

CITY OF VAUGHAN

**EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 23, 2017**

Item 1, Report No. 20, of the Special Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on May 23, 2017.

**1 INTEGRITY COMMISSIONER CODE OF CONDUCT COMPLAINT INVESTIGATION REPORT  
#011717(F) IN RESPECT OF DEPUTY MAYOR MICHAEL DI BIASE**

The Special Committee of the Whole recommends:

- 1) That the following be approved:
  1. That the Final Investigation Report of the Integrity Commissioner in respect of the Code of Conduct Complaint #011717(f) in respect of former Regional Councillor and Deputy Mayor Michael Di Biase, be received;
  2. That while the resignation of the former Regional Councillor and Deputy Mayor Michael Di Biase, effective May 19, 2017, has precluded the imposition of the recommended penalties under section 223.4(5) of the Municipal Act, Vaughan Council fully supports the Report of the Integrity Commissioner and finds that former Regional Councillor and Deputy Mayor Michael Di Biase contravened Rule 14 of the Council Code of Conduct and the City's Respectful Workplace Policy; and
  3. That Vaughan Council condemns/denounces any and all actions or behaviours that constitute sexual harassment and is committed to its continued support of the City's Respectful Workplace Policy;
- 2) That the confidential recommendation of the Special Committee of the Whole (Closed Session) meeting of May 23, 2017, be approved; and
- 3) That the following Communications be received:
  - C1 Mr. Richard Lorello, dated May 19, 2017; and
  - C2 Mr. Furio Liberatore, dated May 23, 2017.

**Recommendation**

The Integrity Commissioner recommends that:

1. The Code of Conduct Complaint #011717(f) Final Investigation Report in Respect of Regional Councillor / Deputy Mayor Michael Di Biase, be received and;
2. That the recommendations set out by the Integrity Commissioner be adopted by Council.

**Contribution to Sustainability**

Not applicable.

**Economic Impact**

Not applicable.

**Communications Plan**

This report has been placed on the public agenda of the Committee of the Whole meeting scheduled for May 23, 2017 and this report has been posted on the City of Vaughan's public website.

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#### **Purpose**

Section 12 of the Code Protocol explains that where the complaint is sustained, the Integrity Commissioner is required to “outline the findings, the terms of any settlement, or recommended corrective action”:

Recommendation Report:

12. (1) The Integrity Commissioner shall report to the complainant and the member generally no later than 90 days after the receipt of the Complaint Form/Affidavit of the complaint.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement, or recommended corrective action. Where the complaint is not sustained, the Integrity Commissioner shall report to Council the result of the investigation.

#### **Background - Analysis and Options**

This report presents the findings of my investigation under the City of Vaughan Code of Ethical Conduct (the “Code”) relating to the conduct of Regional Councillor and Deputy Mayor Michael Di Biase (the “Respondent”) in connection with a complaint raising three issues:

1. the allegation of sexual assault of an employee of the City of Vaughan (the “Complainant”) by the Respondent;
2. the allegation that the Respondent sexually harassed the Complainant; and
3. the allegation that the Respondent undertook an act of reprisal against the Complainant after the Complainant initiated a Code complaint against him. The reprisal was alleged to be the engagement of an individual to conduct surveillance on the Complainant.

I find that Issue #1 involves allegations which on their face are of a criminal nature under the *Criminal Code*. Section 6(3)(a) of the Complaint Protocol for Council Code of Conduct (the “Code Protocol”) provides that where an allegation of criminal conduct is made, I must advise the complainant to pursue the allegations with the Police Service. As a result, I did not investigate the issue and make no findings in that regard.

On Issue #2, I find that the actions of the Respondent constitute sexual harassment and a breach of Rule 14 of the Code, which prohibits such harassment. The Respondent’s conduct created and contributed to an intimidating and offensive work environment for the Complainant, contrary to his obligations under the Code and under the City’s Respectful Workplace Policy, Policy No.05.5.23 (the “Respectful Workplace Policy”). Such actions seriously undermine the trust placed in elected officials and the principles underlying their Oath of Office.

On Issue #3, I note that the Respondent has previously undertaken acts of reprisals against employees of the City of Vaughan who had initiated or participated in complaints under the Code. In this case, however, I did not receive conclusive evidence linking the individual who conducted surveillance on the Complainant to the Respondent. I therefore find that there is insufficient evidence to determine that the Respondent has breached Rule 19(1) and (2) with regard to reprisals and obstruction.

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**Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

This report supports the following priority set forth in the Term of Council Service Excellence Strategy Map (2014-2018)

Continue to advance a culture of excellence in governance

**Regional Implications**

Not applicable.

**Conclusion**

In this report, I discuss my investigative process, my decisions on jurisdiction, my findings on the allegations in the complaint, my reasons for those findings, and my recommendations with respect to the appropriate sanction.

**Attachments**

1. City of Vaughan Complaint Investigation Report #011717(f)
2. Statement of the Complainant, dated May 16, 2017

**Report prepared by:**

Suzanne Craig  
Integrity Commissioner

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)