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INTEGRITY COMMISSIONER REPORT ON CODE OF CONDUCT COMPLAINT 2024-06

THE CORPORATION OF THE CITY OF KINGSTON

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April 29, 2025

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INTEGRITY COMMISSIONER REPORT CODE OF CONDUCT COMPLAINT 2024-06 AGAINST COUNCILLOR JEFF MCLAREN

A. INTRODUCTION

1. A formal complaint was received by the Integrity Commissioner on October 2, 2024 (the “**Complaint**”). The Complaint alleged that Councillor Jeff McLaren (the “**Councillor**”) of the City of Kingston (the “**City**”) contravened the *City of Kingston Member Code of Conduct* (the “**Code**”).
2. The Complaint relates to comments made by the Councillor and reported in an article in the *Kingstonist* on October 1, 2024 entitled “City Views: Did financial risk kill housing co-op’s bold vision, or something else?” (the “**Article**”). The Complaint alleges that the Councillor’s comments in the Article contained negative sentiments about members Council, in contravention of the Code.
3. As part of our investigation, we provided the Councillor with the Complaint and offered him an opportunity to respond to the allegations. The Councillor provided a response which was shared with the Complainant in accordance with the Code’s requirements. The Complainant was allowed to submit a reply to the Councillor’s response, which they did.
4. As will be set out in greater detail below, the Complainant’s response prompted us to arrange an interview with the author of the Article that is the subject of the Complaint. After speaking with the author of the Article, we subsequently contacted the Councillor to provide him with a further opportunity to make further submissions, which he did.
5. Given that the holiday period fell when we were completing this interview process, we provided an interim report to the City and advised both the Complainant and Councillor on December 19, 2024 that we anticipated that the investigation would take more than ninety (90) days as set out in the requirements contained in Section 10(1) of the City’s Complaint Protocol.
6. The principles of procedural fairness require us to provide reasons for our conclusions and recommendations, which we have done in this report (the “**Report**”). Our investigation was conducted in accordance with the Code and with a process that was fair to all parties. We have assessed the evidence in an independent and neutral manner and in accordance with the civil standard of a balance of probabilities.
7. In accordance with the requirements of the Code and its Complaint Protocol, the Councillor was provided with a draft of this Report so he could review and make submissions on our preliminary findings and recommendation. The Councillor submitted lengthy submissions, which we duly considered.
8. For the reasons that follow, this Report has concluded that the Councillor has contravened the Code.

B. APPOINTMENT & AUTHORITY

9. Aird & Berlis LLP was appointed as the Municipality's Integrity Commissioner pursuant to subsection 223.3(1) of the *Municipal Act, 2001*.
10. The Integrity Commissioner is a statutory officer, created under Part V.1 of the *Municipal Act, 2001*. Municipal councils are required to establish codes of conduct for council members and are authorized to appoint integrity commissioners responsible for, among other duties, investigating and reporting to council on complaints involving allegations that a council member has contravened the code of conduct.
11. As Integrity Commissioner, we are appointed to act in an independent manner on the application of the Code and other rules and procedures governing the ethical behaviour of members of Council. We are required to preserve secrecy in all matters that come to our knowledge as Integrity Commissioner in the course of our duties.
12. This is a report on the investigation of the Complaint made in accordance with the Code and subsection 223.6(2) of the *Municipal Act, 2001*.
13. Council adopted the Code on October 3, 2023 by By-law 58-23. Subsection 10(1) of the Code's Complaint Protocol requires that the Integrity Commissioner to report on a complaint where the complaint is sustained in whole or in part.

C. THE COMPLAINT

14. The Complaint alleges that the Councillor contravened Section 5.1 (e) of the Code.

5.0 GENERAL OBLIGATIONS

- 5.1 In carrying out their duties, members are expected to:

...

- (e) Refrain from making disparaging comments about another member or unfounded and speculative accusations about the motive of another member.

15. We considered the Complaint in accordance with our standard intake and review procedure and notified the Councillor of the Complaint on November 6, 2024. The Councillor provided a written response on November 18, 2024.

(i) The Complaint's Allegations

16. As noted above, the Complaint alleges that the Councillor contravened 5.1 (e) of the Code.
17. On October 1, 2024, the *Kingstonist* release the article titled "City Views: Did financial risk kill housing co-op's bold vision, or something else?" The Article detailed a request for a \$2.29 million line of credit in support of the Limestone City Cooperative Housing plan to build affordable housing in the City. The Article reported that City Council voted against the request for the line of credit at its meeting on September 17, 2024. It was in this context that the Councillor was interviewed for the Article.

18. The Article states, in part, as follows:

But McLaren also offered other reasons as to why his group's project was DOA at council – listing psychological and political aspects. For example, if the group had come up with a smaller housing vision, then that too would've failed, he believes.

"Sometimes psychologically people don't say the entire truth. They say something that sounds good. I'm sure these same arguments would've come — 'Why didn't you make it bigger?'"

In McLaren's mind, it was all about shutting down his future ambitions.

"Helping me get to be mayor," he offered. "I think that everybody who gets into Council at one point wants to be mayor and if one or two or a few feel that they're getting too much benefit from a particular project, they'll be shut down."

Them's fightin' words.

By implying motive, which is a Council taboo around the horseshoe, the veteran councillor believes some of his colleagues were unwilling to give him and his project a big leg up in advance of the next mayoral race in two years.

19. The Complaint alleges that the comments made by the Councillor in the Article are disparaging and slanted to paint other members of Council in a poor light. In particular, the Complaint alleges that the Councillor's comments in the Article made unfounded and/or speculative assertions about the motives of other members of Council.

(ii) The Councillor's Response

20. The Councillor provided his initial responding submissions on November 18, 2024 (the **"Councillor's Response"**). In the Councillor's Response, he acknowledged "...I realized as soon as I answered the reporter's question that I should not have said any of that. I tried to repair the damage and get it off the record with a request immediately to the reporter, but to no avail."
21. The Councillor also explained his mindset at that time, as the "issue was still very raw" and that he fell "...into a state of stream of consciousness or brainstorming while trying to make sense of the vote, I foolishly lowered my guard...".
22. The Councillor continued that he was "...free talking; evaluating possibilities as they came to my mind. I discarded the quoted notion as soon as I said it and tried to take it back. I said "No" probably to myself, probably not loud enough for the reporter and but then I did asked (sic) that that be off the record. He clearly denied that request."

(iii) The Complainant's Reply

23. We duly provided the Councillor's Response to the Complainant and received the Complainant's reply on November 28, 2024 (the "**Reply**").
24. In the Reply, the Complainant pointed to the fact that the Councillor stated he had asked the author of the Article that his comments be off the record. The Complainant pointed to their understanding of journalist practices and that if such a request had been made, they would have expected the Article to be clarified. The Complainant advised us that they had contacted the Editor of the *Kingstonist* on a no-names basis to inquire about the newspaper's practices when a request for something is made to be "off the record" and that the Editor's response confirmed such an understanding.
25. We accordingly contacted the author of the Article and arranged for an interview on December 20, 2024 (the "**Interview**"). During the Interview, the author of the Article confirmed that the Councillor had not made a request before, during or after their conversation on September 18, 2024 that the conversation be or was off the record. The author confirmed that they were holding a recording device between themselves and the Councillor when they had their conversation that was subsequently featured in the Article dated October 1, 2024.

(iv) The Councillor's Additional Response

26. We wrote to the Councillor on January 9, 2025 and advised him of our Interview with the author of the Article. In particular, we pointed to the Councillor's Response submissions which set out: "...I discarded the quoted notion as soon as I said it and tried to take it back. I said "No" probably to myself, probably not loud enough for the reporter and (sic) but then I did asked (sic) that that be off the record. He clearly denied that request."
27. In our correspondence, we advised the Councillor that the author of the Article had advised us that the Councillor had never asked that his comments that were reported in the Article be "off the record".
28. The Councillor wrote to us on January 13, 2025 and provided detailed submissions (the "**Councillor's Additional Response**").
29. In the Councillor's Additional Response, the Councillor advised that he had discarded the quoted notion as soon as he uttered it:

Please understand that most communication happens non-verbally. I discarded the quoted notion as soon as I said it. At that moment I was shaking my head and had a facial expression of rejection on my face as is appropriate when one is communicating rejection of the preceding material, that is when I rejected the notion. I had been looking to the side, as is universally the case when people are in conversation and thinking about what they want to say – as I was at that time. At moment of rejecting the notion I turned my gaze to the reporter and said "no". I added in my first reply that he probably did not hear it because that would have been the charitable explanation for why he decided to publish it. (On reflection

after the fact and in preparation to reply to you I believe, If he had heard the “no” with my facial expressions of rejection and shaking head and still published it then it would have seemed to be malicious misrepresentation – this is why I added the “probably” clauses in my first reply to you.)

When I turned my eyes to the reporter he was nodding as is usual when most people agree with you. That was the ask and reply in context, in body language and in one word. I took the reporter’s nodding head to mean he agreed with me (that is that he agreed with the rejection of the notion I had just articulated) that was my “ask” that it be off the record because I had rejected the notion (that he later published) right in front of him. That was the non-verbal communication that I believed at the time we had. The “clearly denied” it clause was directed to you as an explanation for why he published statements that I made and that I thought I had clearly rejected as false.

On reflection after the fact while replying to your inquiry, it appears to me that the reporter’s nodding of his head was not meant to be interpreted in the usual meaning of agreement that a head nod usually represents but rather the less usual sense of conversation reassurance: “go on”, or “say more”, or “continue”. At the time of my statement to you, I was still unsure of what the reporter heard or meant because it was confusing due to him having published words he should not have published – that is, it was unclear whether he just did not hear, or he was being malicious. It was my intent and understanding that I tried (and clearly only in hindsight, failed) to communicate that that was off the record. At the time of the interview it was clear to me that I had rejected the published notions. I believed it was clear to the reporter from the context, from the body language, and from my word (clearly in hindsight due to the reporter publishing the story as he did, he did not share the same meaning.). I believed this to be true because I interpreted a nodding head to mean agreement. As such this has been a miscommunication, one that can happen in any medium.

Please note that from your email it seems to me that you asked the reporter if I ever verbally used the term “off the record” – if so then he is correct, I do not ever recall saying those words. I used those words with you – with you in order to communicate in English words the non-verbal communication that I believed had taken place. I had to use those English words because the medium of explanation to you is English and textual communication (for example this email and the .pdf of my first reply to you), and as such it is necessarily a translation of context and body language that occurred as I communicated it (but as hindsight shows, I failed to successfully convey the full message and intend) and as I understood it at the time of the interview.

What appears clear to me now after reflecting on your most recent email is that the reporter did not interpret the context, the body language, nor the word I used in the most likely common way that most normal people would normally interpret the situation (that is saying “no” and a shaking

head after a reflection of a possibility as a rejection of that possibility). It seems to me that at the time of writing my first reply to you, based on the following events (ie having published the words that I had rejected as if they were true and accurate – when they were not) he rejected my communication that the quoted problematic words were not a true or accurate description – that is, that I had considered that possibility at that moment based on the reporter goading me on and that having considered it, I had rejected it. Hence in my final line that you quoted, “He clearly denied that request.” is meant to be understood that since he published the problematic words that I had rejected as untrue and which he claimed in the article were true (against the context, against the body language, and against my one word “no”), the reporter rejected my rejection of my considered possibility.

Now having read your account of what the reporter said in response to my paragraph, it is clear that the reporter did not interpret my meaning as I intended.

To sum up. My statement is correct as it was originally written to you; however, it was incomplete due to my miss-judgement of how much detail you would need. – I hope I have explained myself with enough detail on this point in this email. It also appears that the reporter’s statements to you are also true, and the apparent discrepancy was only due to a mis-contextualization and a misunderstanding of body language being translated into text.

...

The bottom line is that I am sorry I answered the reporter’s question in the way that transpired, I tried to undo my words. I thought I was successful in taking them back because of all the sum total of contextual cues sent him and received from him. And I am sorry that I was unable to successfully communicate that to the reporter.

D. REVIEW OF MATERIALS AND INVESTIGATION

30. To undertake our investigation and prepare this Report, we reviewed and considered the following materials:

- the Complaint and supporting evidence, including the Article;
- the Councillor’s Response to the Complaint, dated November 18, 2024;
- the Complainant’s Reply submissions in respect to the Councillor’s Response;
- the Interview with the author of the Article on December 20, 2024;
- the Councillor’s Additional Response submitted to our office on January 13, 2025; and
- the Councillor’s Final Submissions on our draft report on March 31, 2025.

E. FINDINGS

31. For all of the reasons set out below, we have determined that the Councillor contravened Section 5.1(e) of the Code.
32. We understand from the Councillor's Response and the Councillor's Additional Response that he acknowledges that he made the comments that were reported in the Article. In particular, that the Councillor mused about other members of Council's motivations in voting against the funding proposal for the Limestone City Cooperative Housing plan was in some way an attempt to thwart the Councillor's mayoral ambitions.
33. In our view, such a comment casts aspersions on the intent of Council in passing the motion as it did, which is a contravention of Section 5.1(e) of the Code. The statements made by the Councillor as reported in the Article were a speculative accusation about the intention of members of Council and therefore contravene Section 5.1(e) of the Code.
34. We are prepared to accept the Councillor's submission that his comments were an initial musing that he quickly discounted and attempted to distance himself from but was not successful. Nevertheless, we find that he never formally retracted the comments or specifically advised the author of the Article that he did not want his comments reported.
35. In any event, the statements, even if they had been retracted, were communicated to the author of the Article. This alone could have a reputational impact on the Council given that such statements were made to a journalist who reports on matters in the Frontenac area.

The Councillor's Final Submissions on the Draft Report

36. As set out above, and pursuant to the requirements of the Code's Complaint Protocol, we provided the Councillor with a copy of our draft Report on March 20, 2025 so that he could provide his final submissions on our findings, conclusions and recommendations (the "**Final Submissions**"). The Councillor provided his detailed Final Submissions with respect to our draft Report on March 31, 2024 which we duly considered.
37. In his submissions on the draft Report, the Councillor set out that he remained committed to upholding the ethical standards of public office and to pointed out that he had taken responsibility for the comments reported on in the Article. The Councillor also raised a number of concerns about the conclusions of the draft Report which we have carefully considered. We have addressed the Councillor's concerns below, where appropriate.
38. First, the Councillor raised concern with the Report's purported acceptance of the author of the Article's characterization of the conversation as wholly on the record while appearing to overlook the Councillor's explanation that he attempted to withdraw the comments in real time. The Councillor sets out, in part:

...I have explained that I shook my head, said no, and believed the exchange to have been concluded or dismissed. That communication—delivered through a combination of verbal and non-verbal cues—was made in good faith and in real time. The fact that the journalist may not have interpreted by signals as I intended does not negate that I made them. Communication, particularly in person, is rarely confined to the spoken word alone.

39. As set out in the Report above, we specifically noted that the Councillor attempted to distance himself from the comments but was not successful. As such, we were not persuaded to alter our findings or conclusions.
40. Second, the Councillor set out that he was concerned that the Report noted that he did not attempt to formally retract the comments spoken to the journalist and that this was “weighed” against him. In his submissions, the Councillor explained his rationale for not formally retracting the comments, in part, as set out below:
- ...allowing the moment to pass without further public comment was not a sign of indifference or evasion, but of strategic responsibility. To have issued a public clarification would have reignited attention to the remark and inadvertently lent it greater weight than it originally held.
41. In his submissions, the Councillor then specifically retracted the comments reported on in the Article and advised that he would be happy to do so publicly to assist in resolving the matter. We have noted the Councillor’s formal retraction and set it out herein, given the public nature of the Report.
42. Third, the Councillor raised concerns with the fact that the Complainant was provided with a copy of the Councillor’s Response and that Councillor was not provided with a copy of the Complainant’s Reply. The Councillor alleges that this omission has impacted his ability to respond fully and fairly.
43. We refute the Councillor’s assertion and note that Section 7(1)(b) of the Code’s Complaint Protocol does not require the Complainant’s Reply submissions to be provided to the Councillor.
44. Moreover, as detailed above, when the Complainant’s Reply raised questions about standard journalistic practices, we arranged to interview the author of the Article and then provided the Councillor with an opportunity to provide his comments with respect to that interview. This, in turn, prompted the Councillor to submit the Councillor’s Additional Response which was duly considered in preparing this Report. As such, the investigation was conducted in a procedurally fair manner in accordance with the requirements of the Code and with the principles of natural justice.
45. Finally, the Councillor raised further concerns with the “binary” nature in which his comments were either deemed to be retracted or not and that the Report should acknowledge his attempt to withdraw the comments through verbal and non-verbal cues. We have expressly noted these comments, but they do not detract from our initial findings given that the Councillor is an experienced politician who has frequently interacted with the media.

F. CONCLUSION

46. For the reasons set out above, we conclude that the Councillor has contravened Section 5.1(e) of the Code as alleged in the Complaint.

G. RECOMMENDATION

47. Subsection 223.4(5) of the *Municipal Act, 2001*, sets out two penalties that may be imposed on a member of Council where there has been a finding of a contravention of a code of conduct: (1) a reprimand; and (2) suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.
48. The Councillor has contravened Section 5.1(e) of the Code. We have taken into account that the Councillor had previously been found to have breached the Code as set out in our report dated November 26, 2024.
49. Likewise, we taken into account the Councillor's explanation as set out in the Councillor's Additional Response where he advised that he thought he had taken back his comments, although this does not answer why he took no steps to correct the record once the Article was published.
50. Having regard to the above, we recommend, on the grounds of general deterrence and in order to maintain the public confidence with respect to the ethical framework put in place by the Council to govern its members, that Council issue a formal reprimand to the Councillor. We are not recommending a monetary penalty.
51. Council is entitled to accept our recommendations in full, modify our recommendations or to reject them entirely. As noted in previous reports, Council's authority pertains only to the recommendations upon which it is being asked to adjudicate upon.
52. Subsection 223.6(3) of the *Municipal Act, 2001* provides that this Report is to be made public.

Respectfully submitted,

AIRD & BERLIS LLP



Meghan A. Cowan

Integrity Commissioner for the City of Kingston

Dated this 29th day of April, 2025