

# ROBERT J. SWAYZE

INTEGRITY COMMISSIONER

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## **THE CORPORATION OF THE TOWN OF ESSEX**

### **OFFICE OF THE INTEGRITY COMMISSIONER**

### **REPORT TO COUNCIL IN OPEN SESSION**

TO: Mayor Snively and Members of Essex Council

FROM: Robert Swayze, Integrity Commissioner

DATE: May 17, 2021

SUBJECT: Multiple Code of Conduct Complaints against Councillor Chris Vander Doelen

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#### **Recommendation:**

It is hereby recommended that Councillor Chris Vander Doelen be required to accomplish the following within 3 months of the date of this report:

1. Remove all Tweets from his Twitter account which refer to the Chinese Flu, China Virus, the Chinese Origin Virus and/or the Murderous China Regime
2. Prepare a draft apology for the approval of the Integrity Commissioner to be read by him in an open session of Council, and
3. Attend an in-person Diversity and Inclusion training session chosen by staff and paid for by the Town. (staff to confirm his attendance to the Integrity Commissioner.) If staff advises the Integrity Commissioner that the course is only available remotely, the training may be attended online.

It is further recommended that if the respondent fails to perform any one or more of the above 3 requirements by 4:30pm on Monday, July 19, 2021, that the compensation paid to the respondent as a member of Council, be suspended for a period of 60 days commencing with the pay period following that date.

**Background:**

I received approximately 80 complaints from residents of the Town and County of Essex and some far beyond, in reaction to Tweets made by Councillor Chris Vander Doelen while recovering from contracting the Corona Virus. Many of the complaints were from the Asian Community. He referred to Covid 19 as the “Chinese Flu”, the “China Origin Virus” and he called China “a murderous regime that peddles falsehoods to obscure the origin of the Covid Pandemic”.

I have served as Integrity Commissioner for multiple municipalities over the past 13 years and have never experienced an outpouring of such emotion over the behaviour of a member of Council. In that time my voice mailbox has never been filled until now.

There is a requirement in the Complaint Protocol for a standard form to be filled out and sworn by the complainant. Because of the number of complaints, I arranged for one such form to be sworn and filed by a complainant. I decided that I would not require all of the many complainants to complete the form but rather circulate the one completed form to most of the complainants and almost all of them adopted it as their own.

The complaint was served on Councillor Vander Doelen with a request for a response within 10 days. He requested an extension of time which I granted and he has responded within the extended deadline.

**Response to the Complaints from the Councillor**

His response contained the following:

- He alleges that he apologized “profusely” on various media outlets in the Windsor area for making the Asian Community “nervous” and he stated that he did not intend to do that.
- He has taken down one of the Tweets but refuses to take down the most offending one for the reason that: he wants “to leave the evidence so that people can judge for themselves” whether it is a racist comment.
- Part of his response included copies of 50 E-mails he received from supporters, most of whom confirmed that he is not a racist.
- He alleges that the many complaints he received were a result of “a well-organized political hit”.
- He compared his tweet to the name “German Measles” which has never been considered a racist comment.

## Analysis

I have written countless reports on complaints where I have defended members of Council on the basis that they have the right to freedom of expression and have extended latitude to them in speaking out strongly on controversial issues. I cannot do so in this case. There is a need for sensitivity by all public figures, particularly when they use terms which are considered racist and have resulted in hate crimes across North America. There can be no doubt that his Tweets would be considered racist given the public reaction in Canada to the same statements made by the former President of the United States. I understand that he has never taken a course on Diversity and Inclusion.

I quote in full, from one of the complaints I received:

*“In light of recent tweets from council Chris Vander Doelen and the upcoming investigation that you will be conducting, as a member of the Asian Canadian community in Essex, I wish to provide the following statement in response to Mr. Vander Doelens use of “Freedom of Speech” defense as stated in recent media interviews:*

*We live in a time when the term "Freedom of Speech" is confused with "Racist Speech," as evident in the interview with Essex Councilor Chris Vander Doelen on CBC News last night. ”*

*“When one uses the term "Chinese Flu" to label the Coronavirus while in awareness of the current situation with Asian hate crimes, the term "Free Speech" no longer serves its neutral role because it elevates, honors, and promotes racism and all of the hatred, oppression, and silencing that it represents. For Mr. Vander Doelen, free speech has become “weaponized” in the service of racism. Free speech cannot be used as a shield against criticism or a license to provoke.”*

*“It saddens me that when a victim of racist remarks confronts the aggressor, we, the anti-racist, are increasingly cast as the role of "censor" to "free speech." In my opinion, this is wrong, unjust, and unbalanced--especially when it is towards a minority group who wish to have a voice. We are not asking Mr. Vander Doelen to be quiet. We're simply asking him to refrain from using a term that we, the Asian community find derogatory, shameful, and casts a negative and hateful light towards Asians in all geographies. By attempting to hijack free speech, racists attract support from a wider swath of society who are more comfortable defending such a*

*universal value but would never be caught dead defending racism itself. This is the situation we face in this day in time. The very act of confusing racist speech as free speech transforms racism into a legitimate subject for public discourse and debate.”*

*“If free speech is based on the power of reason to identify what is good for society, which elected officials such as Mr. Vander Doelen and governments should endorse and nurture, then because racism is irrational, invalid, and incoherent, it is not entitled to the protection of free speech.”*

This expressive complaint was not unlike many that I received in this case.

I wish to comment on the above Response to the Complaints from the Councillor:

In bullet number 2, it is difficult for me to understand why he can both acknowledge that the Tweet makes the Asian Community nervous and that it is not racist. In my opinion he should erase all of the Tweets that refer to the Chinese Flu, the China Virus or that China is a murderous regime.

In bullet 4 he suggests that the complaints were well organized by his political enemies. I have had experience receiving orchestrated complaints and none of the complaints I received in this case were organized by anyone. They were all sincere, diverse and prepared spontaneously in reaction to the public statements made by the respondent.

### **Conclusion:**

I have decided to recommend that the respondent accomplish the following within 3 months of the date of this report:

1. Remove all Tweets from his Twitter account which refer to the Chinese Flu, China Virus, the Chinese Origin Virus and/or the Murderous China Regime
2. Prepare a draft apology for my approval to be read by him in an open session of Council, and
3. I am to be advised by staff that he has attended an in-person Diversity and Inclusion training session chosen by staff and paid for by the Town. If staff advises me that the course is only available remotely, the training session may be attended online.

In the event that any one or more of the above 3 requirements have not been performed by 4:30pm on Monday, July 19, 2021, I recommend that the

compensation paid to the respondent as a member of Council be suspended for a period of 60 days.

Prepared by:

A handwritten signature in blue ink, appearing to be 'RS', with a long horizontal flourish extending to the right.

Robert Swayze  
Integrity Commissioner

Attachment(s): none