

**THE CORPORATION OF THE CITY OF SARNIA**  
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**OFFICE OF THE INTEGRITY COMMISSIONER**

**OPEN SESSION REPORT**

TO: Mayor Bradley and Members of Sarnia City Council

FROM: Robert Swayze, Integrity Commissioner

DATE: June 28, 2016

SUBJECT: Code of Conduct Complaints against Mayor Bradley from Nancy Wright-Laking, former City Clerk and Jane Cooper, former Planning Director

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**Recommendation:**

It is recommended:

1. That the remuneration paid by the City to Mayor Mike Bradley in respect of his services as Mayor be suspended for a period of 90 days commencing with his next pay period and that the amount suspended be transferred to general funds, and
2. That paragraph 1 of the resolution passed by Council on February 29, 2016, directing the Integrity Commissioner to investigate the Mayor under the Workplace Harassment Policy J-01, be rescinded.

**Background:**

I was appointed Integrity Commissioner for the City by agreement dated as at June 22, 2015. The *Code of Conduct for Council* (the "Code") was adopted by By-law No. 28 of 2015, passed on April 13, 2015. My duties under the agreement include, upon request, conducting inquiries into whether a member of Council has contravened the Code or procedures, rules and policies governing the ethical behaviour of members of Council.

I received two requests for an enquiry (the "Complaints") from former senior managers who had resigned recently, both alleging that the Mayor had created a poisonous work environment for them, the Director of Parks and Recreation and for the City Manager.

I served the Complaints on the Mayor and requested a written response from him within ten days as the Code requires. I received two extensive responses from the Mayor within the time limited, served them on the Complainants and they made further written submissions to me.

Prior to my receipt of the Complaints, Council on February 29, 2016, passed the following resolution:

1. That the Integrity Commissioner be directed to investigate whether the Mayor, at any time during this term of Council, has contravened the Workplace Harassment Policy J-01, by harassing members of staff and former staff of the City of Sarnia,
2. That the Integrity Commissioner be further directed to investigate whether the Mayor has contravened the *Code of Conduct for Council*, in respect of the sections entitled "Conduct at Meetings", "Conduct Respecting Staff" and "Discreditable Conduct", and
3. That the Integrity Commissioner be instructed to report to Council at his earliest opportunity on any recommendations he may have arising out of such investigation.

I am recommending that paragraph 1 of this resolution be rescinded because I understand that an extensive workplace harassment investigation by a Human Resource Consultant is underway, which should not be duplicated. I have now received valid Complaints which are the subject of this report, prepared within my jurisdiction as Integrity Commissioner and in compliance with paragraphs 2 and 3.

## **Complaints**

### Complaint from Nancy Wright-Laking, former City Clerk

The complaint from Nancy Wright-Laking was filed with me by sworn affidavit as the Code requires and alleges that the Mayor's behaviour towards her has been contrary to the Code. With attachments, it was in excess of 50 pages and I summarize her submissions here.

She has been a Municipal Clerk for more than 25 years, including 10 years as City Clerk for Peterborough. She was employed by the City of Sarnia for 17 months and her complaint details the "insulting and abusive" behaviour of the Mayor towards her, the

City Manager, the Director of Planning and the Director of Parks and Recreation. She and the two managers were all recent hires of the City Manager. Her complaint states that “the Mayor fosters and promotes a poisoned work environment where fear is the corporate culture”. She resigned as Clerk effective December 31, 2015, writing an exit memorandum blaming the Mayor for bullying and harassment.

Her evidence is as follows:

During the last election, she refused to allow the Mayor to advertise his campaign on City buses because it was contrary to the By-laws of the City and she advises that this was the beginning of the poisoned relationship. He refused to talk to her for approximately 3 months after that incident. All his contact with the Clerk’s department was with her staff through his Executive Assistant. She sent him many E-mails to meet and discuss the inaugural meeting of Council, the Committee appointment process and the orientation sessions for new Councillors. As Clerk, it is her responsibility to organize these activities, but there was no response. The Mayor organized the inaugural meeting of Council without reference to her and the City Clerk ended up sitting in the audience for the meeting. The Mayor also interfered with her setting up the committee appointments process by unilaterally extending a deadline. He even criticized her for putting Council meeting dates in all Councillors’ Outlook calendar.

On November 20, 2014 (also before the Code was in force) The Clerk heard the Mayor say in the Clerk’s area, in a loud voice to the City Manager, that “She is incompetent” in the presence of most of the Clerk’s office staff. It was later confirmed to her that he was referring to her.

During the last 2 weeks of August, 2015, the Clerk acted as City Manager during summer holidays. The Director of Parks and Recreation came to her with a problem with the Kinsmen Centre, a facility used by community groups owned by the City. She told her about water damage and mold in the building with roof patches failing. She had prepared a memo of the problem to the Mayor which, although sensitive, was not marked confidential. The Mayor sent the Memo to the entire Sarnia/Lampton media. At first he denied sending the memo to the Media but later admitted it. When the City Manager returned from holidays, the Mayor complained to her that the Parks Director had made political statements to the media and should be reprimanded. He referred to her as the “Director of Publicity and Recreation”.

On September 8, 2015 the City Manager asked the Clerk to go into the Mayor's office with her to discuss a tentative list of staff reports. The Mayor rudely said to the City Manager that the reports were very late. When she tried to explain, he cut her off and complained that the City Manager was "always defending staff". She then gave the Mayor a letter put in the night deposit box which she had received 10 minutes earlier from the Human Resources department. The letter contained a death threat against the Mayor. The Mayor "became ballistic", complained that he should have been given the letter immediately and rushed out of the office. In front of his Executive Assistant's desk near the work stations of the Clerk's staff, the Mayor said in a loud voice: "this is the worst City Manager we have ever had". The death threat letter, in accordance with policy, had first been given to the Human Resources Director who had immediately called the police.

On many occasions Ms. Wright-Laking brought up filing a harassment complaint at the management group meetings. The Workplace Harassment Policy provided for complaints to be filed by any staff member. Several members of the management group had not been exposed directly to the outbursts of the Mayor, experienced by Ms. Wright-Laking and refused to be part of a letter of complaint. In one meeting, a manager said: "if you think you are in hell now, you will be in deeper hell if you pursue harassment".

#### Complaint from Jane Cooper, former Director of Planning

This complaint was filed by Ms. Cooper on the required affidavit form and it was signed in front of a bank manager in New Brunswick with some formality with which I am not familiar. I am not sure it was sworn but have allowed it as a formal complaint. In her complaint, she speaks with the same voice as Ms. Wright-Laking and also resigned her position because of her relationship with the Mayor. Her resignation took effect on January 29, 2016.

Within a few months of being hired, the City Manager, although she disagreed, told her that the Mayor thought she was flippant, arrogant and not very customer service friendly. The Mayor demanded a copy of all written responses to the public from her department. She regarded this as an inappropriate level of interference by an elected official.

His most egregious outburst was at a community planning meeting concerning a development application chaired by Ms. Cooper, held on March 25, 2015, less than one month before the Code came into force. From the back of the room, behind a large audience the Mayor, in a loud voice said: “Mrs. Cooper you are not in league with the developer and should not defend them.” In this accusation, he publicly impugned her loyalty to the City when she was representing to the meeting a position taken by planning staff which was her responsibility.

On July 25, 2015 she heard him yelling at the City Manager which was clearly audible to other members of staff. He said that the Clerk was incompetent for releasing information to a Councillor who had a conflict. I have determined in my investigation of the former Clerk’s actions, that she was completely justified in releasing this information.

On September 8, 2015 she was passing by the Mayor’s office and heard the Mayor “ranting and raving to the City Manager that the Council agenda was late and none of the new appointments made by the City Manager (the Clerk, Director of Parks and herself) were living up to expectations. She also heard him refer to the Director of Parks and Recreation as a “media hog.” These outbursts could be heard by members of the Clerks Department and some members of the public who were also present.

She ended her complaint with: “The Mayor’s comments toward me and other senior managers resulted in a poisonous and vexatious working environment in which he exerted undue influence in the work undertaken by me and my staff. His actions and lack of respect, together with the failure of administration to address the issue was the primary reason I chose to leave.”

## **Investigation**

For the purpose of this inquiry, I have personally interviewed the complainants, the Mayor, six other members of Council and all members of staff whom I considered relevant to the issues before me. During my interview with the Mayor he was accompanied by a lawyer. I carried out my investigation independently and I report directly to Council as provided in the *Municipal Act*. The City Manager has found it necessary to seek independent legal advice regarding her relationship with the Mayor and has declared a conflict in acting as my staff contact. Throughout this investigation,

as requested by the City Manager, I have been in direct contact with Andre Morin, the Director of Engineering as staff liaison. However, I have interviewed the City Manager for her evidence on the allegations contained in the Complaints.

The Code was adopted on April 13, 2015 and it provides that I cannot apply it retroactively to the Mayor's conduct occurring before that date. Accordingly no sanction recommended by me in this report results from actions by the Mayor before that date. I will refer later in this report to the period from April 13, 2015 to the date of this report, as the "Code in force period". However, my investigation has reviewed the history of the procedures and practices in place before the City Manager was hired as a backdrop for the conclusions reached in this report. I interviewed a former City Manager for this purpose. The two complaints also describe incidents before the Code was in force and I have added this information to the backdrop.

#### Meeting alone with 3 Union Presidents

In the course of my investigation I interviewed Andre Morin, Director of Engineering and he described an incident with the Mayor when he was acting City Manager:

The City Manager was directed to come forward with cost savings during the budget debate by Council. She and the Director of Human Resources wrote a report which provided options to Council to reduce benefits for future early retirees and it was considered by Council in camera. The Mayor criticized the report for being too complicated and containing too many options. This may have been justified but what he did later was not. While the City Manager was on Christmas holidays, on January 5, 2016, he announced to the Director of Engineering that he intended to meet alone with the three union presidents who might be affected by the benefit reduction. Mr. Morin asked whether he should notify other members of Council and the Mayor indicated he would do it later. He also advised him that the meeting he was about to have is within the exclusive purview of the City Manager and in a later E-mail from a member of Council he received the same advice. Another member of Council requested the time and place of the meeting and he did not respond.

He told Mr. Morin that he felt he needed to be the one to have this meeting because he was of the opinion that the "Manager as well as all Senior Staff have no labour relations skill sets or training and do not understand the sensitivity and subtlety of dealing with

staff". In my interview of the Mayor, he confirmed this opinion but admitted that he had no training or education in relation to labour relations. On January 6, 2016 he had the meeting and made no report to Council or the City Manager as to what the meeting discussed. I asked him what was discussed and he said "moving forward."

### Interface with the City Manager

At the first meeting between the Mayor and the City Manager, the following rules were laid down by the Mayor:

1. The agenda process involved the Mayor reviewing the agenda and staff reports with the City Manager and the Clerk on each Tuesday before the Council meetings. The other members of Council did not receive a list of reports until the Mayor had approved the agenda and reports which occurred on the Thursday evening before the Monday meeting. It was common for him to unilaterally direct staff to make substantive changes in reports through the City Manager. This process has since been changed by Council so that all members receive a copy at the same time.
2. The Mayor indicated that he directs and controls the flow of all information to Council from staff. The City Manager was directed to send to him all communication from her to any member of Council and she was prohibited to have one-on-one meetings with any member of Council and if she did, to report back to the Mayor what was discussed.
3. The Mayor advised her that there will be no professional communication staff hired by the City because the Mayor will remain solely responsible for all contact with the media.

In my experience, no City Manager or Clerk in the Province provides advance copies of agendas and reports to one member of Council for comment. Senior staff meet to finalize and take a staff position on the agenda. They then deliver a copy to every member of Council at the same time. The Mayor is the head of Council but no member of Council reports to the Mayor. It is inappropriate for him to attempt to insert himself in professional relationships between the City Manager and any member of Council.

In my interview of the Mayor, he told me that he initiated no changes when the City Manager was hired, from the practices that had been going on for many years. It is the

Mayor's position that it was the City Manager and the three senior managers hired by her (including the two complainants) who wanted changes and caused all the problems. He told me that within weeks of the City Manager's arrival "there was a climate within City Hall of concern related to her immediate actions as City Manager along with her treatment of support staff who, on numerous occasions, expressed concern about the atmosphere that was developing in City Hall." I have found no corroboration for this statement from any person I spoke to, except one other member of Council. In fact all members of staff I spoke to had nothing but complements for the professionalism and the accomplishments of the three managers and the City Manager.

I interviewed by telephone, Mr. Ron Brooks who was the City Manager from 1994 to 2002. He confirmed that the above rules imposed by the Mayor were in place during his tenure. He also advised me that he experienced many incidents of harassment of him and interference with staff, from the Mayor, including the wrath of the Mayor's temper. He made several attempts to resolve the relationship with written agreements between himself and the Mayor which he indicates were largely disregarded by the Mayor. I was supplied with a copy of one such agreement signed by the Mayor dated January 16, 2001.

### **Analysis:**

Madame Justice Bellamy, in her 2005 report on the inquiry into Toronto Computer Leasing, referred to the Ontario municipal structure as a "weak mayor/ strong council model". She confirms that the mayor has only one vote and that "he or she is the political head but not the administrative head." In my opinion, the rationale for the Ontario municipal system, which works well and many others, is that a municipality must be managed by professional managers, hired for the purpose, who have the experience and education to succeed in the increased challenges facing municipalities today. However, those managers must be made to keep the values and mores of the community in the forefront. This is accomplished by placing an elected Council in charge. It is critical, in my view, that a majority of Council, guided by recommendations from professionals, is in charge and not an autocratic Mayor without the support of Council.

The Mayor as head of Council and spokesperson must be guided at all times by the view of the majority. This Mayor has lost the support of the majority of Council and I am of the opinion that he still believes he is in charge. The Mayor is referred to as “Chief Executive Officer” in the *Municipal Act* and that title is immediately followed by defining words which do not include any suggestion of executive authority over staff of a municipality. In his copious written response to the Complaints, the Mayor referred to himself as the CEO more often than Mayor. When I told him that, with the possible exception of his Executive Assistant, he has no executive authority over any staff, he nodded but he was not convincing that he intended to change his ways.

**Decision:**

The Code repeats the definition of Chief Executive Officer from the Municipal Act and states specifically that “only Council as a whole and no single member has the authority to direct staff”. It goes on: “Members shall be respectful of the role of staff to advise . . . without undue influence from any individual member or faction of Council.

Accordingly, no members shall maliciously or falsely injure the professional or ethical reputation . . . of staff and all members shall show respect for the professional capacities of the staff of the City.” Under the heading of Discreditable Conduct, It also prohibits “intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person’s duties, including the duty to disclose improper activity. I find that the Mayor has breached these sections of the Code repeatedly in his loud outbursts during the Code in force period, which were openly critical of staff in the presence of senior and unionized staff.

The Code also provides that “members are required to observe the terms of all policies and procedures established by Council”. I find that the Mayor has contravened this section of the Code as well as interfering with the City Manager’s duties, by meeting alone with three union presidents on January 6, 2016 concerning a proposal from staff discussed in closed session, to remove certain benefits from the union contract which meeting was the exclusive responsibility of the City Manager and contrary to the by-laws of the City.

I took no pleasure in writing this report but feel that the Mayor’s relationship with staff is damaging to the City and must be publicly disclosed and addressed. He has been the

Mayor for 28 years and I have found no hint in my investigation, that he has ever taken any private advantage out of his position. I also believe that he is hard working and sincerely devoted to the City. However, he is misguided in his perception of his powers as Mayor and applies them aggressively. Successful Mayors, in my experience, skillfully bring Councils together and show professional respect for staff.

I have come to the conclusion that this Mayor must change his ways for the good of the City of Sarnia. It has lost two very experienced and competent senior managers and there may be more resignations arising from the incredibly bad workplace climate created by the Mayor. I believe that the two complainants and the City Manager have used their very best efforts to placate the Mayor and compromise throughout the Code in force period and his response has been incorrigible. For this reason, I have recommended that the maximum suspension of the Mayor's salary permitted by the *Municipal Act* be imposed by Council and if I receive another valid complaint in the future, that the Mayor has attempted to interfere with the staff chain of command, I will recommend further sanctions against him.

The Code prohibits me from issuing a report finding a violation of the Code by any member unless the member has had 10 days' notice of the basis for the finding and the recommended sanction. This notice was given to the Mayor by E-mail on June 13, 2016. At the time of releasing this report I have considered and responded to additional submissions from the Mayor received within the 10 day period.

#### **Other Comments:**

There may be other initiatives to be considered by Council to ensure that a productive and harmonious relationship between staff and Council is maintained. I am not the City Solicitor and have no jurisdiction to include any recommendations in this area. As requested by staff, I have researched and supplied to the City all reports on the actions taken by the City of Toronto to limit the powers of Rob Ford as Mayor in 2013. Council may wish to consult with the City Solicitor on these matters. With no permanent Deputy Mayor, it may be appropriate to appoint a small executive committee of Councillors to interface with the City Manager in place of the Mayor. Council can then decide whether to include the Mayor on that committee. The Human Resources Department may consider writing a new job description for the Executive Assistant to

the Mayor which provides that she reports to the Mayor for work assignments but administratively to the Clerk for policy direction. There are precedents for job descriptions of political staff which are available. Finally, the City Manager and all department heads need to clearly explain to their staff that they are part of a chain of command in the City and the Mayor has no part in it without specific authorization from Council.

Prepared by:

A handwritten signature in blue ink, appearing to read 'RS', with a long horizontal flourish extending to the right.

Robert Swayze  
Integrity Commissioner

Attachment(s): none