

# THE CORPORATION OF THE CITY OF BELLEVILLE

## ADDENDUM AGENDA

OCTOBER 28, 2019

**Starting  
Page No.**

**7. CORRESPONDENCE**

7.1 October 4, 2019 letter/public report from the City's Integrity  
Commissioner

**7-1**



**Cunningham Swan**  
CELEBRATING **125** YEARS

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October 4, 2019

Council Members – City of Belleville  
c/o Matthew MacDonald, Director of Corporate Services/Clerk  
City of Belleville  
169 Front Street  
Belleville, Ontario K8N 2Y8

Attention: Council Members

Dear Council Members:

**RE: Integrity Commissioner Complaint**  
**Affected Members: Mayor Mitch Panciuk, Councillors Pat Culhane and Kelly McCaw**  
**Our File No: 20958-14**

This public report of our investigation is being provided to Council as a companion report to a confidential closed session report of the investigation. Section 223.5 of the *Municipal Act* provides that all aspects of the investigation shall be maintained as confidential information by the Integrity Commissioner, except for those facts deemed necessary by the Integrity Commissioner to be disclosed publicly.

Therefore, this report is being provided to Council as the report that shall be disclosed to the public. Confidential matters necessary for Council to understand for purposes of deliberating and considering the recommendations of the Integrity Commissioner were provided in the confidential report. This dual-report process is necessary to preserve the confidentiality of staff members and members of the public who were part of the circumstances, but whose identities need not be publicly identified.

A complaint was submitted to the City of Belleville and received by our office on June 28, 2019. The nature of the complaint was in relation to the conduct of three members of Council (Mayor Mitch Panciuk, Councillor Pat Culhane, and Councillor Kelly McCaw). As the conduct in question related to similar facts, we conducted our preliminary review and subsequent investigation as one process. We have now concluded our investigation. The allegations contained within the complaint all relate to the hiring of 3 separate staff members and the

appropriate process for doing so. We refer to the staff members hired as Employees 1 – 3 throughout the balance of this report.

Councillor Pat Culhane and Councillor Kelly McCaw

The complaints relating to Councillors Culhane and McCaw allege that each Councillor:

1. Contravened section 8 of the Code of Conduct when they (separately) attempted to use the influence of their office to interfere with the hiring decision of a senior staff member for a position in that staff member's group. This complaint relates to an individual identified in this report as Employee 1. Throughout the balance of this report the senior staff member will be referred to simply as "Senior Staff Member".

Mayor Mitch Panciuk

The complaint relating to Mayor Panciuk alleges that the Mayor:

1. Contravened section 11 of the Code of Conduct by making inappropriate statements that amounted to influence on the Senior Staff Member regarding the hiring process for a position in that Senior Staff Member's group. This complaint relates to an individual identified in this report as Employee 1;
2. Contravened the City's Recruitment, Selection and Hiring Policy (the "Hiring Policy") by using his office to ensure that certain candidates were included in the final hiring process for two separate positions with the City, thereby using his office to direct and influence staff, contrary to section 8 of the Code of Conduct. This complaint relates to the hiring process for an individual identified in this report as Employee 3;
3. Contravened section 8 of the Code of Conduct by using the influence of his office to direct staff and influence the hiring of staff to the point where staff felt threatened that if they did not follow his direction, they could face reprisal. This complaint relates to an individual identified in this report as Employee 1; and
4. During the investigation, a possible breach of the Human Resources Policy and allegations of directing staff were raised related to the Mayor granting an "acting" title to a member of staff, contrary to the direction of the Manager of Human Resources. This complaint relates to an individual identified in this report as Employee 2.

All findings made within this report are based on a standard of a balance of probabilities. This standard is applied in civil cases and requires the Integrity Commissioner to "scrutinize the

relevant evidence with care to determine whether it is more likely than not that an alleged event occurred.”<sup>1</sup>

## **COMPLAINT PROCESS**

### **Preliminary Review**

The *Municipal Act* provides the Integrity Commissioner with his or her powers, which includes the ability to interview witnesses and review documents that he or she deems relevant to the investigation process. In conducting the preliminary review, our process included:

- Reviewing the complaint and supporting materials from the complainant and ascertaining what sections of the Code were alleged to have been breached;
- Providing a copy of the complaint and supporting materials to each member, with a request for a written response;
- Providing a copy of the members’ responses to the complainant and requesting that the complainant provide a written response to each;
- Providing a copy of the complainant’s response to each member with a request for any final written comments;

Upon completion of the preliminary review of the complaint and the materials submitted by the complainant and members, our office determined that there was a reasonable basis to conduct an investigation into the allegations pertaining to Mayor Panciuk and Councillors McCaw and Culhane.

### **Investigation**

In conducting the investigation, our process included:

- Reviewing all submissions by the complainant and the members;
- Interviewing both the complainant and the named members;
- Interviewing several witnesses;
- Reviewing materials relating to the hiring processes of the three staff positions, including all applications, interview materials, and the Hiring Policy.

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<sup>1</sup> *F.H. v. McDougall*, [2008] 3 SCR 41; 61; 2008 SCC 53 (SCC) at para. 61.

## ANALYSIS

### Hiring of Employee 1

The findings of fact set out below are based on the documents reviewed and the detailed interviews conducted.

#### Findings of Fact

- The Senior Staff Member became so concerned about the influence of the Mayor and the potential career implications associated with hiring Employee 1 that they began making a detailed chronology of events in early March 2019, several weeks before the interviews.
- This chronology was updated after the interviews and was provided to the Integrity Commissioner by the City. The mere existence of this detailed series of notes underscores the pressure that the Senior Staff Member was under and the concern they had for their future with the City, and possible reprisals from the Mayor if they did not hire Employee 1.
- Both the Mayor and the Senior Staff Member agreed that the first discussion between them occurred in November of 2018 where the Mayor inquired whether there was anything that would assist the Senior Staff Member's department. The Senior Staff Member went away from that meeting considering what might be of assistance to the department.
- In early January 2019 the Mayor met with the Senior Staff Member on a different topic. At the end of this meeting, the Mayor initiated a conversation about what might be of assistance to the department. The Mayor directed the Senior Staff Member to prepare a job description and a report to Council seeking approval for a new position in the department.
- In mid January, 2019, again at the end of another meeting:
  - the Mayor raised the idea of Employee 1 for the new position. It was at this meeting that the Mayor stated, "I am not telling you to hire this person, but [they] would be great as [they] has many skills in areas of protocol and the like". The Mayor then said, "Like I tell my Managers at Boston Pizza, it's your funeral either way, you decide. It's your funeral". (Reference: The Mayor is the owner and operator of Boston Pizza);
  - the Mayor then asked the Senior Staff Member to meet with Employee 1 and provided the Senior Staff Member's cell phone number to Employee 1;

- Within minutes of leaving this meeting, Employee 1 called the Senior Staff Member and they had a conversation that lasted approximately 1 hour.
- In late January, 2019 the Senior Staff Member and Employee 1 met in person to discuss Employee 1's experience.
- The Senior Staff Member subsequently drafted a job description and Council report related to the new position. The report and job description were circulated to the Mayor's office and comments were made by the Mayor's office on both documents. The Mayor met with the Senior Staff Member to discuss details of the position. Ultimately, Council approved the new position and the job was posted in mid February 2019.
- The Mayor's office reviewed and had input into the interview questions for the position prior to the interviews.
- A member of the Mayor's staff was directed by the Mayor to be part of the interview panel. Although the Mayor denied directing that this person would be on the interview panel, the evidence confirms that they were placed on the panel at the direction of the Mayor.
- The member of the Mayor's staff had not been part of an interview panel outside of their department previously and I find that absent the Mayor's intervention they would not have been part of the panel.
- Approximately 140 applications were received for the position. HR staff screened the applications and scored each candidate against the mandatory and asset requirements for the job description.
- Witnesses expressed concern that absent the fact that Employee 1 had a history with the Mayor and that he was interested in having Employee 1 hired, Employee 1 would not have been offered an interview.
- I am satisfied that on a balance of probabilities, Employee 1 would not have received an interview based on their application absent the Mayor making it known that he was interested in securing a position for Employee 1.
- Both Councillor McCaw and Councillor Culhane spoke with the Senior Staff Member expressing their support for hiring Employee 1. The Senior Staff Member advised the Integrity Commissioner that they did not perceive these interactions as threatening or as an attempt to influence their hiring decision.

- Prior to the interviews, the Senior Staff Member asked a member of the Mayor's office to seek clarification from the Mayor as to whether the Senior Staff Member was free to hire someone other than Employee 1.
  - o After speaking to the Mayor, the staff member reported to the Senior Staff Member that the Mayor said, "I created the position for [the Senior Staff Member], you ask [the Senior Staff Member]- what does [the Senior Staff Member] think?".
- During the interview process, the Mayor texted his staff member who was on the interview panel to see how things were going with Employee 1's interview. The staff member denies that they received a text from the Mayor during the interview.

### Relevant Policies

Our analysis of these allegations requires consideration of the City's Code of Conduct and its Workplace Discrimination and Harassment Policy.

The preamble and General provisions of the Code of Conduct state:

This Code of Conduct is intended to ensure that all Members share a common basis for acceptable conduct. Formalized standards help to provide a useful reference guide and a supplement to the legislative parameters within which Members must operate. Further, this code of conduct will enhance public confidence that Belleville's elected representatives operate from a base of integrity, justice and courtesy.

Belleville Council's Code of Conduct is a general standard; it augments the laws that govern the behaviour of Members, and is not intended to replace personal ethics.

#### **1. GENERAL**

All Members shall serve their constituents in a conscientious and diligent manner. No Member shall use the influence of office for any purpose other than for the exercise of his/her official duties.

The provisions governing influencing staff and harassment are as follows:

#### **8. INFLUENCES OF STAFF**

Members shall be respectful of the fact that staff work for the entire corporation and are charged with providing their services and carrying out their duties, including making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any individual Member or faction of Council, Members

typically will deal directly with the Chief Administrative Officer or Department Directors rather than more junior staff in the course of performing their duties.

## 11. HARASSMENT

Harassment of another Member, staff or any member of the public is considered to be misconduct. It is the policy of the City of Belleville that all persons be treated fairly in the workplace, in an environment free of discrimination and of personal and sexual harassment.

Harassment may be defined as any behaviour by any person, including a co-worker, that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status or family status and any other prohibited grounds under the provisions of the Ontario Human Rights Code.

The Workplace Discrimination and Harassment Policy (the "Harassment Policy") contains the following policy statement:

All members of the Corporation of the City of Belleville (the "Corporation") are expected to respect the dignity and rights of their colleagues, co-workers and the public.

...

Harassment is defined in the policy:

Harassment is a form of discrimination that involves comments or conduct that is known or ought reasonably to be known to be unwelcome. It does not matter whether the harasser intended to offend the recipient of the conduct or comments. Harassment may be one unwelcome incident or a series of unwelcome incidents. Harassment may include, but is not limited to:

- Written or verbal insults, abuse or threats;
- Unwelcome remarks, jokes, innuendoes or taunting;

...

**Abuse of Authority Harassment** involves the improper use of power and authority inherent in the position held by one person to endanger another person's job, undermine the performance of that job, threaten the livelihood of that person, or in any way interfere with or influence the career of that person.

..

[emphasis added]



## Discussion

The Code of Conduct and the City's Harassment Policy require members to conduct themselves respectfully, and to abstain from unwanted conduct that is known or ought reasonably to be known by the member to be unwelcome.

The statement, "it's your funeral" was interpreted by the Senior Staff Member as a veiled threat and an implied direction to hire Employee 1. Every witness who was aware that this comment had been made interpreted the comment in the same way as the Senior Staff Member.

The Harassment Policy is clear: it does not matter whether the harasser intended to offend the recipient of the unwanted comments. The Mayor's intent is irrelevant; a contravention of the Policy resulted as it is reasonable to assume that such a comment would be interpreted as it was by the Senior Staff Member.

The Mayor suggested that this was his way of explaining to the Senior Staff Member that he would not take exception to a decision not to hire Employee 1. Mayor Panciuk explained that this is what he says to his managers at Boston Pizza when they make hiring decisions. I find that this explanation is not credible. Aside from the obvious differences between a manager of a restaurant and the Senior Staff Member, and the fact that Employee 1 in this case was being actively promoted by the Mayor, it is entirely reasonable to interpret that statement as the Mayor expressing a strong position and direction to the Senior Staff Member to hire Employee 1.

When asked directly if he had been involved in ensuring that his staff member was on the interview panel, the Mayor denied such involvement. Contrary to his denial, a text message was provided to the investigation confirming that the Mayor directed this staff member to be part of the panel. This is not consistent with the Hiring Policy and no credible reason was provided for involving this staff member as opposed to a manager in the Senior Staff Member's department who would have day-to-day interaction with the person ultimately hired.

I find that inserting his staff member into the interview panel was another way to pressure the Senior Staff Member to hire the Mayor's preferred candidate.

On a balance of probabilities, I find that the statement "I created the position for [the Senior Staff Member], you ask [the Senior Staff Member]- what does [the Senior Staff Member] think?" was in fact made. The Senior Staff Member described in great detail the conversation with the employee who relayed the Mayor's comments. While the employee initially stated that they did not have that conversation with the Mayor, they ultimately did recall being asked by the Senior Staff Member and recalled speaking to the Mayor. The staff

member's recollection was not as described by the Senior Staff Member, but I attribute that to the pressure they felt not to contradict the Mayor.

Several facts support our finding that the Mayor was attempting to exert influence to ensure that Employee 1 was hired:

- The Mayor's involvement in the hiring of a lower level position with the City is unusual, even more unusual in a department unconnected to the Mayor's office;
- When the Mayor asked the Senior Staff Member if they would speak with Employee 1, the Senior Staff Member was contacted by Employee 1 within five minutes of leaving the Mayor's office. The conversation (by phone) lasted approximately one hour and it was apparent to the Senior Staff Member that Employee 1 had been aware in advance of the details of the position and what qualifications were required for the position.
- Importantly, this conversation occurred before Council agreed to create the job and before the Senior Staff Member created a job description.
- Employee 1 did not possess the requisite experience that would have allowed this person to be offered an interview.
- The Mayor's office had input into the job description, staff report to seek Council approval for the new position and interview questions:
  - o This is contrary to policy and protocol;
  - o This level of involvement from the Mayor's office increased the perception that the outcome of the hiring process was of importance to the Mayor.
- The Mayor placed a member of his staff on the interview panel for Employee 1:
  - o contrary to the Hiring Policy protocol and practice;
  - o at the direction of the Mayor;
  - o for no reason or benefit as the staff member was from a different department and had never participated on an interview panel for a different department before.

Had the Mayor introduced Employee 1 to the Senior Staff Member and then stated unequivocally that he would not have any role in the hiring process and would respect any decision made, there would be no breach of the Code of Conduct. Instead, the Mayor actively participated in not only creating the new position, but was involved in creating the job description, and directed and influenced staff in a manner that ensured Employee 1 would be hired.

I find that the Code of Conduct implicitly incorporates the prohibitions on harassment which are enforced by the Harassment Policy. As such, no Member of Council may engage in the harassment of staff as this would not only breach the laws of general application applicable to the City related to workplace harassment, but also demean public confidence in elected representatives. It is difficult to envision a member of the public, apprised of all of the circumstances related to the hiring of Employee 1, concluding that the Mayor had operated from "a base of integrity, justice and courtesy" as required by the Code of Conduct.

No clearer statement of unwelcome comment exists than a sitting Mayor implying to a senior member of staff that if they do not hire the candidate preferred by the Mayor it, "will be your funeral". Even if I accepted the Mayor's position that he meant that the Senior Staff Member would need to live with his decision, that statement is wholly inappropriate. In the context of considering hiring Employee 1, a person known to have a history with the Mayor, how could the Senior Staff Member interpret the comment in any way other than if Employee 1 were not hired it would be the Senior Staff Member's career "funeral"? This statement, combined with the message that the Mayor "created the position for [the Senior Staff Member], you ask [the Senior Staff Member]- what does [the Senior Staff Member] think?" (in response to the question whether the Senior Staff Member had discretion to hire someone other than Employee 1), forms a series of unwanted statements by the Mayor to the Senior Staff Member intended to use the influence of the Mayor's office to pressure the Senior Staff Member to hire the Mayor's preferred candidate.

## **Hiring of Employee 2**

The findings of fact set out below are based on the documents reviewed and the detailed interviews conducted.

### Findings of Fact

- A position (unrelated to the position for Employee 1) within the City was advertised in early 2019.
- There is no allegation that the hiring of this position was in any way inappropriate and no witness suggested that the best candidate for the job was not hired.
- The issue surrounding this process was that the Mayor directed a current City employee, to use the title "Acting" during the hiring process when candidates were competing for that very same newly created position.
- The Manager of Human Resources objected to the use of the title because in his opinion:

- (i) This was a new position and therefore no staff member was entitled to the title;
  - (ii) Internal candidates were competing for the job and using the title before the process was complete was poor optics and unfair to the other candidates; and
  - (iii) The Mayor did not have the authority to unilaterally promote a staff member without following the proper process.
- The Mayor stated that he spoke with the CAO about this issue and the CAO agreed that the current employee should continue to use the title during the hiring process. The Mayor did not speak with The Manager of Human Resources about the issue.

#### Relevant Policies

The City's Hiring Policy states as follows:

"The selection process shall be fair and transparent. The selection shall be based upon clearly defined criteria of experience, skills, ability and suitability, as related to the position and approved job description."

...

[emphasis added]

Section 8 of the Code of Conduct (as referenced above), states that "members of Council shall be respectful of the fact that staff work for the entire corporation and are charged with providing their services and carrying out their duties, including making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any individual Member or faction of Council."

#### Discussion

Emails from the Mayor's office to the Manager of Human Resources demonstrate a lack of respect for the Manager of Human resources and the issues raised.

The Mayor stated that once the issue was raised, he spoke to the CAO, and the CAO agreed that the current employee could continue to use the title.

In the circumstances, it was reasonable for the Mayor to consult with the CAO and proceed in an agreed upon fashion. However, this should have occurred prior to any statement to the current employee by the Mayor that they could continue using that title and such direction should have been relayed through the CAO to the Manager of Human Resources.

### Hiring of Employee 3

The findings of fact set out below are based on the documents reviewed and the detailed interviews conducted.

#### Findings of Fact

- A third position was created by resolution of Council in early 2019.
- During this process, the Mayor directed the Human Resources department to add a candidate (Candidate 1) to the list of candidates to be interviewed.
- Candidate 1 did not meet the minimum criteria to qualify for an interview and as such had not been selected through the screening process for an interview.
- When the Mayor asked that Candidate 1 be added to the interview list, Human Resources staff identified that this candidate was not qualified and should not receive an interview as to do so would contravene the Hiring Policy and would be unfair to other similarly unqualified candidates.
- The Mayor directed Human Resources to add Candidate 1 to the interview list regardless.
- The Mayor asked Councillors if they knew of any candidates that should be considered for the position. A Councillor advised the Mayor that they knew of a candidate that had applied (Candidate 2).
  - o The Councillor did not request special treatment or request that Candidate 2 be interviewed if they were not qualified.
  - o The Mayor directed Human Resources to place Candidate 2 on the interview list.
  - o This direction was given notwithstanding that Candidate 2 was disqualified as they had missed the deadline for consideration for the position (facts known to the Mayor at the time of his request).
- The Mayor, in his written correspondence to the Integrity Commissioner, states that:
  - o "When I requested that these two individuals be added as interview candidates, I used the term 'courtesy interview' and was clear that I was not advocating for them to be hired. I continue to maintain that this was appropriate conduct as upper level members of government as well as my Council colleagues are influential and deserve the respect to consider their requests."

## Relevant Policies

The City's Hiring Policy states as follows:

### **1. Policy**

It is the policy of the Corporation of the City of Belleville to select the best qualified candidates on the basis of experience, skill, ability and suitability for the positions. This policy shall be applied within the framework of applicable legislation, collective agreements, budgetary limitations, and corporate needs.

### **2. Recruitment and Selection Principles**

The selection process shall be fair and transparent. The selection shall be based upon clearly defined criteria of experience, skills, ability and suitability, as related to the position and approved job description.

## Discussion

The practice of "courtesy" interviews is not permitted under the Hiring Policy. In fact, the Hiring Policy states that only qualified candidates shall be considered for a position with the City.

The Mayor decided to add 2 candidates to the list of interviewees without Council approval or any policy supporting that action. This direction was given knowing that it was contrary to the City's Hiring Policy. Section 8 of the Code of Conduct prohibits using the influence of a Member's office to direct staff. This section stipulates that staff take direction from the CAO. Additionally, the *Municipal Act* is clear that Council may only act by By-law and that no individual member of Council has the authority to direct staff or make decisions for the municipality.

Mayor Panciuk stated in his correspondence to the Integrity Commissioner:

"The Municipal Act provides for a role for Mayor as the Chief Executive Officer with broader responsibilities than those accorded to Councillors. Part of this responsibility is to ensure the administration of the municipality is carried out. My roles as the CEO and Head of Council are to provide the opinion and perspective to City Staff so they are able to make the best decisions and recommendations."

The *Municipal Act* states at section 225 that the role of the Head of Council is to "act" as Chief Executive Officer. It is well established law that the Head of Council has no authority to act for the municipal corporation, except as a member of Council; the Mayor is not an "officer" of the municipality. The Mayor does not have a statutory role to play in the day-to-

day administration of the municipality. The *Municipal Act* specifically provides in section 227 that it is the role of the officers and employees of the municipality to administer Council's decisions and to establish administrative practices and procedures to carry out Council's policy decisions.

The Mayor candidly stated in his interview that any Mayor would have extended a courtesy interview in similar circumstances, and therefore his behaviour was acceptable and even expected. This perspective is not consistent with the legal authority granted to the head of Council or the City's policies.

It is important to understand that this type of interference does serious harm to the internal and external reputation of the City and can affect its ability to attract and retain qualified staff. It is also important to appreciate how difficult this type of direction is for staff. The Mayor gave directions directly contrary to the Hiring Policy, thus placing non-management staff in the position of following the Mayor's orders or telling the Mayor "no".

The reason policies are included in Codes of Conduct directing council members not to use their office to influence staff is to avoid placing staff in these types of difficult situations.

#### **DECISION:**

After careful consideration of the evidence and the findings discussed above, the Integrity Commissioner rules as follows:

#### **Hiring of Employee 1**

1. That Mayor Mitch Panciuk contravened Section 8 of the Code of Conduct by using the influence of his office to direct staff, interfere in the hiring process and to exert pressure on the Senior Staff Member to hire Employee 1.
2. That Mayor Mitch Panciuk contravened section 11 of the Code of Conduct by engaging in a course of conduct that should have been known to be unwelcome by exerting pressure on the Senior Staff Member to hire Employee 1. The statement that it would be the Senior Staff Member's "funeral" with respect to his hiring choice, in combination with other statements and the Mayor's influence throughout the process amounted to harassment.
3. That Councillor Culhane did not breach the Code of Conduct related to comments made to the Senior Staff Member concerning hiring Employee 1.
4. That Councillor McCaw did not breach the Code of Conduct related to comments made to the Senior Staff Member concerning hiring Employee 1.

## Hiring of Employee 2

5. That Mayor Mitch Panciuk did not breach the Code of Conduct in his handling of the use of an "acting" title associated with the hiring process for Employee 2.

## Hiring of Employee 3

6. That Mayor Mitch Panciuk breached Section 8 of the Code of Conduct by using the influence of his office to direct staff to include 2 candidates on the short list of people being interviewed for the position that were otherwise unqualified or disqualified for the position.

## RECOMMENDATIONS:

Based on the findings of the investigation and the identified breaches of the Code of Conduct, the Integrity Commissioner recommends that Council impose the following penalties:

1. Publish a public reprimand expressing Council's condemnation of the interference of Mayor Mitch Panciuk in the hiring processes of the City and his attempts to influence staff to make hiring decisions; and
2. Impose a suspension of the Mayor's remuneration for a period of 30 days.

The Integrity Commissioner further recommends that Council impose the following sanctions:

1. That Council direct the Mayor by Resolution to cease directing staff in any matters related to human resources or hiring practices; and
2. That Council direct the Mayor by Resolution to take training from a qualified professional to understand the roles and responsibilities of the Head of Council, the obligations imposed by the Code of Conduct and the City's policies, and to undertake harassment training.

The Integrity Commissioner recommends that Council also consider the following remedial measures intended to avoid repetitions of the breaches dealt with in this Report:

- Amend the Hiring Policy to expressly prohibit the interference of Council in the hiring process, including dis-allowing any staff member who works for a Councillor from participating in any part of a hiring process unrelated to the staff member's role.
- Clearly articulate in the Hiring Policy the circumstances under which an "acting" title can be used by an internal employee, and which members of Staff are permitted to make such decisions.



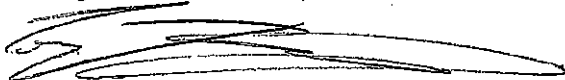
- Clearly articulate in the Hiring Policy that "courtesy interviews" are not permitted. If "courtesy interviews" are a practice the City wishes to engage in, there should be clear direction provided to both staff and Council as to the process.

Finally, we direct Council to review its obligations pursuant to the *Occupational Health and Safety Act* with respect to the fear of reprisal expressed by the Senior Staff Member during the investigation. While this was outside of the scope of the complaints subject to the investigation, the allegations represent a potential breach of the *Occupational Health and Safety Act* and the City is therefore obliged to investigate. Having identified this potential breach, the Integrity Commissioner is obligated to refer this matter to the City for a complete investigation.

The Integrity Commissioner is prepared to attend before Council to answer questions as necessary in this matter.

Sincerely,

**Cunningham, Swan, Carty, Little & Bonham LLP**



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TEF:als