



Integrity Commissioner Investigation Report (No. 2023-01)

Date	May 10, 2023
To	City Council
From	City Clerk's Office
Service Area	Office of the City Clerk
Item No.	CM23-13

RECOMMENDATION

The Integrity Commissioner recommends that City Council:

1. Request Councillors Andrew Stevens and Dan LeBlanc to provide a written apology to City Manager Niki Anderson for the negative impact their December 2022 Lawsuit had on her professionally and personally.
2. Reprimand Councillor Stevens and LeBlanc for their actions, noting however that Motion MN 22-7 passed by Council on December 7, 2022 expressing disappointment over the negative impact on city council's operational integrity and oversight that the Lawsuit created would be deemed a sufficient reprimand.

ISSUE

Section 25(1) of *The Code of Ethics Bylaw, Bylaw No.2017-4* requires Council to consider and respond to an investigation report within 90 days after the report is provided to the Executive Committee by the Integrity Commissioner.

IMPACTS

Financial Impact

The investigation into the complaint made pursuant to *The Code of Ethics Bylaw*, incurred expenses related to:

- Correspondence and meetings with: the Complainant; Respondent; City Administration; Executive Committee; and any other witnesses as required;
- the review of relevant bylaws, policies and applicable laws;
- the gathering, review, analysis of evidence and drafting of the investigation report.

The complaint took 50.3 hours at a total cost of \$16,500.

OTHER OPTIONS

Option 1: Impose another censure, sanctions or corrective actions allowed by law, in accordance with section 24(4) and 25(3) of *The Code of Ethics Bylaw*. Possible sanctions may include but are not limited to:

- (a) a reprimand;
- (b) requiring that the member apologize to those impacted;
- (c) requiring educational training;
- (d) removing the member from Council Committees or other bodies; or
- (e) dismissing the member from a position of chairperson of a Council committee.

Option 2: Impose no sanctions, censure or corrective actions.

COMMUNICATIONS

The report is being released as part of the agenda for City Council's meeting on Wednesday, May 10th.

Any delegations wishing to address City Council on this matter have until Monday, May 8th at 12 p.m. to register and provide a written submission.

DISCUSSION

A complaint was made under *The Code of Ethics Bylaw* by a member of the public against Councillor Andrew Stevens and Councillor Dan LeBlanc.

The Code of Ethics Bylaw for members of Council outlines the process on what happens next (Sections 24 to 27). The Integrity Commissioner is tasked with investigating and determining the validity of the complaint(s). Substantiated complaints are presented to Council, and complaints found not to be substantiated for any reason remain confidential. A report of the Integrity

Commissioner on substantiated complaints is first presented in-camera at Executive Committee, followed by public consideration by City Council within 90 days.

Integrity Commissioner Angela Kruk reviewed the complaint in accordance with the bylaw provisions.

Section 24(2) of *The Code of Ethics Bylaw* requires the Integrity Commissioner to report to Executive Committee where a violation of the Bylaw has been determined:

- The Integrity Commissioner filed the attached final investigation report (Appendix A) with the Office of the City Clerk on March 7, 2023 for consideration by Executive Committee.
- Executive Committee considered the report at a special meeting in-camera on April 12, 2023 and a subsequent in-camera meeting on May 2, 2023 in accordance with the provisions of the bylaw.

City Council's response to the investigation report must be done in a public meeting and the report must be made available to the public.

The Integrity Commissioner has made an independent ruling based on review of information, and City Council is only responsible for disciplinary action. Council may impose a censure, sanctions and corrective actions recommended by the Integrity Commissioner or any other censure sanctions and corrective actions allowed by law (as outlined in Option 1).

City Council has no legal authority to remove or suspend a member of Council from office arising from a substantiated ethics bylaw complaint.

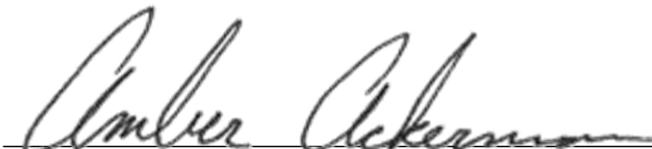
DECISION HISTORY

On April 12, 2023 and May 2, 2023, Executive Committee considered item *E23-18 - Integrity Commissioner Report* in private session.

Section 25(1) of *The Code of Ethics Bylaw, Bylaw No.2017-4* requires Council to consider an investigation report within 90 days after the report is provided to Executive Committee.

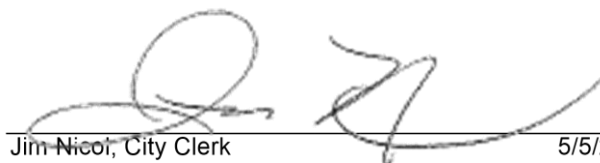
Respectfully Submitted,

Respectfully Submitted,



Amber Ackerman, Deputy City Clerk

5/5/2023



Jim Nicol, City Clerk

5/5/2023

Prepared by: Jim Nicol, City Clerk

ATTACHMENTS

Appendix A: Integrity Commissioner Investigation Report

DATE: March 6, 2023

**RE: CITY OF REGINA CODE OF ETHICS BYLAW NO. 2017-4
INTEGRITY COMMISSIONER INVESTIGATION REPORT
CODE OF ETHICS COMPLAINT REG 22-05 and REG 22-08**

SUMMARY OF COMPLAINT AND ISSUES:

1. A complaint was submitted by a member of the public (“Complainant #1”) on November 29, 2022, alleging that Councillor LeBlanc and Councillor Stevens (collectively referred to as the “Respondents”) contravened the City of Regina (the “City”) Code of Ethics Bylaw No. 2017-4 (“Code”).
2. Another complaint was submitted by a member of the public (“Complainant #2”) on December 12, 2022, alleging that Councillor LeBlanc and Councillor Stevens contravened the City of Regina Code of Ethics Bylaw No. 2017-4.
3. Both complaints related to the same events and were very similar, even though they were submitted by two different complainants, so I conducted one investigation for both complaints.
4. This report describes the investigation and conclusions on whether or not the Respondents were in contravention of the Code by:
 - a. Pursuing a court application against the City Manager, Niki Anderson, seeking to compel her to include a \$24.9 million line item into the proposed 2023 City of Regina budget as per the direction of motion MN22-3.

FACTS:

5. Effective January 1, 2022, I was appointed by Council as Integrity Commissioner for the City of Regina under the Code.
6. I received a written complaint originally dated November 24, 2022 from Complainant #1. I received a written complaint originally dated December 2, 2022 from Complainant #2.
7. Section 20(2) of the Code requires complaints to contain certain mandatory information. After reviewing the two complaints, I contacted each of the Complainants about certain components of section 20(2) that were not contained in the their complaints or that were not properly developed. As a result, each of the Complainants revised their complaints and resubmitted them with additional information. Complainant #1 resubmitted the complaint on November 29, 2022. Complainant #2 resubmitted the complaint on December 12, 2022. I have used these dates for the purposes of the investigation timelines described in the Code.

8. When these complaints were submitted, the Lawsuit that is at the centre of the complaints, was in the process of being argued and as a result, pursuant to section 22(1)(d), I suspended the investigation until a decision was rendered. A decision was rendered on December 14, 2022 and the investigation proceeded after that.
9. Councillor LeBlanc is a lawyer in Saskatchewan and is currently in his first term on Council. Councillor Stevens teaches at the University of Regina and is in his second term on Council.
10. On June 15, 2022, a motion was unanimously passed by Council (“MN22-3”), directing administration to include full operational funding in its proposed 2023 draft budget in order to solve the City’s homelessness problem, clearly demarcated as a line item of its own.
11. During an Executive Committee meeting on September 21, 2022, there was some discussion about the intent of motion MN 22-3. Two members of Council indicated that when voting on motion MN 22-3, they intended it to be a part of the discussion, but not actually in the proposed draft budget.
12. Niki Anderson began employment with the City of Regina in the role of City Manager on November 1, 2022. Prior to this date, Jim Nicol had been in the role of Acting City Manager.
13. On November 17, 2022, Councillor LeBlanc and Niki Anderson met in person and discussed the proposed budget, including the funding for homelessness. Councillor LeBlanc advised Ms. Anderson that if she did not include the funding for homelessness in the proposed draft budget, he would file a court application against her office.
14. On November 21, 2022, the proposed 2023 draft budget was presented to Council by the City Manager. The funding for homelessness was not included in the proposed draft budget.
15. On November 22, 2022, Councillor Stevens and Florence Stratton as applicants, submitted a court application, seeking an order of *mandamus* to compel the City Manager to include a line item in the 2023 proposed budget to fund an end to homelessness in Regina (“Lawsuit”). Councillor LeBlanc acted as legal counsel for the applicants in the Lawsuit, but so as not to minimize his involvement, I find that Councillor LeBlanc was really the driving mind behind all of the strategy and analysis that went into the Lawsuit.
16. On December 7, 2022, Council unanimously passed motion MN22-7 (Councillor LeBlanc and Stevens declared a conflict of interest and did not participate) affirming its continued confidence in the City Manager and expressing disappointment over the negative impact the Lawsuit had created on Council’s operational integrity and oversight.
17. On December 14, 2022, the application against the City Manager was dismissed by the court.
18. Councillor LeBlanc, in his role as legal counsel for the applicants in the Lawsuit, offered his legal services to the applicants on a pro-bono basis, meaning he did not receive any financial compensation for his legal services.
19. The City of Regina reimbursed Niki Anderson for the legal fees she incurred to defend the Lawsuit.

20. Councillor LeBlanc and Councillor Stevens did not receive any direct financial benefit from the Lawsuit.
21. In addition to the two formal complaints that are the subject of this report, I received one other formal complaint and five informal complaints related to the role the Respondents played in the Lawsuit against the City Manager. The other formal complaint was withdrawn by the complainant at the intake stage.

ISSUES:

22. By bringing the Lawsuit against the City Manager, have the Respondents contravened any of the following sections of the Code:
 - a. *Preamble in s. 5(1) As members of Council, members recognize that their actions have an impact on the lives of all residents and property owners in the community*
 - b. *Preamble in s. 5(3): The quality of the public administration and governance of the City, as well as its reputation and integrity, depends on the conduct of elected officials*
 - c. *Respect - 10(1) Members shall treat every person, including other members, municipal employees and the public, with dignity, understanding and respect.*
 - d. *Respect - 10 (2) Members shall not engage in discrimination, bullying, harassment or use derogatory language towards others in their roles as members of Council.*
 - e. *Leadership & the Public Interest - 13(1) Members shall serve their constituents in a conscientious and diligent manner and act in the best interests of the municipality.*
 - f. *Leadership & the Public Interest - 13(2) A member shall strive, by focussing on issues important to the community and demonstrating leadership, to build and inspire the public's trust and confidence in local government.*
 - g. *Leadership & the Public Interest - 13 (3) Members are expected to perform their duties in a manner that will bear close public scrutiny and shall not provide the potential or opportunity for personal benefit, wrongdoing or unethical conduct.*
 - h. *Responsibility – 14 (3) Every member is individually responsible for preventing potential and actual conflicts of interest.*

ANALYSIS:

23. Section 21 of the Code requires me to conduct an initial complaint classification prior to deciding whether or not to investigate a complaint.
24. Pursuant to section 21, I began a review of the Complaint to determine if there was another process or forum that would be more appropriate to deal with the Complaint. I did not identify any other process or forum more appropriate to deal with these complaints.
25. Section 21 also requires me to determine if the subject matter of the Complaint is on its face, a complaint with respect to non-compliance with the Code. In considering this issue, one of the questions I ask myself is, if the allegations were proven to be true, is it possible they would amount to a violation of the Code?

26. Involvement by a member of Council in a civil lawsuit, in and of itself, may not be a matter related to the Code, depending on the subject matter of the lawsuit. However, given that this Lawsuit was related to Council business and the named respondent in the Lawsuit was an employee of the City that reported to Council, I concluded that some of the allegations made in the complaints were matters that related to non-compliance with the Code. In addition, given that I had received several formal and informal complaints about the same conduct of these two Councillors, I felt that there was a sufficient public interest reason to conduct an investigation under the Code.
27. The formal complaint that was withdrawn at the intake stage was not provided to the Respondents as the Code only requires that complaints being investigated are to be sent to the member of Council for comment. This withdrawn complaint was relied upon only in number and not in substance in my findings.
28. As required by the Code, both Respondents were given an opportunity to respond in writing to the allegations under investigation from the Complaints and the Complainants were then each given an opportunity to reply in writing to the Respondents' replies.
29. During the course of the investigation for this issue, I interviewed five people and reviewed any documents submitted by the Complainants and Respondents. I reviewed recorded videos of various Council and Committee meetings relevant to the Complaints. I reviewed the pleadings related to the Lawsuit, as well as the Court of King's Bench decision written by Mr. Justice Morrall.
30. The Respondents were both provided with a copy of this report and an opportunity to provide comments prior to any further distribution of it, as required by section 23(4) of the Code.
31. The Complaints allege that the Lawsuit brought against the City Manager by Councillor Stevens and Councillor LeBlanc violated sections 5(1), 5(3), 10(1), 10(2), 13(1), 13(2), 13(3), 14(3) of the Code. These sections of the Code are reproduced above.
32. The purpose of the Code is to outline basic ethical standards and values for members of Council and to act as a guide to members on their obligations while fulfilling their duties and responsibilities as elected officials. The Code uses a principles-based approach to guide the behaviour of members of Council.
33. The facts related to these complaints are relatively simple and were largely not in dispute.
34. The substance of these complaints is not related to the subject matter or the outcome of the Lawsuit against the City Manager and they are not about homelessness. These complaints in their substance, are related to the role two City Councillors had in bringing a Lawsuit against the City Manager, and the impact of that Lawsuit.

Section 5(1) and 5(3) Preamble

35. Section 5 of the Code forms part of the preamble for the Code, setting the stage for the principle-based approach of the Code. It is used as part of the background and rationale for the obligations in

the Code. The preamble is used to inform the substantive sections of the Code, but does not impose any specific obligations on a member of Council and therefore is not capable of contravention. As a result, there is no violation of section 5(1) or 5(3) of the Code by either Respondent.

Section 10(1) and 10(2) – Respect

36. The Complainants are both of the view that bringing a lawsuit against a City employee was disrespectful to the employee. Complainant #2 was of the view that the Respondents were stepping outside their role on Council by acting alone in the Lawsuit and that was disrespectful to the rest of Council.

37. Section 10(1) and 10(3) of the Code state as follows:

Respect - 10(1) Members shall treat every person, including other members, municipal employees and the public, with dignity, understanding and respect.

Respect - 10 (2) Members shall not engage in discrimination, bullying, harassment or use derogatory language towards others in their roles as members of Council.

38. The Respondents were both of the view that the mere bringing of a lawsuit against the City Manager was not in any way disrespectful. They indicated that the courts are democratic institutions and that bringing a lawsuit is not, in and of itself, a sign of disrespect.
39. Respect is a difficult term to define when using it to refer to how someone is treated. The Code requires Council members to treat people with respect, dignity and understanding. Dictionary meanings are not always useful to define the word respect when used in the treatment of people, but they are a starting point. ‘Respect’ is defined in the Merriam-Webster Dictionary as ‘*to consider worthy of high regard*’. The Oxford Dictionary defines ‘respect’ as ‘*a feeling of admiration for someone or something because of their good qualities or achievements*’.
40. Even though difficult to define, I think it is clear that respect does not mean disagreement. There can be disagreement and respect at the same time. The word ‘respect’ in section 10(1) of the Code refers to the manner in which someone is treated. Court actions often arise as a result of a disagreement. People can disagree and still be respectful to one another. Disagreement is not automatically a sign of disrespect.
41. I agree with the Respondents. Bringing a lawsuit is not, in and of itself, an action that is disrespectful. The courts are used to enforce legal rights and obligations. Asserting a legal right or enforcing a legal obligation against someone else is not a sign of disrespect to the person, even when there is a professional connection between the parties as there was with this Lawsuit.
42. There was no evidence submitted of any incidents between either of the Respondents and the City Manager, where either of them treated the City Manager in a way that was not with dignity, understanding or respect.

43. There was no evidence submitted and I did not find anything to suggest that either of the Respondents did anything that did not respect the rights of other people or groups; that they did not treat someone with courtesy; or that they did not recognize the importance of the different roles others play in local government.
44. I did not find any violation of section 10(1) or 10(2) by either of the Respondents.

Section 13 – Leadership and the Public Interest

45. Section 13 of the Code states as follows:

Leadership & the Public Interest - 13(1) Members shall serve their constituents in a conscientious and diligent manner and act in the best interests of the municipality.

Leadership & the Public Interest - 13(2) A member shall strive, by focussing on issues important to the community and demonstrating leadership, to build and inspire the public's trust and confidence in local government.

Leadership & the Public Interest - 13 (3) Members are expected to perform their duties in a manner that will bear close public scrutiny and shall not provide the potential or opportunity for personal benefit, wrongdoing or unethical conduct.

Did the Respondents fail to serve their constituents in a conscientious and diligent manner and act in the best interests of the municipality (section 13(1))?

46. Complainant #2 suggests that the Respondents violated their fiduciary duty to the citizens of Regina, by acting outside of Council chambers, in a financially imprudent way, potentially causing unnecessary expense and creating an image of Council that suggests the affairs of the City cannot be managed in an efficient, professional manner.
47. Councillor LeBlanc's response was that his fiduciary duty was to the City of Regina and not to the position of City Manager, which is distinct and separate from the City. His role in the Lawsuit did not conflict or violate his duty to the City, he was not acting against or adverse to the City.
48. A member of Council's fiduciary duty is reflected in section 13(1) of the Code which states that a member must act in the best interests of the municipality.
49. I agree that the Respondents' role in the Lawsuit does not breach any fiduciary duty to the City of Regina. The Lawsuit was not contrary to the public interest. The Respondents were motivated by supporting an issue that was important to not only the constituents in their Wards, but also to many people in the City. Even though the way in which they chose to pursue their goals may have been questionable, their actions do not rise to the level of a breach of fiduciary duty.
50. When written submissions were being made during the investigation process, the Respondents both indicated that the City would not bear any financial burden for the Lawsuit. The City did not pay the

Respondent's legal costs, but the City did reimburse the City Manager for her legal costs. This information was not known to the Respondents at the time written submissions were being made.

51. However, I do not think it is unreasonable for the Respondents to have expected the City to bear at least some of the City Manager's legal costs for the Lawsuit. Even so, I do not find that the Respondents acted in a financially imprudent way.
52. Complainant #1 said that the Respondents were representing their own personal views and not those of their constituents. Complainant #1 further stated that the Respondents were grandstanding, using the Lawsuit as an opportunity for political visibility, both for the issue of homelessness and for their own re-election benefit, rather than representing a majority of their constituents.
53. Councillor Stevens explained that after the public became aware that the funding for homelessness may not be included as a line item in the proposed budget, there were petitions being circulated and his office was receiving communications from members of the public expressing significant concern and demanding that action be taken.
54. When seeking election, every elected official has a platform that includes issues they commit to bring to the table for discussion. For Councillor LeBlanc and Councillor Stevens, a solution to homelessness was one of those platform items.
55. Acting in a conscientious and diligent manner implies that a member of Council will act with moral consideration, in a careful and detailed way.
56. In his written reasons, Justice Morrall states that¹ “...the interpretation or misinterpretation of Council's will by the City Manager must be addressed by Council as a whole pursuant to The Cities Act and not through the use of mandamus.”
57. Justice Morrall goes on to say²:

[76] In this specific context, I find there is only strategic value in tinkering with the proposed budget for the applicants. The aggrieved Councillors will have the full use of the democratic process to put the line item in the final budget, if that is the will of the majority of Council. It is my view that this would be an adequate and effective remedy in these circumstances. The proposed budget is an important tool to begin discussions but it has no legal force or authority. It is only Council who can determine what will constitute the final budget.

[77] While there is some practical beneficial effect to the court's use of mandamus in this matter for the applicants in the political sense, I do not view the balance of convenience favoring the applicants.

¹ *Stevens & Stratton v. Nicol Anderson*, 2022 SKKB 270, at para 78.

² *Stevens & Stratton v. Nicol Anderson*, 2022 SKKB 270, at paras 76-77.

58. Justice Morrall found that there were other adequate and effective remedies for the applicants in the Lawsuit to consider. Changing the content of the proposed budget, as the applicants in the Lawsuit were attempting to do, had only strategic value because ultimately it was Council that had the final say as to the content of the final budget. If it was Council's will to include the funding to solve homelessness in the final budget, Council could do so. In other words, the subject matter of the Lawsuit related to matters that were entirely within the jurisdiction of Council to deal with and there was no need for judicial intervention.
59. I find that acting in a conscientious and diligent manner would include consideration of the other options available and the role that Council plays in the budget process and in the interpretation of motions passed by Council. Even if the Respondents considered this, I find that they prioritized support for the underlying political issue over the role of Council and the adequacy of the other options available to them. They pursued unnecessary legal action that was found to only be of strategic value and some practical beneficial effect in a political sense. They did not act in a careful and detailed way, with moral consideration.
60. I find that the Respondents: i) failed to adequately consider Council's role; ii) failed to pursue other adequate and effective remedies; and iii) pursued unnecessary legal proceedings; and as a result, the Respondents failed to serve their constituents in a conscientious and diligent manner and are therefore in contravention of section 13(1) of the Code.

Did the Respondents fail to strive to build and inspire the public's trust and confidence in local government by focusing on issues important to the community and demonstrating leadership (section 13(2))?

61. The Respondents explained that upholding the democratic process and solving homelessness were the main purposes behind the Lawsuit. It is difficult to argue that these issues are not important to the community. I do not think the obligation in section 13(2) requires the issue in question to be important to each and every citizen of Regina, but from an overall perspective, I think that democracy and homelessness carry some level of importance to the community.
62. However, focusing on the issues important to the community is not enough to meet the obligations of section 13(2). The actions of members in supporting those issues must be in furtherance of building and inspiring the public's trust and confidence.
63. The Complainants were both of the view that the actions of the Respondents in bringing the Lawsuit, negatively impacted the reputation of the City and of Council.
64. The Respondents were of the view that the opinions of the Complainants were primarily political disagreement and not a matter related to the Code.
65. I think there is some truth to the positions of both the Complainants and the Respondents on this issue. Some of the evidence given by the Complainants could be characterized as political disagreement with the actions taken by the Respondents. But that, in and of itself, does not necessarily take the allegations outside of the Code. When objectively viewed, if the conduct of the

Respondents relates to an obligation described in the Code, then the fact that the Complainants and the Respondents disagree on the underlying political issues is irrelevant.

66. The Respondents both admitted that they knew the Lawsuit would not be popular with some people and that such is the nature of politics. Most decisions made by elected officials have supporters and critics and they both accept that as part of the political environment. Councillor LeBlanc admitted that the Lawsuit likely did have a negative impact on the trust and confidence of his critics, but that it would inspire the trust and confidence of his supporters. In his view, the Code does not relate to trust on political issues.
67. Although I tend to agree with Councillor LeBlanc that the Code does not refer to trust that is eroded as a result of political positions, his overall view of the public's trust is in my opinion, more narrow than the Code requires. Public trust can be eroded by how elected officials behave, speak, treat one another and other people, make decisions and also by the actions they fail to take. Public trust and confidence is impacted by far more than just dishonesty or impropriety.
68. Section 13(2) does not require members of Council to make decisions that are popular. It does not require every decision of a member of Council to be judged on a standard of whether or not it is building and inspiring the public's trust and confidence in local government. Elected officials are expected to take positions on issues and to advocate for those positions, but they must do so within the parameters of the Code.
69. The Respondents were pursuing legal action to enforce a decision of Council on an employee who reported directly to Council, yet they did not discuss the Lawsuit at Council prior to commencing it. This undermines Council's role in the decision-making process. Any steps taken to enforce a decision of Council should be done with the approval of a majority of Council, not by a single member. Justice Morrall came to the same conclusion at paragraph 78 of his written reasons.
70. Not only was the Lawsuit novel, it was unorthodox and unnecessary. The Respondents were passionately supporting issues that were important to their constituents, but in doing that, they failed to adequately consider the impact this unorthodox and unnecessary Lawsuit would have on people's trust and confidence in the City's governance and decision-making capabilities.
71. The Lawsuit makes City governance look dysfunctional. How will the public have confidence in Council to make decisions that impact the lives of residents and property owners, if it appears as though Council members are seeking the assistance of the courts to make decisions that are entirely within the authority of Council? This I think, is what an objective observer that is neither a supporter or a critic of either Respondent or their political positions, would conclude from the Lawsuit.
72. The Respondents did not make any attempt to seek out Council's approval prior to proceeding with the Lawsuit - a lawsuit that was found by the court to be unnecessary. Even though the Respondents argue that the Lawsuit was their only available remedy, it was noted by the court that there were other adequate and effective remedies available to the Respondents and the relief sought in the Lawsuit was only of strategic value.

73. Section 13(2) requires that members of Council *work towards or strive*, to build and inspire the public's trust and confidence in local government by focusing on issues important to the community and by demonstrating leadership. Looking at it another way, section 13(2) requires members to refrain from taking actions that would compromise the public's trust and confidence in local government.
74. Section 5(3) of the Preamble is supportive of this obligation, by stating that '*the quality of the public administration and governance of the City, as well as its reputation and integrity, depends on the conduct of elected officials.*' In other words, it is recognized that the actions of members of Council have an impact on the reputation and integrity of the City. Members of Council should be guided by this principle when considering their actions.
75. The Respondents were focusing on issues important to the community, as required by section 13(2), but their choice of actions in doing so, i.e. the Lawsuit, had a negative impact on the reputation of the City and the public's perception related to the functionality of Council.
76. To *strive*, is to 'make great efforts' or to 'fight vigorously'. The Respondents were not terribly concerned with the possibility of the Lawsuit negatively impacting the public's trust and confidence in Council. Their passion for their political position greatly outweighed any consideration of the impact of their actions.
77. This negative impact of the Lawsuit is illustrated in part by the number of formal and informal complaints my office received, by the statements provided by the Complainants and by motion MN22-7 passed and supported by all other members of Council. I find that it is also supported when looking at the impact of the Lawsuit from an objective point of view.
78. Counsellor Stevens indicated that his actions are not guided by how others will perceive him, because there will always be people who disagree with his actions. This is a fair statement from anyone in politics, where there are always supporters and critics. However, the Code requires members of Council to consider the impact their conduct has on the quality of public administration, and the governance, reputation and integrity of the City. I find that the Respondents failed to take this into consideration.
79. I understand the Respondents were passionately supporting an issue important to the community in undertaking the Lawsuit, but a member's passionate support of an issue is not unfettered. Members must consider the impact their actions will have on the quality of public administration, governance, reputation and integrity of the City. I find that the Respondents did not adequately consider these basic principles described in the Code and therefore are in contravention of section 13(2) of the Code by taking actions that failed to strive to build and inspire the public's trust and confidence in local government.

Did the Respondents fail to perform their duties in a manner that would bear close public scrutiny; did their actions provide potential or opportunity for personal benefit, wrongdoing or unethical conduct (section 13(3))?

80. The Respondents state that the Lawsuit did not provide the potential or opportunity for either of them to personally benefit from it. I did not find any evidence to the contrary. Public visibility or potential for re-election is not a sufficient personal benefit to violate this section of the Code. There has been no evidence uncovered during the investigation that would suggest that the actions of the Respondents would provide an opportunity for wrongdoing or unethical conduct.
81. Even though the actions of the Respondents may be disagreeable to many, they do not rise to the level of failing to stand up to close public scrutiny.
82. I do not find any violation of section 13(3) by the Respondents.

Section 14 – Responsibility

83. Section 14(1) of the Code states as follows:

Responsibility – 14 (3) Every member is individually responsible for preventing potential and actual conflicts of interest

84. Assessing the substance of a conflict of interest is outside my jurisdiction as Integrity Commissioner as per section 21(3)(b) of the Code. I find it difficult to assess any potential contravention of section 14(3) without a determination that an actual or potential conflict of interest has occurred, so in my view, the limitation put on my jurisdiction by section 21(3)(b) of the Code restricts my ability to consider a violation of section 14(3) of the Code, unless there has been a finding pursuant to section 114-119 of *The Cities Act*, that an actual or potential conflict of interest has occurred. Only then, would I have the jurisdiction to determine if the member had also violated section 14(3) of the Code by not preventing a potential or actual conflict of interest.
85. Notwithstanding the above, I think some general comments on this issue are in order for the benefit of the Complainants.
86. A conflict of interest is a term that is often misinterpreted by a person's subjective opinion of the term. When used in a governance context, as it is with Council, it has a predefined meaning that typically prohibits a person from participating in decisions that have the potential to or may appear to have the potential to further his or her private interests or improperly further another person's private interests.
87. This is not the manner in which either of the Complainants have used the phrase 'conflict of interest' in their complaints. The Complainants may disagree with the Respondents suing an employee of the City and they may be of the opinion that such action goes against general governance principles of a decision-making body such as Council, but neither of those reasons relate to a conflict of interest as defined for use with Council.

88. The Complainants may disagree with the manner in which the Respondents took matters into their own hands rather than seeking an option that involved all of Council, but by choosing to do so, the actions of the Respondents do not relate to a conflict of interest.
89. By taking actions important to the residents of his Ward, even if they are not supported by the residents of other Wards or of the rest of Council, Councillor Stevens was not in a conflict of interest, even if his actions were motivated by re-election. Many of the members sitting on Council are motivated by being re-elected and that does not put all of them into a conflict of interest.
90. Councillor LeBlanc's role as legal counsel for the applicants in the Lawsuit does not put him at odds with his role as a City Councillor. When a motion relating to the Lawsuit came before Council on December 7, 2022, Councillor LeBlanc and Councillor Stevens both removed themselves from consideration of that motion, which was appropriate. The Lawsuit certainly may create some tension and awkwardness at the Council table and between the Respondents and City administration, that is no different than any issue that is debated at the Council table where there are differing points of view (and there often are) but that does not make it a conflict of interest.

CONCLUSION

91. I find that Councillor LeBlanc and Councillor Stevens were in contravention of section 13(1) and section 13(2) of the Code for the reasons stated above. All other allegations in the Complaints filed by each of the Complainants are found to be unsubstantiated.

RECOMMENDED SANCTIONS

92. Section 24(2) of the Code requires that if I have determined that a complaint is substantiated in whole or in part, I must report my findings to the Executive Committee, including the terms of settlement or recommended censure, sanctions or corrective action.
93. Section 24(4) requires that any recommended censure, sanctions or corrective actions be permitted in law and must be designed to ensure the inappropriate conduct does not continue.
94. Section 25(3) of the Code lists some of the sanctions that Council may consider where there has been a violation of the Code, including but not limited to, a reprimand, apology, educational training, removing the member from committees or dismissing the member from a position of chairperson of a committee.
95. The Lawsuit was initiated against the City Manager approximately three weeks after Niki Anderson started in that role. While I accept that the Respondents did not target Ms. Anderson personally, the Lawsuit still had a considerable negative impact on her professionally and personally. I know this, not only because I heard this directly from Ms. Anderson, but also because the Lawsuit would have had a negative impact on any person in Ms. Anderson's position.
96. Even though the impact of the Lawsuit on Ms. Anderson was not a factor relevant to my findings, in my view it is relevant to sanctions. Given that the court found the Lawsuit to be unnecessary and

given my findings that the Respondents did not adequately consider the impact of their actions, I am of the view that an appropriate restorative consequence for the Respondents should include a written apology to Ms. Anderson, for the negative impact the Lawsuit had on her professionally and personally.

97. In addition, I would also recommend that Council impose a reprimand on each of Councillor LeBlanc and Councillor Stevens. However, in my view, motion MN 22-7 passed by Council on December 7, 2022, expressing disappointment over the negative impact on City Council's operational integrity and oversight that the Lawsuit created, is a sufficient reprimand.

ANGELA KRUK
INTEGRITY COMMISSIONER
CITY OF REGINA