

TOWN OF COCHRANE
Integrity Commissioner's Report¹
H.G. Elston

**REPORT ON THE MATTER OF A COMPLAINT AGAINST
MAYOR PETER POLITIS**

Issued: January 25, 2024

1. Municipal Integrity Commissioners conduct inquiries and provide reports on their findings to their respective municipal councils. They may make recommendations for the imposition of a penalty or other remedial action to the municipal council. Reference should be made to the minutes of the municipal council meeting where the Commissioner's report was presented, to obtain information about council's consideration of each report. When possible, a link to the relevant municipal council minutes is provided.

PART I - INTRODUCTION

1. I was appointed as the Town's Integrity Commissioner on December 22, 2022. Under section 223.3 (1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended (the "**Municipal Act**"), I am, among other things, authorized to apply the Town's "Code of Ethics for Town Councillors Policy", Policy GO-002 (the "**Code of Ethics**"), as well as any of the Town's procedures, rules and policies governing the ethical behaviour of Members of Council.

2. This inquiry involves a complaint made to me by the Town's Director of Community Services, Jason Boyer (the "**Director**"), on July 19, 2023, under the Code of Ethics and other Town policies, as well as a request for an investigation under section 32.07 (1) of the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, as amended (the "**OHSA**") (the "**Complaint**").

3. The initial complaint was made to the Town's Human Resources Manager, who made Council aware of the complaint. The Manager also advised Council that he would seek advice from the Town's Clerk. In consultation with the Town's solicitor, the Clerk was satisfied that, as a person appointed under statute as an independent official, I was a suitable person to conduct the OHSA investigation. I received an email from the Town's Clerk on July 11, 2023, authorizing me to proceed. Finally, my appointment as an independent investigator was reviewed and endorsed by the representative at the Workplace Safety and Insurance Board who had with carriage of the matter.

4. Accordingly, this report will serve as both a report on my inquiry into the Complaint, under section 223.6 (2) of the *Municipal Act*, and a report on my investigation into allegations of workplace harassment, under section 32.07 (1) of the OHSA.

5. In particular, the Director alleges that he was subject to workplace harassment, bullying and intimidation by the Town's Mayor, Peter Politis (the "**Mayor**"). The Director alleges that, in addition to or as part of the alleged personal attacks he has suffered at the hands of the Mayor, the Mayor has also contravened several provisions of the *Municipal Act* and certain Town policies designed to ensure good governance and respectful interactions between staff and Members of Council.

6. The Director's allegations raise the following questions:

- 1) Did the Mayor contravene the provisions on Workplace Harassment in the Town's "Respect in the Workplace – Harassment Program", Policy HR-006 (the "**Respect in the Workplace Policy**") and/or the *Occupational Health and Safety Act*, R.S.O 1990, c. O.1, as amended (the "**OHSA**")?

- 2) Did the Mayor contravene sections 6(3), 6(7), 6(8), 6(11) and 7 of the Town's "Council and Staff Relations Policy", Policy GO-004 (the "**Council and Staff Relations Policy**")?
- 3) Did the Mayor contravene Sections 7(d), 7c i), ii), iii), vi) and viii) of the Code of Ethics?

7. In response to the Complaint, on November 17, 2023, Mayor Politis provided me with a 96-page written response, with a further 114 pages contained in 17 Appendices (the "**Mayor's Response**").

8. Although subject to separate investigations, this report closely mirrors and is being filed simultaneously with a second report by me into similar allegations during the same time period against the Mayor, this time, by the Town's Chief Administrative Officer, (the "**CAO**").

9. In the course of this inquiry, I have spoken at length with the Director and the Mayor, reviewed extensive written submissions from the Director and the Mayor, spoken with some Members of Council and Town staff, viewed videos of Council meetings, and reviewed the applicable law and policies.

10. On January 17, 2024, I provided a copy of a preliminary report to the Mayor, asking him for any corrections to the facts he would propose or further information that might affect my findings. Unfortunately, the Mayor was attending the Rural Ontario Municipal Association conference and was not able to respond.

PART II - SUMMARY OF FINDINGS

11. For the reasons that follow, I find that the Mayor has subjected the Director to workplace harassment, bullying, and intimidation, contrary to the provisions on workplace harassment in the Respect in the Workplace Policy and the OHSAA; contravened sections 6(3), 6(7), 6(8), 6(11) and 7 of the Council and Staff Relations Policy, and contravened sections 7(d), 7c i), ii), iii), vi) and viii) of the Code of Ethics.

PART III – CHRONOLOGY OF KEY DATES

12. On October 24, 2022, Peter Politis is elected Mayor of the Town of Cochrane. (Mayor Politis previously held the position of Mayor between 2014 to 2018.)

13. On November 22, 2022, Council's first regular meeting, Council rescinds the "Delegation of Authority By-law 1464-2021", the requirement to take the "Pledge of Confidentiality", and determines that it will disband and rescind the current "Recreation Advisory Committee" and replace it with and adopt the "Recreation Board Terms of Reference" and adopt the "Economic Development Board Terms of Reference". It further determines that it will "open for review and adjustment" the following policies: Hiring, Procurement, Confidentiality with employees, Council relationship with Employees, Communications, Expense and Code of Ethics.

14. Also on November 22, 2022, Council moved to adopt "Council By-law Number 1525-2022, Being a By-law to Adopt the Mandate and Direction for the 2022 to 2026 Council Term", which was

passed on December 6, 2022 (the “**Mandate and Direction By-law**”).²

15. At the January 10, 2023, meeting of Council, Council approved “Term of Reference” for the “Recreation Board”.³

16. On July 11, 2023, Council passes Resolution Number 379-2023, delegating its powers to the Head of Council to provide day-to-day governance and administrative direction to the municipality (the “**Delegation to Mayor By-law**”),⁴ as follows:

- 1) Municipal administrative powers as per Section 23 sub. (2).
- 2) Governance required to facilitate operational directions provided by council or already underway.
- 3) Day to day decisions that would be typically required from the Chief Administrative Officer.

17. On July 19, 2023, the Director commences a leave of absence.

18. On November 28, 2023, Council deferred Resolution Number 583-2023, which called for the suspension of the following policies (the “**Policy Suspension Motion**”)⁵:

- 1) Code of Ethics
- 2) Council and Staff Relations (Suspended under Resolution #339-2023)
- 3) Matters Considered in Closed Session
- 4) Consolidated Reserve
- 5) Debt Management and Capital Financing
- 6) Procurement Policy
- 7) Recreation Board Donation
- 8) Fee Reduction Policy

²The Mandate and Direction *By-law* is attached to this report as Schedule “A”

³ The Terms of Reference for the Recreation Board is attached to this report as Schedule “B”

⁴ The Delegation to Mayor By-law is attached to this report as Schedule “C”

⁵ The *Policy Suspension Motion* is attached to this report as Schedule “D”.

- 9) Tax Rebates, Reductions, and Refunds Policy
 - 10) Water and Wastewater Rates
 - 11) Water and Wastewater service and Billing Practise
19. On December 15, 2023, the Director resigns.

PART IV – THE ALLEGATIONS

20. The Director provided me with his recollection of the following events and a series of e-mail communications, as examples of the alleged harassment he experienced.

The Recreation Board

21. On January 10, 2023, in anticipation of and before the meeting of Council that evening, the Director met with the CAO and the Manager of Human Resources to discuss his relationship with the Mayor and the effects of incorporating the new Recreation Board into his already full workload. He expressed his concern that the Terms of Reference were clear that the board would significantly increase his workload and make the department inefficient.

22. As context, the Director told me that he already had the largest department in the organization, with more than half of the town’s employees under his management. He coordinated more than half of the organization’s volunteers and he managed the largest operating budget in the organization.

23. The Director says that the increased workload, just in extra meetings, was unjust and directly contradicts the “Disconnect from Work” Policy that was recently passed. He felt that staff did not have time to evaluate the time commitment for these operations and how he would handle the increased workload.

24. In response, the Mayor says that they had started the process to establish the Recreation Board with the CAO, as early as on November 1, 2022, with a detailed brief on “conceptual aspirations”. Five weeks were spent crafting the terms of reference with the CAO, and the Mayor does not see how the Director could have felt rushed. He suggests that “this kind of operational minutia (*sic*) is not a governance question, but an operational one that I would have hoped the CAO would have been engaged with him on”.

25. In response to the Director’s allegations of an increased workload, added reporting responsibilities and interference with staff assignments, the Mayor responds:

I believe I have clearly demonstrated that while (the Director) feels his workload was unduly changed or employment agreements were not done appropriately, that is an issue he must take up with his supervisor and CAO It has nothing to do with me as Mayor. I have no control or jurisdiction on how his duties and workload are managed.

26. The Mayor says that, even though the Director reported to the Recreation Board, he was at liberty to engage his staff and workforce, as he saw fit, the expectation being that he would handle the meetings and strategic discussions and would delegate any “horsepower” accordingly.

27. The Mayor feels that the Director and the CAO have actually been afforded the ability to identify workload and staffing needs and make recommendations to Council. He states that (the Director’s) Supervisor, the CAO, has also been delegated the authority to adjust and manage anything that would cause workload or recreation plan issues without direction from Council, using her discretion.

28. According to the Mayor, neither the Director nor the CAO “identified anything to him or to council suggesting workloads needed to be mitigated, never provided any recommendations to remediate anything, have not undertaken any of the harassment protocols for engaging the Workplace Harassment committee, or brought anything to the attention of council or the Recreation Board, to both identify any potential issues and fulfill the premise of the Workplace Harassment Policy which is to identify and address issues immediately, in order to initiate corrective actions together, thereby working mutually to reduce conflict in the first place”.

29. The Director also raised with me his concerns about the appointment process for the Recreation Board. At the start of the June 19, 2023, meeting of the Recreation Board, the Mayor added “Board Member Appointments” to the agenda. When the item was reached, the Mayor proposed a nominee. The Director alleges that this person did not fill out an application and neither Town staff nor the board had any notice of the nomination.

30. The Mayor recalls that there were only two applications for positions on the board. Council discussed and appointed people from that list. The remaining vacancies were filled with others who were already part of the previous board and who expressed an interest in participating again, if the opportunity was there.

The Winter Carnival Community Dance

31. An email inquiry about the annual “Winter Carnival” from the Mayor to the CAO and the Director on January 4, 2023, precipitated a rigorous discussion that foreshadows the coming breakdown in the relationship between the Mayor and the Director.

32. In that email, the Mayor comments that he can’t find anything on the Winter Carnival and that he is getting a lot of questions. He states that “it’s a little unusual to not have any planning done this late, so assuming work is being done. Can I get an update on what the current plans are, dates, and sites where info can be found?”

33. Later that same day, the Director responds to the Mayor by saying that, according to its Terms of Reference, the Recreation Board was supposed to run this event. He says that complicating things was the rescission of the Town’s Delegation of Authority By-law, without a

replacement by-law being in place. The Director explains that, without the delegated authority, he does not have the ability to enter into contracts or purchase items not already included in the budget.

34. In an email responding to the Director, the Mayor says:

The reality is this is a policy in transition and council's natural expectation is that we can trust the operation to be doing what's right and functional while we transition. Council is waiting for the operation (not the other way around) to get this policy going and trusting everything is being done properly, and if there is an issue, it is being effectively brought to our attention ... Hopefully, we [you] can appreciate how problematic it would be if this trust is somehow misplaced.

35. In the email, the Mayor says that it is reasonably arguable that the (preparations) can be done but are just being done late, which he says is the approach the "operation" has been taking since the "abolition" of the previous Recreation Board. He continues:

This begs the polite question: if what can be done is being done, and planning is typically already started before the new policy was created, and you didn't typically start until mid January anyway, and you were already planning on doing this (stuff) this week and next (as per usual), how then is this council's fault? I'm confused on why it was felt that the premise of this response should be to blame council for choices the department seemingly doesn't support ... I find it curious that we didn't just say that instead of trying to make some point about Council's choice to evolve the process, and misplace blame? Not sure if this was intended to be cheeky, but I don't appreciate how the comment is constructive.

36. The Mayor sent a follow-up email on January 5, 2023:

Thank you for sharing Jason.

Well I must politely say this wasn't the reaction I was expecting.

There's a lot to unpack here. First, it's important to qualify this reaction as being constructive and built on trying to understand the frustration first, then game-planning a direction forward.

At the same time, while appreciating your perspective, I have a bit of a different perspective. If the response is: 'we (staff) have knowingly watched balls drop on a staple and foundational community event, placing it at risk, and opening the door for adverse public exposure, because of decisions of council we don't support', then this is problematic.

My hope would be this is a misunderstanding and credible rational exists for a constructive and mutual reaction.

...

In my view, the Delegation of Authority Policy that was rescinded was the most egregious and dysfunctional policy toward the people's business being vetted by the people we've ever seen. In all my experience, I have never seen a more blatant attempt at ostracizing the governance body and creating an untouchable operational silo. With the greatest of respect, my polite suggestion would be to make the effort to carefully understand this instrument before aligning with such a direction. It left no room for this council to operate and left no choice for rescinding.

The Municipality doesn't require a delegation of authority document to conduct business. It is suggested as a best practice, but not a requirement to operate, and certainly not to the degree it existed here. All that has changed is the layer of governance scrutiny critical to the public

processes ability to function as intended has been restored, instead of leaving all decisions of how the public's money will be spent to a department head to do autocratically.

Nothing is stopping the operation from conducting business and entering into contracts. They just have to be vetted first, which in accordance with the Procedural By-Law, can be arranged in 24 hrs if required (as one would think would be the case during a transition period like this).

This rescinding took place over a month ago. This begs the polite question: if the rescinding was so problematic and dysfunctional, and if the Municipality is so exposed, why hasn't a new policy been proposed?

Regardless of how we choose to interpret or even complicate the outcome, the reality is no one raised the issues you just raised knowing what was at stake, so a constructive genuine reaction could be developed. Instead, it seems like we chose to just watch these critical balls drop.

The Rec Board is a transitional policy that the operation has had since December 6th (a full month ago). The council is waiting on the operation to move this through, not the other way around as is what seems to be inferred. Again, the council has no idea how long the operation will take to do this, so if you knew there was a problematic delay, why wasn't this raised? In fact, it begs the polite rhetorical question (this gets answered below): if I didn't raise the question myself, would this have been left to completely collapse?

The Rec Board policy does not absolve the operations ability and requirement to operate. It clearly discerns the need to separate the operation from the governance mandate it has. Regardless of the "vetting" and "oversight", the operation continues to implement and operate. To illustrate this, all the other recreation programs continued to operate during this period. I'm not sure why this is any different.

In my experience with Carnival planning always started in October (or before). Regardless of a new layer of scrutiny, my sense is much of the planning should have already been done by the time the new Rec Board policy was introduced (which you reinforce in your own comments below). Things like, the dates being chosen and advertised, the Facebook Page being up, the website being created, the staple events being planned, and new events being proposed. I'm not sure it's fair (or constructive) to say none of this could be done because of council's choices.

...

37. In his response to me, the Mayor states that his request was "professional, polite, and courteous and opened the door for the fact that I may be missing information and just looking for clarity". He acknowledges, however, that there is a frustration apparent in parts of the message.

38. The Mayor notes that the Winter Carnival is a "staple" event and anything "that potentially throws the community's interest under the bus to support personal interest should not be taken lightly. ... The bottom line is this is not something the Director should be challenging the Mayor on in a communication including all of council [and] his supervisor ..."

39. As it turns out, the Winter Carnival did go ahead, but not without incident.

40. The Director recalls that on February 14, 2023, the Mayor came into his office and asked him about opening the retractable doors at the pavilion for the indoor Carnival Community Dance on February 18th, making it an indoor/outdoor event. The Director told the Mayor that he could make this happen next year, but that it was too late to change the liquor licenced area or add the additional required security needed to do it for this year. He says the Mayor pushed and asked if we could at least open the doors. The Director replied that it would not be licenced, so why would

the doors be open, to which the Mayor said, "Great, we will open the doors and it will add to the environment".

41. The Director says that on February 18, 2023, the Mayor showed up at the Carnival Community Dance event and, because he (the Director) had not directed staff to open the doors, the Mayor took the keys from the Director's staff and opened the retractable doors.

42. The Mayor states that when he showed up at the dance and the doors were closed he asked the Manager of Recreation who was there working the bar when she would open the doors, as per what he saw to be the Director's direction. The employee responded that she had no such direction from the Director and seemed completely surprised. The Mayor says he explained and showed her the text, at which point she handed him the keys and asked if he could do it, as she was busy with the bar, so he did.

43. The OPP arrived and asked the Mayor what was going on. The officer said he spoke to the Director earlier and the Director told him that the Mayor tried to get the doors opened and he told the Mayor that they couldn't do it. The Mayor feels that, if this is true, this is "clearly insubordination and malicious behaviour knowing my role as Chair of the Police Services Board, The Recreation Board, and the Mayor. This clearly is intended to sabotage and set me up knowing how liable I am in these roles".

44. Following the Winter Carnival, the OPP officers that were on-site for the event contacted the Director to let him know that they had put in a follow-up report with the Alcohol and Gaming Commission of Ontario (the "AGCO"). There was then a meeting with the OPP, the AGCO, the CAO, the Mayor and the Director about the infractions and the Mayor allegedly proceeded to blame them on the Director.

45. The Mayor also provided me with a screen shot of a text conversation between them that he says show a polite exchange between them, with the Director saying, "I also wanted to say to you, great job on public engagement, enthusiasm and just being part of all the events. The community and staff see it and appreciate how you represent us." To the Mayor, this does not reflect the type of "boorish and bulldozing characterization" he makes in the complaint.

46. The Mayor says that there was no direction being provided by him, whatsoever. He is only asking "appropriate and legitimate questions, while seeking direction from the operation, in my capacity as the Recreation Board Chair".

47. The Mayor denies blaming anyone, during the follow-up meeting with the AGCO. He says that he was "very careful to rise above and simply seek [a] practical solution going forward to and took a facilitative approach".

The Farmer's Market

48. On May 23, 2023, the Town's Recreation Supervisor sent notice to all vendors at the Farmer's Market announcing changes for the summer of 2023. That same day, the Mayor sent the Director an email asking him if he was aware of the notice and saying he was "a little confused". The Director confirmed that he had seen the notice, before it went out.

49. The Mayor was under the impression that a final decision on the new direction had not been made and that he was waiting for the Recreation Supervisor to "circle back", after speaking with the Agricultural Society. The Director replied, saying that he didn't think that Recreation Board approval was necessary on a department decision and that he and the supervisor had circled back after a positive meeting with the Agricultural Society.

50. The Mayor was upset, as he felt that this turn of events was contrary to the email exchange he had with the Recreation Supervisor and the Director on May 9th. On May 23rd he sent an email to the Director with a copy to the CAO.

Jason, with respect, we're playing with semantics.

The circling back was clearly intended to be a group discussion based on the premise I forwarded which was we cannot be seen as dividing or undermining community service groups, and they would need to be supportive of any direction we take. A direction you agree with and reinforced ...

Anything that involves a strategic direction requires the Rec Board. But as importantly, it would stand to reason that anything that will cause grief in the community and create political tension would require governance oversight and a lot of verifiable evidence, documentation, and empirical logic.

...

The expectation at this point would be that the direction will need to be retracted and we will need to address the matter appropriately before issuing a direction.

51. The Director feels that this is an example of the Mayor overstepping his responsibilities and breaching the Council and Staff Relation Policy, and the Recreation Board Terms of Reference. He feels that any disagreement that the Mayor had with the Director's direction should have been brought to the attention of the Recreation Board or Council, and a change in direction should have been requested through a motion of Council or the Board.

52. The Mayor characterizes the changes to the Farmer's Market as "a completely strategic shift in service which clearly falls under the purview of the Recreation Board Terms of Reference".

The Tim Horton Event Centre Closing

53. On June 26, 2023, the Director was on vacation. His subordinate, the Recreation Supervisor, was assuming some of his responsibilities. The Supervisor reached out to the Director to let him know that smoke from the multiple wildfires in the area made visibility and more importantly air quality very poor and that she felt that they needed to close the Tim Horton Event Centre for the day. By the time the Director responded to the Recreation Supervisor she had closed the facility. The Director supported the decision and said he would tell Council.

54. The Director alleges that, once he notified Council, the Mayor used this as another opportunity to attack his ability to make that decision without his and Council's input. In an email to the CAO, Clerk, Director of Human Resources and Council (but not the Director), the Mayor says:

Thanks.

To that, I have some thoughts to share and some questions to ask:

While experience and training is a key consideration, can I suggest that it may be one of many?
For example:

Once the decision is made, how does that affect the rest of the operation? Do the employees now have the right to say why should our safety be put at risk in our departments?

Due diligence. If one of our staff are working and become ill or physically affected (or claim to be) are we now liable because we recognized the danger in one sense but didn't protect them in another.

Is the service to the public we serve at risk of being unintentionally minimized? Do we establish an avenue for future claims against the municipality that are backed up by a decision that validates the liability?

Are there alternatives to outright cancelling of services, which in itself may be required but starts a complicated launch sequence as we are discussing here, such as wearing masks or something similar?

From a process standpoint, is this decision made by the departments absent of a corporate vetting? Were you involved in the decision this morning for example, or does the current process provide the departments autonomy in making that decision?

Again, I'm not second guessing the decision and understand the question being raised. I am simply trying to understand if our process has any gaps and if we are appropriately tooled to ensure the public service is being best served. I'm sure you will agree that "safety" is an extremely volatile word that requires focussed due diligence, and a word that can be misplaced, misused, or even leveraged if we don't treat the use of it with the highest standard of seriousness. Once it is invoked, liabilities are initiated.

As we can see, once the decision is made a whole litany of dominos start to fall. The idea being that a robust appropriate process is required, and if an informed decision to close services due to "safety" is still the conclusion, then the due diligence exists to manage those dominos.

Appreciate the insight.

Thank You – Merci – Mee'Gwetch!

Peter Politis

55. In response, the Mayor says that he was not "*second guessing the decision, it's just a question of curiosity at this point ... I am simply trying to understand if our process has any gaps and if we are appropriately tooled to ensure the public service is being best served.*" I

The Beach Opening/Water Slide

56. In an email chain that began on June 8, 2023, the Mayor writes to the Director, inquiring about certain components of the opening of the Beach – lifeguards, hours of operation and the water slide. When the Director explains that the water slide cannot be installed or operated because it does not have TSSA approval, the Mayor responds saying that the water slide had been operating for five years without issue:

I will circle back next week when there is more time, however, same point I've brought up continuously, the Water Slide operated for five years under the Operations Department and all the legalities including insurance were vetted then. There were no issues brought up by the TSSA and

it's not like this was not a visible and public activity. It's in all our marketing material. My recollection is the way it was built (no structure) qualified it as being TSSA compliant. This begs the question, how is it that now it's no longer is doable?

57. The Mayor explains that the water slide was already established between 2014 and 2018 (his last term). It was established by the then CAO, Director of Operations, and Director of Community Services. It was established using a tarpaulin instead of a structure as the Town did their research and indicated that's how the TSSA would accept it as it would no longer be considered a structure that the TSSA would need to regulate. He says that the Town operated this slide for five years as a municipality. The TSSA made regular visits to town to inspect the other structures in the municipality and never once raised a concern.

58. On June 19, 2023, the Mayor sent an email to the CAO and the Director.

Hey folks,

Just some thoughts to share in advance of tonight's Recreation Board Meeting in hope of aligning understandings.

Item 8.3 Water Slides.

The Report is inaccurate in suggesting the Board needs council to direct staff to compose a report. The Board has that power delegated it to plan and oversee recreation and special events in the terms of reference. The plan support from council is required for expenditures, but not necessarily the planning and oversight. If it comes to expending money that is not in the plan, then the Board currently needs to seek support from council.

With respect, we need to start accepting this conceptual direction that the Board is NOT an advisory committee.

If you would like to take the lead and correct this miscommunicated point, that would be great.

...

59. The Mayor says that "this was a constructive and professional attempt to simply verify understandings (mine included) to ensure we were aligned for the board meeting and not wasting volunteers time with a perception of us not being aligned. We don't have to agree to be aligned. As the Chair, I find it helpful to make sure I completely understand the issues and the gaps so I can effectively manage the meeting to ensure informed choices are being made. That's all this was".

60. Also on June 19, 2023, the Mayor, the CAO and the Director had a face-to-face meeting about the water slide and the Recreation Board. According to the Director, the Mayor questioned the report about the water slide and blamed the CAO and him for being disabling and being "too anal" in their pursuit of policy compliance.

61. The Director told me that, at the end of the meeting, the Mayor addressed the CAO, holding her pending evaluation over her head, saying that "this will be reflected in your evaluation". He continues, "He (the Mayor) used derogatory comments to myself stating that "I had an ego" and concluded the meeting with turning his back to me and telling the CAO that "this is the disfunction that I was talking about and this is the problem that needs to be dealt with sooner rather than later" inferring that she (and council) need to terminate me before he walked out of her office."

62. In his response to this allegation, the Mayor states:

While [the Director's] response was to basically tell me how incompetent the previous CAO was, the previous Director of Operations was, the previous Director of Community Services was, and how incompetent I was and didn't think this through, then indicating how experienced and competent he was and how we need to start just listening to him as he was the most qualified of everyone. I was taken back by how inappropriate his comments were. I looked over to the CAO for her to intervene, and she made no reaction. I politely got up, picked up my stuff and politely indicated I have no intention of continuing to meet under these circumstances.

63. In response, the Mayor says that "this is another gross misrepresentation, even outright lie in places by (the Director). I would never take such an unprofessional cheap shot as threatening the CAO in front of her subordinate". The Mayor acknowledges, however, that he did indicate to the Director that "unfortunately, all I am seeing is ego right now".

64. In reply to the Mayor's response, the Director says that "upholding the duty of law to provide safe community spaces, free of harm, is part of the senior leadership role as the Community Services Director". He found it difficult to relive the events relating to the TSSA compliance and what he sees as the Mayor's lack of serious concern about matters involving the Town's safety. He is shocked that his attention to safety compliance could be used against him.

The HVAC RFP Process

65. On June 13, 2023, Council awarded a contract for some HVAC work. The Director alleges that, during the period June 19th to June 23rd, 2023, the Mayor started an "investigation" into the HVAC procurement process, based on information that he received from a local contractor. In doing so, he alleges that the Mayor violated the procurement policy, which says that the CAO will investigate and that "elected official shall not advocate on behalf of suppliers". Adding to this, the Director alleges that the supplier/contractor that the Mayor was advocating for was the Mayor's main financial supporter in the most recent election.

66. Rather than “investigating” the procurement process, the Mayor responds that he just “identified possible confusion and requested that the CAO consider investigating”.

67. The Mayor characterizes the purpose of his actions as being to “provide oversight and vetting of transparency and accountability as is council responsibility. Not advocate for a supplier”. He provides the following interpretation:

For clarity, I don't believe the procurement process identifies that council is not allowed to initiate oversight and investigations. It states, “To maintain the integrity of the process, suppliers who believe that they have been treated unfairly shall submit an objection to the Chief Administrative Officer providing sufficient detail regarding the complaint”. Then states, “To ensure that the complaint process is seen to be fair and impartial, elected officials shall not advocate on behalf of suppliers who have submitted an objection.”

The supplier did not submit an objection so there was no interference / or advocacy associated to an investigation that is underway as the process wasn't started.

The reason it wasn't started was the supplier had lost confidence in the process as the person who they believed was at the center of the issue had a conflict ... with the supplier ...

68. The Mayor notes that Resolution 374-2023 was issued on June 27th “asking the operation to close the gap on local preference and update the Procurement Policy to reflect this. As of writing this response, the operation still has done nothing to advance this”.

69. The Mayor feels that this also further reinforces that “the question around local procurement and how concern for how the operation is managing that in this particular case, is a council concern and direction. Not the Head of Council bulldozing his own interests. As Head of Council, I rightfully am the face of council's directions and take a lead role in ensuring council's directions are being upheld”.

70. The Mayor states: “Council's role, as defined by the Municipal Act as well as the Accountability and Transparency Policy is to ensure the transparency and accountability of the operation. Providing scrutiny through asking critical questions seeking appropriate answers is how that is reasonably done. Can I politely suggest that doing this respectfully is how it is done with integrity?”

71. The Director alleges that, at the June 27, 2023, meeting of Council, the Mayor inferred that the Director was colluding with the successful proponent of the RFP because he happens to sit on the “Ontario Recreation Facilities Association Board” with an employee of the successful bidder. The Director says that he has had no personal contact with that individual and that the CAO felt that it was not a problem for the Director to be on the Board and to also deal with the bid.

72. Upon his return from vacation, the Director learned that Council had rescinded the June 13th award of the HVAC contract and that they were getting legal advice, after the fact, as to the ramifications of their decision.

73. In the end, the rescission was itself rescinded and the contract was awarded to the originally successful bidder.

74. The Director is thankful that he was exonerated by the Town's solicitor, who confirmed his understanding that his professional memberships did not represent a conflict.

The Closed Meetings of July 5th and 6th

75. The Director states that, while he was on vacation, the Mayor called a Special Meetings for July 5th and July 6th. The Mayor claims that the issue was time sensitive and had nothing to do with the Director's absence.

76. In reviewing the agenda for those two closed meetings, the Director wondered why he would not be invited to discuss matters on which he managed. He saw that the July 5th meeting was to deal with two personnel issues. The Director was not made aware of this meeting, his Manager was not present, the Manager of Human Resources was not present, and no staff other than the Clerk was present at the meeting.

77. The Director says that Council subsequently asked his colleagues to re-evaluate his work (the scoring on the RFP), even though the CAO had already done so, and asked for a legal opinion on reversing the award of the contract. Through the email chain between Council and the CAO, the Mayor accused the CAO and the Director of "setting up" Council, "lying" to them, and "misleading" them. The Director call all of these accusations, false.

78. The Mayor answers that it was the CAO who suggested the re-evaluation of the scouring done by the Director, not Council. He says, "Again, I politely point out the vexatious language being used here when accusing me of blatantly accusing him and the CAO. The email is professional courteous, polite, cordial. I don't blame anyone. I simply ask, 'did anyone consider how council is being set up'. There is no accusation of intent, just a statement of the fact occurring. How they are being set up is not discussed. Just the result of the exercise is in fact setting them up for attacks form the public and the supplier (which in fact occurred)".

79. The Director alleges that, at the July 6, 2023 meeting, the Mayor attacked the credibility of his report and his professional reputation by adhering to the procurement policy and process. The Director alleges that "this was unfounded and based on speculative hearsay" and that "the malicious falsities the Mayor used to try and gain votes by the other councillors is a form of harassment and has destroyed my professional capacity to work with the whole of council going forward in my role, and spoiled the trust between council and myself in our heavily weighted responsibility to uphold the value of public service".

80. The Mayor counters that there was no attack on the Director's credibility, but that he and Council were doing their jobs "when seeking constructive accountability and transparency as is both legislated for us to do and regulated through municipal policy".

81. In summary, the Director alleges that the Mayor has psychologically harassed him, over the past eight months. In particular, he alleges that many of the Mayor's emails to him have been deliberately intimidating, harassing, manipulative, authoritative, and/or in violation of Town policy. He continues,

The environment and harassment has been increasing over the past few months, peaking in the last three weeks with a targeted attack on my integrity, ethics, and professional reputation, including asserting that the CAO and I had 'misinformed' Council about the HVAC procurement and that we can't be trusted.

Mayor Politis's actions of harassment, intimidation and vexatious behaviour have affected my dignity and reputation with my peers, subordinates, and colleagues and he has directly affected my psychological well-being and my decision-making ability, as I am constantly questioning myself and how he will retaliate, instead of maintaining my own passion for community advancement and superior recreational opportunities for our public working alongside a collaborative team of councilors as I have done for over 10 years in my municipal employment background.

I have expressed these concerns to the CAO and HR Manager on a few occasions and although they have taken steps to try and help, Mayor Politis turned to attacking them as well, to the point where the CAO is now off as well and the environment is even more unstable and toxic.

PART V - THE MAYOR'S "CONSIDERATIONS"

82. The Mayor asks me to reflect on a series of "consideration" (which seem to me to be more property described as "justifications"), which I have summarized, as follows:

- a) The policies in question are either inactive or rescinded;
- b) Council has introduced a new mandate and direction for the Town; and
- c) The Director is partly to blame.

The Status of the Policies

83. The Mayor first asks that I consider his contention that the *Code of Ethics* and the *Council and Staff Relations Policy* are inactive or have been rescinded.

84. He notes that the *Code of Ethics* is one of the policies Council identified as requiring revision at its first meeting on November 22, 2022, and, as it was not reaffirmed by Council in accordance with Section 9 b) of the Code of Ethics¹⁵, it is, in the Mayor's view, inactive.

85. The *Council and Staff Relations Policy* was also identified as requiring rescinding and revision at the Council Meeting of November 22, 2022, and was ultimately rescinded on June 27, 2023.

86. The problem with the Mayor's argument here is that neither the Code of Ethics nor the Council and Staff Relations Policy are optional. Section 223.2 (1) of the Municipal Act provides as follows:

Code of conduct

223.2 (1) A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards. (emphasis added)

87. Similarly, section 270 of the *Municipal Act* requires municipalities to adopt and maintain policies with respect to the relationship between Members of Council and the officers and employees of the municipality. Sub-section (1) of Section 270 states:

Adoption of policies

270 (1) A municipality shall adopt and maintain policies with respect to the following matters:

1. Its sale and other disposition of land.
2. Its hiring of employees.
 - 2.1 The relationship between members of council and the officers and employees of the municipality.
3. Its procurement of goods and services.
4. The circumstances in which the municipality shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given.
5. The manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.
6. The delegation of its powers and duties.
7. The manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.
8. Pregnancy leaves and parental leaves of members of council. (emphasis added)

88. While I will acknowledge that section 9 (b) of the Code of Ethics requires that, at the beginning of each term of office, Members of Council will be expected to review and re-adopt the Code into by-law for it to be official and active, in light of the mandatory requirement to have a Code of Conduct set out in section 223.2(1) of the Municipal Act, it would seem contrary to the intent of the legislation if a new Council could simply refuse to adopt the existing Code.

89. It is, I think, trite law that no person or body may contract out of a statute. To the extent that section 9 (b) of the Code of Ethics relieves the Town of Cochrane from the obligation to have

a Code of Conduct, I believe that section should be considered inoperative.

90. As it turns out, on November 2, 2022, the Mayor emailed the newly elected Members of Council, urging them not to acknowledge the Code of Ethics and the Pledge of Confidentiality. In that email, the Mayor says:

Hello everyone.

As follow-up to the orientations and declarations of office taking place I have a few constructive thoughts to share:

We are being presented [with] both a Code of Ethics and a Pledge of Confidentiality that we are being asked to sign. After reviewing these propositions, it's my sense that there needs to be a review by the new council before informed choices can be made.

The Pledge of Confidentiality is a little concerning to me. The premise of public office and the premise of the Municipal Act is that the public's business is the public's business. This document seems to conflict with the Code of Ethics as well which states, "Local government is an open, accessible and accountable form of government". This is true. The pledge of confidentiality then goes on to qualify the openness by also creating a shroud of confidentiality – undefined confidentiality so it's up to us to figure that out while remaining liable. It's conflicting in my view and only adds confusion.

Part of making an informed choice here is understanding that these documents are what the Integrity Commissioner will use to assess councillor "integrity". When we sign these documents we must be clear on what the impact is on our ability to maintain a "functional" path that allows us to be the public representatives we were elected to be.

While I appreciate the intention, in my view these documents (especially a non-disclosure agreement) don't add value toward councillors being in the best position to represent the public, they create confusion. The Code of Ethics is important and functional, but needs to be reviewed to ensure it too is designed as it should be (it's almost 10 years since the last revision).

Part of the mandate from the community this election is to provide an open, transparent, and accessible government. The law is to do the same. However, if we introduce qualifications like this, my sense is that we run the risk of introducing confusion not stability.

The Municipal Act already defines what is to be confidential, and what isn't. We simply need to acknowledge the municipal act and commit to follow it. Any further detail starts down a slippery slope of potential dysfunctionality and risk in my view.

My polite advise to each of you is to carefully review these documents before signing, and to consider not signing until we have had a chance to review together with the town. There is no requirement to sign these documents in order to sit as a councillor. I personally won't be signing until we gain a better understanding of the dynamics at play.

Feel free to reach out anytime should you wish to discuss this in more detail. Hope this helps.

Thanks | Mee'Gwetch! | Merci Peter Politis,

91. While this is not the time or the place to critique the Mayor's observations and advice, I will say that I disagree with much of what the Mayor is saying here, and believe that the views he espouses in this email permeate many of the disagreements he has with Town staff and contribute to an anxious workplace.

92. In any event, notwithstanding his advice to his fellow Councillors, in his "Onboarding 2022" document the Mayor attaches his signature to the "Policies Acknowledgement Form"

acknowledging that he has read and understood the Code of Ethics, the Respect in the Workplace Policy, and other documents. He declined to confirm that he had read and understood the “Pledge of Confidentiality” and the “Council and Staff Relations Policy”.

93. Accordingly, I consider the Code of Ethics as having been acknowledged by the Mayor and applicable to him.

94. As for the Council and Staff Relations Policy, I note that it was not rescinded until June 27, 2023 and was in place during most of the time period under review in this inquiry.

95. As it appears that Council will soon be contemplating the suspension of several other important policies in the “Policy Suspension By-law” (deferred for legal advice), attached as Schedule “C” to this report, I will note that, while it is always open to Council to review any of its by-laws or policies, it is well established by convention, if not by law, that a policy remains in place until repealed by the by-law adopting the new policy; the law, like nature, abhors a vacuum.

The New Mandate and Direction

96. The second consideration offered by the Mayor is that the new “mandate” requires extensive revisions of the Town’s current policy regime. Mayor Politis argues: “This council has identified a governance model and mandate that conflicted with the administrative structure established by the previous council. The general issue is this council preferred to have an administration that was more accountable, more engaged and less insulated from the public that we serve.”

97. The Mayor asks: “An important consideration in this investigation may be to place a high value on this critical dichotomy and how if the policies were changed as expected up front, it might be clearer to assess the behaviour in question and whether or not there is merit to this complaint. In either case, consider that my behaviour has been in large part that of Head of Council leading the cultural change both directed and expected by council.”

98. The mandate that the Mayor refers to is found in “By-law Number 1525-2022, Being a By-law to Adopt the Mandate and Direction for the 2022 to 2026 Council Term”, passed early in the new Council’s term, December 5, 2022 (the “***Mandate and Direction By-law***”).

99. In summary, the *Mandate and Direction By-law* states that in the 2022 municipal election seven out of ten voters “chose an approach and direction that would create a more vibrant, progressive, and developmentally oriented community, that values both social and economic development equally, providing all of this through an easily accessible and consistently welcoming municipal public service”. It requires that all policies, decisions, and directions will be measured against this directive with the intention of lining up with the principles and directions contained within.

100. Of relevance to this inquiry, it contains several provisions relating to the operation and its role. It speaks of empowering the community to be actively involved in driving community affairs, by providing modern vehicles that allow for decision making, direct oversight, and engaged planning of services, providing opportunities for the municipal service to take a supportive and enabling role of community engagement versus a lead role, to promote simple and open access to both municipal government and the public service, to maintain process and policies that create as flat an operation as possible, provide optimal opportunity for council to provide oversight and stewardship to the operation, provide effective public scrutiny, supported by simple, clear and consistent public communications.

101. In response to my inquiries about the Mandate and Directions By-law, the Mayor told me:

While that [the former] council had the right to implement the governance model it chose, so to does this council. Elected by the public to close the door on the insulated operation and austerity approach, and go back [to] the progressive, more public service, engagement, and accountability orientated approach, as Mayor and Council, we assessed the need to undergo a change agenda. As the directions are completely contrasting, and the operation had a vested interest to maintain the previous councils policies and approach, we accepted this was going to be challenging. The challenge lies in the fact that we could not implement our change mandate without changing the policies, and operation led through (the CAO) [who] were reluctant to embrace this change. ... We simply couldn’t take the typical measured approach. We needed to have the policy and cultural shift done within the first six months or risk the bigger ticket items being lost opportunity to the community ...

102. Mayor Politis seems to be saying that his behaviour should be assessed in the context of and against the Mandate and Direction By-law. He says: “An important consideration in this investigation may be to place a high value on this critical dichotomy and how if the policies were changed as expected up front, it might be clearer to assess the behaviour in question and whether or not there is merit to this complaint. In either case, consider that my behaviour has been in large part that of Head of Council leading the cultural change both directed and expected by council”.

103. First, while I note several questionable propositions in the Mandate and Direction By-law, I see nothing in it that would sanction bullying, intimidation, or workplace harassment. Second, to suggest that his behaviour should be measured against policies changed “as expected”, rather than those in force at the time of the alleged contraventions represents more wishful thinking than the proper application of policy.

104. Accordingly, I am not persuaded that any conflict between the policy status quo and the approach outlined in the Mandate and Direction By-law in any way explains or justifies the inappropriate treatment of staff.

105. The Mayor also offers for my consideration that there is to be a new governance structure, with an engaged Council and public through Boards and Community Councils. The Mayor explains:

True to the Mandate and governance model (By-law 1525-2022) of a more engaged council, from an oversight standpoint, and the engagement of the public in driving their affairs, council developed and implanted a hybrid model involving Boards and Community Councils.

...

In my view the DIRECTOR did not embrace this and was boxed in by her reluctance to change and her understanding of all the hard work they put into the very policies that conflicted with this approach.

It's my sense that the communications that formed part of the complaint and cited as support for the complaint consistently supports this dichotomy taking place, while not credibly supporting the List of Allegations.

106. Again, notwithstanding any problems I see with the proposed delegation of authority or the upending of the roles and responsibilities assigned to Council and the Town's staff by the *Municipal Act*, I see nothing in the introduction of these new Boards or Community Councils that would in any way excuse harassing behaviour.

107. For these reasons, I do not accept the new hybrid model of boards and committees as being relevant to my inquiry.

The Director is Partly to Blame

108. The first area where the Mayor believes that the Director has brought this on himself is by an uneven application of policy. The Mayor explains:

As described herein, there seems to be a vested interest in [the Director] who was part of building what many would consider an overly insulating environment at the Town Hall to want to maintain as much of this as possible for future councils to follow ...

The Staff don't seem to understand many of the very policies they are in charge of and consistently step out of lanes ...

While [the Director] cites the need for council to follow policy as this is his role to enforce and if it is not followed it puts him in a difficult position, this tends to conflict with his, and his operations, propensity to inconsistently and casually follow policy depending on the circumstances, directly conflicting with his own narrative above.

...

While there is a double standard being clearly demonstrated here on how policy is applied in operation, the more pertinent consideration would be that long term precedent has been set and established in this operation that actually fosters a loose approach to policy compliance.

109. I don't believe I need spend much time on this consideration. Simply put, it is rarely a winning argument to suggest that you are relieved of the obligation to follow the rules, because you think the other person has not.

110. The next reason that the Mayor asks me to consider is his claim that Council has not been trained on its policies and "there has been no concerted effort to place a high value on them, up until now, suddenly". He feels that Council does not have access to the policies and that "the credibility of [the CAO's] assertion about the critical nature of policy enforcement, comes into serious question, if she doesn't even make providing council access to the policies a priority in the first place, let alone being 'appropriately' trained on them".

111. I understand, however, that training sessions were held, but that the Mayor did not attend.

112. In any event, while I am not inclined to accept the suggestion that no training was provided and that the policies are nowhere to be found, given the nature of the Complaint – bullying, harassment, intimidation etc. – it is difficult for me to accept that any transgression may be attributed to a lack of training or the inability to access the relevant policies. Indeed, I would hope that understanding that bullying or harassment is wrong needs no instruction but should be considered as the most basic and universally accepted standards of human courtesies and behavioural norms.

113. For these reasons, I reject this consideration as a defense to the allegations.

114. Continuing to assign blame to the Director, the Mayor suggests that the Director "has a track record of obstinate behaviour, accountability issues, integrity issues and underperformance", purportedly as demonstrated by "a list that I have been keeping as a record in my notes and refined through the evaluation process by council".

115. In his reply, the Director submits that the Mayor has "weaponized" this process and tried to turn it into a means of discrediting him, so as to justify his actions towards the Director. He feels that the Mayor's suggestion of the Director's incompetence is completely unsupported by any facts, nor is it supported by evidence from previous or current Council members, CAOs, or colleagues.

116. I find this "consideration" to be untenable, first because I see this argument as a form of "victim blaming" and, second, other than the Mayor's notes, I have been provided with nothing to remotely suggest that the Director was anything other than dedicated, competent and professional employee.

117. Accordingly, I will not consider the Director's "track record" as any form of mitigation or justification.

PART VI - APPLICABLE LAW AND POLICY

The Municipal Act

118. The *Municipal Act* provides a very detailed description of the role of council, the role of the head of council, and the role of the officers and employees of the municipality.

Role of council

224 It is the role of council,

- (a) to represent the public and to consider the well-being and interests of the municipality;
- (b) to develop and evaluate the policies and programs of the municipality;
- (c) to determine which services the municipality provides;
- (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- (e) to maintain the financial integrity of the municipality; and
- (f) to carry out the duties of council under this or any other Act.

Role of head of council

225 It is the role of the head of council,

- (a) to act as chief executive officer of the municipality;
- (b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to the council;
- (c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1);
- (d) to represent the municipality at official functions; and
- (e) to carry out the duties of the head of council under this or any other Act.

Head of council as chief executive officer

226.1 As chief executive officer of a municipality, the head of council shall,

- (a) uphold and promote the purposes of the municipality;
- (b) promote public involvement in the municipality's activities;
- (c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
- (d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

Municipal administration

227 It is the role of the officers and employees of the municipality,

- (a) to implement council's decisions and establish administrative practices and procedures to carry out council's decisions;

(b) to undertake research and provide advice to council on the policies and programs of the municipality; and

(c) to carry out other duties required under this or any Act and other duties assigned by the municipality.

The OHSA

119. The OHSA requires employers to prepare a policy with respect to workplace harassment and provides a definition of “workplace harassment”.

Definitions

1 (1) In this Act,

“workplace harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or

(b) workplace sexual harassment; (“harcèlement au travail”)

Policies, violence and harassment

32.0.1 (1) An employer shall,

(a) prepare a policy with respect to workplace violence;

(b) prepare a policy with respect to workplace harassment; and

(c) review the policies as often as is necessary, but at least annually.

Duties re harassment

32.0.7 (1) To protect a worker from workplace harassment, an employer shall ensure that,

(a) an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;

The Respect in the Workplace Policy

120. The Respect in the Workplace Policy employs much of the same definitional language as the OHSA and provides examples.

"Workplace Harassment" and Bullying

Workplace harassment is a health and safety issue that is covered under the Ontario Occupational Health and Safety Act.

The Occupational Health and Safety Act defines "workplace harassment" as:

- 1) Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Workplace harassment may have some or all of the following components:

- 2) It is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect
- 3) It is hostile, abusive or inappropriate
- 4) It affects the person's dignity or psychological integrity
- 5) It results in a poisoned work environment In addition, behaviour that intimidates, isolates or discriminates against the recipient may also be included.

Some examples of workplace harassment include:

- 6) Verbally abusive behaviour, such as yelling, insults, ridicule and name calling, including remarks,

- jokes or innuendoes that demean, ridicule, intimidate or offend
- 7) Workplace pranks, vandalism, bullying and hazing
 - 8) Gossiping or spreading malicious rumours
 - 9) Excluding or ignoring someone, including persistent exclusion of a particular person from workplace-related social gatherings
 - 10) Undermining someone else's efforts by setting impossible goals with short deadlines and deliberately withholding information that would enable a person to do his or her job
 - 11) Providing only demeaning or trivial tasks in place of normal job duties
 - 12) Humiliating someone
 - 13) Sabotaging someone else's work
 - 14) Displaying or circulating offensive pictures or materials
 - 15) Offensive or intimidating phone calls or e-mails
 - 16) Impeding an individual's efforts at promotions or transfers for reasons that are not legitimate
 - 17) Making false allegations about someone in memos or other work-related documents

What isn't harassment?

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- 18) Measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- 19) Imposing discipline for workplace infractions
- 20) Requesting medical documents in support of an absence from work

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

The test of harassment

It does not matter whether you intended to offend someone. The test of harassment is whether you knew or should have known that the comments or conduct were unwelcome to the other person.

For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

Although it is commonly the case, the harasser does not necessarily have to have power or authority over the victim. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.

The Council And Staff Relations Policy

121. The Town's Council and Staff Relations Policy was introduced to comply with the March 1, 2019, amendments to section 270 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "**Municipal Act**"), which require municipalities in Ontario to adopt and maintain a policy with respect to the relationship between Members of Council and the Officers and Staff of the municipality. The sections of the Council and Staff Relations Policy identified by the Director are:

6. Guiding Principles – General

3. Respect the Chain of Command

Members of Council must understand they have no individual capacity to direct Staff to perform, or not perform functions or duties. The Director is responsible for Staff and Officers - Members of Council who need to engage with Staff and Officers must do so through the Director. This would include both in person, verbal, written and electronic messages.

7. Control Anger

Members of Council should avoid the temptation to play up divisions or conflicts. Staff and Officers shall not be targets of derisive/vexatious comments/behaviour/conduct. The

public expects Members to do the job that they have been elected to do. The public expects Staff and Officers to do the job that they have been hired to do. Comments on Staff and Officer performance shall be directed through the appropriate confidential performance reviews.

8. Politics or Management – Not Both

Council provides direction, Staff and Officers give professional advice and implement Council's directives. Members of Council are not elected to be technical experts nor to act in their professional capacities. Likewise, Staff and Officers are not politicians. Advice comes from Staff, policy and service delivery decisions are made by Council.

11. Respect

Members, Staff and Officers shall work hard at fostering a climate of mutual respect. Each must be respectful of others' intelligence and professional duties. Members, Staff and Officers must understand that they all face different, often unique, challenges and recognize their overarching goal is to serve the best interests of the Municipality.

7. Roles and Responsibilities

Role of Council

Policy Focus:

Represent the Municipality, provide direction and create policy.

Role of Senior Management

Direction Focus:

Liaison between Council and Staff, direct implementation of Council's policies, hire and develop a team of competent Staff.

Role of Staff and other Officers

Implementation Focus:

Research policy and programs, give best professional advice, implement decisions of Council, fulfill statutory duties, follow direction of Chief Administrative Officer ("DIRECTOR") generally see to the operation of the municipal organization.

The Code Of Ethics

134. The applicable sections of the *Code of Ethics* are:

7.0 Roles and Responsibilities

(d) At all times, be aware of, and familiar with, all statutory obligations imposed upon the Municipal Council as a whole, as well as each individual member of Council, including Municipal By-Laws, the Municipal Act, 2001, and all provincial or federal legislation governing the conduct of business within the Municipality;

Council Members shall adhere to the following guidelines in exercising their duties and powers as Municipal Councillors:

c) Relationships with Staff and Other Members of Council

Council Members recognize the importance of maintaining a strong and constructive relationship with the municipal staff members and all employees of the Town of Cochrane. Municipal Councillors will:

- (i) Not provide directives or instructions to staff members personally, acknowledge that only Council, as a whole, has the capacity to direct staff members to carry out specific tasks or functions; or
- (ii) Refrain from publicly criticizing individual members or staff and employees in a way that casts aspersions on their professional competency, credibility or character.

(iii) Council shall be respectful of the role of staff to advise based on political fairness, and objectivity, and without due influence from any individual member or group of the Council

(iv) No member of Council shall maliciously or falsely harm the professional or ethical reputation or the prospects or practice of staff. All members shall show respect for the professional capacities of the staff of the Town of Cochrane.

(v) No member of Council shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing such activities.

(vi) Council shall not use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering with the person's duties including the duty to disclose improper activity.

No Member of Council shall:

(vii) Maliciously or falsely injure the professional or ethical reputation by spreading rumours;

(viii) Cause persistent, excessive nit-picking, unjustified criticism and constant scrutiny.

PART VII - THE ISSUES

135. The Issues are:

- (i) Did the Mayor engage in workplace harassment against the Director, contrary to the *OHSA* and the *Respect in the Workplace Policy*?
- (ii) Did the Mayor fail to treat the Director with professionalism and respect, contrary to the *Respect in the Workplace Policy*?
- (iii) Did the Mayor,
 - i. fail to respect the chain of command,
 - ii. make derisive/vexatious comments or engage in derisive/vexatious behaviour/conduct towards the Director and engage in management functions,
 - iii. fail to respect the Director's professionalism, and
 - iv. fail to respect the roles and responsibilities of Council, Senior Management, Staff and other Officers,contrary to the *Council and Staff Relations Policy*?
- (iv) Did the Mayor,
 - i. demonstrate an awareness of and familiarity with all municipal by-laws, and provincial or federal statutory obligations governing the conduct of business within the Town, imposed upon him,

- ii. provide directives or instructions to the Director personally, without Council authorization?
- iii. publicly criticize the Director in a way that cast aspersions on her professional competency, credibility, or character?
- iv. fail to respect the role of staff to advise without undue influence from the Mayor,
- v. use or attempt to use his authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering with the person's duties including the duty to disclose improper activity, and
- vi. engage in persistent, excessive nit-picking, unjustified criticism and constant scrutiny,

contrary to the Code of Ethics?

PART VIII - ANALYSIS AND FINDINGS

Issue 1: Did the Mayor engage in workplace harassment against the Director, contrary to the *OHSA* and the Respect in the Workplace Policy?

136. For ease of reference, the *OHSA* definition of workplace harassment is:

Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

137. The *Respect in the Workplace Policy* explains that workplace harassment may have some or all of the following components: it is generally repetitive, it is hostile, abusive or inappropriate, it affects the person's dignity or psychological integrity and it results in a poisoned work environment. It may also include behaviour that intimidates, isolates, or discriminates against the recipient.

138. Examples of workplace harassment include undermining someone else's efforts by setting impossible goals with short deadlines, humiliating someone, or sabotaging someone else's work, or impeding an individual's efforts at promotions.

139. Workplace harassment is not to be confused with legitimate, reasonable management actions that are part of the normal work function, including measures to correct performance deficiencies or imposing discipline for workplace infractions. It does not include normal workplace conflict that may occur between individuals or differences of opinions between co-workers.

140. In their work on *Workplace Violence and Harassment*¹⁷ the authors describe harassment as “any behaviour that demeans, embarrasses, humiliates, annoys, alarms or verbally abuses a person and that is known or would be expected to be unwelcome. This includes words, gestures, intimidation, bullying or other inappropriate activities”.

141. The *Respect in the Workplace Policy* also adopts the test of harassment as being whether the person knew or should have known that the comments and conduct were unwelcome to the other person.

142. A determination of workplace harassment is, at least in part, context driven. The municipal workplace, being a fragile amalgam of elected officials and the employees who assist them, is subject to inherent and unavoidable stresses and strains, not found in many other work environments.

143. In a nutshell, the Members of Council - as a group - decide which policies and services are to be established and provided, while the officers and employees are to implement council's decisions. The relationship is complicated by the fact that the employees do not work for the Members, but the Members must ensure the accountability and transparency of the work of the employees.¹⁸

144. The tension arising from this paradoxical arrangement is made worse by the reality that the Town hall playing field is not level; the Members of Council are admired and imbued with significant respect and moral authority, while the employees, indispensable as they are, enjoy little public veneration.

145. As a result, and notwithstanding the clear pronouncements of the *Municipal Act*, the *Code of Ethics*, and the *Council and Staff Relations Policy*, to name a few, when push comes to shove between a Member of Council and an employee the difference in status and perceived authority often leaves the employee feeling vulnerable, defenseless and necessarily deferential. Speaking rhetorically, how can a worker in the parks department stand up to one or more Members of Council (especially the Head of Council)? The truth is they can't and any assessment of a complaint of workplace harassment in the municipal workplace must factor in this power imbalance.

146. The *Municipal Act* and the *Council and Staff Relations Policy* clearly identify the respective duties and obligations of Members of Council and the employees and officers of the Town. These duties and obligations, while hardly inviolable, are important, and rather than being regarded as irritants to be ignored or courtesies to be paid lip-service, they require respect and deference.

¹⁷ In § 11.508. *Workplace Violence and Harassment*, Employment - Canadian Forms & Precedents Andrew Monkhouse, Jeff Dutton, Catherine M. Milne, Boris Alexander

¹⁸ *Municipal Act, 2001*, S.O. 2001, c. 25, sections 224 and 227

147. Turning to an examination of the facts of this matter, it is abundantly clear that the Mayor has strayed far from his statutory role as the head of Council. He is clearly engaged in what can only be described as micromanagement of Town business and events.

148. The written submissions that I received from the Director and the Mayor, along with the emails, confirmed for me that the Mayor either did not understand the roles and responsibilities assigned in the *Municipal Act* and Town policies, or chose to deliberately ignore them.

149. Without commenting on the correctness of the Mayor's interpretation of the *Code of Ethics*, the *Pledge of Confidentiality* or the *Municipal Act, 2001*, I find his instruction to his fellow councillors, before they have been inaugurated and before they have received any training, to be highly inappropriate. At best, it shows the Mayor's determination to control or even manipulate Council, literally from day one.

150. The Mayor's interference in the HVAC RFP, the Winter Carnival, the Farmer's Market, the Beach Opening/Water Slide, and the closing of the Tim Horton Event Centre, served to castigate, humiliate, or outright sabotage the Director and/or his work. Assigning responsibility for the problems at these events, or challenging the Director on his approach to them, and then presenting his concerns to Council can only be regarded as damaging to his reputation and credibility and thereby impeding his station at the Town.

151. The Mayor is at pains to point out that he never provides direction to staff and, accordingly, has not crossed any lines. With respect, I disagree. Whatever, his intentions, he regularly and repeatedly involved himself in the implementation of events, leaving no doubt as to how he felt matters should be arranged.

152. I view the attempts to suspend the Code of Ethics, the Delegation of Authority By-law, the Council and Staff Relations Policy, among others, and the introduction of the Mandate and Direction By-law and the Delegation to the Mayor By-law, as further aggravating factors. In a workplace that was already fraught with concern about the improper exercise of authority, such a sweeping and almost reckless expunging of the Town's policy regime could only serve to raise the level of anxiety of those subject to the protection of those policie

153. It was also clear to me that, despite the fact that some resolutions and by-laws were made by Council as a whole, the Mayor was the mastermind of this new approach and its chief architect. Indeed, he consistently alluded to his primacy in the municipal hierarchy, as head of council and may have encouraged the delegation of Council's power to him, in the Delegation By-law.

154. In addition to being concerned with events and matters beyond the scope of his authority, I also find that the Mayor's emails often display a condescending, aggressive, and/or intimidating tone. Many seem intent on undermining the Director's authority; copied for all of Council to see. They are thinly veiled attacks on the Director's actions, professional judgement and expertise.

155. It is also necessary for me to comment on the Mayor's insistence throughout his written and oral submissions to me that he was always polite, professional, and courteous. Again, with respect, I find this to be a spurious argument. The conveyance of disappointment and judgment, or veiled threats, survive the use of even the most polite, professional and courteous language. In other words, to be unwelcome, comments need not only be delivered in a schoolyard vernacular to be wrong.

156. While it may be that each email, taken on its own, may not constitute harassment, taken as a whole over the course of several months, there is a cumulative effect and impact on the Director. The succession of critical emails or upsetting conversations constitutes a course of conduct that the Mayor ought to have known was unwelcome.

157. Neither can the Mayor's actions cannot be considered actions that are part of the "normal work function". The Mayor was not the Director's supervisor, had no oversight or management function, or was not acting under a resolution of Council.

158. I found the Director to be an honest, sincere, and credible witness. I could detect no improper motive in the making of the Complaint. The Director's recollection of events was detailed, consistent and compelling. Moreover, it was corroborated by the emails, as well as the testimony I heard from various witnesses. Taking a medical leave from his position with the Town was a difficult and uncertain step for the Director, confirming for me the degree to which he felt bullied, harassed, and intimidated.

159. While the Director may at times have come across as protective and inflexible, that is simply a function of his belief in and respect for the Town's policies and processes, as he, correctly I might add, understood them. At the same time,

it is clear to me that the Mayor either misunderstood or was willing to ignore the statutory and policy requirements in the pursuit of his objectives.

160. Through the course of this inquiry, I have formed the view that the Mayor bears a strong *animus* towards the Director. It seems that his disenchantment with the Director had its origins during the last term of Council, when some of the Mayor's accomplishments from his previous mayorship were, in his mind, overturned or terminated by the Director, and continues to this day.

161. The Mayor's frustration with what he saw as the Director's refusal to change his interpretation and/or application of the existing policies was also clear from his submissions and our discussion. As I have noted, I see this frustration more as providing an explanation for the escalation of the Mayor's conduct towards the Director than an excuse for that conduct.

162. Similarly, the Mayor's negative assessment of the Director's competency and suitability for the position of Director makes me more inclined to view his conduct and comments towards the Director as harassing. His serious accusations of collusion in and improper motive for the Director's allegations revealed a distrust if not dislike of him.

163. In this case, at least, I believe that, in addition to his repeated and critical emails, the Mayor's failure to respect the nature of the municipal workplace and the division of power amongst the broader workforce, including Members of Council, was a contributing factor to my finding of workplace harassment.

Issue 2: Did the Mayor fail to treat the Director with professionalism and respect, contrary to the Respect in the Workplace Policy?

164. In light of and for the same reasons noted above, I find that the Mayor failed to treat the Director with professionalism and respect, contrary to the Respect in the Workplace Policy.

Issue 3: The Council and Staff Relations Policy

165. Similarly, in light of and for the same reasons noted above, I find that the Mayor contravened the Council and Staff Relations Policy. To wit, he failed to respect the chain of command, he engaged in management functions, he failed to respect the Director's professionalism, and he failed to respect the roles and responsibilities of Council, Senior Management, Staff and other Officers,

Issue 4: The Code of Ethics

- 1) **Did the Mayor demonstrate an awareness of and familiarity with all municipal by-laws, and provincial or federal statutory obligations governing the conduct of business within the Town, imposed upon him?**

166. No. While it cannot be said that the Mayor was unaware of or not familiar with all municipal by-laws and provincial statutory obligations imposed upon him governing the conduct of business within the Town, neither can it be said that he demonstrated an intent to be bound by them. In the pursuit of his objectives he chose to disregard them, repeal them, or replace them with those of his own invention.

2) Did the Mayor provide directives or instructions to the Director personally, without Council authorization?

167. The Mayor was careful not to specifically direct the Director. That being said, many of his communications were not so thinly veiled attempts to do so. Moreover, on many occasions there was no Council Authorization. I find that the Mayor did contravene this policy.

3) Did the Mayor publicly criticize the Director in a way that cast aspersions on his professional competency, credibility, or character?

168. Yes. Several of the critical emails the Mayor sent were copied to senior officers of the Town and all of Council. As well, he made at least one damaging comment about the Director to the CAO, which clearly cast aspersions on his professional competency, credibility and character.

4) Did the Mayor fail to respect the role of staff to advise without undue influence from the Mayor?

169. Yes. The Mayor's interventions in the planning and operation of the Winter Carnival, the Farmer's Market, the closing of the Tim Horton Event Centre and the HVAC procurement are clear examples of the Mayor showing a lack of respect for staff and attempting to influence decisions within their authority.

5) Did the Mayor use or attempt to use his authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering with the person's duties including the duty to disclose improper activity?

170. No. I regard this policy as speaking to attempts by Members of Council to intimidate or threaten staff away from reporting serious transgressions by the Member or others. The conduct that was reported on to me and on which I have based my findings, while not proper, did not rise to the level of malfeasance that I believe is addressed by this policy.

6) Did the Mayor engage in persistent, excessive nit-picking, unjustified criticism and constant scrutiny?


171. Yes. I believe the Mayor's conduct meets the descriptors listed in this policy.

172. For these reasons, I find that the Mayor did engage in workplace harassment against the Director, contravened the Respect in the Workplace Policy, the Council and Staff Relations Policy and the Code of Ethics, and that this was the sole cause of the Director's distress and his decision to leave the workplace.

PART IX - RECOMMENDATIONS

173. It is my recommendation that Mayor Politis's remuneration be suspended for 45 days, to be withheld consecutively to the 45-day suspension of remuneration recommended in my report on a complaint by the Town's Director of Community Services.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of January, 2024.



H.G. Elston
Integrity Commissioner
Town of Cochrane

SCHEDULE "A"

**THE CORPORATION OF THE TOWN OF COCHRANE
BY-LAW NUMBER 1525-2022
BEING A BY-LAW TO ADOPT THE MANDATE AND DIRECTION
FOR THE 2022 TO 2026 COUNCIL ERM**

THE CORPORATION OF THE TOWN OF COCHRANE
BY-LAW NUMBER 1525-2022
 BEING A BY-LAW TO ADOPT THE MANDATE AND DIRECTION FOR
 THE 2022 TO 2026 COUNCIL TERM

WHEREAS Section 10 (2) 1. of the Municipal Act, S.O. 2001, c.25, as amended provides that a municipality may pass by-laws respecting the governance structure of the municipality and its local boards;

WHEREAS the following mandate and directive is issued by Council as a benchmark for municipal operations and governance.

AND WHEREAS all policies, decisions, and directions will be measured against this directive with the intention of lining up with the principles and directions contained within. Council will have final discretion on this assessment.

THEREFORE BE IT RESOLVE (sic) THAT the Council of the Corporation of the Town of Cochrane hereby adopts the following:

MANDATE AND DIRECTION:

The 2022 municipal election in Cochrane provided a council table with a healthy mix of experience, youth, and fresh thinking, to go along with a balanced gender profile and cross section of the community. The municipality, through the peoples (*sic*) newly elected representatives, was given a very clear mandate and directive. Seven out of ten voters chose an approach and direction that would create a more vibrant, progressive, and developmentally orientated community, that values both social and economic development equally, providing all of this through an easily accessible and consistently welcoming municipal public service.

Combined with the experience of the municipal operation Cochrane's future is bright, it's gas tank is full, and it's motivation is high. Council is thrilled to develop this mandate directive as a tool and beacon of direction for decision making and planning associated to the next four years of local municipal government. This will form the basis for council's governance and oversight model, and for the municipal operation's mission.

The mandate directive is built on the following broad categories:

- Community Engagement
- Municipal Government and Public Service
- Community Socio-economic Development
- Intergovernmental Relations
- Regional Affairs

The mandate and overarching directive for the municipality of Cochrane, Ontario for the 2022 to 2026 Council term is:

Under Community Engagement:

- To empower the community to be actively involved in driving community affairs, by providing modern vehicles that allow for decision making, direct oversight, and engaged planning of services.
- To provide opportunities for the municipal service take a supportive and enabling role of community engagement versus a lead role, with the intent of promoting a healthy balance of community and municipal resources.
- To engaging community task forces comprised of local expertise when planning to understand community opportunities and address community threats, that will serve as guiding support for developing community driven action plans and outcomes.
- To effectively leverage and maximize the resources and experience within the community, to create efficiencies withing the municipal operation.

Under Municipal Government and Public Service:

- To promote simple and open access to both municipal government and the public service. Making it relatively easy and functional for the public to gain answers to their inquiries and to obtain

information on the affairs of their municipal government and operation.

- To adopt an enabling and guiding culture that seeks to help our community get what they're seeking and to get done what they are trying to accomplish, whenever possible and practical.
- To establishing policy and direction that promote governance and operational transparency, simple information access, and operational oversight.
 - While being respectful of the confidential and competitive matters identified in the Municipal Act as being closed to the public, the underlying principle for determining direction if there are competing interpretations being the peoples business is the peoples business.
- To running an operation that places the highest value on providing service to the public.
- To maintain process and polices that:
 - Create as flat an operation as possible, which includes the fewest steps, the fewest layers of process, and the fewest resources required to achieve a given outcome.
 - Provide optimal opportunity for council to provide oversight and stewardship to the operation.
 - Are built upon the recognition that the operation and service are the public's, that the council and municipal workforce are comprised of public servants, and the duly elected council is the public's connection to their service.
 - Promote effective public scrutiny, supported by simple, clear, and consistent public communications.
- To promote a collaborative team driven relationship between the municipal operation and the governance body, that fosters an engaged interaction built on a healthy understanding of the roles between governance and management.
 - Recognizing the small town nature of our community and embracing this as an asset that allows for more effective organizational engagement, than typical larger centers.

Under Community Socio-economic Development:

- To maximize opportunity for social and economic development.
- To explore modern, forward thinking, and fresh opportunities that will maintain a vibrant, leading edge, socio-economic climate in our community.
- To adopt a community building approach that maximizes our assets while promoting growth and investment.
- To promoting an active and healthy community.
- To maximize the opportunity for community celebration and promotion of local pride.
- To maintain fiscally responsible and strategic fiscal management by:
 - maximizing acquisition of funding and resources from outside of the tax levy.
 - Sound situational assessment and planning of opportunity.
 - Leveraging resources, investments, and strategic financing.
- To invest into marketing and promotion opportunities that raise community profile.

Under Intergovernmental Relations:

- To building strong and supportive relationships with Provincial and Federal government.
- To providing maximum exposure of investments made in our community by other layers of government.
- To hosting opportunities that promote Cochrane as a great place for government to invest.
- To being apolitical and supporting the government in power where and when possible, to promote investment of government resources in the community.
- To investing into inter-governmental relationship building.
- To investing into lobbying opportunities.

Under Regional Affairs:

- To maintain respectful and supportive relationships with the other municipalities in the region.
- To take a lead role in regional affairs.
- To invest into regional support and mutual opportunity generation.
- To position Cochrane as a progressive, driven, socio-economic engine of the region.

- To continue to promote Cochrane interests while maintaining supportive regional relationships.

Our council is excited to present this mandate direction to the municipality and the community as forward thinking, modern, and progressive guidance for decision making and policy development. Our intent is to inspire a mission that sees our community develop a vibrant social dynamic, a healthy economic engine, a progressive mindset, strategic and efficient fiscal management, and an enabling, service orientated workplace culture.

This will be an exciting time for our community. Any success we achieve will be done so by us adopting a collaborative, supportive community approach that is founded on our ability to effectively harness the collective wisdom and diverse thinking of the Council, the operation, and the community at large.

THAT this by-law comes into force and takes effect on the date of its final passing.

READ a first and second time this 6th day of December, 2022.

MAYOR

CLERK

READ a third time and finally passed this 6th day of December, 2022.

MAYOR

CLERK

SCHEDULE "B"
RECREATION BOARD TERMS OF REFERENCE

APPENDIX “A” TO BY-LAW NUMBER 1527-2023

THE CORPORATION OF THE TOWN OF COCHRANE

COCHRANE RECREATION & SPECIAL EVENTS BOARD**TERMS OF REFERENCE****1. Cochrane Recreation and Events Board**

- 1.1 A municipal Board to be known as the “**Cochrane Recreation & Special Events Board**” hereinafter referred to as “the Board” is established as a hybrid Municipal Board and Community Council in accordance with several sections of the Municipal Act, including Section II
- 1.2 The Board shall abide by and be subject to all Municipal Policies, rules and regulations.
- 1.3 The mandate and purpose of the Board are:
 - 1.3.1 To have the people of the community serve as the strategic planners and as an oversight body for the recreation and special events they desire and expect.
 - 1.3.2 To oversee in a governance role similar to the municipal council all municipally-led recreation and special events in Cochrane, while reporting to and respecting Council’s ultimate authorities and obligations. For further clarity, to:
 - 1.3.2.1 directly oversee the planning, developing, and maintaining of all recreation programs and special events, the respective municipality’s recreational facilities being used, and that make use, where feasible, of school properties and other community facilities.
 - 1.3.2.2 Oversee the development of, bring forward of, plan of, initiatives and ideas for policy implementation and policies; to make recommendations when required on specific issues to Council; and to ensure appropriate community involvement and public participation on applicable programs, special events and policies.
 - 1.3.2.3 assist other private and/or separately organized recreation and special events programs by providing assistance with the coordination and promotion of sponsored special events and recreational programs.

- 1.3.2.4 lead as a Municipal Board and Community Council as provided through the Municipal Act 2006, recreation and special events within the context of this terms of reference.

2. Composition

- 2.1 Subject to section 2.1.1 below, The Board shall consist of **seven (7)**, members recommended by the Board and appointed by Council resolution.
- 2.2 At the discretion of Council, up to **two (2)** members may be a **Council members**.
- 2.3 The Board and Council, when appointing Board members shall ensure that a balance exists with the membership between user groups and citizens of the community.
- 2.4 The **Chair** of the Board shall be appointed by council, annually. The Chair does not have to be a Council member and appointment shall take place during the first meeting after November 1 every year.

3. Term of Office

- 3.1 With the exception of appointments to the first Board, the Council member(s) shall have a term subject to the Municipal Procedural By-Law but in any event shall not extend past the end of the term of office of the appointing council.
- 3.2 For the purposes of continuity, the non-council members will have a term equal to the term of the appointing Council

4. Number of Meetings Each Year

- 4.1 The Board shall meet at least twelve (12) times every calendar year and, in addition, at any time at the request of a majority of the members of the Board or at the call of the Chair, or the Mayor.

5. Vacancies; Removal

- 5.1 Subject to subsection 3.2 above, each member of the Board serves at the pleasure of the both the Board and the appointing Council.
- 5.2 A member of the Board who is a member of Council ceases to be a member of the Board if he or she ceases to be a member of Council.
- 5.3 A member of the Board may resign from office by providing notice in writing to the Board.

- 5.4 If the seat of a member of the Board becomes vacant, the Board shall:
- (1) Declare the seat to be vacant at its next meeting or, if the vacancy occurs as a result of the death of a member, at either of its next two meetings; and
 - (2) Immediately nominate another possible appointee and forward a copy of its declaration to Council for consideration and re-appointment at the earliest opportunity. If the Board doesn't have the minimum required members to function, the Board and Council will expeditiously appoint a new member to the Board, in accordance with this terms of reference.
- 5.5 In the case of a vacancy for any cause, the person appointed to fill the vacancy shall be qualified to be appointed and shall hold office for the balance of the term for which his or her predecessor was appointed.
- 5.6 Any member of the Board who fails to attend two successive scheduled meetings of the Board, with no just cause, shall be subject to forfeiting his or her appointed seat at the discretion of the Board, and if such is the case, the Board and Council shall appoint a person to fill the vacancy in accordance with section 5.5 above.

6. Reappointment

- 6.1 A member is eligible for reappointment on the expiration of his or her term if he or she meets the requirements of any applicable policies adopted by Council with respect to appointments to Town of Cochrane Agencies, Boards, Commissions and Special Purpose Bodies.

7. Open Meetings; Quorum

- 7.1 All meetings of the Board shall be open to the public except where a meeting may be closed to the public by the *Municipal Act*, or applicable legislation.
- 7.2 A person may be expelled from a meeting for improper conduct at a meeting.
- 7.3 A majority of the members of the Board constitutes a quorum.
- 7.4 The Board proceeding shall be as outlined and in accordance with Council's Procedural By-law.
- 7.5 All Board members shall adhere to Council's Code of Conduct.

8. Minutes; Records

- 8.1 The Board shall keep minutes of its meetings and shall forward copies of the minutes and proceedings to every member of the Board, to the Municipal Council and the Chief Administrative Officer,

- 8.2 The Director of Community Services (or relevant Department Head) shall act or delegate someone to act as the Board Secretary who shall retain and preserve the records of the Board including resolutions, minutes, and proceedings of regular, special or Board meetings. Such records will be retained and preserved in accordance with the record retention period established by Council and approved by the Auditor.

9. Administration, Resource Person, and Other Persons

- 9.1 The Town will provide the Board a resource person who will act as the operational link between the Board and the municipal operation.

The resource person will be the Director of Community Services

- 9.2 The resource person will liaise between the Board and the Town and direct municipal recreation staff, while meeting the directions and oversight set by the Board as per this mandate.

- 9.3 Municipal recreation staff will remain under the jurisdiction of the Town and the resource person for the purposes of employment and direction. The resource person will remain under the jurisdiction of the Town and the CAO for the purposes of the employee/employer relationship. The board assumes no direct supervision over town staff and employees with the exception of the relationship defined herein between the board and the resource person.

- 9.4 Administration for the Board shall be provided by the Town.

10. Powers and Duties; Limitations on Delegation; Consents

- 10.1 The members, while carrying out their mandate shall have regard for the organizational structure of the municipality and shall not provide specific direction to the Town staff. Such direction is only to be provided by the resource person, or the CAO. In addition, members shall not become involved in staff work or direct staff in the performance of their duties. Such direction is to only be provided by the Town.

- 10.2 Subject to the limitations and conditions in this section (including Municipal Act conditions relating to matters requiring the consent and approval of Council) the following authorities and privileges of the Council with respect to the provision of all recreation programs and special events and recreation monetary accounts are delegated to the Board, to be exercised, in all respects, in accordance with this mandate:

- (1) Manage a municipal "Special Events" reserve account set aside for the purposes of the Board fulfilling this mandate that is subject to the conditions of this mandate.

- (2) The Board's financial administration functions will be performed by the Town, in accordance with this mandate.
- (3) The Board, acting in accordance with the Municipal Act, and in accordance with this mandate, will plan how finances are expended and how revenues are generated, in consultation with the Town, and receive approval of this plan from council.
- (4) The Board and the Town shall work together to determine financial reporting protocols and shall have these protocols confirmed by the CAO and Council.
- (5) All revenue, net of expenses generated by the Board with respect to "special events" will be placed into this "Special Events" reserve account and managed in the discretion of the Board in accordance with the annual work plan as approved by Council and this mandate. "Special events" will be identified and approved by Council, as part of the annual work plan and budgeted submitted to Council or through post budget reporting and resolution approved by Council.
- (6) Consider, plan and oversee all matters concerning recreational programs, special events and related facilities.
- (7) In an annual plan confirmed by Council, set fees and charges associated to recreation and special events and their respective facilities.
- (8) Any fees and charges changes that fall outside of the annual plan will require vetting by the CAO and if required (as determined by the CAO), confirmation of Council.
- (9) The development of annual and long-range visions, strategies and plans, that require annual confirmation by Council.
- (10) In conjunction with the municipal marketing resources and procedures and, in accordance with the municipal procedural by-law and any municipal policies, plan and oversee all marketing associated to recreation and special events,
- (11) In accordance with this mandate and the requirements of Council, consider, plan, and oversee all policy matters, with respect to Recreational Programs Special Events, and facilities as per the annual plan.
- (12) Any changes required outside of the annual plan require vetting by the CAO and if required (as determined by the CAO), confirmation of Council.
- (13) In accordance with this mandate, to advise and make recommendations to the Town with regard to staffing associated to the administration and delivery of facilities, programs and services, provided or to be provided by the municipality.

- (14) Consider and report on such matters as may from time to time be referred to the Board by Council.
- (15) All Board members must act in the best interest of the community as a whole.
- (16) To look at all recreation facilities, activities, programs, projects and services to evaluate their value, to the Municipality. On the basis of this evaluation, the Board shall make recommendations for the expansion, modification, or addition of such facilities, activities, programs, projects and services.

The Board shall also take a lead role in providing input for capital improvements projects for such facilities, activities, programs, projects and services.

- (17) Board members shall work to identify, create and promote partnerships and liaise with community groups, organizations and individuals in the delivery of services, programs and initiatives in recreation, special event opportunities for the community.
- (18) Board shall speak with one voice and all decisions arising from Board meetings and approved by Council shall be supported as decisions of Board.
- (19) Submit operating and capital plans and budgets developed in accordance with this terms of reference, to be provided by, or before, the 31st day of October of each year or as otherwise directed by the CAO from time to time, which includes the following:
 - 15.1 An annual calendar of recreation activities and special events, including; projected capital costs, projected sources of funding and revenue, and projected budget from the Town.
 - 15.2 Operational plans, including financial and human resources matters;
 - 15.3 Strategic directions for the coming five (5) years;
 - 15.4 A multi-year capital plan;
 - 15.5 Five-year Business Plan when required as determine by either the Town, the Board or Council;
 - 15.6 Asset management and capital plans;
 - 15.7 Report addressing the efficiency and effectiveness in the delivery of recreational programs and special events provided;

15.8 Explanations and information regarding any material variances between actual results from operations and the current Business plan; and

15.9 Any other information required to fulfill this mandate.

(20) The Board shall, at the times and in the form requested, promptly provide the Council of the Town of Cochrane with information requested by the Town relating to its purposes.

10.3 The Board Chair will meet with Council on council's regularly scheduled boards and Committees update itinerary, and provide the following:

- (1) A progress and financial report,
- (2) A projection of upcoming events and any revisions to the events calendar
- (3) Any updates or discussions required for the Board and Council to implement this mandate.

10.4 The resource person will meet regularly with the Town CAO and provide the following:

- (1) A projection of upcoming events and any revisions to the events calendar
- (2) Any updates or discussions required for the Board and Council to implement this mandate
- (3) Any requests for staffing assistance and involvement in implementing this mandate.

11. Budget; Business Plan; Annual Report; Fees and Charges

11.1 Notwithstanding Section 12, the Board shall submit its annual operating and capital budget in the form, and at the time, required by the CAO. The Board shall also provide oversight with respect to grants, fees and charges necessary to support relates expenditures, in accordance with this terms of reference.

12. Review

12.1 The Municipal Council of the Corporation of the Town of Cochrane shall, by November 30th of each and every year conduct a review of the Board's mandate and by January 31st approve its annual budget.

SCHEDULE "C"
DELEGATION TO MAYOR BY-LAW

THE CORPORATION OF THE TOWN OF COCHRANE

REGULAR COUNCIL

DATE: July 11/23
RESOLUTION NO.: 379-2023
AGENDA ITEM NO.: 18.MOVED BY: HoogenhouclSECONDED BY: Nelson

WHEREAS The town is highly exposed by a series of absences in the operation including the Chief Administrative Officer

AND WHEREAS a number of key files are in limbo and need to be managed accordingly.

AND WHEREAS the potential of labour job action exists in the coming days and the internal staff need to be available to manage services.

AND WHEREAS the operation is currently without structure or leadership.

AND WHEREAS it is not functional for Council to meet daily or more frequently to provide direction and wishes to do this through the Head of Council.

AND WHEREAS this is a temporary measure that is intended to be repealed when Council is satisfied that the absence of the Chief Administrative Officer has been adequately mitigated.

AND WHEREAS the intention is for Head of Council to have authority to provide day to day governance and administrative direction to the municipality while keeping council reasonably informed of decisions being made through back-end control versus front end control, allowing council a reasonable opportunity to review and request a council discussion if required.

NOW THEREFORE BE IT RESOLVED THAT:

Council retains its right to revoke this delegation of authority as prescribed under Section 23, sub.(2), p1. of the Municipal Act.

Council retains the right to overturn or veto decisions if it feels it necessary, as prescribed in the Municipal Act and Procedural By-law.

Council delegates it's powers to the Head of Council to provide day to day governance and administrative direction to the municipality as follows:

1. Municipal administrative powers as per Section 23 sub.(2).
2. Governance required to facilitate operational directions provided by council or already underway.
3. Day to day decisions that would be typically required from the Chief Administrative Officer

Council temporarily appoint Richard Vallee to act as operational lead and to provide both council and Head of Council direction to all staff creating a functional operational vehicle for these delegated powers to be implemented.

Head of Council and the Interim Operational Lead will work collaboratively on keeping the day-to-day operation as functional and as similar as possible to normal as possible.

Head of Council is not expected to seek direction from Council in advance but to keep council appropriately apprised and reasonably informed of directions, as would be expected of the Chief Administrative Officer under typical circumstances.

THE CORPORATION OF THE TOWN OF COCHRANE

REGULAR COUNCIL

DATE: _____

RESOLUTION NO.: _____

AGENDA ITEM NO.: _____

MOVED BY _____

SECONDED BY _____

THAT _____

DECLARED THE MOTION

- CARRIED
- DEFEATED
- DEFERRED
- REFERRED TO: _____

RECORDED VOTE - Requested by: _____

Mayor (Acting Mayor)

RECORDED VOTE	FOR	AGAINST	CONFLICT	ABSENT
France Bouvier				
Daniel Brunet	/			
Sylvie Charron-Lemieux	/			
Rodney Hoogenhoud	/			
Susan Nelson	/			
Peter Politis	/			
Marck Recoskie	/			

DECLARATION OF CONFLICT OF INTEREST

DISCLOSED HIS/HER INTEREST(S)

VACATED HIS/HER SEAT

✓ ABSTAINED FROM DISCUSSION AND DID NOT VOTE ON THIS QUESTION.

Bouvier

SCHEDULE "D"

RESOLUTION NO.: 583-2023 – (POLICY SUSPENSION RESOLUTION)

THE CORPORATION OF THE TOWN OF COCHRANE

REGULAR COUNCIL

DATE:

November 28, 2023

RESOLUTION NO.:

583 -2023

AGENDA ITEM NO.:

13.2

MOVED BY

Forayud

SECONDED BY

Charon-Louise

WHEREAS there are a number of policies identified by Council that require critical revision or rescinding.

AND WHEREAS the Council of the Corporation of the Town of Cochrane has issued resolution 343-2023 to identify policies that are deemed to be conflicting, problematic, and / or critical to revise, suspend, or rescind.

AND WHEREAS a policy is required by the Municipal Act to replace the suspended policies.

BE IT RESOLVED THAT that the following policies be suspended immediately as of this resolution being ratified:

- Code of Ethics
- Council and Staff Relations (Suspended under Resolution #339-2023)
- Matters Considered in Closed Session
- Consolidated Reserve
- Debt Management and Capital Financing
- Procurement Policy
- Recreation Board Donation
- Fee Reduction Policy
- Tax Rebates, Reductions, and Refunds Policy
- Water and Wastewater Rates
- Water and Wastewater Service and Billing Practise

BE IT FURTHER RESOLVED THAT that the following policy be created to park these ^{policies} policies until such time that they can be reviewed and addressed on their merits:

- The title of this policy will be The Town of Cochrane's Municipal Policy Under Section 270 (1) of the Municipal Act.
- The following policy will replace policies, which have been suspended in accordance with resolution _____ (this resolution number), and serve as the Municipality's obligations under Section 270 (1) of the Municipal Act.
- In accordance with the Municipal Act Section 270 (1) the Municipality's policy with respect to the suspended policies will be to apply the prescribed requirements in the most up to statute, as it applies accordingly.
- The Municipality will review each of the suspended polices and address and revision or even rescinding of the policy as time permits.
- This policy will remain in effect until such time as Council of the own of Cochrane determines to rescind or modify.

THE CORPORATION OF THE TOWN OF COCHRANE

- This policy take effect immediately upon ratification of this resolution. Any formatting or immaterial language adjustments be presented to council by the _____ Council meeting.

DECLARED THE MOTION

- CARRIED
- DEFEATED
- DEFERRED
- REFERRED TO: _____

RECORDED VOTE - Requested by: _____

Mayor (Deputy Mayor)

RECORDED VOTE	FOR	AGAINST	CONFLICT	ABSENT
France Bouvier	/			
Daniel Brunet	/			
Sylvie Charron – Lemieux	/			
Rodney Hoogenhoud	/			
Susan Nelson	/			
Peter Politis	/			
Marck Recoskie	/			

DECLARATION OF CONFLICT OF INTEREST

DISCLOSED HIS/HER INTEREST(S)

VACATED HIS/HER SEAT

ABSTAINED FROM DISCUSSION AND DID NOT VOTE ON THIS QUESTION.