

Investigation Report

In the matter of: Formal Complaint No. 2023-16

**Sherri Walsh
Integrity Commissioner
for The City of Winnipeg
June 6, 2024**

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I. INTRODUCTION

1. This report concerns a formal complaint which was made by a member of the public (the "Complainant") against Councillor Markus Chambers (the "Respondent").

2. The complaint arises out of the Respondent's participation in one agenda item at a public meeting of the Riel Community Committee (the "RCC") on June 19, 2023 (the "Committee Meeting"), regarding a proposed development at 180 Creek Bend Road in Winnipeg, Manitoba (the "Development").

3. The Complainant alleges that by virtue of the Respondent's personal relationship with a proponent of the Development whom they describe as being the Respondent's "personal friend, past campaign manager and advisor" ("the "Proponent") the Respondent was in a conflict of interest when he participated in a vote about the Development, during the Committee Meeting.

4. For the reasons set out below, I find that on June 19, 2023, the Respondent acted in a situation in which he had a conflict of interest, in breach of Rule 2 (Conflict of Interest) of the *Code of Conduct for Members of Council* (the "Code").¹

5. I am therefore providing this report to Council, in which I outline my findings as to how the Respondent contravened the *Code* and provide my recommendation as to the appropriate sanction, for Council's consideration.

II. THE INVESTIGATION PROCESS

6. The investigation of this matter was undertaken in compliance with the process set out in Part B of the *Complaint Procedures*.²

7. The Complainant first brought their concerns to my office on August 25, 2023 on an informal basis. At that time, they did not identify the date on which the alleged conduct occurred.

8. They filed the Formal Complaint on September 12, 2023 (the Complaint"). I acknowledged receipt of the Complaint and advised that in accordance with the process set out in the *Complaint Procedures*, I would perform a preliminary assessment to determine whether I would conduct an investigation of the matter.

9. In this regard, the *Complaint Procedures* say that after conducting a preliminary assessment of a complaint:

7. If the Integrity Commissioner is of the opinion that:

¹ *Code of Conduct for Members of Council*, Schedule "A" to By-law No. 19/2018

² the *Code*, *supra*, Appendix B, Part B

- a. the conduct described in the complaint is not within the Integrity Commissioner's jurisdiction to investigate;
- b. the complaint is frivolous, vexatious or not made in good faith;
- c. there are no grounds or insufficient grounds for an investigation, or that it is unlikely that the complaint will succeed; or
- d. an investigation would serve no useful purpose;

the Integrity Commissioner shall not conduct an investigation and, where this becomes apparent in the course of an investigation, shall terminate the investigation.³

10. The *Complaint Procedures* also address the time frame within which a complaint must be made, and read in part as follows:

Time for Filing Complaints

4. Complaints must generally be made: (a) within 60 days after the date of conduct giving rise to the complaint; or (b) within 60 days after the Complainant became aware of the conduct giving rise to the complaint ...
5. The Integrity Commissioner may accept a complaint filed after the expiry of the time limit set out in section 4 if the Integrity Commissioner is satisfied that:
 - a. the delay was incurred in good faith;
 - b. it is in the public interest to conduct an investigation, or give consideration to whether or not to conduct an investigation; and
 - c. no substantial prejudice will result to any person because of the delay. (emphasis added)⁴

11. These sections therefore provide the Integrity Commissioner with the discretion to accept complaints which are made after the 60 day time limit has expired if they are satisfied that the requirements set out in Section 5(a)-(c) of the *Complaint Procedures* are met.

12. After conducting my preliminary assessment, I determined that the matter was within my jurisdiction to investigate because it related to an allegation of non-compliance with the *Code* - in particular Rule 2 of the *Code* relating to Conflict of Interest. I also determined that the Complaint was not "frivolous, vexatious or not made in good faith."

13. With respect to the timing of the Complaint, I noted that when this matter was first brought to my attention informally on August 25, 2023, that was approximately one week after the expiry

³ *Complaint Procedures*, Part B, section 7

⁴ *Complaint Procedures*, Part B, sections 4 & 5

of the 60 day limit to file a complaint and that the Formal Complaint was filed approximately three weeks after the expiry of that time limit.

14. I considered these timing issues, having regard to my ability to exercise discretion to accept a complaint after the time for filing has expired and decided I was satisfied that: the small delay in filing the complaint was incurred in good faith; it was in the public interest to conduct an investigation; and no substantial prejudice would result to any person because of the delay.

15. Accordingly, on December 14, 2023, I advised both parties in writing that I would be investigating the Complaint and I provided the Respondent with the details of the Complaint and the supporting material provided by the Complainant.

16. The *Complaint Procedures* require that while the details of the Complaint will be disclosed to the Respondent Member, the name of the Complainant will only be disclosed in circumstances where fairness requires such disclosure. In this case, the Complainant's identity was not relevant to the substance of the allegations in the Complaint and I did not disclose it to the Respondent.

17. As is my practice, I advised the Complainant on December 7, 2023 prior to finalizing my preliminary assessment of the matter, that if I decided to conduct an investigation, I would endeavor to keep their identity confidential, however, the fact of their identity could become apparent to the Respondent in the course of the investigation. The Complainant told me that they were not concerned if the Respondent became aware of their identity.

18. I carried out my investigation in accordance with section 14 of Part B to the *Complaint Procedures* which provides:

Investigation

14. If a complaint is within the Integrity Commissioner's jurisdiction and is not rejected by the Integrity Commissioner on one of the grounds listed in section 7, the Integrity Commissioner will investigate the complaint as follows:

- a. provide the Member whose conduct is in question with the details of the complaint and any supporting material determined to be relevant by the Integrity Commissioner, by mail or e-mail, together with a notice of intention to conduct an investigation.
- b. request that the Member provide a written response to the complaint, any supporting documents or materials, and a list of relevant witnesses, within ten (10) days.
- c. provide a copy of the Member's response to the Complainant with a request that any written reply be provided by the Complainant within ten (10) days. A copy of that reply will be provided to the Member.

19. On December 18, 2023, at the Respondent's request, I discussed this matter with him by phone. On December 22, 2023, he provided me with his written Response to the Complaint, which I provided to the Complainant on January 4, 2024. In doing so, I told them that they were entitled

to provide a written Reply to the Response and asked them to provide one within 10 days if they chose to do so.

20. The Complainant provided me with a brief Reply on January 18, 2024.

The Complaint, Response and Reply

Complaint

21. The Complainant alleged that the Respondent was in a conflict of interest when he participated in the Committee Meeting, with respect to the agenda item relating to the Development. In their Complaint, they stated in part:

"The nature of my complaint is one of a serious conflict of interest with respect to Markus Chambers ... has failed to represent his constituents and instead favoured a longtime, close friend with respect to a development at 180 Creek Bend Road ...

The owner and developer of 180 Creek Bend Road is a personal friend, past campaign manager & advisor of Mr. Chambers. The local residents presented petitions (with 180 signatures) to reduce the size and density of the project, however, Markus has throughout favoured his personal friend rather than the constituents.

Initially the area asked to limit the project to 3 stories reducing density & solve serious safety issues ie parking, sidewalks, and traffic controls. Riel CC approved a 5 story, 152 unit apartment block.

This obviously provides better economic gain for ..., the personal friend of Mr. Chambers. The City then set specific guidelines for the project, specifically parking & landscaping. 66% of parking was to be underground and 33% surface parking. [The Proponent] appealed to Riel CC to invert those percentages due to costs. City Planning did not approve the changes. ... The counsellors met behind scenes, off camera and Markus announced the changes would be approved.

I strongly believe ... Chambers should have abstained from the vote but instead influenced his colleagues to vote in favour of [the Proponent]."

Response

22. In his written Response, the Respondent, among other things:

- a. acknowledged the existence of his relationship with the Proponent including that the Proponent had acted as his Official Agent in the 2022 Municipal Election;
- b. described his understanding of how the Proponent became one of the owners and developer of the Development;

- c. explained some of the underlying concerns that he understood to be felt by the neighbourhood in relation to traffic congestion and other similar issues;
- d. discussed the nature of his communications with the Proponent in relation to the Development, stating that on each occasion he had advised the Proponent to speak with City planners and the Residents' Association; and
- e. explained that his involvement with the Development stretches back multiple years prior to the Proponent's purchase of the property but acknowledged that the change in ownership and his continued involvement after that date "resulted (in) optics that were not optimal to the outcome of addressing the needs of the community."

Reply

23. In their Reply, the Complainant did not provide any additional information. They reiterated that the Respondent "... clearly should have abstained from the vote due to his personal conflict as well as not have deliberately influence[d] a favourable outcome for his friend."

Material Reviewed

24. In conducting my investigation I reviewed:

- the minutes, agenda and disposition sheet of the Committee Meeting held June 19, 2023;
- video of the Committee Meeting's proceedings;
- the administrative report related to the Development prepared by the City's Urban Planning and Design Division for consideration of the RCC at the Committee Meeting;
- the materials provided by the Complainant with the Complaint, which included:
 - correspondence between members of the RCC and others pertaining to the Development, some of which dated back to 2021;
 - a petition submitted in 2021 by numerous individuals in opposition to the Development;
 - an undated letter addressed to the Respondent, expressing opposition to the Development;
 - documents prepared by the Residents Association in opposition to the Development;

- screenshots of social media posts (Facebook, Instagram and LinkedIn) which include references to and/or photographs of the Respondent and the Proponent; and
- the agenda of an RCC meeting held on December 2, 2013 related to 155 Creek Bend Road and associated documents (including a variance application);
- correspondence provided by the Respondent, some of which dated back to 2021, which, he said, demonstrated the efforts taken by his Office to address traffic issues on Creek Bend Road and showed the level of engagement between the Developer, the residents and his Office.

Interviews

25. Following receipt of the Complainant's Reply, I conducted interviews of both the Respondent and the Complainant by Zoom, on January 29, 2024 and February 7, 2024, respectively.

Reporting

26. The *Complaint Procedures* say that the Integrity Commissioner shall not issue a report to Council which finds a violation of the *Code* unless the Member who has been found in breach has been given reasonable notice of the basis for the proposed findings and recommended sanctions and an opportunity to comment on same.⁵

27. Accordingly, I provided a draft of this report to the Respondent in order to give him an opportunity to review and comment on my draft findings and recommended sanctions.

28. He provided his comments to me on June 4, 2024. The comments related to ensuring the accuracy of how certain factual matters were described and I accepted the Respondent's suggestions in that regard.

III. THE EVIDENCE

29. From my review of the Complaint, the materials and my interviews of the parties, I learned the information set out below.

30. Most of the facts which form the basis for the Complaint were not in dispute and are a matter of public record.

⁵ *Complaint Procedures, supra*, s.19

The Respondent's Relationship with the Proponent

31. As noted above, in alleging that the Proponent is a close friend of the Respondent, the Complainant provided me with a number of screenshots from social media that were posted by either the Proponent or the Respondent, including:
- a. an undated Instagram post from an account containing the Proponent's first and last name which showed the Proponent, the Respondent and a third individual on a golf course, with the Proponent's caption: "Enjoyed a great weekend golfing! I've been so lucky to have met such amazing clients that have become good friends over the years!..."
 - b. a Facebook post, dated August 11 [no year indicated], made by the Respondent that showed a photograph of the Proponent, the Respondent and two other individuals at a curling club.
 - c. an undated LinkedIn post from an account containing the Proponent's first and last name expressing thanks for birthday wishes, which included the following statement: "...Lastly Councillor Markus Chambers my long time friend and my sounding board who keeps me calm even through some rough times in this business...";
 - d. an undated Facebook post, which depicts 9 individuals standing in front of a billboard, many of whom are holding shovels. The Respondent advised that he is one of the individuals in the photo and that he posted a comment on this picture stating "All that and it was your birthday too. Congratulations [Proponent]";
 - e. a Facebook post, dated November 1, 2022, made by the Proponent containing a photograph of the Proponent, the Respondent and the current Mayor with the caption "It was a great event to attend the sworn in ceremony [sic] for Winnipeg's new Mayor Scott Gillingham with my acclaimed councillor boss, friend and brother Markus Chambers (I was Markus's campaign manager and the official agent)".
32. Each of these social media posts was publicly accessible.
33. The Respondent acknowledged the existence of the social media posts. He said he has known the Proponent for approximately 15 years, having met them through the Provincial Nominee Program offered by the Federal Government where the Respondent was, at one time, employed.
34. The Proponent later became a co-worker of the Respondent's spouse.
35. The Respondent said he is not engaged in any business or financial relationship with the Proponent. He considers the Proponent to be a friend. They socialize on occasion and generally

travel in the same circles professionally, such that they will often see each other at networking events, fundraisers, and other such social events. They also play golf together on a semi-regular basis.

36. The Respondent said he does not categorize the Proponent as one of his "closest" personal friends, but he acknowledged that they have a personal, friendly relationship.

37. He considers the Proponent to have a good business mind and political acumen which is why, in 2018, he asked the Proponent to be his Campaign Manager when he ran for election to Council. In 2022 he chose the Proponent to be his Official Agent for his re-election campaign, a role which the Respondent said would have required less time and effort on the part of the Proponent, who had, in the intervening years become busier with the demands of their real estate and development practice.

38. No one ran in opposition to the Respondent in the 2022 Municipal Election, and he was therefore re-elected by acclamation. The Respondent said the Proponent's involvement in his 2022 campaign was, therefore, less than it had been in 2018.

Background to the item addressed at the June 19, 2023 Committee Meeting

39. The Development is a proposed multi-unit apartment complex that is to be constructed at 180 Creek Bend Road in the South St. Vital neighbourhood of Winnipeg, near the intersection of St. Anne's Road and the Perimeter Highway. It is located within the Respondent's ward (St. Norbert-Seine River).

40. There have been other residential developments in the area in recent years, which have caused concerns for neighbourhood residents relating to such issues as lack of parking, noise concerns and increased traffic. The residents organized into a Residents Association which opposed the Development.

41. A subdivision and re-zoning application related to the Development was approved by the RCC at a meeting held on October 26, 2021, subject to various requirements and recommendations which were made by the Public Service at that time.

42. The Development was previously owned by a different property development entity which, the Respondent advised, sold off most of its properties, including the Development, to other developers and was subsequently purchased by the developer that currently owns the Property (the "Developer").

43. The Respondent's understanding was that the Developer is a closely-held corporation of which the Proponent is both a director and shareholder.

44. The Respondent said that he does not have any financial interest in the Development, nor is he involved in any business enterprise with either the Proponent or the Developer.

45. The Respondent said that the beginning of the approval process for the Development predated his election in October 2018, but that he has been involved in the process since being elected to Council.

46. The Respondent stressed that he genuinely believed that his constituents' interests would be best served by what the Proponent was seeking at the Committee Meeting in 2023, particularly with respect to the proposed affordable housing at the site and the traffic concerns and that perhaps this belief affected his judgment with respect to participating at the Committee Meeting.

The June 19, 2023 Committee Meeting and the Proposed Change to the Development

47. At the material time, the three members of the RCC at the Committee Meeting were: the Respondent; Councillor Matt Allard; and Councillor Brian Mayes. Councillor Mayes chaired the meeting

48. There were a number of items on the agenda for the meeting that day, one of which related to the Development. The RCC was being asked to consider a report from the Public Service (Urban Planning and Design Division), which recommended that the Development be altered to move the majority of its parking underground and to create a 20 foot wide landscape buffer along the entire length of the southern property boundary.

49. The Proponent appeared in delegation on behalf of the Developer, to oppose the Public Service's recommendation. They identified themselves as representing the Developer and as being one of the owners of the Development.

50. The Respondent said that some time prior to the Committee Meeting, the Proponent had spoken with him on the telephone, to express frustration about the City's planning staff's non-responsiveness, asking for assistance. The Respondent said that he told the Proponent that any concerns he had needed to be discussed with the relevant City officials and with area residents.

51. The Respondent said that in total, he spoke with the Proponent no more than a handful of times in relation to the Development and his advice to the Proponent was always consistent – that he needed to speak with the relevant City officials.

52. The Respondent provided correspondence he had exchanged with members of the Residents' Association, the Proponent and others in March, April and May 2023 which, he said showed the level of engagement between: the Developer; the Residents Association; and his office and demonstrated "transparency and collaboration" between all parties. He also noted that many emails referenced that there were ongoing traffic and parking issues expressed by all concerned, and in particular by his office.

53. Several individuals appeared in delegation at the Committee Meeting pertaining to the Development agenda item, one of whom, as noted above, was the Proponent, who gave a brief presentation expressing their views on why the RCC should reject the Public Service's recommendation.

54. The Respondent did not recuse himself prior to or during the Proponent's delegation; nor did he identify the existence of his personal relationship with the Proponent.

55. Following the conclusion of the delegations pertaining to the Development agenda item, the Respondent said that he wanted a chance to discuss matters further with his fellow RCC members before taking a vote.

56. The RCC proceeded to deal with other items on the meeting's agenda. A break was taken and the three RCC members left the Council Chamber. Shortly after they came back, the Respondent moved the vote on the agenda item related to the Development.

57. The three RCC members voted unanimously in favour of the Development's request to reject the recommendation of the Public Service.

58. The minutes of the Meeting identify the outcome of the vote as follows:

DECISION MAKING HISTORY:

Moved by Councillor Chambers,

That the recommendation of the Winnipeg Public Service not be concurred in, and that the plans submitted for 180 Creek Bend Road be approved.

59. When I interviewed the Respondent, he told me that after receiving the Complaint, he realized that he should have recused himself from voting on the matter because of his personal relationship with the Proponent, whom he understood was one of the directors and shareholders of the Developer and the owner of the Development.

60. He expressed genuine regret at what he described as a "lapse in judgment" that caused him to participate in the vote notwithstanding that relationship.

61. He was forthcoming in his evidence and did not attempt to minimize his conduct, readily taking responsibility for his actions at the Committee Meeting.

IV. ANALYSIS - WAS THERE A BREACH OF THE *CODE*?

62. The evidence on which I relied to make the conclusion in this report was obtained from the interviews I conducted with the parties and the materials I reviewed, as set out above.

63. As I noted earlier in this report, the relevant facts are not in dispute. The focus of my inquiry was primarily on the relationship between the Respondent and the Proponent, the nature of which the Respondent acknowledged. There is also no dispute about the Respondent's participation in the Committee Meeting.

64. In conducting this investigation, I did not, therefore, have to weigh evidence or make assessments of anyone's credibility. Had that been necessary, I would have done so by applying the standard of proof known as a balance of probabilities.

65. Rule 2 of the *Code* (Conflict of Interest) requires Members of Council to refrain from acting in situations in which they have a real or apparent conflict of interest. The relevant portion of the Rule reads as follows:

2. Conflict of Interest

a. Members must not act in situations in which they have a real or apparent conflict of interest, whether during a meeting of Council or Committee of Council or at any other time while performing their duties of office.

i. A conflict of interest exists when a Member exercises their duties of office and at the same time knows that in the performance of those duties there is the opportunity to further their private interests. (emphasis added)

66. A "Private interest" is defined in the *Code* as follows:

"**Private Interest**" includes any personal benefit, **whether or not pecuniary**, but does not include an interest:

- (a) in matters of general application;
- (b) in matters that affect a Member as one of a broad class of the public;
- (c) that concerns the remuneration and benefits of the Member as a Member of Council; or
- (d) that is trivial (emphasis added).

67. A non-pecuniary interest may arise where, for example, a Member has a close relationship with another person, and that person has a private interest in a matter before Council or a Committee of Council.

68. The "closeness" of a relationship is determined by considering the nature of the relationship in its totality having regard to factors such as:

- a. the nature of the friendship or business relationship;
- b. the frequency of contact; and
- c. the duration of the relationship.

69. A conflict of interest, therefore, can occur because of past or present personal relationships that have the potential to influence a Member's judgment through emotion, loyalty or lack of proper perspective.

70. As Justice Cunningham said in the report he published after conducting the Mississauga Inquiry:

"Councillors (and staff) are not to use their office to promote private interests, whether their own or those of friends or relatives. They must be unbiased in the exercise of their duties. That is not only the common law but the commonsense standard by which the conduct of Municipal representatives ought to be judged."⁶

71. The Conflict of Interest Rule in the *Code* expands the obligation that is imposed on Members under the relevant provincial legislation. The *Municipal Council Conflict of Interest Act* ("MCCIA")⁷ limits the type of the interests which can give rise to a conflict of interest, solely to financial interests.

72. In contrast, as noted above, the *Code* defines a "private interest" which can give rise to a conflict as including "any personal benefit, whether or not pecuniary".

73. In this way the *Code* prohibits a Member from granting favours to friends, family and associates, even where there is no obvious financial interest for the Member themselves.

74. This broader definition of what constitutes a Member's private interest is intended to promote the public's confidence that elected officials will put the public's interest before their own interests or the interests of their friends and associates.

75. It is also consistent with the commitment that is reflected in the first paragraph of the Preamble to the *Code* which says that:

⁶ The Honourable J. Douglas Cunningham, *Report of the Mississauga Judicial Inquiry/Updating the Ethical Infrastructure*, Mississauga Judicial Inquiry (2011).

⁷ *Municipal Council Conflict of Interest Act*, C.C.S.M. c.M255, s.5(1)

The Members of Council for the City of Winnipeg recognize that they hold office for the benefit of the public and that their conduct must adhere to the highest ethical standards, exceeding the minimum obligations required by law.

76. In this case, I find that the nature of the Member's friendship with the Proponent as described above including the fact that they have known each other for 15 years, play golf together on a semi-regular basis and the Respondent relied on the Proponent to play a prominent role in both of his election campaigns showed a relationship of sufficient proximity to give rise to a "private interest" within the meaning of the *Code*.

77. It is important to recognize that not every relationship with a person who is described as a Member's "friend", whether by that person's own definition or the Member's, will necessarily give rise to a "private interest" such that the Member needs to recuse themselves from influencing or discussing a matter which relates to that person.

78. Every situation must be assessed on its specific facts.

79. The findings in this report are also not intended to deter Members from interacting with people out in the community or socializing or being photographed with members of the public.

80. It is important to understand that having a private interest which gives rise to a conflict is not in itself a problem. What matters is what the elected official does about that interest.

81. Rule 2 (Conflict of Interest) outlines what a Member must do when they have a conflict of interest:

...

c. A Member who has a conflict of interest with respect to any matter must refrain from influencing the matter and from discussing or voting on any decision with respect to the matter.

d. Should a conflict of interest, real or apparent, arise with respect to a matter that will be discussed or determined at a meeting of Council or a Committee of Council, the Member must:

- i. disclose the general nature of the Member's interest, and
- ii. withdraw from the meeting without voting or participating in the discussion.

82. Accordingly, in this case, because of his relationship with the Proponent, the Respondent ought to have recused himself from participating in any aspect of the Committee Meeting which related to the agenda item involving the Development.

83. By failing to recuse himself, and by participating in the vote pertaining to the Development I find the Respondent acted in a situation in which he had a conflict of interest, in breach of Rule 2 of the *Code*.

84. The Respondent was candid in admitting that he failed to turn his mind to whether he was in a conflict of interest when he participated in the Committee Meeting and has acknowledged his responsibility for this failure.

85. In setting out my findings in this report I am not making any determination as to whether or to what extent the Respondent's relationship with the Proponent influenced his judgment in fact.

86. That is not the subject of this investigation and is not necessary for me to consider in order to decide whether the Respondent breached the *Code*.

87. Similarly, I make no comment in this report on the merits of the agenda item relating to the Development. They are not relevant to my determination as to whether the Respondent met his obligations under the *Code*.

88. I also emphasize that in making my findings I have focused my investigation and analysis solely on the conduct of the Respondent and do not intend any of the findings in this report to be taken as an assessment or criticism of the conduct of any other individual who is mentioned in the report, including the Proponent and the other members of the RCC.

V. RECOMMENDATION AS TO SANCTIONS

89. The Enforcement section of the *Code* sets out the possible sanctions that may be imposed by Council when it receives a report from the Integrity Commissioner which finds that the *Code* has been breached. They are:

i. That the Member be reprimanded;

ii. That the Member be required to make a public apology;

iii. That the Member be requested to return a gift or benefit or, where the gift or benefit cannot be returned, reimburse the donor for the value of the gift or benefit;

iv. That the Member be removed from a committee; and/or

v. That the Mayor be requested to remove the Member from their position as chair of a committee.⁸

⁸ *Code, supra*, Part F section 4

90. In determining whether to impose any of these sanctions, the *Code* says Council must consider all of the following factors:

- a. The nature of the Code of Conduct contravention;
- b. The length or persistence of the Code of Conduct contravention;
- c. Whether the Member knowingly contravened the Code of Conduct;
- d. Whether the Member took steps to prevent, mitigate or remedy the Code of Conduct contravention;
- e. Whether the contravention was committed through an error of judgment made in good faith; and
- f. Whether the Member previously contravened the Code of Conduct.⁹

91. While the *Code* says that it is the Council's responsibility to decide what sanctions, if any, will be imposed, it also says that the Integrity Commissioner may make recommendations to Council about what, if any, sanctions should flow from their finding that the *Code* has been breached.

92. In this case, I recommend that the Respondent make a public apology at the Council meeting where this report is considered.

93. In making this recommendation, I point out the following factors which are relevant to Council's consideration:

- a. a contravention of Rule 2 (Conflict of Interest) is a serious matter;
- b. in this case the contravention was a single occurrence;
- c. although he ought to have realized he had an obligation to declare a conflict and recuse himself, the Respondent did not deliberately contravene the *Code*; and
- d. the Respondent has never previously been found to have contravened the *Code*.

94. Further, the Respondent:

⁹ *Code, supra*, Appendix B, Part B, s.27

- a. readily acknowledged that he made a mistake by participating in discussions and voting at the Committee Meeting;
- b. was candid and forthright during this investigation, acknowledging that he had a personal relationship with the Proponent which he ought to have disclosed and that he ought to have recused himself from participating at the Committee Meeting for the agenda item; and
- c. expressed genuine regret for his error.

95. Throughout this investigation the Respondent has made it clear to me that he understands and accepts responsibility for his failure to meet his obligations under the *Code* in the circumstances of this matter.

96. As I have said on many occasions, the main purpose of the complaint process in the *Code*, in addition to affording accountability, is to be remedial rather than punitive.

97. In this regard, the educational function of the *Code* is of paramount importance.

98. The publication of this report provides an opportunity for all Members of Council to pay closer attention to situations where a matter involves someone with whom they have a personal relationship. As always, I encourage Members to seek my advice on a pro-active basis before they act.

VI. CONCLUSION

99. For the reasons stated above, I have determined that the Respondent contravened Rule 2 (Conflict of Interest) of the *Code* by participating in a meeting of a Committee of Council where he influenced, discussed and voted on a decision regarding a matter in which he had a conflict of interest.

100. I recommend that Council sanction the Respondent for this conduct by requiring him to issue a public apology at the Council meeting where this report is considered.

101. I thank the Complainant and the Councillor for their co-operation in this investigation.

Sherri Walsh, Integrity Commissioner
June 6, 2024