



**Municipality of Port Hope**

56 Queen Street  
Port Hope, ON  
L1A 3Z9

**REPORT TO:** COUNCIL

**FROM:** Robert J. Swayze, Integrity Commissioner

**SUBJECT:** Code of Conduct Complaint – Sexual Harassment

**DATE:** January 26, 2018

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**RECOMMENDATION:**

**That** Council receive the report of the Integrity Commissioner dated January 26, 2018; and,

**That** Council direct the Treasurer to suspend the compensation paid to Councillor Polutnik as a member of Council for 30 days commencing on the pay period next following the date of passing this motion by Council; and

**That** the Clerk be directed, on the expiry of such 30 day period, to determine if the said Councillor has completed the 4 mandatory courses referred to in the report of the Integrity Commissioner dated January 26, 2018 and if not, to notify the Treasurer that a further 30 days compensation be suspended; and

**That** the Clerk be further directed to determine if the said Councillor has still not completed the said 4 courses before the 60<sup>th</sup> day of suspension has expired, that a further 30 days be suspended, provided that the total suspension of salary shall not exceed 90 days.

**BACKGROUND:**

I received a formal complaint in the form of a sworn affidavit on December 15, 2017 from a resident of Port Hope who has requested anonymity. (the "Complainant") The complaint arises from the Complainant's employment by Councillor Polutnik in his art gallery from September, 2017 until her resignation in November 2017. She alleges in her affidavit that Councillor Polutnik "sexually harassed her multiple times" during this period which included "demeaning

sexual remarks and inappropriate touching". He referred to "how pretty" she was, that she had a "nice body" and he would "like to see her naked." She advised me that the touching by the Councillor was regularly on her shoulder and that he brushed by her buttocks on at least one occasion. After her resignation, she retained a lawyer and complained to the police. She was advised by her lawyer that she should not pursue the police complaint and signed a release for the police.

The Complainant also alleged that "several other women in Port Hope have been victimized" by the respondent. She has not been able to identify any of these women for me and I have not considered this allegation in any conclusions reached in this report.

### Sexual Harassment Complaint in 2015

My investigation has uncovered another complaint of sexual harassment against Councillor Polutnik in the Port Hope workplace, made in 2015 by an assistant in the Finance Department, Ms. Devanne Kripp. I have spoken with Ms. Kripp and she has consented to my using her name and is now employed in another municipality. In the spring of 2015, she complained that Councillor Polutnik said that she should attend an open house event because, as an attractive women, she will engage attendees at the event. On another occasion he complained about her making too many appointments for him and called her "a letter writing girl". Once, when she was not able to readily produce information on an assessment for him, he stated that she was "only here because she was pretty".

She complained to her supervisor and several meetings were held with her supervisor and a Human Resources representative but the only meeting including Councillor Polutnik, excluded her and included the Executive Director and the Mayor. At that meeting, Councillor Polutnik promised to demonstrate appropriate and respectful behaviour in the workplace in accordance with the Code of Conduct and the Workplace Violence, Harassment and Discrimination Policy. No apology was given to Ms. Kripp by the Councillor.

### Mandatory Sexual Harassment Training for Councillors

In 2015 after the inaugural meeting of the new Port Hope Council, all members were advised that four mandatory online training sessions had to be completed including Workplace Harassment, as required by the *Accessibility for Ontarians with Disabilities Act* and the *Occupational Health and Safety Act*. The Human Resources Department followed up in October, 2015 with each Councillor who had not completed the courses which included Councillor Polutnik. On January 4, 2018, I requested the Clerk to determine whether, at that date, Councillor Polutnik had completed the courses and he has since advised me that they were all still uncompleted by him.

## **REPORT:**

For the purpose of this investigation, I met with the Clerk and Deputy Clerk and personally interviewed the complainant. I also spoke on the telephone on several occasions with the Clerk, with the Manager of Human Resources and with Ms. Devanne Kripp. On December 19, 2017, I served the complaint on the Respondent and received a short E-mail from him on December 31, 2017 denying all of the allegations made by the Complainant. He then requested a telephone conversation with me which occurred on January 9, 2018 and lasted for 40 minutes. I then received an E-mail from him stating: "I have been advised not to imply to you any action such as an apology at this time. I am to wait to hear your findings."

On my telephone conversation with Councillor Polutnik, he admitted some of the statements attributed to him, both in the complaint and by Ms. Kripp but said that he did not intend them disrespectfully but rather only as "teasing". He then sent to me some 22 pages of blogs written by the Complainant, which admits her bipolar condition and describes, very articulately, how she deals with depression and other impacts of the disorder.

## **FINDINGS:**

The Council Code of Conduct (the "Code") on Page 9, contains the following:

- "Council members must be courteous and demonstrate sensitive behavior that does not discriminate against people."
- Council will:
  3. Conduct themselves in a manner that will not reflect unfavorably on the Council.
  4. maintain mature and constructive working relationships based on mutual trust and respect.
  5. conduct the relationship with courtesy and respect."

With respect to the complaint from Ms. Kripp regarding the Port Hope workplace, there is no reference in the Code to Workplace Harassment policies but, also on page 9, it provides:

- "Council will:
  1. Demonstrate respect for employees' professional role, responsibilities, opinions and expertise."

Relying on the above provisions in the Code, I find that I have jurisdiction to rule on the Councillor's behaviour towards the complainant and I am entitled to take into account his interaction with Ms. Kripp in 2015.

Society's attitude towards sexual harassment by persons in authority has evolved over the years, notably in the entertainment industry, to the point now where zero tolerance is expected. I have concluded that the evidence of "inappropriate touching" is inconclusive for a finding of sexual assault. However, on a balance of probabilities, I find that the comments made to both the complainant and Ms. Kripp made them feel belittled, devalued and disrespected. They constitute sexual harassment and are contrary to the sections of the Code quoted in this report.

**CONCLUSION:**

It is recommended that Council suspend the Council salary paid to Councillor Polutnik for 30 days, after which if he has not taken the four mandatory courses under the two Acts referred to in this report, that a further 30 days' salary be suspended and after that time period, if the courses are still not completed, that a third 30 days' salary be suspended, provided that the maximum total suspension shall not exceed 90 days.

Respectfully submitted,



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Robert Swayze  
Integrity Commissioner