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**TOWNSHIP OF MCMURRICH/MONTEITH INTEGRITY COMMISSIONER,  
H.G. ELSTON**

Citation: Schafer v. Freisen  
Date: January 29, 2020

**REPORT ON THE MATTER OF A COMPLAINT DATED MAY 7, 2019  
AGAINST REEVE ANGELA FRIESEN**

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Notice: Municipal Integrity Commissioners provide investigation reports to their respective municipal council and, in most cases, make recommendations for imposition of penalty or other remedial action to the municipal council. Therefore, 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.

February 3, 2020  
Resolution 2020-40

Moved by: Daniel O'Halloran  
Seconded by: Alfred Beilke  
Be It Resolved that Council receives  
Integrity Commissioner Report dated  
January 29, 2020 and direct Staff to post  
on Township website. Carried

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## INTRODUCTION

1. McMurrich/Monteith is a rural township, located in the Almaguin Highlands Region of Parry Sound District, northwest of Huntsville. The municipality was formed in 1998, through an amalgamation of the former Township of McMurrich and the eastern two-thirds of the unincorporated Township of Monteith. In 2016, it had a population of 824 people, spread out over 275 square kilometers.
2. The Township is currently governed by a five-member Council consisting of: The Reeve, Angela Friesen; Deputy Reeve, Dennis Banka; and three Councillors, Lynne Zemnicky, Alfred Beilke and Daniel O'Halloran.
3. This report disposes of a complaint against Reeve Friesen, under the McMurrich/Monteith Code of Conduct (the "Code"). The complaint was made by then Fire Chief, Paul Schafer (the "Complainant"), relating to a derogatory remark Deputy Reeve Friesen (as she then was) is alleged to have about a Fire Department record produced by Chief Schafer (the "Complaint").
4. In addition to receiving Reeve Friesen's written response to the Complaint, I have interviewed and heard evidence from the Reeve, as well as Councillors Dennis Banka and Lynne Zemnicky, a part-time employee of the Fire Department, and Mr. Schafer.
5. For the reasons set out below, I have concluded that Reeve Friesen did not breach the Code.

## THE COMPLAINT

6. I received the Complaint on May 8, 2019. The Complaint alleges that, on May 7, 2019, then Deputy Reeve Friesen approached at a public "Ladies Luncheon" to ask about a document Mr. Schafer had provided to Council. When asking about the document, Ms. Friesen allegedly stated that the document provided by Mr. Schafer had been "doctored". The complaint alleges that, as a result of this statement, Reeve Friesen breached sections B.3.ii; D.1, D.2.iii, iv, v, and vi of the Code.
7. The document at issue consists of information compiled and organized by on a monthly basis, which shows the amount of points and hours accrued by volunteer members of the Fire Department. This information is further broken down by the type and location of emergency call or response.

8. [redacted] confirmed to me that the information, as alleged in the Complaint, was accurate. According to [redacted], the document referenced by Reeve Friesen had not been doctored, and Council had received the report that it requested. [redacted] acknowledged that Reeve Friesen had attributed the "doctored" comment to someone else, who she had overheard. [redacted] upset by this remark, subsequently informed Mr. Schafer, who then filed the Complaint.

## THE RESPONSE

9. On June 4, 2019, I provided Reeve Friesen with notice of the Complaint, which set out the specific allegations noted above. I further requested that Ms. Friesen 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.

10. On July 8, 2019, I received an email from Reeve Friesen acknowledging my letter notifying her of the Complaint, and advising me that, on the basis of legal advice, she was unable to formally respond to the Complaint because it was too vague, and did not disclose the full nature of the complaint, nor the identity of the Complainant. Reeve Friesen further requested that, if I were to provide her with more information, she would be better placed to decide how to respond. Following a follow up, this request was subsequently re-iterated by Reeve Friesen, in an email I received on August 23, 2019.

11. On August 30, 2019, based on the consent of Mr. Schafer, I disclosed his identity to Reeve Friesen and provided her with a copy of the formal complaint.

12. On September 11, 2019, I received an email from Reeve Friesen advising me that she was willing to be interviewed, subject to the provision that I would permit her to have a witness present during the interview. I granted this request and conducted my interview of Reeve Friesen on September 26, 2019, with Councillor Zemnick present as a witness.

13. In the course of my interview, Reeve Friesen advised me that, at the May 7<sup>th</sup> Ladies Luncheon, she asked [redacted] how firefighters accrue points (which determines the amount each firefighter receives as an honorarium). According to Reeve Friesen, she was not the one who characterized the report as having been doctored. Instead, the Reeve claims that it was [redacted] who took the Reeve's question as implying some impropriety in the report and was the one who used the term "doctored". This exchange, according to the Reeve, was the extent of their conversation. Reeve Friesen claims she then acknowledged that the conversation was visibly upsetting [redacted] thanked her, and left.

14. Reeve Friesen maintains that she engaged \_\_\_\_\_ in conversation for the sole reason of discovering what each point was worth in a dollar amount.

15. Reeve Friesen further advised me in our interview that she was very surprised that there was a complaint made against her related to this conversation, and that she had never had any issues with \_\_\_\_\_, in the past.

## FINDINGS AND RECOMMENDATIONS

16. As noted above, the complaint alleges that Reeve Friesen breached sections B.3.ii; D.1, D.2.iii, iv, v, and vi of the Code, by referring to a report created by \_\_\_\_\_ which tracks the accrual of volunteer firefighter points and hours, as being "doctored"

17. The sections of the Code alleged to have been contravened provide as follows:

### ***B. Standards of Conduct***

*3. Members of Council shall refrain from behavior that could constitute an act of disorder or misbehaviour. Specifically, Members of Council shall refrain from contact that:*

*ii) Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others.*

### ***D. Interpersonal Behaviour of Member of Council***

*1. Treat Every Person with Dignity, Understanding and Respect.*

*Members of Council shall abide by the provisions of the Human Rights Code, and, in doing so, shall treat every person, including other Members of Council, Township employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect for the right to equality and the right to an environment that is safe and free from harassment and discrimination.*

*2. Relationships with Staff and the Head of Council and Other Members of Council*

*The Head of Council and Members of Council will:*

*iii) Acknowledge that only Council as a Whole has the capacity to direct staff members to carry out the implementation of Council's policies and direction,*

*iv) Refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others,*

- v) Refrain from publicly criticizing individual members of staff in a way that casts aspersions on that staff member's professional competence and credibility, and*
- vi) Refrain from using township staff or resources for any personal use including elections.*

18. With respect to section B.3.ii of the Code, I find that Reeve Friesen's conduct, on the face of the allegations alone, cannot be characterized as an act of disorder or misbehavior serious enough to constitute an abuse of power, or one that otherwise amounts to intimidation, harassment, verbal abuse, or the adverse treatment of others. In my view, this provision is intended to guard against especially egregious conduct on the part Members of Council, which I find is not the case here. Thus, I dismiss this ground of the complaint.

19. I similarly find that the allegations do not amount to discriminatory conduct or include actions that could be characterized as an affront to one's dignity, as required for a contravention of section D.1 of the Code. I also find that sections D.2 iii, iv and vi are clearly not applicable.

20. In my view, the sole provision applicable to the events as alleged in the Complaint is the prohibition against publicly criticizing members of staff in a way that casts aspersions on that staff member's professional competence and credibility, expressed in section D.2.v.

21. It is important to recognize that the Council-staff relationship is one of the key relationships underlying effective local governance. The health of this often-fragile relationship is also a matter of significant public interest.

22. The purpose of section D.2. of the Code is to provide guidance on how Members and staff are to work together so as to ensure that a productive and harmonious relationship is maintained. The intent of section D.2.v specifically is to prevent Members of Council from airing concerns about staff performance or conduct in public.

23. When making a public statement about staff reports or staff actions, Members of Council should ensure that their comments are in the nature of "fair comment" and related to the substance of the report. Members of Council should not single out or impugn personal motivations or agendas to particular members of staff, as this serves to undermine the mutual respect that should exist between councillors and staff.

24. The problem I encounter when applying these principles to the conduct at issue is that I have been presented with two conflicting accounts of what transpired at the Ladies Luncheon. A further impediment to my inquiry resides in the fact that neither account has the benefit of corroborating evidence.

25. [redacted] claims that it was Reeve Friesen who referenced the report being "doctored", although she concedes that the Reeve had overheard someone else using the term in relation to the document. In contrast, Reeve Friesen maintains that it was [redacted] who made the comment about the report being "doctored" in response to her general inquiry about the nature of the report.

26. In a case such as this, where there are two conflicting versions of a conversation, without corroborating evidence to substantiate either version, or compelling reasons for me to question the credibility of those involved, the penal function of the Code becomes a prominent factor in my analysis when making a final determination. When a Member of Council is found to have contravened the Code, he or she may incur sanction, and must bear the consequence of having that contravention disclosed to the public. In view of the Code's penal function, alleged conduct or statements that breach the Code must be confirmed upon a reliable factual basis. Applying a standard of the balance of probabilities, uncertainty as to exactly who said what should, in my view, weigh in favor of the Respondent.

27. Accordingly, because I am unable to determine with certainty whose account of the conversation between the Reeve and [redacted] at the Ladies Luncheon accurate, I will dismiss the Complaint and find that Reeve Friesen did not breach section D.2.v. of the Code, as alleged in the Complaint.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 29<sup>th</sup> day of January 2020.



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H.G. Elston  
Integrity Commissioner

