

Report On a Complaint Under Township of East Zorra-Tavistock Code of Conduct by Michael Routly as against Don McKay

JURISDICTION

I am appointed pursuant to Section 223.3 of *The Municipal Act* to perform, in an independent manner, the functions assigned by the Municipality with respect to the application of the Code of Conduct for Members of Council. Under the provisions of the Code, I am to review and investigate complaints received concerning Councillors adherence to the Code of Conduct.

COMPLAINT

This complaint is filed by Councillor Michael Routly as against Mayor Don McKay. The complaint alleges that Mayor McKay, from the period of July 27, 2018 to September, 2018, used a cell phone owned by the Township of East Zorra-Tavistock, and provided to him for an election-related purpose thereby unfairly aiding his campaign and financially aiding him.

Within the details of the complaint are the following:

- Sometime between the period of May 1, 2018 and July 27, 2018, Don McKay filed nomination papers with East Zorra-Tavistock seeking re-election for the office of mayor of East Zorra-Tavistock.
- Don McKay listed 519-532-2500 as his phone number and 615899 13th Line as his qualifying address on his nomination papers submitted as per East Zorra-Tavistock records.
- Don McKay distributed campaign materials in a variety of methods during the campaign with this material advertising a contact number of 519-532-2500.
- Don McKay's contact number as listed on the East Zorra-Tavistock website is 519-532-2500
- On August 2, 2018, East Zorra-Tavistock clerk Will Jaques certified the list of candidates as per East Zorra-Tavistock records.
- Attached to the complaint, among other documents, was a photocopy of a portion of what appears to be a Campaign brochure for Don McKay for Mayor listing the cellphone number as 519-532-2500. There is no date on the brochure to identify when it was produced. There was also a message from the Mayor containing that phone number which is also undated.
- There is a copy of the email exchange between Mr. Routly and the acting CAO for the Township dated October 19, 2018. The email confirmed that the Mayor had been issued a cell phone by the Township, probably in 2005. It said that the Mayor, as was required, always paid for his personal use of the cellphone. It went on to state that the Mayor had returned the phone to the Municipality in September, 2018. Also attached to the complaint was a copy of an email from then CAO Jeff Carswell to Members of Council dated September 14, 2015

cautioning Councillors that those among them who were running in Municipal Elections are to refrain from using Township resources as part of their campaigns.

- There was also attached to the complaint a copy of the List of Certified Candidates dated August 2, 2018. The list does not contain addresses or telephone numbers.

In response to the complaint, Mr. McKay forwarded an email in which he provided a copy of another email dated September 6, 2018, to the Township Clerk Will Jacques asking the clerk to update his candidate information to include an email address and the phone number 519-532-2500 which he stated had been switched to him personally. In his response he stated that the phone number had been given to him with the Township phone. He said that he had cancelled the service on the Township phone, returned the phone to the Municipality, kept the phone number and had it connected to a new telephone service that he had taken out personally. He said that prior to that the phone number was not used on campaign literature. After the number was transferred to him, he had it listed in his campaign information.

When interviewed, the Complainant, Mr. Routly, added no further information to his complaint. He confirmed that he had read the Mayor's responding material but stated that even though the Mayor did return the phone there was a period during the election when he was using a phone paid for by the Municipality for an election purpose.

When interviewed, the Mayor stated that when he had filed his nomination papers, he had just put his email address as his contact information. He did not list a telephone number. He said that he returned the Township owned phone and the phone service was cancelled. He got a new phone in his own name and was able to have the telephone number, 519-532-2500, connected to that phone. After that, he asked the clerk to add the phone number and new email address to his election information. He emphasized that when he listed the phone number on his campaign material, it was no longer connected to a Township phone. It was connected to his personal phone.

ANALYSIS

The East Zorra-Tavistock Council Code of Conduct is found as Policy GP1.06 in the Township of East Zorra-Tavistock General Policy Manual. It was approved by Council on September 21, 2016.

Section 12 of the Code states:

"No Member shall use for personal purposes any Township property equipment, services, supplies, or services of consequence other than for purposes connected with the discharge of Township duties or associated community activities of which Township Council have been advised."

Section 14 of the Code states in part:

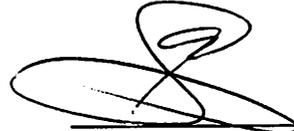
"Members shall not use a Corporate Resource for any election related purpose."

This complaint, when distilled to its essence is that the Mayor displayed on his campaign literature, a telephone number that belonged to the Township. The Mayor has given his account of having relinquished his Township owned telephone in September, 2018, but having the number transferred to his personally owned phone. There is a suggestion that for the election period prior to September 2018, the Mayor listed a telephone number connected to a Township owned phone on his Campaign Literature. However, there has been no evidence produced to support that allegation. There are documents submitted with the complaint that contain the phone number but there is no indication or proof as to when those documents were produced and no date attached to those documents.

The Mayor's use of the telephone number after his Township owned phone had been returned to the Township and the number had been connected to his own phone, does not constitute the use of Township resources.

Accordingly, this complaint is dismissed.

Dated at Goderich, Ontario this 17th day of May, 2019.



Gregory F. Stewart
Integrity Commissioner Township of East
Zorra-Tavistock