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**TOWNSHIP OF RYERSON INTEGRITY COMMISSIONER, H.G. ELSTON**

Citation : Complaint against Councillor Brandt  
Date: April 20, 2021

**REPORT ON THE MATTER OF A COMPLAINT  
AGAINST COUNCILLOR BRANDT**

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Notice: Municipal Integrity Commissioners conduct inquiries and provide reports on their findings to their respective municipal councils. They may make recommendations for the imposition of a penalty or other remedial action to the municipal council. Reference should be made to the minutes of the municipal council meeting where the Commissioner's report was presented, to obtain information about council's consideration of each report. When possible, a link to the relevant municipal council minutes is provided.

[Link to Council Decision]

## OVERVIEW

1. This complaint concerns the conduct of Councillor Brandt during a meeting of Council, held on October 20, 2020, wherein the Integrity Commissioner for the Township of Ryerson, Mr. Harold Elston, was delivering his report regarding a previous complaint that had been issued against Councillors Finley and Brandt.
2. In light of Mr. Elston's direct involvement with events relating to the complaint at issue, he has recused himself and, pursuant to section 223.3(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, delegated his powers and duties to me to investigate the complaint and deliver this report.
3. The complaint was received on November 22, 2020. The Complainant did not agree to release their identity, which will remain confidential. The complaint alleges that, at the October 20, 2020, meeting of Council, Councillor Brandt breached sections 4.1, 5.1, 6.1, 6.2, 7.1, and 7.2 of the Township of Ryerson's Code of Conduct (the "Code") by referencing a personal grievance and speaking disparagingly about an individual whom the Councillor assumed had been consulted as a witness for Mr. Elston's report.
4. My investigation into this matter has been greatly facilitated by a Zoom video recording of the Council meeting. This has afforded me the benefit of observing, directly, the alleged events and conduct at issue.

## BACKGROUND AND EVIDENCE

5. On October 20, 2020, the Township held a virtual meeting of Council wherein Mr. Elston delivered two Integrity Commissioner Reports concerning the conduct of two Councillors, one of which was Councillor Brandt. Mr. Elston found that Councillor Brandt had breached sections 6 and 7 of the Code, and recommended to Council that she be reprimanded.
6. In the course of Mr. Elston responding to questions about his report, Councillor Brandt raised an issue pertaining to a witness she believed had been interviewed as part of his investigation. Councillor Brandt was concerned that this particular individual was biased in their assessment of the Councillor's conduct and character, because of a conflict that individual had with the Councillor's family. The key exchange, which also comprises the core of the complaint, reads as follows:

*"Did she declare to you that she has a history with my immediate family with respect to a court case? And I have to say, that she acted as witness against my mother, and in that*

*court case she did not speak very highly ... she tried to attack my personal character reference; so I'm not surprised she didn't have good things to say about me, but at what point does someone have to disclose that they have history ..."*

7. Mr. Elston subsequently clarified to Councillor Brandt that, although he is obliged to keep the identity of all witnesses confidential, he did not recall speaking with the individual identified by the Councillor.

8. Councillor Brandt was provided with Notice of the complaint against her on November 26, 2020, which set out the allegations noted in paragraph 3, above. I further requested that the Councillor provide me with a written response to the complaint within 14 days of receiving the Notice, which would be provided to the Complainant, for reply.

9. On February 24, 2021, I received a written response to the complaint from Councillor Brandt. Her response provides that she did not assume that certain individuals were interviewed as witnesses as part of Mr. Elston's investigation. Rather, the Councillor maintains that Mr. Elston had advised her that, in the course of his investigation, he'd spoken to "all that were in attendance at the meeting that night". Thus, on the basis of what Mr. Elston had stated to her, Councillor Brandt inferred that because that individual had attended the meeting of Council, she had also spoken to Mr. Elston as a witness.

10. The Councillor further asserts that her statement about that individual was not made in bad faith or malice, but in self defence. She claims that her question/statement was in no way directed to that individual, towards whom she bears no ill-feelings and with whom she maintains positive interactions. According to Councillor Brandt, because Mr. Elston had asked her during his investigation whether she had a "history" with the complainant, she believed she had a corresponding obligation to disclose any conflicts that witnesses to the investigation may have had.

11. On March 26, 2021, I received a very brief reply from the Complainant, which stated only that Councillor Brandt's response was unacceptable, that matters could be clarified via the audio and video recording of the Council meeting, and that I consider the Councillor's past behavior, as the Complainant believes "there is a pattern."

## **FINDING**

12. The conduct of Councillor Brandt is to be judged against the provisions of sections 6.1, 7.1 and 7.2 of the Code. I find the other provisions of the Code cited in the complaint not directly applicable to the conduct at issue. For ease of reference, the relevant sections read as follows:

6. *Conduct at Meetings*

6.1 *Every Member shall conduct himself or herself properly and in a civil and respectful manner at meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.*

7. *Conduct Respecting Others*

7.1 *Every Member has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. The Member shall be familiar with, and comply with, the Municipality's Workplace Anti-Violence, Harassment and Sexual Harassment Policy.*

7.2 *A Member shall not use indecent, abusive or insulting words, tone or expressions toward any other Member, any municipal staff or any member of the public.*

13. I do not find that Councillor Brandt used indecent, abusive, or insulting words toward anyone. Thus, the Councillor cannot be said, in my view, to have contravened section 7.2 of the Code. Nor was there any attempt by Councillor Brandt to bully, intimidate, discriminate against, or harass anyone. However, given the language of sections 6.1 and 7.1, the question remains as to whether the Councillor's conduct was proper and respectful of others in making the statement excerpted above.

14. I find that Councillor Brandt's conduct was not proper and respectful of others and, as a result, in breach of sections 6.1 and 7.1 of the Code. My reasons are set out below; however, it is important to first emphasize the context in which Councillor Brandt's conduct occurred. Although this context falls short of being exculpatory, it acts as a significant mitigating factor and allows one to appreciate the motivation behind the Councillor's remarks, which, in my view, were not made in bad faith, but only in the exercise of poor judgement.

15. The conduct in question begins around the 33:25 mark of the video recording. It can clearly be observed during this time, as well as in moments that precede it, that Councillor Brandt is in the process of defending herself from the complaint and subsequent finding against her, and from people whom she claims, "viciously attack [her] character reference". It is an emotionally charged atmosphere, which is understandable. It is reasonable to become defensive and to forcefully voice one's objections when one believes they have been unjustly accused and found culpable of something.

16. Although I have no reason to doubt Councillor Brandt's sincerity or intention, and I can fully appreciate the context in which her remarks were made, the substance of those remarks bears further scrutiny, and ultimately serves as the basis for my finding.

17. As a preliminary comment, even if the individual identified by Councillor Brandt had acted as a witness, the Councillor's conduct would still be, in my view, inappropriate.

18. Mr. Elston's report provides that he consulted "several witnesses," and "[t]o a one, there is a consensus that Councillor Finley and Councillor Brandt are often aligned in their positions and their behaviour at meetings of Council. Specifically, they are often discourteous, loud and disrespectful."

19. It is apparent from this excerpt that there were "several" individuals who all agreed that Councillor Brandt's behaviour at meetings of Council had been inappropriate. Mr. Elston's finding against the Councillor, in this regard, was likely facilitated by this "consensus". Therefore, I question why the Councillor felt the need to target one specific individual, as though *that* person's negative comments about the Councillor were determinative of Mr. Elston's conclusion.

20. Moreover, it is not clear why a distant conflict with the Councillor's family,<sup>1</sup> rather than her personally, would disqualify that individual from being a witness to the Councillor's conduct. Councillor Brandt herself, in response to this complaint and during the October meeting of Council, refers to positive interactions she's had with the individual, and claims to have "no problems" with that person. Thus, in my view, the conflict alleged by the Councillor is ill-defined and appears more presumed than actual; it lacks sufficient grounds to infer a lack of impartiality or bias on the part of that person. Nor is the Councillor under any obligation to disclose the potential conflicts she believes witnesses to the investigation may have.

21. In any case, it is the manner in which the presumed conflict was disclosed, rather than its disclosure, which grounds the Councillor's breach of the Code.

22. Although Councillor Brandt revealed personal information about the individual that is technically "public," in the sense that it formed part of a prior court proceeding, it is not, in my view, information that one would reasonably anticipate being disclosed in a public forum, especially given that the affected individual was merely an unsuspecting bystander whose conduct, historical or otherwise, was not at issue.

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<sup>1</sup> The conflict is apparently a result of events that occurred "15 plus years ago".

23. More importantly, Councillor Brandt stated that the individual in question attempted to “personally attack” her character. In my view, this attributes to that individual the making of an abusive act, with an intent to hurt or damage the Councillor’s character. Put another way, one does not usually aspire to be a “personal attacker”. It can thus be interpreted as an offensive label, which I find was improperly and disrespectfully assigned to that individual by the Councillor.

24. At a minimum, the referenced individual should be permitted to respond directly to such an allegation. However, in this case, there was no reason to expect that such a comment would be made about that individual, who was effectively dragged, perhaps not “through the mud”, but into it.

25. Furthermore, in the minutes before the Councillor’s statement was made, she can be heard voicing her concern to Mr. Elston about another individual, who had also attended the prior meeting of Council, but was *not* interviewed as part of his investigation. Thus, Councillor Brandt ought to have at least been aware of the possibility that not everyone in attendance that day had in fact been interviewed by Mr. Elston. Given this knowledge, the Councillor should have first attempted to confirm with Mr. Elston that the individual she identified had in fact been a witness before making her comment.

26. Councillor Brandt’s remarks also unfairly call into question that individual’s ability to impartially assess the Councillor’s conduct. Again, in view of the fact that Councillor Brandt apparently has no personal issue with the individual she identified, but rather the purported conflict relates to a distant interaction with her family, I find it unlikely that individual would now seek to personally attack the Councillor.

27. To summarise, I find that Councillor Brandt’s comments during the October 20, 2020 meeting of Council disclosed unnecessary and inappropriate information about an individual in a public forum, attributed abusive language to an individual whose conduct was not at issue, nor present to provide their own version of events, and unfairly and prematurely cast aspersion on that individual’s character. For these principal reasons, I find Councillor Brandt’s conduct was not proper and respectful of others and, accordingly, in breach of sections 6.1 and 7.1 of the Code.

28. I make no finding in regard to an alleged “pattern of offensive behaviour by Councillor Brandt,” as I was not presented with any allegations pertaining to the Councillor’s conduct outside of the remarks made during the October 20, 2020 meeting of Council.

29. I recommend that, as a reprimand, Council direct Councillor Brandt to issue an apology to the individual she mistakenly identified as a witness during the October 20, 2020 meeting of Council.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20 day of April 2021.

A handwritten signature in black ink, appearing to be 'M.J. Hodgson', with a long horizontal line extending to the right.

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M.J. Hodgson  
Acting Integrity Commissioner, Ryerson Township  
Pursuant to s. 223.3(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended