

Municipality of East Ferris Integrity Commissioner – David C. King  
Citation: Maggie Preston-Coles v. John O'Rourke and The Municipality of East Ferris Council, 2020  
Date: January 25, 2021

## **REPORT ON COMPLAINT**

**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.

Reference should be made to the minutes of the Municipality of East Ferris Council meeting to obtain information about their consideration this report.

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## **THE COMPLAINT**

1. Maggie Preston-Coles (Complainant) alleges that John O'Rourke, Chair of the Municipality of East Ferris Planning Advisory Committee (PAC) and the entire East Ferris Municipal Council (Respondents) contravened the East Ferris Code of Conduct.

## **SUMMARY**

2. I find no contravention of the Municipality of East Ferris Council Code of Conduct by John O'Rourke during the March 27, 2019 PAC meeting, or by any members of Council during the May 14, 2019 Council meeting.

## **BACKGROUND**

3. The Complainant is a resident of East Ferris who lives within close proximity to a proposed 25 home subdivision on the lands described as Part of lots 11, 12 13 & 14 Concession 15, Township of East Ferris, District of Nipissing, owned by 1851477 Ontario Inc. The Complainant is in opposition to this proposed development.
4. The Complainant first appeared before the East Ferris Planning Advisory Committee (PAC) on November 7, 2018 to express her concerns regarding the proposed plan of subdivision.
5. The Complainant was also in attendance at the March 27, 2019 PAC meeting where she expressed her concerns about the proposed plan of subdivision application. It was at this meeting that the PAC passed resolution No. 2019-03 recommending approval of the application with conditions.
6. On April 9, 2019 the Complainant appeared as a delegation before the Municipality of East Ferris Council to comment on the November 7, 2018 and March 27, 2019 PAC meeting minutes regarding their completeness and availability on the Municipal web site. She also expressed several concerns about the proposed plan of subdivision.
7. On April 23, 2019, the Complainant attended the East Ferris Council meeting where Council passed resolution No. 2019-108 accepting the PAC recommendation to approve the proposed plan of subdivision. The Complainant was denied an opportunity to appear as a delegation before Council at this meeting.
8. Following the decision of Council to approve the proposed plan of subdivision application, the Complainant appeared as a delegation at the May 14, 2019, Council meeting to reiterate her concerns about the proposed plan of subdivision. (See Appendix 1 attached)
9. The Complainant filed an appeal with the Local Planning Appeal Tribunal (LPAT) on June 5, 2019 regarding Council's decision to approve the proposed plan of subdivision.
10. On April 20, 2020, I received an email from the Complainant indicating that she was working on a Code of Conduct complaint pertaining to the East Ferris municipal staff and Council and wanted clarification on who to submit the complaint to at the Ombudsman's Office. In response, I provided clarification that Code of conduct complaint was to be directed to me as the Integrity Commissioner for the Municipality of East Ferris and that my jurisdiction as Integrity Commissioner, did not include the conduct of municipal staff.

11. The Complainant is the same individual that alleged John O'Rourke, Chair of the East Ferris Planning Advisory Committee contravened [sections 5.5.1](#) and [5.2](#) of the Municipal Conflict of Interest Act, [MCIA](#) on March 27, 2019 by discussing, voting on, and trying to influence others on an application to approve a draft plan of subdivision, official Plan amendment and zoning by-law for the lands described in paragraph 3, above.

12. My [MCIA](#) inquiry report issued on November 16, 2020, found that while John O'Rourke's did have a direct pecuniary interest in this matter, it was so remote or insignificant that it could not be reasonably regarded to have influenced him. Also, as part of this inquiry, I determined that no evidence existed that John O'Rourke, voted on or tried to influence others to approve the draft plan of subdivision application.<sup>1</sup>

13. On May 8, 2020 I received an email from the Complainant along with her Code of Conduct Inquiry Application dated May 1, 2020.

14. On June 2, 2020 I sent an email to the Complainant seeking clarification regarding her Code of Conduct Application as to who the complaint is directed at, along with an explanation on Section 223.4(1) of the Municipal Act and to who it applies.

15. On June 24, 2020 I received the response from the Complainant and began my inquiry into her allegations.

## PROCESS FOLLOWED

16. The following is the process followed to ensures fairness to both the individual bringing the complaint and the respondents:

i) The Respondent(s) receive notice of the Complaint and is given an opportunity to respond. **Note:** In this instance I determined that it was unnecessary to contact or interview John O'Rourke as the allegations against him were unfounded based on the findings of my November 16, 2020 MICA Inquiry.

ii) The Respondent(s) are made aware of the Complainant's name.

iii) I interviewed all parties and witnesses that I believe have relevant evidence. Given the Covid 19 situation, I held telephone interviews with the Complainant, Sue Lamont, a Witness, who attended the May 14, 2019 East Ferris Municipal Council meeting and all members of the East Ferris Council, with the exception of the late Michel Voyer.

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<sup>1</sup> Citation: Maggie Preston-Coles v. John O'Rourke, November 16, 2020

## **POSITIONS OF THE PARTIES**

### **POSITION OF THE COMPLAINANT (Maggie Preston-Coles)**

17. The following is an excerpt of the information provided by the Complainant in response to my June 2, 2020 email requesting clarification as to who the Code of Conduct allegations are directed at:

18. “THAT John O’ROURKE on or about March 27<sup>th</sup>, 2019 in the Municipality of East Ferris, Province of Ontario, while acting for the Municipality of East Ferris as Chairperson of the Advisory Committee a Statutory Board under the Municipal Act, and having contravened the statutory Conflict of Interests requirement namely [S. 5.1(a)(b)(c), S5.2(1)] under the Municipal Act of Ontario, has by deceit failed to abide by existing governing statutes, contrary to S.4 of the of the Municipality of East Ferris Code of Conduct.”

19. “THAT John O’ROURKE on or about March 27<sup>th</sup>, 2019 in the Municipality of East Ferris, Province of Ontario, while acting for the Municipality of East Ferris as Chairperson of the Advisory Committee a Statutory Board under the Municipal Act, and having contravened the statutory Conflict of Interests requirement namely [S. 5.1(a)(b)(c), S 5.2(1)] under the Municipal Act of Ontario, has by deceit failed to treat members of the public appropriately, contrary to S.15 of the of the Municipality of East Ferris Code of Conduct.”

20. “THAT taking into account the totality of the aforementioned statutory accountabilities the following Council members are alleged to be in non-conformance of the Municipal Code of Conduct:

- Mayor Pauline Rochefort,
- Councilor Michel Voyer,
- Councilor Steven Trahan,
- Councilor Terry Kelly,
- Councilor Erika Lougheed

THAT Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, Councilor Terry Kelly, and Councilor Erika Lougheed, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, omitted to do their sworn duty by upholding the laws of the Ontario Legislature, and policies adopted by Council, Contrary to S. 5 of the Municipality of East Ferris Code of Conduct, Resolution 2019-43.”

21. "THAT Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, Councilor Terry Kelly, and Councilor Erika Lougheed, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, omitted to undertake their sworn duty [imposed by law] and shown a wanton or reckless disregard to treat members of the public appropriately, by failing to cause an investigation into an alleged violation of the laws of the Provincial Legislature and policies of Council, Contrary to S. 15 of the Municipality of East Ferris Code of Conduct, under Resolution 2019-43."

22. "THAT Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, and Councilor Terry Kelly, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, failed to treat a member of the public appropriately during a delegation submission [14-MAY-19] and engaged in verbal abuse, bullying or intimidation, thereby failing to ensure that their work environment is free from discrimination and harassment, Contrary to S. 15 of the Municipality of East Ferris Code of Conduct, under Resolution 2019-43."

23. In response to these allegations, I held a telephone interview with the Complainant on December 10, 2020 to gather additional information about the May 14, 2019 Council meeting. The following is an excerpt of the questions asked, and the responses provided:

i) You allege that during the May 14, 2019 meeting. Council did not treat you appropriately during you delegation and engaged in verbal abuse, bullying and intimidation. Would you agree with this statement?

Complainant: Yes, absolutely. I wanted to address the plan of subdivision application as part of my delegation. I referenced the recent North Bay Nugget Article and that I did not have the opportunity to address Council during the April 23, 2019 meeting where Council voted to approve the draft plan of subdivision application. When I mentioned my difficulty in obtaining information from staff and the alleged conflict of interest by John O'Rourke the tone of the meeting changed, and certain members of Council became agitated.

ii) Do you think Council as a whole acted inappropriately during the meeting? If so why?

Complainant: No. Councillor Lougheed, did not act inappropriately.

iii) Do you think that individual members of Council acted inappropriately during the meeting? If so why?

Complainant: The Mayor and Councillor Kelly. During my delegation I was accused of being repetitive by Councillor Kelly and as a result, I felt intimidated. The Mayor asked me for my personal opinion about the plan of subdivision.

iv) Do you think that you acted inappropriately during the meeting?

Complainant: No. I am a professional teacher, a role model. I am assertive without being punitive. However, I became defensive after the CAO's response to my conflict of interest allegation.

## **OBSERVATIONS OF THE WITNESS**

24. I held a telephone interview with the Witness on December 3, 2020 to obtain her observations at the May 14, 2019 Council meeting. The following is an excerpt of the questions asked, and the responses provided:

i) What do you recall about the May 14, 2019 Council meeting?

Witness: The Complainant was treated with disrespect during the meeting.

ii) The Complainant alleges that during the May 14<sup>th</sup>, 2019 meeting, Council did not treat her appropriately during her delegation and engaged in verbal abuse, bullying and intimidation. Would you agree with this statement?

Witness: Yes, absolutely. The Complainant referred to her difficulty in obtaining information from staff regarding the plan of subdivision proposal and the tone of the meeting changed.

iii) Do you think Council as a whole acted inappropriately? If so why?

Witness: No. Councillor Lougheed, Councillor Trahan and Councillor Voyer did not comment on the delegation presentation made by the Complainant.

iv) Do you think that individual members of Council acted inappropriately during the meeting? If so why?

Witness: Councillor Kelly did not raise his voice but was stern in his remarks and reprimanded the Complainant for her statements about municipal staff. Mayor Rochefort shut down the discussion about the plan of subdivision and the alleged conflict of interest prematurely for no reason.

v) Do you think that the Complainant acted inappropriately during the meeting?

Witness: No. The Complainant knew she had a time limit and was prepared. However, it was apparent that she was embarrassed by members of Council.

## POSITION OF THE RESPONDENT (s)

25. In response to the allegations made by the Complainant, the following are responses provided by the East Ferris Councillors (Respondents) based on individual telephone interviews conducted November 26, to December 9, 2020.

i) During the May 14, 2019 Council meeting the Complainant alleges that Council did not treat her appropriately during her delegation and engaged in verbal abuse, bullying and intimidation. Would you agree with this statement?

Mayor Rochefort: No. There was no lack of decorum by the members of Council during the meeting. There were some awkward moments during the meeting when accusations were being made by the Complainant about staff not providing information about the proposed plan of subdivision and John O'Rourke's alleged conflict of interest. The informal style of Council meetings allows for an exchange of information.

Councillor Kelly: No. Everything was done in a polite way. Council was not rude or disrespectful to the Complainant.

Councillor Loughheed: No. Council may have been a little impatient with the Complainant as she had previously been before Council on the same issue.

Councillor Trahan: No. I did not observe any evidence of mistreatment of the Complainant by the members of Council. Both Councillor Kelly and Mayor Rochefort asked questions of the complainant trying to better understand her concerns.

ii) Do you think Council as a whole, acted inappropriately during the meeting?

Mayor Rochefort: No. Some members of Council defended municipal staff against the accusations the Complainant was making.

Councillor Kelly: No.

Councillor Loughheed: No. But I think that Council can improve on how we deal with delegations appearing before Council.

Councillor Trahan: No.

iii) Do you think that individual members of Council acted inappropriately during the meeting? If so why?

Mayor Rochefort: No. Council members were just trying to understand the issues that the Complainant was raising.

Councillor Kelly: No.

Councillor Loughheed: Cannot say. As a whole, Council has the tendency to be dismissive of delegations. The delegation process needs to be looked at.

Councillor Trahan: No.

iv) Do you think the Complainant acted inappropriately during the meeting?

Mayor Rochefort: Yes . The Complainant should not have made accusations against municipal staff during the delegation.

Councillor Kelly: No. Not inappropriately. The Complainant has been against all development in the municipality. Elected officials have to make objective decisions.

Councillor Loughheed: No. I think that the Complainant was misinformed on some of the accusations she was making regarding conflict of interest.

Councillor Trahan: No. The Complainant was not disrespectful of Council.

## **FINDINGS OF FACT**

26. The East Ferris Code of Conduct, in its current form, only applies to the members of Council, not unelected citizen appointees appointed to committees of Council. The conduct of citizen appointees is guided by the East Ferris Boards and Committees Policy.<sup>2</sup>

27. Sections 4, 5 and 15 of the Municipality of East Ferris Council Code of Conduct which the Complainant alleges were contravened read as follows:

### 4. Statutory Provisions

“ This Code of Conduct operates along with and as a supplement to the existing statutes governing the conduct of members. The following provincial legislation governs the conduct of members of Council:

- the Municipal Act, 2001;
- the Municipal Conflict of Interest Act;

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<sup>2</sup> The Municipality of East Ferris, Boards and Committees policy can be viewed @ <https://eastferris.ca/en/your-government/plans-policies-studies>



- the Municipal Elections Act, 1996; and
- the Municipal Freedom of Information and Protection of Privacy Act. “

The Criminal Code of Canada also governs the conduct of members of Council.”

#### 5. Regulating Conduct Application

“This Code of Conduct applies to the Mayor and all members of Council”.

#### 15. Discreditable Conduct

“All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies as well as the Occupational Health and Safety Act”.<sup>3</sup>

28. The applicable sections of the Municipal Conflict of Interest Act R.S.O 1990 c.M.50 which the Complainant alleges the Municipality of East Ferris Council failed to act on are as follows:

##### Duty of Member

When present at meeting at which matter considered

“5 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

(a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;

(b) shall not take part in the discussion of, or vote on any question in respect of the matter; and

(c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

##### Action where Contravention Alleged

##### Application

8 (1) An elector, an Integrity Commissioner of a municipality or a person demonstrably acting in the public interest may apply to a judge for a determination of the question of whether,

(a) a member has contravened section 5, 5.1 or 5.2; or

(b) a former member contravened section 5, 5.1 or 5.2 while he or she was a member. 2017, c. 10, Sched. 3, s. 7.

29. The Clerk of the Municipality of East Ferris confirms that video or audio recordings of Committee and Council meetings were not taken prior to March of 2020.

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<sup>3 3</sup> The Municipality of East Ferris Code of Conduct can be viewed @ <https://eastferris.ca/en/your-government/mayor-council/council-code-of-conduct>

## ISSUES

30. I have considered the following issues arising from the Complaint:

- i) Did John O'Rourke fail to abide by existing governing statutes, contrary to S.4 of the of the Municipality of East Ferris Code of Conduct?
- ii) Did John O'Rourke fail to treat members of the public appropriately, contrary to S.15 of the of the Municipality of East Ferris Code of Conduct?
- iii) Did Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, Councilor Terry Kelly, and Councilor Erika Lougheed, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, omitted to do their sworn duty by upholding the laws of the Ontario Legislature, and policies adopted by Council, Contrary to S. 5 of the Municipality of East Ferris Code of Conduct, Resolution 2019-43?
- iv) Did Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, Councilor Terry Kelly, and Councilor Erika Lougheed, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, omitted to undertake their sworn duty [imposed by law] and shown a wanton or reckless disregard to treat members of the public appropriately, by failing to cause an investigation into an alleged violation of the laws of the Provincial Legislature and policies of Council, Contrary to S. 15 of the Municipality of East Ferris Code of Conduct, under Resolution 2019-43?
- v) Did Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, and Councilor Terry Kelly, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, failed to treat a member of the public appropriately during a delegation submission [14-MAY-19] and engaged in verbal abuse, bullying or intimidation, thereby failing to ensure that their work environment is free from discrimination and harassment, Contrary to S. 15 of the Municipality of East Ferris Code of Conduct, under Resolution 2019-43.?

## ANALYSIS AND FINDINGS

**31. Did John O'Rourke fail to abide by existing governing statutes, contrary to S.4 of the of the Municipality of East Ferris Code of Conduct?**

32. As indicated in my [MCIA](#) inquiry report, (Maggie Preston-Coles v. John O'Rourke) issued on November 16, 2020, I found that John O'Rourke did have a direct pecuniary interest in the plan of subdivision application by 1851477 Ontario Inc.. However, I determined it to be so remote or insignificant that it could not be reasonably regarded to have influenced him.

33. The Municipality of East Ferris Code of Conduct, in its current form only applies only to the members of Council. For citizen appointments to Boards and Committees, the Municipality has established a "Board and Committees Policy" adopted by resolution no. 2019-43 on January 22, 2019.

34. I found no other evidence in the Code of Conduct inquiry application by the Complainant or as part of my investigation, to conclude that John O'Rourke failed to abide by existing governing statutes.

**35. Did John O'Rourke fail to treat members of the public appropriately, contrary to S.15 of the of the Municipality of East Ferris Code of Conduct?**

36. As part of my November 16, 2020 MICA inquiry I determined that no evidence existed that John O'Rourke, voted on or tried to influence others to approve the draft plan of subdivision application. As a result, find that John O'Rourke did not fail to treat members of the public appropriately during the March 27, 2019 PAC meeting.

**37. Did Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, Councilor Terry Kelly, and Councilor Erika Loughheed, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, omitted to do their sworn duty by upholding the laws of the Ontario Legislature, and policies adopted by Council, Contrary to S. 5 of the Municipality of East Ferris Code of Conduct?**

**38. Did Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, Councilor Terry Kelly, and Councilor Erika Loughheed, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, omitted to undertake their sworn duty [imposed by law] and shown a wanton or reckless disregard to treat members of the public appropriately, by failing to cause an investigation into an alleged violation of the laws of the Provincial Legislature and policies of Council, Contrary to S. 15 of the Municipality of East Ferris Code of Conduct?**

39. Given the similar nature of the above two allegations I have chosen to address them as one. As part the May 14, 2019 delegation presented to Council, the Complainant (See Appendix 1, attached) is on the record as follows: "Potential Conflict of Interest- have been in touch with David King -Integrity Commissioner for steps to follow"

40. On May 17, 2019 the Municipal Clerk from the Municipality of East Ferris provided the Complainant with a letter to address her concerns expressed during the May 14, 2019 delegation (See Appendix 2, attached) and provided direction to the Complainant as follows: " In regard to the potential Conflict of Interest, Mr. David King, appointed Integrity Commissioner for the Municipality of East Ferris, upon proper written notice from a member of Council or Local Board or one or more members of the public, will conduct an inquiry and make a determination as to any alleged contravention of the Municipal Code of Conduct or sections of the Municipal Conflict of Interest Act and is to report the details and results of such inquiry to the Municipal Council."

41. Upon receiving the Complainants Code of Conduct Inquiry Application dated May 1, 2020, I responded to the Complainant in an email dated June 2, 2020 to provide further clarity as to who is responsible for declaring a pecuniary interest and who is responsible for initiating an application. An excerpt of that email is as follows:

"You need to be aware that under section 5(1) of the Municipal Conflict of Interest Act, it is the duty of the member of the Council or Local Board to determine and disclose if they have a pecuniary interest in a matter set out in the meeting agenda. It is **not** the responsibility of other members of Council, Board members or staff to make that determination for them.

Similarly, it is **not** the responsibility of members of Council, Board members or staff to initiate an application to the Integrity Commissioner when a Conflict of Interest allegation is made. Under section 8 of the Municipal Conflict of Interest Act, the question of whether or not a member has contravened sections 5 (1-3) of the Act can only be determined by a judge and the application to the judge can only be made by an elector, an integrity commissioner or a person acting in the in the public interest."

42. Despite the preceding advice, and acknowledgement by the Complainant that she had been in contact with me on or before May 14, 2019, regarding a potential Conflict of Interest Act violation, it appears the Complainant failed to understand or chose to ignore that it was her responsibility to purse these allegations.

43. In summary, I find there were no contraventions of sections 5 and 15 of the East Ferris Code of Conduct. The Municipality of East Ferris Council did not fail to cause an investigation into the allegations being made by the Complainant as it was not their responsibility to do so.

**44. Did Mayor Pauline Rochefort, Councilor Michel Voyer, Councilor Steven Trahan, and Councilor Terry Kelly, on or about May 14<sup>th</sup>, in the Municipality of East Ferris after having been informed of a contravention of the Municipal Conflict of Interest Act, failed to treat a member of the public appropriately during a delegation submission [14-MAY-19] and engaged in verbal abuse, bullying or intimidation, thereby failing to ensure that their work environment is free from discrimination and harassment, Contrary to S. 15 of the Municipality of East Ferris Code of Conduct?**

45. As earlier referenced in paragraphs 23, 24 and 25 “Position of the Complainant , Observations of the Witness and the Position of the Respondents” there exists a difference of opinion on what constitutes verbal abuse, bullying and intimidation. On one hand you have the Complainant and the Witness claim that during the meeting members of Council did not treat her appropriately, and on the other hand you have the members of the East Ferris Council that reject the accusation.

46. When asked if Council as a whole acted inappropriately, the Witness indicated that Councillors Lougheed, Trahan and Voyer did not act inappropriately during the meeting and while Councillor Kelly was the most vocal, “ he did not raise his voice but was stern in his remarks and reprimanded the Complainant for making statements about staff”. The Complainant also confirmed during her interview that Councillor Lougheed did not act inappropriately during the meeting.

47. While the exchange of information during the delegation may have left the Complainant uncomfortable and dissatisfied with the questions and comments by some Councillors, it is clear that Council as a whole, did not act inappropriately during the meeting as originally alleged.

48. Moreover, I find no evidence of verbal abuse by any of the members of Council toward the Complainant and reject the accusation that Council failed to treat a member of the public appropriately during a delegation, and engaged in verbal abuse, bullying or intimidation, contrary to section 15, of the East Ferris Code of Conduct.

## **CONTENT**

49. Subsection 223.6(2) of the Municipal Act states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

## **RECOMMENDATIONS**

50. That citizen appointees on committees of Council receive orientation training on the Municipal Conflict of Interest Act, the Municipality of East Ferris Procedural By-law , the Municipal Freedom of Information Act, the Municipality of East Ferris Boards and Committees policy and other applicable policies.

51. That Council consider appointing elected members of Council as chairs of advisory committees.

52. That Council review the municipal delegation process to ensure that the public understands the process, the information requirements and what they can expect during and following a delegation before Council.

53. That the Municipality of East Ferris develop and post on the Municipal website Integrity Commissioner, complaint, and application procedures.

Respectfully submitted,

*David King*

Integrity Commissioner

January 25 , 2021

## Appendix 1, M. Preston-Coles Delegation to Council May14, 2019

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Shared at Council Meeting Tuesday May 14<sup>th</sup>, 2019 by Maggie Preston-Coles, East Ferris Resident:

I wish to discuss the proposed subdivision on Centennial Crescent, MacPherson Drive, and One Mile Road.

I wish to address Council regarding the following:

- 1) Nugget Article April 30<sup>th</sup> – Trotter: “municipal staff and council have agreed to work with the residents to address those fears.” Rochefort: “we are listening to the residents. We are being receptive to them.”
  - i) Communication: Not being allowed to speak for 5 min at April 23<sup>rd</sup> council meeting (decision was made prior to the meeting and having a vote in front of the public would have been more appropriate)
  - ii) Last meeting: unclear re: appeal to tribunal (20 days – received email from Monique to say that 20 days does not start until after tonight when it was assumed that 20 days started after last meeting when approval was given)
  - iii) Need to explain By-laws being created (residents are unaware of this and were under the impression that re-zoning, etc would have to be fulfilled prior to approval of draft?) Please clarify the By-law for Plan of Subdivision; By-law for Official Plan Amendment; Zoning By-law Amendment
  - iv) How can we be assured that Dégagné will not come back and ask to sever the properties?
  - v) Request for itemized list of conditions that Dégagné must follow in order to meet official approval (to be available to public)
- 2) Potential Conflicts of Interest – have been in touch with David King – Integrity Commissioner for steps to follow
- 3) Risk Assessments for Road Safety (Freedom of Information Request regarding traffic complaints, collisions and enforcement on Centennial Crescent), Fire Safety and Insurance. I know that a Traffic Impact Study has been done, but I feel that the township needs to carry out their own Risk Assessments to gauge the chances of accidents associated with increased traffic and the risks associated with pedestrians (including children and pets), cyclists, vehicles, and wildlife, and making a Freedom of Information Request (regarding traffic complaints, collisions and enforcement on Centennial Crescent), I am also asking for council to carry out their own Risk Assessments for Fire Safety. In the past, the area has been zoned as agricultural land and the developer is proposing to rezone the land as residential. This rezoning would raise the risk of ignition by an increased population of humans. Not only would this affect homes (built structures), but could spread to forest and/or grass fires due to the wooded areas and fields that exist in the area. Forest fires are dealt with differently than structure fires. The infrastructure of a small volunteer fire department that can effectively fight these types of fires is not enough. Has the municipality ensured that there has been an appropriate professional to assess the risk of fire? Our Fire Chief may be trained to fight the fires that may occur in our community presently, but may not be trained to conduct an actual study of potential risk when a new subdivision is in place. And in terms of the Risk Assessments for Road Safety and Fire Safety, has the Municipality's insurance company seen a copy of this Assessment, if there is one? A rise in the risk of fire and traffic issues results in the rise of insurance premiums for the municipality.

- 4) Impact of Municipal Growth on East Ferris Township Council, Fire Department, and Ontario Provincial Police services (ex: potholes on Centennial and Carrière, among other roads, delay in being filled; taking responsibility for increased road issues as a result of adding 25 more homes; who will be responsible for adding sidewalks/shoulders to accommodate new subdivision?) We continue to be concerned about the Impact of Municipal Growth on the following sectors: East Ferris Township Council (which council admitted last meeting is already small to begin with. This council would need to expand in order to support a developing community), Fire Department (which would also need to expand), and Ontario Provincial Police services (which would also need to expand). There will be more pressure and an increased workload placed on all of these services.
- Example re: Traffic and Road Maintenance – huge hole in road on Carrière Road (which would be over my four-year-old daughter's head if she were to fall in) and another large hole on Centennial Crescent, both which took weeks to be filled. How will the township handle hazardous issues such as road repairs with 25 homes added to the area when it is already difficult to stay on top of the ones that already have to be done?
- 5) Site Plan Controls – How will these be monitored in order to ensure that recommendations are met prior to, during, and post construction phases? Who will be responsible for enforcement should these conditions not be met? (article from 2017 re: increasing enforcement issues) It has been said that the developer and property owners must meet the site plan control created for each lot, but there is no process, system, or regulatory scheme in place to deal with offenders. If someone breaches a by-law in East Ferris, that person must go to Court in North Bay. And there is no prosecutor in North Bay to represent the township. Residents continue to have legitimate concerns about ensuring that the developer and property owners comply with their site plan controls, as well as whether or not consequences will be enforced with non-compliance. It is my understanding that our municipality has only two Site Inspectors and no official who is engaged in proactively ensuring that these recommendations are met.
- 6) Updated petition signed by residents submitted to Erika Loughheed at closing of Council Meeting April 23<sup>rd</sup>.
- 7) Request for Appeal Submission Deadline Clarification in writing from Greg Kirton or Council, as well as details regarding where and how to file (ex: at township with certified cheque/money order).



Appendix 2, East Ferris Response to M. Preston-Coles following May 14, 2019 Council Meeting

**MUNICIPALITÉ · EAST FERRIS · MUNICIPALITY**

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May 17<sup>th</sup>, 2019

Ms. Maggie Preston-Coles



Dear Ms. Preston-Coles:

At the Regular Meeting of Council held on May 14<sup>th</sup>, 2019, after your delegation, Council referred your matter to municipal staff for review and to address your matters of concern as per your letter. I have attached a copy of your letter for reference purposes.

- 1) i) Communications – not being allowed to speak for 5 min at the April 23<sup>rd</sup>, 2019, was a decision that was made at Council level. Did not pertain to staff.
- ii) The 20-day appeal period starts from the date that notice of the decision is given.
- iii) The By-laws that were passed were to implement the Official Plan Amendment and Zoning By-law Amendment. A draft plan of subdivision does not require a by-law to pass it, but a by-law is required later in the process to finalize the plan of subdivision and subdivision agreement.
- iv) We cannot assure you that the current owner or any future owner will not apply for any further *Planning Act* applications. In the overwhelming majority of instances, it is not legal to prevent a property owner from making any application that they wish; they are entitled to have their application reviewed and a decision made by Council. However, when a new application is made the same public process that has occurred for these applications must occur, and the applications must be evaluated against the policies that are in place. Under current standards and in the current configuration, there are no candidate lots in the subdivision proposal that could meet the lot area and lot frontage requirements to be considered for a severance.
- v) The conditions of the draft plan of subdivision were included in the resolution from the Planning Advisory Committee dated March 27<sup>th</sup>, 2019. I have included the conditions below as well. Further, please note that conditions 5 and 8 cover many of the aspects of the development that were talked about at the hearing. A subdivision agreement is a very comprehensive document that can easily be in excess of 50-75 pages that outlines the requirements of all parties involved in a very detailed manner:

**Conditions of draft plan of subdivision:**

- 1) That confirmation is provided that all taxes are paid up to date;
- 2) That this approval expires 3 years from the date of approval shown on the face of the draft plan. If there is an appeal to the Local Planning Appeal Tribunal, the 3-year expiration period does not begin until the date of the order of the Local

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- Planning Appeal Tribunal issued in respect of the appeal or from the date of notice issued by the tribunal.
- 3) This draft approval applies to the plan of subdivision prepared by Miller & Urso Surveying as shown on Appendix 4 of the staff planning report, dated March 27<sup>th</sup>, 2019.
  - 4) That prior to signing the final plan by the municipality, the proposed subdivision conforms to the Zoning By-law or with respect to any zoning conditions or changes related to this application.
  - 5) That the owner agrees in writing, by way of entering into an agreement, to satisfy all requirements, financial and otherwise of the Municipality of East Ferris concerning provision of road, installation of services, drainage, and any other aspect of the development proposal.
  - 6) That such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority.
  - 7) That the owner agrees to convey up to 5% of the land included in the plan or cash-in-lieu to the Municipality for park or other public recreational purposes.
  - 8) That the Subdivision Agreement between the owner and the Municipality be registered by the Municipality against the lands to which it applies once the plan of subdivision has been registered prior to any encumbrances.
  - 9) That before Municipal Council's final approval is given, the Council shall be advised in writing by the Manager of Planning and Economic Development how condition no. 7 has been satisfied.
- 2) In regards to the potential Conflict of Interest, Mr. David King, appointed Integrity Commissioner for the Municipality of East Ferris, upon proper written request from a Member of Council or Local Board or one or more members of the public, will conduct an inquiry and make a determination as to any alleged contravention of the Municipal Code of Conduct or sections of the Municipal Conflict of Interest Act and is to report the details and results of such inquiry to the Municipal Council.
- 3) Risk Assessment for Road Safety (F.O.I.): This part of your letter is requesting various municipal departments to answer. It will be broken down by A) General Administration, B) Public Works and C) Fire Department
- A) General Administration:** Freedom of Information are dealt with by the Administration Department. The Clerk of the Municipality is responsible for the administration of FOI's. As for traffic complaints, collisions and enforcement on Centennial Crescent, this is dealt with by the OPP. At anytime you may file an FOI. Forms can be obtained at the Municipal Office or are available on-line. The cost of filing an FOI is \$5.00. The preparation, timeline and cost associated with an FOI is Legislated through MFIPPA (Municipal Freedom of Information Privacy and Protection Act).



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**B) Public Works:** When requested, a Traffic Impact Study is prepared by qualified professional at the cost of the developer. The study identifies traffic Impacts while providing recommendations which are sufficient for the Municipality.

**C) Fire Department:** The Municipality and Fire Department are regulated by the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 and applicable Ontario Regulations made under the Act.

O. Reg. 213/07: FIRE CODE under [Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4.](#)

O. Reg. 378/18: COMMUNITY RISK ASSESSMENTS under [Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4](#) comes into force July 1, 2019.  
Currently, the department follows the simplified risk assessment guideline outlined by the Ontario Fire Marshal.

Following the Provincial 3 lines of defence; Fire Prevention Education, Enforcement and Suppression, the continuous training of the members, various agreements and by-laws are all factors to assist the Municipality in the protection of its residents.

With the reliance on volunteer firefighters, residents need to ensure compliance with the regulations that are in place to reduce the risk of fires.  
We are always looking for more volunteers to assist and educate.

4) Rural Roads require open ditches and are not constructed with sidewalks.

**Maintenance:** The Municipality follows Provincial Maintenance Standards regarding road maintenance. Residents have the opportunity to call the Municipal Office and submit a service request related to a specific issue.

5) The site plan control agreements are executed by the Manager of Planning and Economic Development and are registered on title for each individual property. A site plan control agreement is required prior to the issuance of a building permit and will implement any restrictions on the lands as required through the subdivision agreement. Restriction and requirements for site plan control will vary from lot to lot and will be reviewed and monitored by Planning and Development Department staff. If someone is found in violation of their site plan control agreement the municipality will

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issue a notice to the person violating the agreement and, if necessary, will take the legal action required to ensure that the agreement is met.

- 6) The updated petition signed by residents that you had submitted to Councillor Loughheed at the closing of the Regular Council Meeting held April 23<sup>rd</sup>, 2019 is now in the possession of the Municipality and has been placed in the Subdivision File.
- 7) As the Director of Planning and Economic Development explained regarding the process of the appeal period at the Meeting of Council, you are on the circulation list and therefore you will be notified of the Notice of Decision by mail and this form will direct how to submit an appeal.

If further information is required, please do not hesitate to contact the municipal office.

Yours truly,

  
Monica L. Hawkins, AMCT  
Clerk