



Special Council Minutes

March 17, 2025, 1:00 p.m.
Council Chambers
Whitby Town Hall

Present: Mayor Roy
Councillor Bozinovski
Councillor Cardwell (Virtual Attendance)
Councillor Leahy (Virtual Attendance, In-Person Attendance at 1:05 p.m.)
Councillor Lee
Councillor Lundquist
Councillor Mulcahy
Councillor Shahid
Councillor Yamada (Left at 2:35 p.m.)

Also Present: M. Gaskell, Chief Administrative Officer
F. Santaguida, Commissioner of Legal and Enforcement Services/Town Solicitor
M. Dodge, Executive Advisor to the Mayor
C. Harris, Town Clerk
K. Douglas, Supervisor, Legislative Services (Recording Secretary)

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1. Call To Order: The Mayor
 2. Call of the Roll: The Clerk
 3. Declarations of Conflict of Interest

Councillor Yamada clarified the provisions of the Municipal Conflict of Interest Act (the "Act") and declared a conflict of interest under the Act with respect to Item 6.1, Integrity Commissioner's Recommendation Report Regarding Complaints Against Councillors Leahy and Yamada, dated March 11, 2025. In accordance with Section 5 of the Act, Councillor Yamada participated in the discussion of the matter, however, did not take part in the vote.

Councillor Leahy declared a conflict of interest under the Municipal Conflict of Interest Act with respect to Item 6.1, Integrity Commissioner's Recommendation Report Regarding Complaints Against Councillors Leahy and Yamada, dated March 11, 2025. In accordance with Section 5 of the Act, Councillor Leahy participated in the discussion of the matter, however, did not take part in the vote.

4. Presentations

Prior to hearing Item 4.1, Matt Gaskell, Chief Administrative Officer, announced that the Town has engaged an external investigator to independently examine allegations of anti-Asian racism and racist motivations among Staff and Whitby Town Council, specifically concerning the treatment of Councillor Yamada. Mr. Gaskell advised that this investigation is separate from the Integrity Commissioner's recent report and recommendations regarding complaints against Councillors Leahy and Yamada.

Jeff Abrams, Co-Principal, Principles Integrity, Integrity Commissioner for the Town of Whitby, advised Council regarding the propriety of hearing delegations on the Integrity Commissioner's recommendation report, given Council will be sitting in an adjudicative capacity when considering the report recommendations. Mr. Abrams explained that the opinions of delegates after a report has been issued do not form part of the 'evidence' that can or should be considered by Council. The Integrity Commissioner indicated his support for a decision by Council to waive its procedures to conduct the matter without hearing from delegates for this reason, and because Council must take care to make its decision on the report fairly, in an unbiased, non-political manner, and with an open mind.

The Clerk confirmed that the Office of the Town Clerk did advise all registered delegates in advance that Council will be sitting in an adjudicative capacity instead of their usual legislative role when considering the Integrity Commissioner's Recommendation Report, and as such Council may first decide to consider whether or not the hearing of delegations is appropriate in order to ensure they arrive at a fair decision

A question and answer period ensued between Members of Council, Staff, and Jeff Abrams regarding:

- whether the Integrity Commissioner's March 11, 2025 Recommendation Report is available to the public;
- clarification regarding the Integrity Commissioner's advice regarding hearing from registered delegates on this matter; and,

- whether Councillor Leahy and Councillor Yamada would be permitted to vote on a motion to suspend the Rules of Procedure to not hear delegations regarding the Integrity Commissioner's March 11, 2025 Recommendation Report.

Mr. Abrams clarified that, in accordance with their conflict of interest declared under the Municipal Conflict of Interest Act, Councillor Leahy and Councillor Yamada would not be permitted to vote on a motion to suspend the Rules of Procedure to not hear delegations regarding the Commissioner's March 11, 2025 Recommendation Report.

Having previously declared a conflict of interest, Councillor Leahy and Councillor Yamada did not take part in the vote regarding this matter.

Resolution # 29-25

Moved by Councillor Shahid

Seconded by Councillor Lundquist

That, in accordance with the recommendation from the Integrity Commissioner, the Rules of Procedure be suspended to not hear delegates regarding the Commissioner's March 11, 2025 Recommendation Report given Council is sitting in an adjudicative capacity, in this case to consider disciplinary action.

	For	Against	Conflict
Mayor Roy	X		
Councillor Bozinovski		X	
Councillor Cardwell	X		
Councillor Leahy			X
Councillor Lee	X		
Councillor Lundquist	X		
Councillor Mulcahy	X		
Councillor Shahid	X		
Councillor Yamada			X
Results	6	1	2

Carried on a Recorded Vote (6 to 1)

4.1 Opening remarks by Jeff Abrams, Co-Principal, Principles Integrity, Integrity Commissioner for the Town of Whitby (In-Person Attendance)

Re: Integrity Commissioner's Recommendation Report Regarding Complaints Against Councillors Leahy and Yamada, dated March 11, 2025

Jeff Abrams, Co-Principal, Principles Integrity, Integrity Commissioner for the Town of Whitby provided opening remarks regarding the Recommendation Report Regarding Complaints Against Councillors Leahy and Yamada, dated March 11, 2025 (the "Report"). Mr. Abrams explained that Council sits in an adjudicative capacity when considering a recommendation report from its Integrity Commissioner, which is different from its usual legislative or political role. He provided a summary of Principle Integrity's investigation of statements made at the October 7 and October 9, 2024 Council meetings, and clarified that this investigation did not conduct an inquiry into whether Councillor Yamada faced racism by Whitby Council. Rather, the investigation focused on whether the statements made in Council on October 7 and October 9, 2024 constitute a breach of Councillor Leahy and Councillor Yamada's obligations under the Code. Mr. Abrams noted the report recommendations for Council's consideration.

A question and answer period ensued between Members of Council and Jeff Abrams regarding:

- clarification regarding the representativeness of statements published by the Town pertaining to the findings of the Report;
- confirmation that the purpose of the Report was not to investigate racism or allegations of racism, but rather to determine whether the manner in which those allegations were raised constitutes a breach of the Council Code of Conduct (the "Code");
- whether the Integrity Commissioner's recommended sanctions for Councillors Leahy and Yamada took into account the individual number of Code breaches for each councillor;
- whether the Integrity Commissioner has the authority to inquire into allegations of racism between Members of Council;

- the ability for Council to waive the provisions of section 12.3 of the Code, which requires a complaint be made within six weeks of the complainant becoming aware of the issue and in no event more than six months following the issue;
- whether a complaint has been filed by or against a Member of Council regarding allegations of racism;
- processes and mechanisms that Council may use to address allegations of racism;
- whether the Integrity Commissioner was informed of any alleged anti-Asian racism or racist motivations on the part of Whitby Town Council;
- whether the Integrity Commissioner has participated in Diversity, Equity and Inclusion training;
- whether the Integrity Commissioner investigated video evidence to determine the validity of statements made on October 7, 2024 by Councillor Leahy regarding Councillor Yamada's treatment during his time as Deputy Mayor;
- sections of the Code that were relevant to the Report findings;
- determining what constitutes offensive language;
- the appropriate time and mechanism for Members of Council to report or address allegations of racism;
- whether the investigation assessed whether Councillor Leahy and Councillor Yamada followed the appropriate process when insinuating accusations of racism on October 7 and October 9, 2024; and,
- whether the investigation considered the actions, feelings, and motivations of both the complainants and those under investigation.

5. Delegations

In accordance with Resolution # 29-25, it was the decision of Council not to hear delegations regarding the Integrity Commissioner's Recommendation Report Regarding Complaints Against Councillors Leahy and Yamada, dated March 11, 2025.

6. Items for Consideration

6.1 Integrity Commissioner's Recommendation Report Regarding Complaints Against Councillors Leahy and Yamada, dated March 11, 2025

Having previously declared a conflict of interest, Councillor Leahy and Councillor Yamada participated in the discussion of this matter as permitted by Section 5 of the Municipal Conflict of Interest Act, but did not take part in the vote.

Discussion ensued between Members of Council regarding:

- support for an external investigation to independently examine allegations of anti-Asian racism and racist motivations among Staff and Whitby Town Council;
- condemning the behaviour of Councillor Yamada and Councillor Leahy through sanctions;
- the purpose of the Council Code of Conduct (the "Code") and the formal process for making and investigating complaints;
- the importance of the Integrity Commissioner's fair and impartial investigation into the complaint;
- the importance of fostering an environment where people are treated with dignity and respect;
- assessing whether Councillor Yamada experienced differential treatment during his time as Deputy Mayor, and identifying the reasons for any such treatment;
- ensuring that complaints against breaches of the Code are taken seriously and thoroughly investigated in accordance with established procedures; and,
- how Councillor Yamada perceived and experienced his time as Deputy Mayor.

Councillor Yamada left the meeting at 2:35 p.m.

Discussion resumed between Members of Council regarding:

- the importance of recognizing the experiences of all Council Members and thoroughly investigating allegations of unfair treatment by examining the behaviors, actions, and biases of Members;

- the important role of the Code, which promotes accountability for one's actions and words;
- considering Councillor Yamada's statement made on October 9, 2024 regarding microaggressions in the context of Councillor Leahy's earlier statement on October 7, 2024;
- ensuring the thorough investigation of any claims related to racism and microaggressions based on racial discrimination;
- fostering unity within Whitby Council and the broader community;
- the process for addressing and investigating negative behaviours of Members of Council identified in the Code, Rules of Procedure, and the Municipal Act; and,
- clarification regarding the potential confidentiality of an independent investigation into the conduct of Town Staff, in addition to Members of Council; and,
- the importance of publicly disclosing non-confidential findings of the independent investigation into allegations, specifically concerning the treatment of Councillor Yamada.

Resolution # 30-25

Moved by Councillor Shahid

Seconded by Councillor Lundquist

1. That the Integrity Commissioner's Recommendation Report dated March 11, 2025 regarding complaints against Councillors Leahy and Yamada be received; and,
2. That in accordance with the Integrity Commissioner's recommendation, that Councillor Leahy and Councillor Yamada be sanctioned by having the remuneration paid to each of them suspended for a period of one week (one-half of a two-week pay period).

	For	Against	Conflict
Mayor Roy	X		
Councillor Bozinovski		X	

Councillor Cardwell	X		
Councillor Leahy			X
Councillor Lee	X		
Councillor Lundquist	X		
Councillor Mulcahy	X		
Councillor Shahid	X		
Results	6	1	1

Carried on a Recorded Vote (6 to 1)

7. Confirmatory By-law

Resolution # 31-25

Moved by Councillor Shahid

Seconded by Councillor Mulcahy

That leave be granted to introduce a by-law and to dispense with the reading of the by-law by the Clerk to confirm the proceedings of the Council of the Town of Whitby at its special meeting held on March 17, 2025 and the same be considered read and passed and that the Mayor and the Clerk sign the same and the Seal of the Corporation be thereto affixed.

Carried

8. Adjournment

Moved by Councillor Mulcahy

Seconded by Councillor Bozinovski

That the meeting adjourn.

Carried

The meeting adjourned at 3:06 p.m.

Christopher Harris, Town Clerk

Elizabeth Roy, Mayor