

Expertise for Municipalities (E4m)

Non-Profit Association

1894 LASALLE BLVD. SUDBURY, ON, P3A 2A4

**Integrity Commissioner**

for the

Township of Nairn-Hyman



# INQUIRY REPORT/DECISION

**ALLEGATION: CONTRAVENTION OF THE  
TOWNSHIP OF NAIRN-HYMAN'S**

**CODE OF CONDUCT**

**BY: COUNCILLOR BRIGITA GINGRAS**

## I. REQUEST FOR INQUIRY

- [1] E4M, as Integrity Commissioner, received a request for Inquiry from a member of the public (the “Requestor”) with respect to the behaviour and actions of Councillor Brigita Gingras (the “Respondent”) at the November 8, 2021, and April 11, 2022, Council meetings in the Township of Nairn-Hyman.
- [2] Upon receipt of the Request and once we completed an initial review of the application, it was determined that there were sufficient grounds to complete an inquiry into the matter.
- [3] The Requestor more specifically alleged that:
- a. During the November 8, 2021, Council meeting, Councillor Gingras verbally insulted the president and board of directors of the Agnew Lake Property Group (ALPG) in attendance at the public hearing for a zoning bylaw amendment they had applied for, affecting their organization. It was alleged that Councillor Gingras implied that the large number of people in attendance at the meeting were obviously there to oppose the bylaw amendment when the opposite was actually true.
  - b. During both the November 8, 2021, and the April 11, 2022, meetings, Councillor Gingras:
    - i. brought up and continued to debate a previous decision of Council she didn’t agree with, and
    - ii. referred to the bylaw inaccurately as an ALPG document, not the Township’s.
  - c. Although the matter she raised was related to the ALPG’s subdivision issues, it had nothing to do with the motion on the table.

## II. FINDINGS/CONCLUSION

- [4] Based on the evidence before us, we find that Councillor Gingras did make an unknowingly false and potentially embarrassing comment towards the ALPG executive, at the November 8, 2021, Council meeting thereby violating **section 6.1 of the Code of Conduct** which states, *“Every Member shall conduct himself or herself properly and in a civil and respectful manner at meetings...”*
- [5] Councillor Gingras did contravene **sections 6.2 of the Code of Conduct** when she spoke against, and therefore disrespected, the decision-making process of Council...“even if they disagree with a majority decision of Council.”
- [6] Additionally, Councillor Gingras contravened the Township’s **Council Proceedings Bylaw, sections 18.1 and 30.5** when she pursued a subject not currently under debate even after that fact was brought to her attention by the Mayor of the day, and also when she refused to support a Council decision once it was made.

- [7] To be clear, it is acknowledged that Councillor Gingras did make a noticeable attempt to follow the rules of procedure for speaking during the subject Council meetings.
- [8] And further, she did contact and discuss what had happened with the president of the ALPG both by phone and by making an effort to respond to his letter to Council verbally at the following Council meeting on May 9, 2022.
- [9] Councillor Gingras' response at the May 9<sup>th</sup> meeting, did not indicate that she either fully understood or, was willing to admit, that her behaviour, with respect to items [5] and [6], was in contravention of the Code and that her passion for the subject was not a valid excuse.
- [10] As she continued to try to explain and defend her actions, she showed no willingness to admit any wrongdoing once confronted by the letter to the Mayor and this inquiry.

### **Recommendations**

- [11] Upon finding a breach of the Code of Conduct, section 223.4(5) of the *Municipal Act*, 2001 permits Council to levy a penalty of either a reprimand, or a suspension of the remuneration paid to the member in respect of his services as a member of council for a period of up to 90 days for each breach.
- [12] This is the second time that Councillor Gingras has contravened the Code of Conduct. We recommend Council impose a financial penalty of suspension of pay for at a minimum, 30 days. A majority of Council was present for and witnessed the behaviour of Councillor Gingras during the aforementioned meetings putting them in a position to measure the offence and make a decision on an appropriate penalty.
- [13] Additionally, we recommend that Council consider a mandatory training session be made available immediately following the fall election, concerning the Municipal Conflict of Interest Act (MCIA), the Code of Conduct and the Council Proceedings Bylaw for all elected Members and senior administrative staff. Following that, a check-in as to how Council and the CAO are doing with respect to the various bylaws respecting behaviour should be scheduled every quarter.

### **III. INQUIRY PROCESS**

- [14] We have undertaken an investigation of the allegations, reviewed the associated bylaws, policies and legislation, the recording of the April 11<sup>th</sup> Council meeting, and spoken with the Respondent, the Requestor and two other witnesses who were all present at the November 8, 2021, Council meeting, as there was no recording of this meeting.
- [15] We also reviewed the recording of the May 9, 2022, Council meeting to determine if any resolution on the matters, or parts thereof, had occurred, since this inquiry was initiated.

[16] **Applicable Sections of the Township’s Code of Conduct (By-law Number 2021-9)**

- a. *5.1 Every Member shall observe and comply with every provision of this Code of Conduct, as well as all other policies and procedures adopted or established by Council.*
- b. *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, and this Code of Conduct, and other applicable law.*
- c. *6.2 Members will respect the decision-making process. Members will attempt to accurately and adequately communicate the attitudes and decisions of Council, even if they disagree with a majority decision of Council.*

[17] **Applicable Sections of the Township’s Council Proceedings Bylaw (Bylaw 2018-39)**

- a. 18.1 *(b) to speak only to the subject under debate  
(f) to support the Council once a decision is made*
- b. 30.5 *(b) Every member shall speak only to the matter under debate*

[18] The conclusions that the Integrity Commissioner arrived at with respect to this matter are based upon the following findings of fact.

**IV. FINDINGS OF FACT**

[19] The following evidence was taken directly from the related meeting agendas, recordings and minutes, unless otherwise noted in bracketed italics following the statement.

[20] The November 8, 2021, Council meeting included a public hearing for an amendment to a previously adopted zoning bylaw to amend the minimum lot sizes based on a final subdivision survey plan for the Agnew Lake Property Group (ALPG) (Bylaw No, 2021-34). After the public hearing portion of the meeting had closed, Councillor Gingras noted, for everyone to hear, that there were a large number of people from the public in attendance at the meeting and admittedly commented that obviously this meant the group was divided. She vocalized this in open session. *(Interviews with Requestor and Respondent and additional witnesses)*

[21] Ivon Chaumont, President of the Agnew Lake Property Group (ALPG) felt “chastised” by this comment and for what Councillor Gingras claimed to be his and his Board of Directors’ lack of communication with their group. Councillor Gingras felt the issue of private driveway/road access was being continually brought up to her as a Councillor outside of

meetings and that this matter required more discussion. (*Interviews with Requestor and Respondent*)

- [22] The Township Planner in attendance then clarified that all members have access and the issues with the private driveways are an internal issue within the Agnew Lake Property Group and had nothing to do with the Township or the zoning bylaw amendment before Council at that meeting.
- [23] The Bylaw amendment was then adopted by Council at the same meeting.
- [24] Three appeals to this amending bylaw were received by the Township and forwarded to the Ontario Land Tribunal (OLT). Subsequently, at the February 14, 2022, Council meeting, Resolution #2022-2-30 was passed, resolving *“that Council directs staff to write a letter to the Ontario Land Tribunal requesting that the appeals in regard to the Zoning By-law Amendment No. 2021-34 be dismissed on the basis that they have no relevance to the intent of the approved bylaw.”* The letter was written and sent to the OLT. (*confirmed in interview with CAO*)
- [25] At the April 11, 2022, Council meeting, Council was then considering a motion whether to dedicate resources to defend Bylaw No. 2021-34 at an OLT hearing should one be scheduled.
- [26] Councillor Gingras felt strongly about her duty to support her constituents, whom she felt had been treated unfairly. (*Interview with Respondent*)
- [27] To clarify the extent of what was said during the April 11th Council meeting, the following quotes from the recording of the meeting have been included herein.
- a. Councillor Gingras stated, respecting the Township bylaw that was the subject of an appeal to the OLT, *“I just feel that the Agnew Lake Property association should defend their own document. We didn’t develop that document and I don’t believe the taxpayers of Nairn Centre should be on the hook to pay for planners and lawyers on behalf of the Agnew Lake Property association which would also be going against many of our residents. Therefore, I support not allocating funds and resources to the Ontario Land Tribunal hearing.”*
  - b. After Councillor Bourrier spoke on the issue, Mayor Diebel then permitted a member of the ALPG in the audience to respond to Councillor Gingras’s statement by saying they were also taxpayers. Councillor Gingras interrupted the speaker, albeit saying *“Excuse me, excuse me Mr. Chair, I’d like to…”* until the Mayor had to call *“Order, order, order”* at which point Councillor Gingras responded, *“..the taxpayers like you? I represent these taxpayers over here also (pointing to the appellants). They are also taxpayers in the same community.”* The ALPG member

then interjected, *“When you talk, it’s like it’s us (the ALPG) against the taxpayers”* Councillor Gingras continued, *“Well it is right now. Three of them have appealed the document you (the ALPG) made, and so, yes, I’m the voice for the people over there that opposed it.”*

- c. Mr. Chaumont then responded, *“I just want to say, I got scolded by her at the last meeting when I was here on November the 8th and I’ve got that on file. I’m not going to stand here today and get scolded by that Councillor.”* To which Councillor Gingras responded, *“Mr. Chair, I’m entitled to my opinion, and I will speak on behalf of whichever residents I choose to and that is my job to be the voice of the people that don’t clearly have a voice here today.”*
- d. Once the Mayor pulled the discussion back to the Council table after a couple of other speakers and asked for any further comments from Council, Councillor Gingras concluded her comments with, *“And again, I’m just representing the folks out there, not only the ones that appealed that are within the ALPG but even the people that aren’t, that are out there with private homes, like some of the road changes will affect them and we have to, you’re right, speak on behalf of everybody.”*
- e. She went on to say, *“The appeal was tried to be put forward (referring to the original Zoning Bylaw for the ALPG subdivision). The people handed their cheque to the town, possibly didn’t fill out the paperwork right, or something was askew with the appeal and they received their cheque back from the township for the appeal. So it’s not like they never, ever tried to appeal this. They have and I think we just need to speak on behalf, I’m speaking on behalf of those people and thank you Mr. Chair for the time.”*

[28] Two days after the meeting, Councillor Gingras took it upon herself to reach out to Mr. Chaumont for a further discussion which he felt included a number of apologies regarding how he and the ALPG board of directors had felt at both the Council meetings on November 8, 2021 and April 11, 2022. Both felt they had had a good discussion and hoped they could move forward from there. *(based on interviews of the Requestor and Respondent)*

[29] One of the letters received by the Integrity Commissioner, was included in the Council Agenda package for the following meeting on Monday, May 9, 2022 under #7. Correspondences.

[30] Mayor Diebel confirmed that documents had been placed at each Councillors place at the table prior to the start of the meeting and realizing they were not provided as part of the formal agenda they were not read at that time by members. This was confirmed around the table.

- [31] The president of the ALPG, Mr. Chaumont, was in attendance at the May 9, 2022 meeting and spoke to Council about his concerns around private ALPG issues continuing to come to the Council table when they have their own process in place as an organization to deal with, discuss and vote as ALPG members. He also had requested a formal document stating the Township owned their bylaws, not the ALPG. Council agreed that the bylaw was a township document based on a resolution passed by Council and directed the CAO to respond to Mr. Chaumont regarding the bylaw.
- [32] The Mayor then acknowledged Councillor Gingras' request to respond. She stated, *"I just want to confirm expressively that I did not read those documents when they were placed on my table at that meeting."* Mr. Chaumont then interjected that it could be a coincidence, but he believed that Councillor Gingras had actually read the documents as what she said at the meeting was very similar to the contents of the documents which he obtained a copy of. She went on to say that she had *"spoken to the folks that are opposed to what's going on up there. They contacted me, which is allowed... and when I sit here and speak, I am speaking on behalf of them...I am just representing them with my words..."*
- [33] Councillor Gingras then confirmed that she knows that it is not protocol to read something that someone just brings to a Council meeting without going through the proper process. She understood proper meeting protocol and that normally she shouldn't be rebutting comments from the public during the meeting. However, in this case, she asked for and was given permission to do so from the chair. In her words, *"so I follow protocol."*
- [34] Councillor Gingras ended her comments around who owns the bylaws of the Township by explaining what a bylaw is by stating, *"a bylaw is a resolution of Council and it can be amended or repealed at Council's discretion."*

## **V. ANALYSIS**

- [35] Members of Council are held to a higher standard of ethical behaviour and are expected to adhere to the Code of Conduct and other municipal policies. More specifically, members of Council are required to:
- a. *Conduct himself or herself properly and in a civil and respectful manner at meetings,*
  - b. *Speak only to the subject under debate,*
  - c. *Respect the decision-making process, and,*
  - d. *Support decisions once made by Council.*
- [36] By listening and speaking with the Councillor Gingras it is easy to see she is a passionate person who feels fully justified in bringing her, or her constituents', concerns to any platform that presents itself, including the Council table, particularly if fairness is in question.

- [37] It is also clear that she believes she is familiar with and follows meeting protocol as laid out in the Council Procedural Bylaw.
- [38] In this circumstance, it is evident to the Integrity Commissioner, it was disrespectful to make a comment about who she thought was in attendance at the meeting and to publicly support appellants to a Township bylaw at any time, in or out of a Council meeting. Clearly the latter is a fact that Councillor Gingras either chose to ignore or didn't understand its critical relevance. In her belief, it was her "*job to be the voice of the people that don't clearly have a voice here today*", no matter what.
- [39] Council had already approved the subdivision and subsequently had passed a resolution to ask the OLT to dismiss the appeals as they were not relevant to the bylaw. By continually attempting to revisit these matters when anything came to the table involving the ALPG subdivision, Councillor Gingras failed to follow meeting protocols and did not respect Council's previous decisions respecting the matter.
- [40] No matter how strongly Councillor Gingras felt it was her duty to support her constituents, who she felt had been treated unfairly, her duty as a member of Council was to support the Council decision. Verbally supporting the obviously frustrated appellants in attendance at the Council meeting was in clear contravention of the Code of Conduct as well as the Council Proceedings Bylaw. It was basically hijacking the agenda for her, and her constituents, own purposes.
- [41] Additionally, it appears, considering all the discussions pursued by Councillor Gingras at all three meetings in matters respecting the ALPG, she does not understand or want to admit that the private road access issues of her constituents were not relevant to the matter on the table at more than one meeting and, are out of the jurisdiction of Council entirely.
- [42] In taking this stance, knowing or unknowingly, and responding in the manner she did, Councillor Gingras contravened sections 5.1, 6.1, 6.2 of the Township's Code of Conduct as well as 18.1 (b) & (f) and 30.5 (b) of the Council Proceedings Bylaw as detailed at the beginning of this letter.

DATED: June 13, 2022