interfere with his statutory and delegated duties.

Fleming said in Groves' May 3 email she stated that the owner of 12415 Coleraine Drive was working with Town staff to obtain necessary permits and approvals for the site.

However, Fleming said as of June 1, necessary submissions to the Town had yet to be submitted by the property owner.

Russo said he has no problem with his name being mentioned in the May 3 email from Groves. However, there was a point he wanted to make clear at the November 14 meeting.

"At no point in time was myself, Councillor Rosa, or Councillor Napoli supportive of stopping action on anything that was going on," said Russo.

Groves said she has always been opposed to the asphalt plant. She said the Town has done all it could, on many occasions, to try and

stop the plant. Groves said now that the plant has been permitted against Caledon's will, she's trying to work with the plant owner to bring the property into compliance with Caledon's bylaws.

Groves said the plant owner has admitted he should not have started work on the property and is working with the Town to bring it into compliance.

'Why be combative if there's someone that's willing to work with us and put in the effort and time to get into compliance?' said Groves. 'Let's work with the applicant to find solutions on how to mitigate noise, dust, whatever it may be? how can we lessen the impact on the community?'

Fleming said in his investigation, he found Groves engaged with two Town of Caledon Municipal Law Enforcement staff in an effort to have enforcement action at 12415 Coleraine Drive stopped. He also said she attended the property in-person at the request of the property owner when a bylaw officer was conducting a follow-up inspection.

The second occasion brought forward by the complainant regarded enforcement of the cleanup of illegally dumped material at 17055 Highway 50, a private residence.

The material in question was a large amount of contaminated soil, and Caledon bylaw staff had been trying to get the property owner to remove it for three months, said Fleming.

As the property owner did not comply, Town of Caledon staff, a contractor, and Caledon OPP went to the property on August 2 to clean up the illegally dumped material.

'Prior to the work beginning, the person subject to the removal order contacted the mayor by telephone. Once he reached the mayor, he passed his phone to the senior bylaw enforcement official on site,' reads Fleming's report.

Groves then told the official that the 'cleanup activity was to be stopped', said Fleming.

'After confirmation from his supervisor, the enforcement officer dismissed the contractor and the contractor's associated equipment at significant expense to the Town,' the report continued, though it did not provide specifics on the expense.

Fleming said he reviewed extensive documentation and conducted a series of interviews with seven different individuals to investigate the allegations against Groves. He also retained the services of legal counsel made available to him by the Town, the first time he's done so. Fleming said he did this due to the serious nature of the complaints against Groves.

Fleming said during his investigation, he found the actions of Groves were not in dispute, rather, their legality was. He said Groves believed her actions fell within her authority as mayor.

Groves testified to Fleming that her long-standing practice is to respond to issues, concerns and problems brought to her attention by constituents.

'Mayor Groves sees it as part of her duties to intervene on behalf of those constituents to discuss matters with bylaw officers and building code enforcement,' said Fleming in his report. 'Mayor Groves denied that she 'directed' any staff but instead stated that she asked that staff stop taking enforcement actions while the constituents were 'working with' various Town departments.'

He said Groves testified to other occasions where she worked with bylaw staff to reach successful resolutions of matters.

'The mayor contends that she, as an elected official, has the authority to 'work with' bylaw enforcement on behalf of her constituents,' reads Fleming's report.

Fleming said his investigation looked carefully at the meaning of 'work with' and whether Groves' actions complied with the Town of Caledon Code of Conduct for Members of Council and Designated Boards.

'Having reviewed email communications, the notes and file summaries prepared by Town staff regarding both of these events, and heard the evidence of the witnesses, I conclude that Mayor Annette Groves inserted herself into enforcement matters,' said Fleming.

After coming to this finding, Fleming said he then needed to determine if Groves' actions were contrary to Caledon Council's code of conduct and staff relations policy.

Some of Fleming's findings in the code of conduct included that no member of Council has the authority to direct the performance of any work carried out by staff, that members of Council should avoid the improper use of the influence of their office, and that members of Council will respect the independent authority of staff to interpret and apply the law or policy, where such authority has been assigned to that staff position.

'Whether or not Mayor Groves provided direct instruction, staff felt intimidated by the head of Council showing up and expressing herself on behalf of property owners to influence the performance of staff's duties,' said Fleming.

With regards to the matter at 12415 Coleraine Drive, Fleming found Groves violated sections 5.3, 5.4 and 5.8 of the Caledon Council code of conduct.

With the matter at 17055 Highway 50, Fleming found Groves to have violated the same sections of the code of conduct.

Fleming said he was permitted to sanction Groves up to a 180-day suspension of pay. He chose to sanction Groves with a two-week suspension of pay for each incident in which she interfered with bylaw enforcement matters.

'In my judgement, Mayor Groves does not appear to appreciate the seriousness of her misconduct (or) the difficult position in which she has placed statutory officers and bylaw staff, and instead has asserted that (her actions were) acceptable practice in her view,' said Fleming in his report. 'I can only trust that Mayor Groves will have realized as a result of these findings and sanctions that there are very real limitations on her power and authority as the head of the elected body that governs the municipality.'

Groves said she feels her job is to help residents and businesses in Caledon.

'I look for solutions, and that includes working, whether it's with staff in bylaw, planning whatever the concern is, from any constituent that calls our job is to facilitate, to mitigate,' said Groves. 'I truly felt I was doing my job. This is not the first time someone's called me to deal with an issue with bylaw over the years, I've had hundreds of these calls. And so I don't see how this is any different.'

Discussion about Fleming's report occurred at Caledon Council's November 14 meeting.

Ward 1 Councillor Lynn Kiernan said residents in her ward want a zero-tolerance stance against those who break bylaws.

'There's no real valid reason to intervene when someone's not following the rules,' said Kiernan. 'They want us to take action? not walk them through any processes.'

Kiernan said the Council's code of conduct is not up for debate, and as an experienced councillor, Groves should know enough to not break it.

'The best way forward is to acknowledge a mistake was made, assure the community it won't happen anymore, and move on,' she said.

Rosa addressed Fleming at the meeting and asked why he was not contacted as part of the investigation into Groves, considering he was named in Fleming's report. He said he wanted to share his side of the story.

Rosa said he attended a meeting with Groves, Napoli, Russo, and the owner of 12415 Coleraine Drive. He said Groves led this meeting.

?In that meeting, the Mayor worked very hard to articulate to the applicant to stop the work and come into compliance,? said Rosa.

Rosa echoed Groves' point that while Caledon did everything it could to stop the asphalt plant, it is now coming to Town, and Council should be at the table with the applicant to protect residents from any potential negative impacts of the plant.

Napoli spoke briefly, also asking why Fleming did not contact him despite his name being mentioned in the report.

Russo said he respects Fleming's findings, but added the essence of what Groves was trying to do was not encapsulated in Fleming's report.

?Mayor Groves did err in some of her choices of words, and I said that to her,? said Russo. ?But we (were) working in collaboration to resolve issues.?

Ward 2 Councillor Dave Sheen said while the asphalt plant is coming to Caledon, the Town at least won a small victory in that certain conditions were placed on the landowner. He said Groves should not have interfered with the bylaw department enforcing those conditions.

?The Integrity Commissioner report speaks for itself? I expect that the mayor will carefully review the findings of the Integrity Commissioner report, reflect on her sworn oath of office taken less than a year ago, and commit to the community that she will not make the same mistakes again,? said Sheen.

Among other concerns, Sheen expressed worry over the 17055 Highway 50 matter, wondering how much money the Town spent only to not have the contaminated soil removed on August 2.

Groves' pay suspension was to begin as soon as possible after the November 14 Council meeting.

At the meeting, Groves suggested a motion be put forward to have her suspended pay be given to Caledon Community Services in the form of a grant rather than it staying in the Town's account.

The motion was supported unanimously by Council.

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