

OFFICE OF THE INTEGRITY COMMISSIONER

Summary of the Complaint:

This report presents my findings in respect of the formal complaint under the Town of The Blue Mountains Code of Conduct (the "Code") in which the conduct of Councillor Rob Sampson ("Respondent 1") and Mayor Alar Soever ("Respondent 2") were alleged to have contravened the Code. Throughout this report, I also refer to Respondent 1, Respondent 2 as the "Respondents". I conducted an initial classification of the Complaint to determine if the matter was on its face, a complaint under the Code.

The Complaint was received on January 20, 2021, under section Part B of the Protocol Policy for Complaints Related to Council Members and Local Boards (the "Complaint Protocol"). This complaint addressed alleged misconduct by two members of council at two meetings: (i) a council meeting and (ii) a board meeting of the Blue Mountains Attainable Housing Corporation ("BMAHC"). The two members of council are appointed to the Board of the BMAHC by virtue of their positions on council. Because the BMAHC has adopted the Town's Code in its entirety, I am the Integrity Commissioner to the Town of the Blue Mountains and to the BMAHC, and the alleged behaviour is similar in nature I have reviewed the alleged misconduct at both meetings and have included some comments on the December 3 allegations in this report.

In particular, the complainant alleges:

Because of the public way my correspondence of November 26, 2020 to the Town of the Blue Mountains Council and Blue Mountains Attainable Housing Corporation (BMAHC) was treated by Mayor Alar Soever and Councillor Rob Sampson at their meetings of November 30, 2020 and December 3, 2020.

As a result, of their actions I have reasonable and probable grounds to believe that they colluded to bully, malign and discredit me, resulting in public shaming and humiliation. Together they have initiated a false narrative and I am their victim.

Alar Soever, mayor of the Town of the Blue Mountains (TBM) and vice-chair of the Blue Mountains Attainable Housing Corporation (BMAHC), and Rob Sampson, TBM councillor and BMAHC chair have contravened section 13 of the Code of Conduct of the Town of The Blue Mountains.

The Complainant sets out several allegations regarding the comments and tone of the Respondents at the November 30th council meeting and December 3rd BMAHC meeting in response to her letter.

In my preliminary review, I determined that there were 2 questions. I conducted an investigation with a view to answering those two key questions:

- i. Did the Respondents collude to bully, malign and discredit the Complainant, resulting in her public shaming and humiliation in contravention of rule 13 of the Code?
- ii. Did the Respondent actions result in initiating a false narrative that the Complainant is a bigot?

Background to the Complaint:

The Complainant wrote a letter to the Town of the Blue Mountains Council which was added as an addition to the November 30, 2020 Council Agenda, as Item E.9. The correspondence did not specifically refer to either of the two items on the November 30th Council Meeting Agenda that referenced the Blue Mountains Attainable Housing Corporation ("BMAHC"). However, because there were items on the November 30, 2020 Agenda referring to the BMAHC, the Town Clerk added the correspondence as an addition to the Agenda. The items referring to the BMAHC on the Agenda were:

- E.4 Correspondence from [a Town resident];
- BMAHC Board Report dated October 1, 2020 as attached to the Committee of the Whole Report at Agenda item C.1.1.

The Complainant requested that the correspondence be included on the November 30th Council Agenda and also on the next BMAHC's Agenda. The Complainant was advised by the Town Clerk that the correspondence would be added on to the November 30, 2020 Council Agenda, and that Executive Assistant to the Committees of Council would include the correspondence on the next BMAHC Agenda.

The Complainant's correspondence was submitted to the December 3, 2020 BMAHC Board. I have been advised that it is regular practice for the Board to comment on any correspondence received and on the Agenda. The regular practice of the BMAHC Board is to have the Assistant show the correspondence on the screen and the Chair will summarize the correspondence and ask the Board for comment. The decision was moved and seconded by other Board members that the Chair or Vice Chair respond to the Complainant's correspondence.

Relevant Section of the Code:

Section 13 of the Code sets out the rule that:

13 Discrimination and Harassment

Members have a duty to treat members of the public and one another with respect and without abuse, bullying or intimidation.

All persons shall be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment. Members are not to engage in any course of conduct or make comments that would constitute workplace harassment.

Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the Ontario Human Rights Code.

Members are responsible for communications that may constitute harassment, whether in person, in writing, by public comment and on-line, including via social media.

Respondent 1 reply to the Complaint:

Respondent 1 stated that with respect to the Complainant's letter and his comments at the November 2020 Council meeting, he:

attempted to factually respond to her comments and where possible speak to incorrect assumptions or conclusions that he believed the Complainant had made. It is critical in our small community to publicly correct and stop the spread of misinformation, especially where that misinformation can negatively impact such an important project as the Gateway project.

[...] my comments at the Board meeting were simply paraphrasing the actual statements of the Complainant in her letter of November 26, 2020. I am aware that the Complainant is a regular contributor to a citizen-based Facebook page, as well as the BMAHC Facebook page, and that is quite likely the reference I was trying to make. It could also be that I was referring to the email exchange(s) that the Complainant has had with the Executive Director of BMAHC regarding the Gateway project.

[...]

The term "hand-up" is typically used to refer to individuals who are generally in need of social assistance. It was then my conclusion that the Complainant was seeing the prospective residents of the Gateway Project as those needing a "hand up" and therefore in that group of citizens needing social assistance. This is of course not the market that BMAHC is looking to serve, as this group of unfortunate individuals is generally provided for by County delivered services. [...] I had no intention of being disrespectful. I was trying to paraphrase the contents of the Complainant's letter for the Board. My written reply was also respectful and factual.

In the December 2020 written response to the Complainant, the Respondent 1 stated that:

While some in the community believe otherwise, this Council believes that it is critical that all individuals have the opportunity to live in the community where they work.

[...]

Regarding your concern that the proposed location at the old Foodland site is not appropriate for attainable housing due to its proximity to the Thornbury wastewater treatment plant, I do note that there are many in the community....who disagree. Many community residents use the public pathways in the area for their recreational use, and for bird watching, and many who live on Arthur Street East appear to find the location quite pleasing and suitable for them.

The December letter goes on to state that the County:

“has just initiated an exciting public transportation project that will provide public transportation services right to the door to the proposed Gateway site connecting that site with an Owen Sound to Collingwood transportation link”.

You have assumed that the residents of the proposed gateway site will not have cars. That is not likely the case, as we are looking to service an income range that is more than likely to have their own vehicle for use as needed.

Respondent 2 reply to the Complaint:

I do not dispute [the Complainant's] claim that I spoke to advise the committee that I believed that her purpose in writing the letter was to not have the people that would reside in the Gateway Project live here. While I do not spend time “trolling” her on social media, I, as Mayor, make a point of being aware of what gets posted on social media. In fact, the Forum Facebook site, on which [the Complainant] is a regular contributor was a spinout of the Citizen's Forum group I founded, and which was, until recently, a forum for informed debate on municipal matters. I had formed my opinion from her postings and the commentary from others advising me of her postings.

[...]

When [the Complainant] submitted correspondence to Council citing technical grounds for rejecting the Gateway site [p]eople should debate with honesty and integrity and not hide behind false flags.

I did not call [the Complainant] a bigot or suggest she was prejudiced, she introduced these words in her complaint. I merely pointed out the different emphasis between her social media posts and her letter. The posts speak for themselves.

At some point, community Facebook posts stated” :

“...exactly .. . I liken it to Ontario Housing ... we know how that goes.”

“This is absolutely true, and it may help the job market become more accessible to those who need it. However, that being said, people should have the choice to live near where they work and not have to sacrifice large hunks of their day, just to travel to work so they can pay for rent and groceries. I realize this is reality in other areas, but we have a chance to be different. Attainable housing for this area is still imperative.”

Consideration of informally resolving the Complaint:

After receiving the Complaint and conducting a preliminary review to determine if the matter was with respect to a Code infraction, I gave notice of receipt of the Complaint to the Respondents.

In exercise of my discretion as Integrity Commissioner for the Town of The Blue Mountains and acting on my belief that the complaint before me was a candidate for an attempt for informal resolution, I advised the parties that an informal resolution could be pursued. The parties agreed to pursue the complaint through an informal process. I completed my preliminary findings on the matter and forwarded the same to the parties advising that I had received and reviewed sufficient information to make a determination on the allegations of the Complaint. Upon receipt of the preliminary findings, I spoke with the Complainant and received additional information for which I requested clarification.

After speaking with the Complainant, they advised that “ I do not know [the Respondents] and they do not know me. I do not know their personal opinions on any level, nor do they know mine”. The Complainant then went on to say:

I [have never] been opposed, publicly or privately to 'attainable', 'affordable' or 'social' housing within any community or in one in which I live. I am not now, nor have I ever been opposed to helping people in need. In fact, I wholeheartedly support those in need and any government or public programs that are willing to do the same. I believe that those in need deserve the same treatment, expectations and dignity that any of us expect or demand for ourselves.

The social media post that you have included with your questions, I cannot find. Some of the posts are familiar while others are not...

[The Respondents] appear to have chosen to 'fact find' on the nature of my character and my personal thoughts and opinions through social media. Given that I cannot find these posts even while searching through archived messages it appears that they have been trashed. This leads one to believe that [the Respondents] have been [...] recording information or that they must have engaged in a forensic audit.

Is it reasonable for anyone to attack someone's character based on a handful of posts, pulled out of context from social media? Is it reasonable for anyone to attack one's character without knowing them at all? Is it reasonable for a citizen to be attacked [...] by elected officials for merely asking questions?

Based on a further conversation with the Complainant, it became clear that this matter would not be resolved informally. I continued the investigation of the complaint through the formal investigation process. Pursuant to section 8 of the Code Complaint Protocol, I provided the Complainant with a copy of the Respondents' replies to the complaint.

Complainant's Supplementary Submissions:

In response to the Respondents' reply that both the Board of BMAHC and Council directed the Respondents to respond to the Complainant's letter of November 26, 2020, the Complainant stated:

Neither respondent was directed by anyone during the BMAHC meeting. The only conversation was between the two respondents and ended with [Respondent 2] saying, "I'd be happy to do so and get myself in more trouble when I do but I'm happy to do so." The Mayor did not respond.

After I reviewed the minutes of the November 30, 2020 Council Meeting, I noted on page 17, Agenda item E.9, that Council received the Complainant's correspondence for information and referred the correspondence to the BMAHC for information and reply.

In response to the Respondents' Reply that [Respondent 2] was aware of and commented on the letter as directed by the Board and Council, the Complainant stated:

The comments did not speak to the matter, that being the letter and its contents. The only comments made were assumptive.

In response to the reply of Respondent 1 that it is critical in our small community to publicly correct and stop the spread of misinformation, especially where that misinformation can negatively impact such an important project as the Gateway project, the Complainant stated:

As I recall, and subject to a full review of the video of that meeting, my comments at the Board meeting were simply paraphrasing the actual statements of the Complainant in her letter of November 26, 2020. The Complainant stated that this was irrelevant and:

I cannot control the negative impact the lack of viable transportation has on “our small community”- he did not paraphrase “the actual statements”.... The community is well aware of the lack of public transportation.

In response to the reply of Respondent 2 that “I believed that the purpose in writing the letter was not to have the people that would reside in the Gateway Project live here” going on to say, “I have formed my opinion from her postings and the commentary from others advising me of her postings”, the Complainant stated:

Innuendo. Hearsay. The question is why? In this case it would be reasonable to assume he has done so in order to discredit, intimidate and humiliate during a public meeting on Nov.26/20. He was prepared with his insults backed by his beliefs and assumptions gathered by his advisors. He had no intention of addressing the matter, that being my letter, other than using it to grandstand and slander me.

In response to the reply of Respondent 2 that “[a]ttainable housing for this area is still imperative.” and, August 6th, 2020: “[the Complainant] the servants need not live here, ship them in to work, they don't deserve to live where they work.” and, more recently on December 29, 2020 “[the Complainant] [i]t is not rent subsidized, it is rent controlled, the Complainant stated:

Innuendo, Inflammatory. I have no idea who is talking within these quotes, however the BMAHC hired Strategy Corp to write its Business Model, which uses the term ‘subsidized rent’ when describing how rent will be handled. See [page 16 of the Report]

In response to the reply of Respondent 2 in which he sets out the results of a Citizen’s survey conducted in 2018, the Complainant stated:

What has any of this got to do with my letter [...] We have had a home in Grey County for 22 years. Both of the respondent’s statements are based entirely on assumptions, innuendo...

And lastly, the Complainant stated:

As I have stated previously, we have no history, context or knowledge of each other’s personal views. They do not know me. If my ‘Formal Complaint’ against [the Respondents] does not rise to the level of a violation of the Code, and ‘trigger’ a contravention, given the respondents’ aggressive nature with its clear intent, evidenced in this and all other correspondence to date, I shudder to think what does.

Analysis:

On a review of the Complaint before me, I find that firstly, since it was the Complainant's first time officially writing to the Committee/Council, the review of her communication should have been limited only to her communication. It was not necessary or appropriate to comment on postings on social media which were not before the Committee, when considering the Complainant's letter. Councillors should be very careful not to mischaracterize the language used by individual's submitting a letter to Council/Committee.

To be clear, the Code rules are not intended to prevent Members of Council from legitimately responding to criticism from the public. It is valid for Council members, in particular the head of Council and Council appointed heads of Committees, to ensure that information disseminated publicly about the activities and proposed initiatives of Committee and Council, is correct. It is also valid and permitted for the public to question whether the benefits of initiatives put forward by Committee outweigh other criteria relevant to the public. Sometimes the public misunderstands the Committee's objectives or there is just disagreement between parties. What is required of Members of Council, is to ensure they comport themselves in accordance with approved ethical standards. Responding in kind may be the most obvious response to vague and ambiguous public criticism, however, the response most aligned with the ethical guidelines of the Code is the one that focuses on the question asked in the official correspondence. During the general discussion on the agenda item or matter before council, a Member of Council may take into consideration other public commentary not contained in the communication before Members of Council; however the social media comments should not be attributed to specific individuals. Nothing in this report is intended to suggest that a Member of Council cannot raise an issue that has been subject of social media discussion as a general comment during a Council discussion. Similarly, a Member of Council may note that the subject matter in the resident's correspondence has been the subject of much debate on social media – but no reference to specific social media comments should be made or attributed to any individual, including the individual who submitted the correspondence.

Generally, if a member of the public submits untrue allegations against initiatives of Committee or Council, made without relying on the facts, a Member of Council may legitimately correct the inaccuracy. If a Member of Council feels that a public comment has misrepresented their comments or unfairly suggested that they have contravened the Code, the Member should seek advice from the Integrity Commissioner on their Code obligations rather than commence a public discussion in response to public allegations of their Code compliance. If a resident has posted comments on social media as a private citizen, a Member of Council may generally refer to "public comments" in their discussions at Council, but may not consider the official correspondence of an identifiable individual with general comments made on social media.

Respondent 1 did raise the points that the Complainant's comments were part of an ongoing theme and this suggests that similar comments had been raised previously by the Complainant. These statements by Respondent 1 were made unequivocally and without providing any evidence of previous communications to the Council, of which in this case, there were none. If a Councillor is going to refer to social media postings of individuals to which he believes the Complainant referred in her letter to Council, it would be best to have the original comment (or those the Member believes should be ascribed to the Complainant) put before Council for clarification. This will ensure that the comments in the letter are not misconstrued. On its face, the comments made by the Respondent about the resident's letter, were not accurate, insofar as they implied a position that was made by a third party through social media posts **or** on comments that the Complainant was alleged to have made separate and apart from the letter that was before Council.

That being said, I have found that Respondent 1's comments **did not** rise to the level of conduct which was abusive, humiliating, or bullying for the purposes of the Code, though they did attribute context to the Complainant's correspondence that was part of social media conversations made by others in the community. The Complainant states of the Respondent 1 that "[w]hile introducing my letter at the December 3, 2020 BMAHC Board Meeting [he] sarcastically attributed to me the notion that "apparently there is no transportation in the Thornbury area". The Complainant continued and said, "[h]e went on to say that 'she is worried that most of the residents will be without a car... And that there are no jobs in Thornbury' ". The Complainant alleges that these statements were "insulting, derisive and malicious". After reviewing the Complainant's letter, I note that the Complainant stated that "[s]imply put, there is no public transportation of any consequence serving Thornbury now or in the foreseeable future. Any resident of the proposed Gateway site without a car would be limited to working and shopping in Thornbury. Access to public transportation is vital." In my view, the Respondent's interpretation of the Complainant's position stated in the letter is inaccurate, if taken solely on the basis of the Complainant's one letter to the Committee. However, I have not found that his conduct amounted to abuse, bullying, or intimidation.

The Complainant's letter states that "[j]obs are limited in Thornbury, with many being seasonal and paying minimum wage. The proposed site would pigeonhole those without cars to job prospects within walking distance of the Gateway site." On its face, this seems to suggest that the Complainant had concerns that without transportation residents of the Gateway site who did not have cars, would be limited to working where they live. It seems that the Complainant, in her letter, was supporting a position that was not denigrating those who may work at the Gateway site. Rather it seems that based solely on the content of the letter, the Complainant put forward a position that the decision to develop attainable housing in the Gateway location, is so that individuals who work in the Town of The Blue Mountains would have access to affordable housing near to their workplace. This interpretation of the Complainant's position may not align with comments on social media, however this is the only way the comments can be taken based only the content of the letter. That being said, I have found that

Respondent 2's comments **did not** rise to the level of conduct which was abusive, humiliating, or bullying for the purposes of the Code.

1. Did the Respondents' comments contravene Rule 13 of the Code?

The Respondents reject the allegations of the Complaint that they colluded to bully, malign and discredit the Complainant resulting in her public shaming. Despite the fact that the Complainant uses the term "collude" in the Complaint, it seems that the Complainant really was focused on each of the Respondents' conduct separately (and then the combined effect). There is no real evidence of "collusion" in the ordinary sense. I find that based only on the words used by the Complainant in her letter, the position was unclear and that the Respondents employed their knowledge of social media commentary, some of which was attributed to the Complainant, to establish their understanding of the content of the Complainant's correspondence and to attribute motives for which they believed the Complainant wrote the letter. It is my position that it would have been of utility for the Respondents to have sought clarification on some of the statements in the Complainant's letter and not to conclude that the letter meant what was said in social media dialogue.

I confirm that this Complaint is not about the Complainant's actions or social media posts. However, one post that was provided in the Respondents' reply to the Complaint appears to support the Complainant's position that individuals should have the choice to live near to where they work and not that the Complainant has taken a position that certain individuals or "those people" should not be given access to attainable housing in the Town.

I am aware that many members of the Town's community are active participants in various social media forums. Participating and commenting on social media is the right of individual members of the public. I have not reviewed commentary on social media nor have I made a determination on the truthfulness of comments on social media about the Gateway project as part of this Complaint review. However, it is not unreasonable for Members of Council to be concerned that some social media dialogue may come with improper motivations, be contrary to the best interests of the Town and in some instances, be malicious, divisive and factually incorrect. Members of Council have the difficult task of disentangling what is "out there" with what comes properly before Committee or Council as a communication or a deputation. A communication cannot be received as if it is tantamount to all comments that an individual may have made in the public sphere. I have conducted investigations in the past where I have relied on social media conversations to substantiate a position of one of the parties, in addition to supporting the credibility of the complainant or respondent. It is not unusual or unreasonable for comments made on a prior date by a party to a Code complaint to be relevant to the Integrity Commissioner in her weighing of the evidence and arriving at a determination on a balance of probabilities. However, for the purposes of this current Complaint, I have only considered the Complainant's letter to Committee and not any other comments that the Complainant or others may have made on social media.

The Complaint alleges disrespectful tone, sarcasm, and that the Respondents' comments colluded to bully, malign and discredit the Complainant, in addition to creating a false narrative that the Complainant is a bigot. However, as was evident following my review, the written and oral statements by the Respondents were not examples of bullying, maligning or discrediting the Complainant. Rather, the Complainant's letter seemed to hit a sensitive note for the Respondents who have read several incorrect statements on social media about the Gateway project, and they took the Complainant's comments in the context of the ongoing social media discourse. The Respondents erroneously believed the comments contained in the Complainant's letter were unwarranted, incorrect and a furtherance of previous comments made in opposition to the development of the Gateway project. Notwithstanding the Respondents' having incorrectly made assumptions about the meaning of the statements in the Complainant's letter, their tone and comments did not rise to the level of violating the Code.

2. Did the Respondent actions result in initiating a false narrative that the Complainant is a bigot?

In the Complaint, the Complainant goes on say that the words of Respondent 2 "were malicious, insulting, offensive and abusive". In particular, the Complainant alleges that by using the words "those people" in referring to the individuals for whom the housing would service, the Respondent 2 "is implying [she is] a bigot". The Complainant suggests that Respondent 2 has been "trolling" her on social media because he states "so clearly the purpose is not to have people that work [in the Town of The Blue Mountains], live here". In reviewing the recording of the meeting, Respondent 2 states "some of her other writings on social media indicate that it's more about not wanting those people". On the recording, he goes on to say:

"because *on social media*, it says about the bus service she posts and she says 'this should help with getting many unemployed persons from Owen Sound into Thornbury', etc. From what I understand businesses have a hard time finding staff easily providing a long-term solution with the attainable housing Gateway site far from settled the need for such may be negated.' So clearly the purpose is not to have people that work here live here and, you know, I just find that a little offensive".

The Respondents' comments at the December BMAHC meeting appear to be in response not so much to the November correspondence of the Complainant but rather in response to a series of broad criticisms of comments made by the public attributed to the Complainant. The Respondents appear to view the Complainant's comments as the Complainant ascribing to a position held by a group of members of the public who disagree with Council and the BMAHC decision regarding the Gateway proposal and the introduction of attainable housing in the community. It seems that all of the comments made by the Complainant in the letter were viewed by the Respondents through the lens of a continued narrative of public attacks and criticism rather than a letter of legitimate commentary and a question from the public. In other words, the

Respondents viewed the Complainant's letters as one part of a continued pattern of vexatious conduct based on public discussions including those on social media made by third parties.

To be clear, it is within the mandate of the Mayor and the Chair of the BMAHC and not a breach of the Code, to respond to specific information disseminated about Town and Council deliberations on issues, in particular in respect of the Gateway project insofar as both are council appointed directors on the BMAHC Board. If the Respondents receive public comment or information that they believe to be incorrect, it is reasonable and appropriate for them to provide clarification either individually as head of Council and appointed members of the BMAHC or through corporate communications.

However, it is unreasonable to measure the merits of a resident's letter on general criticisms and informal social media conversations linked to separate and distinct public comment made at a different time. The Complainant or any member of the public that writes to Committee or Council should have their comments received and responded to on the face of the correspondence and where there is a lack of clarity, the resident should be provided with the opportunity to clarify their position. If there are questions posed in a letter to Council, I have been advised that generally, if Council wishes to receive more information or clarity in response to a correspondence, Council will refer the correspondence to staff for a report back to Council to a future Council meeting. If there is a question that staff can answer easily at the meeting, staff will respond to the question, if asked by Council. If Council is able to respond to a question in the correspondence, they may provide the answer verbally at the meeting. With reference to questions in a letter received by the BMAHC, I am advised that typically the Board Chair or Vice Chair (the Respondents) respond. I have found that Respondent 2's comments at the BMAHC meeting or in response to the Complainant's letter did not rise to the level of conduct, which was abusive, humiliating, or bullying for the purposes of the Code

Upon review, I find that the Respondents 'use of the words "those people", combined with an emphasis in tone, was not an appropriate response to the Complainant's letter. In comments to me, the Complainant states that their position is that the lack of public transportation "would pigeonhole those without cars to job prospects within walking distance of the Gateway site". The false narrative which the Complainant suggests the Respondents' have created, insinuating an objection to a category of the public having access to housing in the Town, is in my view, incorrect if based solely on the Complainant's letter. I do not find that this was the Complainant's position as set out in the November correspondence. However, I also do not find that the Respondents' statements or tone at the Council subject of this Complaint, amounted to "abuse, bullying, and intimidation" nor was the use of "those people" tantamount to suggesting the Complainant is a bigot. Certainly it is clear that the inflection of tone used can give the impression that the Member of Council who is speaking is being sarcastic or ascribing a pejorative value to the content of a letter. The Respondents could have sought clarification on the content and meaning of the statement in the Complainant's letter. I find that without having sought clarification from the Complainant, the Respondents appeared to make broad stroke assumptions on the Complainant's meaning and motivation of statements in the letter. Though assumptions were made by

the Respondents, neither their actions nor their statements were contrary to the Code rules.

Conclusion:

What has been made clear throughout my review of this Complaint is that both the Respondents and the Complainant made assumptions about the other's statements. It is the responsibility of Members of Council and Local Boards to be held to a high ethical standard, and they should seek clarification from the members of the public who participate in the democratic process, rather than make assumptions about their intent or meaning. If after obtaining clarification, it would be reasonable to believe that a member of the public has made statements and taken a particular position that inaccurately sets out a position of the Town, it is then appropriate and in compliance with the Code for a Member of Council or senior Town official, during the Committee or Council debate, to make statements to ensure that the position of the Town is clearly set out and to point out the inaccuracies of the resident's comment focusing on the issue and not the individual.

Further, the Complainant was not advised that they could attend the Council meeting to clarify their statements contained in the letter and if I am wrong, it is a fact that the Complainant did not submit a deputation request. Under the current rules of the procedural bylaw of the Town, if a member of the public wishes to speak to a matter, they are required to submit a deputation request. In the matter subject of this complaint, the Complainant did not submit a deputation request and only requested that the correspondence be added on the Agenda.

Generally speaking, the public are able to voice their concerns, perspectives, ideas and disagreement about Town initiatives and decisions, respectfully and without the use of derogatory or inflammatory language, through the appropriate processes set out in the procedural bylaw. Inaccurate statements about staff, individual Members of Council or decisions of the Town, may be addressed through corrections as appropriate focusing on the issues and not individuals. The appropriate means through which public comments can be received is set out in the procedural bylaw and clarification of what process should be followed can be obtained from the Town Clerk.

It is my understanding that the Town of The Blue Mountains Council is committed to overseeing the provision of responsive and accessible services including dealing with reasonable inquiries and requests for information in a timely manner. On occasion, an individual resident may not be accepting of the response and may restate the inquiry in various ways, or may themselves be disrespectful in their delivery of the inquiry. There is a need to balance providing timely responses to the public against the need to respect approved policies and procedures of the Town within civil and respectful discourse; and the need to respect the role of Members of Council, officers and employees of the municipality. The democratic process of government in place at the municipal level in Ontario permits free and frank discourse between the electorate and their representatives. Members of Council are required under the Code to be respectful in their interaction with the public and staff and avoid conduct that amounts to abuse, bullying, or

intimidation. While the Code does not apply to the behaviour of the public, the Code does not create an obligation for Members of Council to respond to an inquiry that is articulated in such a way that it can be considered harassing or abusive or an inquiry that has been made more than once and is being used for the purpose of revising an issue that has been previously addressed. On occasion, an individual may not be accepting of the Town's response to a question posed by a member of the public and the question may be restated in various ways, with a view to providing clarification to the Town. However, questions from the public should be made through approved policies and procedures of the Town and made within civil and respectful discourse. Participating in a Council or Committee debate through email or other correspondence is not an effective way to conduct Town business. Back and forth comments through correspondence in respect of what was said at previous meetings or at another point in time poses the risk of seriously interfering with the operations of the Town. This is a policy matter that I believe is part of an ongoing discussion around communications at the Town and I strongly urge Council to ensure that clear guidelines are set out with respect to responding to communications from the public and providing the public with responses in a timely fashion without interfering with the operations of the Town through the use of resources that are already stretched thin.

I find no support for the allegation that the comments of the Respondents were made to to bully, malign or disrespect the Complainant and as such the comments made do not amount to a contravention section 13 of the Code. The Respondent through meetings of Council and Committees have received statements from the public that inaccurately set out the position of the Town on the Gateway proposal. The Respondents also occupy the role of Council appointed directors of the BMAHC. In this role, they have received some inaccurate and disparaging information about the project proposal, and it appears that some of their comments subject of this complaint attributed some of the inaccuracies to the Complainant's letter. This type of circumstance is contemplated by the Code, in which the Integrity Commissioner finds that the conduct of the Respondents amounted to a misunderstanding of the Complainant's comments, in this case in the letter, but did not reach the level of a Code breach. The Respondents' took issue with the comments in the Complainant's correspondence because they erroneously saw the comments as misinterpreting and misstating the Respondents' and Council's position about the Gateway proposal.

I have listened to the parties, spoken with them, reviewed correspondence and meeting minutes. Going forward, with the release of this decision, the Respondents are urged to seek advice from the Integrity Commissioner on ethical obligations and Town staff on procedural rules and communications procedures. The Respondents will not be able to rely upon a lack of understanding of what constitutes appropriate actions and the use of appropriate tone when speaking at Council.

While often faced with challenging situations, section 1 of the Code, the Statement of Principles, is an imperative for elected Council members and appointed Local Board and Committee Members. As Members of Council (and Members of Local Boards and Committees) they are held to higher standards in order to enhance public confidence that the Town of Blue Mountain's elected and appointed representatives will and do serve the

public with integrity, justice and courtesy. While I find that greater care when ascribing a position to individuals communicating with the Town Council is recommended, upon review of all the facts before me during this investigation, I find that the comments and conduct of the Respondents did not reach a level of abusive, bullying or intimidating conduct in contravention of Rule 13 and the Respondents' comments **were not** in breach of their ethical Code obligations.

Sincerely,

Suzanne Craig
Integrity Commissioner

Submitted on April 14, 2021