

REMARKS BY ROBERT SWAYZE, INTEGRITY COMMISSIONER

CODE OF CONDUCT SYMPOSIUM

YORK UNIVERSITY – MAY 27, 2021

- GOOD MORNING.
- FOR THOSE WHO DON'T KNOW MY BACKGROUND, I HAVE BEEN A LAWYER SPECIALIZING IN MUNICIPAL LAW FOR MORE YEARS THAN I WILL ADMIT. MOSTLY IN TORONTO. MY MOST PROMINENT CLIENT IN THOSE EARLY DAYS WAS CN TOWER LIMITED.
- IN 1997 I JOINED TWO MUNICIPALITIES AS CITY SOLICITOR AND COMMISSIONER OF CORPORATE SERVICES FOR 12 YEARS.
- IN PRIVATE PRACTICE, MY FIRST APPOINTMENT AS INTEGRITY COMMISSIONER WAS OAKVILLE IN 2008. SINCE THEN, I SERVED AS INTEGRITY COMMISSIONER FOR 59 MUNICIPALITIES (COUNTED YESTERDAY) OVER THE PAST 13 YEARS. THIS IS ALL I DO NOW AND I DO NOT PRACTICE LAW.
- I AM GOING FIRST BECAUSE I AM OF THE OPINION THAT ALMOST NO CHANGES NEED TO BE MADE TO THE INTEGRITY COMMISSIONER REGIME AT THIS TIME.
- I AM SURE MY COLLEAGUES FOLLOWING WILL HAVE SOME DIFFERENCES.
- LET'S LOOK AT MY POSITION ON THE ISSUES RAISED BY THE CONSULTATION AND THE LETTER FROM AMO.
- I DON'T AGREE WITH IC'S HAVING THE POWER TO RECOMMEND REMOVAL OF AN ELECTED COUNCILLOR FROM COUNCIL FOR ANY CODE OF CONDUCT VIOLATION OR EVEN GOING TO COURT FOR THAT. 90 DAYS PAY IS ENOUGH.
- I DON'T AGREE WITH VOTING FOR OR RECOMMENDING OR THE MINISTER RECALLING A MEMBER OF COUNCIL
- I DON'T AGREE WITH STANDARDIZING CODES OR THE IC PROCEDURE. ITS ADEQUATELY COVERED IN THE MA AND MCIA. I ASK: WHAT IS WRONG

WITH THE EXISTING CODES OF CONDUCT WHICH HAVE BEEN DEVELOPED BY PROFESSIONALS AND SUPPORTED BY COUNCILS ACROSS THE PROVINCE? THEY WORK AND THEY CAN BE CUSTOMIZED.

- THE PARTICIPATION BY COUNCIL AND STAFF IN CHOOSING AN INTEGRITY COMMISSIONER (RFP'S) AND THE CREATION OF THEIR OWN CODE OF CONDUCT HAS BEEN EMBRACED GENERALLY BY BOTH. THIS SHOULD NOT BE CHANGED. A STANDARD CODE OF CONDUCT OR SOME PROVINCIAL ACCREDITATION FOR IC'S WOULD BE A MISTAKE. THE BUY-IN BY COUNCILLORS AND STAFF WOULD SUFFER.
- ANOTHER QUESTION: IS THERE A PROBLEM WITH COUNCILLORS HARRASSING STAFF, MEMBERS OR THE PUBLIC OR EACH OTHER?
- I SAY: IT HAPPENS BUT THE IC HAS ADEQUATE AUTHORITY TO DEAL WITH IT.
- IN FACT, I WILL SUGGEST THAT WHOEVER CHOSE AT THE BEGINNING: EITHER A REPRIMAND OR A MAXIMUM OF 90 DAYS SUSPENSION OF SALARY WAS BRILLIANT AND ALMOST PROPHETIC.
- I REMEMBER THE CONSULTATION BY THE PROVINCE IN 2017 LEADING TO BILL 86. I WAS VERY GRATIFIED WITH THE RESULT. WE ALL HAD INPUT. AT THE TIME I WAS BEING SUED BY THE FORMER MAYOR OF BRAMPTON AND I WAS INTERESTED IN A MANDATORY INDEMNITY WHICH WAS INCLUDED.
- I FELT THAT BILL 86 WAS AN ENDORSEMENT BY THE PROVINCE OF ALL WE WERE DOING AS IC'S. OUR AUTHORITY WAS EXPANDED UNDER THE MCIA. WE WERE EMPOWERED TO GO TO COURT FOR A PECUNIARY CONFLICT OF INTEREST WHICH WAS APPROPRIATE AND VERY DIFFERENT FROM BREAKING A RULE IN A CODE OF CONDUCT.
- ONE THEME I FEEL STRONGLY ABOUT IS SHOWING RESPECT FOR PEOPLE WHO RUN FOR COUNCIL. THE MOTIVATION FOR THE VAST MAJORITY IS PUBLIC SERVICE AND GIVING BACK TO THEIR COMMUNITY WITH LITTLE COMPENSATION. I ALWAYS SAY: IMAGINE GIVING YOUR PHONE NUMBER

TO THOUSANDS OF PEOPLE AND SAYING: "CALL ME IF YOU HAVE A PROBLEM."

- WE NEED TO BE VERY CAUTIOUS IN INCREASING THE REGULATIONS THAT APPLY TO THEM.
- THERE HAVE BEEN MUNICIPAL INTEGRITY COMMISSIONERS IN ONTARIO FOR 17 YEARS AND WHAT HAVE WE FOUND? NO BROWN BAGS FULL OF MONEY, NO MAJOR BRIBES. A FEW WHO ARE ON A POWER TRIP AND THINK THAT STAFF MUST TAKE DIRECTION FROM THEM ALONE. THE OTHER OFFENDERS ARE JUST CONFUSED BY A VERY COMPLICATED REGIME. THESE ARE WELL MEANING PEOPLE AND SHOULD BE RESPECTED AND SUPPORTED.
- IN CONCLUSION, I DO HAVE A COUPLE OF SUGGESTED TWEAKS TO THE SYSTEM:
 - FIRSTLY, WE SHOULD REMOVE LOCAL BOARD MEMBERS FROM THE CODE TO ENCOURAGE VOLUNTEERING. WE CAN COUNT ON ONE HAND THE NUMBER OF VALID COMPLAINTS TO DATE AGAINST MEMBERS OF LOCAL BOARDS WHO ARE NOT MEMBERS OF COUNCIL. IN MY OPINION COUNCILS ARE EFFECTIVELY CONTROLLING THESE VOLUNTEER BOARDS WITH THEIR POWER TO REMOVE THEM FROM THE BOARD.
 - SECONDLY, THE LACK OF JURISDICTION OVER STAFF IS VITAL IN THE TRUSTING RELATIONSHIP THAT INTERGRITY COMMISSIONERS ESTABLISH WITH STAFF. THAT DOESN'T HAPPEN WITH AN OMBUDSMAN. I HAVE NEVER FILED A PROPOSAL TO SERVE AS BOTH IC AND MUNICIPAL OMBUDSMAN AND CONSIDERATION MIGHT BE GIVEN TO PROHIBITING THE COMBINATION.
- THANK YOU