

COUNCIL CODE OF CONDUCT COMPLAINT REVIEW & RECOMMENDATIONS

TOWN OF STRATHMORE

MAY 12, 2021

The contents of this report were created for Strathmore Town Council in spring 2021,
with the betterment of the community in mind.

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1 Executive Summary

Whenever a municipal council gets to the point where a formal complaint is registered under that municipality's Council Code of Conduct Bylaw, there has invariably been a chain of events that led to that place. Looking just at the substance of the complaint usually provides insight into the symptoms but ignores the cause. This appears to be the case in the Town of Strathmore.

A formal complaint was submitted by Councillor Montgomery on September 30, 2020. This complaint provides several alleged breaches of Council's Code; however, it reflects a point in time, before which the relationships between and among Members of Council were fraying since the 2017 municipal election.

Issues involving Council were aggravated with other municipal issues involving former managers and the Town's large capital project of the new Town office and the Strathmore Commons.

In March 2021, Council retained the services of Strategic Steps Inc. to provide an independent external review of the complaint. What appears in the following pages is the result of that review.

The substance of the formal complaint is dealt with as part of this review, and comments are also provided on some of the other topics that apparently led Council to where it is now. Under Alberta's *Municipal Government Act* (MGA), one of the formal purposes of municipalities is to provide "good government," so any ongoing conflict and distrust erodes the ability of the municipality to provide that purpose.

There are eight allegations made as part of the formal complaint, and this review finds that several of them are founded allegations, while others are not. Even the founded allegations are not sufficiently egregious in nature to require significant sanctions from among those available under the Code of Conduct. The complaint appears to be based on interpersonal relationships that degraded over time until they got to this point.

Fundamentally, what appears to have occurred is about interpersonal conflict and personality differences.

All Members of Council seem to have a vision for the Town and are working towards achieving that vision; however, the visions do not seem to be unified, and therefore the approaches to achieving those visions are also not consistent. The Town does have a 2018 vision statement: "Where Quality is the Way of Life." However, some of the Town's biggest projects – such as the new Town Office and Strathmore Commons – do not appear in that Strategic Plan.

Subsequent to the 2018 plan being developed, Council created an entirely new plan with the assistance of an external expert through 2020. This update changed the Town's vision to: "*Healthy neighbourhoods grown by innovative sustainable agribusiness growth, meaningful partnerships, and diverse populations.*"

Like in the 2018 plan, the new Town building and Commons do not appear in the 2020 plan, though there could be some oblique references made.

This report looks at some major areas of concern, both internal to Council and its processes, and with how Council interacts with the Town's managers and staff.

Fundamentally, Town Council has the rules it needs; the Members of Council just need to choose to follow them with grace and goodwill, modeling the behaviour they expect of others.

2 Background

Through a competitive process, Strategic Steps was asked to provide an independent review of a formal complaint submitted under the Town of Strathmore's Council Code of Conduct Bylaw (#19-08). As such, Strategic Steps becomes the Investigator identified in Section 14.1 of the Bylaw.

This was not the first complaint investigated in the term of the 2017-2021 Town Council. An external organization was retained to conduct a review on a different matter earlier in the term.

The Town has undergone significant change during the term of this Council, with four new Councillors (out of seven total) being elected in 2017. At least three CAOs or Interim CAOs have been at the helm during that time, and there is only one Director who has remained with the Town since the last election. There has been significant management and staff turnover during that same period.

The upheaval brought about by the change in fortunes of the Government of Alberta, due to significantly reduced royalty revenues, has flowed down to municipal funding, and the Town – and the world – has had to adapt to the pressures of the COVID-19 pandemic.

By several accounts, the 2017-2021 Town Council began providing good governance to the Town at the beginning of their term, but that gradually changed to the point where seeds of suspicion and inappropriate collaboration began to grow.

All of this brings us to now – or more accurately, to September 30, 2020, when Councillor Montgomery submitted a “complaint allegation.” On March 3, 2021, the following resolution was adopted by Council, although not unanimously:

9.8 Facilitator for Council Investigation

Resolution No. 087.03.21

Moved by Councillor Bauer

THAT Council direct Administration to engage Strategic Steps Inc. to conduct the investigation regarding the complaint by Councillor Montgomery regarding the alleged breaches of protocol by Councillor Peterson.

In late March, Strategic Steps began this review and by the second week of April, all interviews had been completed. The report was submitted to the Town in early May for Council to consider.

3 Process

The independent process that was carried out to review a formal complaint submitted under the Town's Council Code of Conduct Bylaw (19-08) and the antecedent concerns included a review of Council's process to deal with complaints submitted under the Bylaw, a request for documentation from the Town, and private interviews with all Members of Town Council and two members of Town Administration.

The documentation received from the Town included:

- Relevant bylaws
- Relevant policies
- The formal complaint as submitted
- Links to various online Town Council public meetings

In addition to the Town-provided documentation, a significant amount of documentation was also received from the interviewees in support of or in follow-up to the interviews. The types of information received included:

- Local media stories
- Email strings
- Personal notes taken during or after meetings

A limitation on this report is that there was interaction that occurred *in-camera* that cannot be disclosed publicly because the *in-camera* meetings occurred in accordance with the Town's *Procedure Bylaw* (#16-18) and Alberta legislation that includes the *Municipal Government Act* and the *Freedom of Information and Protection of Privacy Act*, particularly the latter Act's list of exceptions to disclosure.

Following the data collection and interview phases of the project, the review team created this report and submitted it to Town Council for their decision. Council is the ultimate arbiter of whether any contravention of the Code of Conduct bylaw occurred, and if it did, what type of sanction(s) are to be applied from among the list in Section 15.4 of the Bylaw.

As part of this review, we would draw attention to section 15.3 of the Town's Code of Conduct Bylaw which requires that no Member "*undertake any act of reprisal or threaten reprisal against a complaint or any other person for providing relevant information to Council or to any other person.*" This review should comprise the end of this complaint, and Council's attention should focus forward for the rest of this term and beyond.

4 FOIP Implications

Since this report comprises 'advice to officials,' under FOIP's exceptions to disclosure, it is presented to Council in a closed portion of a Council meeting.

Unless specifically required by bylaw, it will be Council's decision whether to make the report public or not, and the report will be in Council's control following the presentation. If Council releases all or part of this report to the public, it will accept the responsibility for the report and indemnify, protect and defend the authors against any potential actions.

5 Issues

The primary findings of this review are included below. These concentrate on the formal complaint that was submitted. There are findings on other issues that emerged as well. Some of them are provided here, while others were very minor and are not included.

5.1 Inappropriate Language

When Members of Council are disagreeing with each other, Council as a whole should encourage that they should also *Reason Together*. Often, the best solutions come when Members try to resolve problems first by talking with the Member(s) in question. Each Member of this Council should remember that everyone, including themselves, makes mistakes because of lack of knowledge, lack of training or misconstrued communication.

One of Robert's Rules of Order's most important rules is to have "Decorum during Debate." The rule stresses that during a debate, a Member must confine their remarks to the question, be courteous in their language and deportment, avoid all personalities, not collaborate in advance to secure votes from another Member, and emphasize that it is not the individual, but the measure that is subject of debate. It is the duty of the Mayor to enforce these behavioral guidelines.

In meetings where controversial issues are debated, some Council Members may get so excited that they talk out of turn, and continually seek the floor to rebut those who don't agree with them. In cases like this, the Mayor should remain calm and firmly remind the Member of the proper rules of debate as outlined in Council's Procedure Bylaw or in Robert's Rules.

Within the scope of the formal complaint and through the series of interviews, interviewees referred to terms that followed a theme. These allegedly included variations on: "*you're going to go to jail*" or "*you'll be sued*." Neither of these terms, nor several others like them, are particularly helpful in the context of providing the best governance possible to the people of Strathmore.

When considering application of relevant bylaws and statute, Bylaw 16-18 Section 60 states that a Member of Council addressing a meeting shall not use offensive words in

referring to a Member, or to an official of the Town or a member of the Public. Often, offensive terms are used as adjectives used to attribute something towards something or someone.

The Town's policy 1301 *Respectful Workplace Policy* applies to all Town employees, contractors, suppliers, volunteers, the CAO, and Members of the Town Council.

Its policy statement is shown below:

POLICY NUMBER: 1301	
REFERENCE: 212.06.17	ADOPTED BY Town Council 21 June 2017
PREPARED BY: Administration	DATE: 21 June 2017
TITLE: Respectful Workplace Policy	
Page 1 of 4	
POLICY STATEMENT: The Town of Strathmore is committed to providing a respectful and safe work environment. Workplace bullying and harassment; including sexual harassment, discrimination, and violence are unacceptable and will not be tolerated. This corporate-wide policy affirms our commitment and establishes the procedure for dealing with incidents and complaints.	

The policy defines 'harassment' as a form of discrimination that can involve any unwanted physical or verbal behaviour that offends, threatens, intimidates, or humiliates. Generally, harassment is a behaviour that persists over time, although serious one-time incidents can also be considered harassment.

The policy further defines 'workplace bullying' as a repeated pattern of negative behaviour aimed at a specific person or group. The policy goes on to describe examples of bullying, such as spreading rumours and gossip, making offensive jokes or comments, verbally or in writing, using insults or put-downs, blaming, scolding, criticizing, and belittling, excluding, or isolating, intimidation and the like.

The policy outlines a procedure for handling complaints that relies on the CAO. This might put undue tension or stress on the relationship between Council and Administration if the CAO is required to handle the application of this workplace policy against a Member of Council. It is important that Councils adopt the general intent of workplace safety to be applied among themselves; however, Council may wish to consider an alternative process that removes Administration or the CAO from enforcing policy measure on a Member of Council. This might more properly be exercised in the Council Code of Conduct Bylaw or an associated policy.

From review of the formal complaint, allegations Councillor Montgomery made against Councillor Peterson, and based on our findings during interviews with each Member of Council, we would suggest that the behaviour displayed by Councillor Peterson has persisted to the point where more than one Member of Council has felt offended,

threatened or humiliated. We certainly see the use of inappropriate language and recommend that a line be drawn to establish that inappropriate or offensive language will not be tolerated and will not be repeated, either within the context of Council meetings, in day-to-day interactions, or in the media.

5.2 Council – Staff Interaction

Under Alberta's municipal statute, Council has a single employee, the municipal manager. All other municipal staff report to that individual. Council cannot direct staff, and wise practice dictates that Members of Council ought not to meet individually with staff without the CAO present or at least without the foreknowledge and permission of the CAO. Strathmore's Town Council had an issue with this requirement earlier in the Council term; however, that has been dealt with through an earlier process than this one.

The topic is brought up here simply to note that it is among the list of antecedent actions that eventually brought Town Council to this review being conducted.

5.3 Disclosure of Information from Closed Session of Council

The disclosure of information that was learned or discussed at a closed session of Council (*in-camera*), properly constituted under the MGA and within the authority of the relevant sections of the Council Code of Conduct Bylaw referenced below, is a serious breach of the Code of Conduct.

9.3 In the course of their duties, Members may also become privy to confidential information received outside of an "in-camera" meeting. Members must not:

(a) disclose or release by any means to any member of the public, including the media, any confidential information acquired by virtue of their office, unless the disclosure is required by law or authorized by Council to do so;

Several interviewees allege that information that was not authorized to be shared beyond those in attendance at an *in-camera* meeting had occurred, apparently several times. Two theories were provided. In general, they were:

- 1 One or more Members of Council provided *in-camera* information to one or more individuals with whom it was a breach of the Code of Conduct and the MGA to have shared that information. This information may have been shared on purpose, or it may have been inadvertently overheard; or
- 2 More than one Member of Council provided enough 'snippets' of information to the same unauthorized individual for that person to piece together a substantially accurate picture of the issue that was discussed *in-camera*.

The review team does not have the authority to put interviewees under oath, so the correct version of events cannot be determined with certainty.

In either possibility, the outcome noted by most interviewees is that information that should not have been in the public realm was in the public realm.

Council Members are all reminded that ignoring the confidentiality expected during *in-camera* meetings is one of the primary ways that trust is broken, and it is a breach of Council's Code of Conduct Bylaw (s. 9.3a) and a breach of the MGA (s. 197).

5.4 Procedure for In-Camera Meetings

The use of closed-session meetings of Council is provided as a tool for Council and other individuals they might invite to discuss topics that are sensitive in nature. These are sometimes referred to in the generic as 'land, labour and legal.' There is much more nuance to that statement that is found in the FOIP Exceptions to Disclosure that must be provided before Council can meet *in-camera*.

Section 9.4 of Council's Code of Conduct Bylaw lists nine exceptions to disclosure that are reasons for the use of a closed session. Beyond this mandatory list are the FOIP Exceptions to Disclosure that are considered discretionary. A fulsome insight into these exceptions can be found in Division 2 (Exceptions to Disclosure) of the *FOIP Act*.

Procedurally, as Council moves into closed session, only items that are to be discussed in closed session may be discussed. Items not on the list of topics may not be discussed without coming out of closed session first. Several interviewees allege that on at least one occasion (July 22, 2020), an *in-camera* meeting was held to discuss a topic associated with a tree grant, but once in closed session, the topic of the [REDACTED] was discussed. There is some dispute on this point, with some claiming that the [REDACTED] was tied to the tree grant topic.

It is possible that the topic of a tree grant was not one that would pass the test for FOIP exceptions to disclosure. Because Council may only meet *in-camera* on appropriate topics, the agenda item around a tree grant may not have been an allowable reason to go *in-camera*. It is also possible that this agenda item could have been part of FOIP's Exceptions to Disclosure.

Some interviewees speculated that the topic was being used as an excuse to discuss the [REDACTED], a topic more properly addressed at the time of the [REDACTED], and certainly not one that was appropriate for this meeting of Council.

The resolution adopted by Council to move in camera on July 22, 2020 was:

Resolution No. 307.07.20

Moved by Councillor Corbiell

THAT Council move In Camera at 8:40PM to discuss Items pertaining to FOIPP s. 16(1)(a)(ii) and FOIPP s. 16.

The relevant section of FOIP referred to in this resolution is:

Disclosure harmful to business interests of a third party

16(1) The head of a public body must refuse to disclose to an applicant information

(a) that would reveal

(i) trade secrets of a third party, or

(ii) commercial, financial, labour relations, scientific or technical information of a third party,

It is conceivable that the tree grant topic, particularly since it would contain and discuss information be provided by a third party, could have been an appropriate reason to move *in-camera*. This exception to disclosure of FOIP, though, does not indicate that any debate about [REDACTED] would be occurring.

An addition of agenda items to an *in-camera* meeting was not procedurally allowable, and Council Members involved in the meeting either knew or ought to have known this.

There was a resolution to come out of *in-camera* made partway through the closed session. This is the only allowable resolution in closed meetings. This resolution was defeated with a recorded vote.

Resolution No. 308.07.20

Moved by Councillor Peterson

THAT Council move out of Camera.

DEFEATED

The meeting minutes note that Councillors Peterson and Sobol left the meeting following this vote.

The rest of Council did not remove themselves, and the meeting was allowed to continue. The alleged discussion of [REDACTED] at this meeting should not have occurred.

It was at this meeting that some of the allegations contained in Councillor Montgomery's formal complaint were said to have occurred.

Section 48(d) of the Council Procedures Bylaw states that there shall be no recording of any portion of a meeting that is held *in-camera*. No notes are to be kept, no documents removed, no recordings made, and almost no resolutions are permitted in closed session. While it is allowable to review documents and take personal notes during a closed session, it is not permissible to remove those documents or notes from that session.

Procedurally, many Councils will have the CAO, Clerk or other staff Member participating in the meeting to gather the documentation and either shred or otherwise dispose of it securely. If there are no members of Town staff present in the closed session, a Member of Council may be asked to take on the disposition of the records.

5.5 Other Topics

There were other issues that emerged during the course of this review that fall outside its scope. These issues are worth noting:

5.5.1 Culture

Through the course of this Council's term, culture has played a significant role in the seven individuals going from a newly elected team in 2017 to the point where the individuals now find themselves.

One interviewee noted that, *"this Council has recently had a tendency to be reactive as opposed to reflective when faced with the need to make decisions."* Only the Members of Council know whether this is accurate or not, but it is indicative of cultural change that has not been for the better.

Council is a single body charged with long-term oversight of the community that its Members were elected to represent. A diversity of opinions, ideas, demographics, and backgrounds is important, but Council Members must coalesce as a team with relative strengths and weaknesses. If they don't become that team and share a common vision, they are working at odds with each other, and the Town does not benefit in the long run. To quote Benjamin Franklin, *"We must all hang together, or most assuredly, we will all hang separately."*

The culture has changed to the point where most interviewees identified a schism between the three Members who served on previous Councils and those who were elected new in 2017. This 'coalition,' as several interviewees called it, is not helpful.

Individual members of a council who share common views will often vote similarly, but that should not become the *de facto* choice that results frequently in a 4-3 split on major items. Interestingly, the term 'coalition' was used to describe both the experienced Members of Council and those who joined at the beginning of this term.

As culture can suffer, so can it improve. One Member of Council noted that *"the culture, though far from ideal, has not by any means been unalterably compromised."*

5.5.2 Residency Requirements

Councillors must reside in the municipality they represent. If they do not live there, that is grounds for disqualification under Section 174 (1) b of the MGA, which states that a Councillor is disqualified if *"the councillor ceases to be eligible for nomination as a candidate under the Local Authorities Election Act."* In turn, the LAEA notes:

- 21(1) *A person may be nominated as a candidate in any election under this Act if on nomination day the person*
- (a) is eligible to vote in that election,*
 - (b) has been a resident of the local jurisdiction and the ward, if any, for the 6 consecutive months immediately preceding nomination day, and*
 - (c) is not otherwise ineligible or disqualified.*

If a sitting Council Member does not live in the municipality, they are not eligible to vote in the election, and are therefore ineligible to hold office in the particular municipality. In the case of Strathmore, there is disagreement whether one Councillor actually lives in the Town.

The LAEA identifies Rules of Residence, and states that:

- 48(1.1) *For the purposes of subsection (1)(a.1), a person shall designate the person's place of residence in accordance with the following factors in the following order of priority:*
- (a) the address shown on the person's driver's licence or motor vehicle operator's licence issued by or on behalf of the Government of Alberta or an identification card issued by or on behalf of the Government of Alberta;*
 - (b) the address to which the person's income tax correspondence is addressed and delivered;*
 - (c) the address to which the person's mail is addressed and delivered.*

The relevant Council Member provided the review team with a copy of a valid driver's license that contains a Strathmore address, satisfying LAEA Section 48 (1.1) (a).

5.5.3 Interactions through Various Media

Section 5 of the Council Code of Conduct Bylaw addresses 'Communicating on behalf of the Municipality.' Through the course of our interviews, we found that a Member of Council had provided comment to a local media outlet that was beyond the statements considered appropriate within the bylaw.

The noted section of Council's Code of Conduct Bylaw states that unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor, it is the Deputy Mayor, or a representative appointed by Council. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson – i.e., the Mayor.

We are not aware of whether the relevant Council Member sought prior consent of Council to address or provide a statement to the local media. It appears that, in the act of providing the media with a statement that related to an opinion of another Council Member's ethics, the originating Council Member contravened Council's Code of Conduct Bylaw.

Councillors should take care to maintain that sense of being Strathmore's 'first team' that was brought together by the voters of the Town. Good governance encourages teamwork and that, in turn, requires Council Members to follow a municipality's

communications plan. In this case, the bones of that structure are laid out in the 'Communicating on Behalf of the Municipality' section of the Council Code of Conduct Bylaw.

Strathmore has a Social Media Policy (1209) that speaks broadly to the Town's use of social media, and further requires that "*officials and employees at all levels*" who are "*representing the Town via social media are expected to conduct themselves at all times as representative of the Town in accordance with the Code of Ethics Policy*".

It could be argued that the intent is the same for Council when it is stated in Section 4.1(d) of the Code of Conduct Bylaw that "*(m)embers shall arrange their private affairs and conduct themselves in a manner that promotes public confidence and will bear close public scrutiny.*"

Council Members posting on personal social media accounts should consider transparency, accountability, fairness and equity, effectiveness, respect for the rule of law, and a high standard of ethical behaviour to demonstrate their discharge of good governance. This applies particularly to posts that may be intended to impugn the integrity of Members of Town Council or Administration.

There is another issue with proxy or anonymous social media accounts and posts that speak ill of Council, Councillors, or the Town. These accounts may well not be owned or guided by Members of Council; however, if these anonymous accounts are owned or directed by Members of Council, this activity needs to stop.

5.5.4 Impact on Staff

Each of the interviewees was asked whether they thought the disagreements between Members of Council had an impact on Town managers, staff, and volunteers. Nearly without exception, the response was that there was indeed spillover from what happens with Council.

In specific reference to the changes at the top of the organization, one interviewee suggested that [REDACTED]

Members of Council do realize how much they rely on Town staff to carry out the will of Council. One Member noted that "*we have, for the most part, an amazing staff. The focus is always on what is best for the Town. They understand this type of stuff is not good for Council and therefore not for the Town.*"

What this means in practical terms is that the Town is not as effective in providing government services as it would otherwise be.

There is an opportunity cost involved in how Council makes demands on staff time. If staff are either concerned about what Council might think or do in an unpredictable manner, or staff are completing what may be unnecessary work to cover all available options, they are not working on other important tasks for the Town. This means the

Town's operations are not as efficient as they should be, and staff are probably working in a tense environment while doing so.

This is not a one-way street. Some of what occurred within Council was tied to, or precipitated by, actions of some members of management. With a leadership vacuum at the political level, some administrators will fill that vacuum with their own actions.

Examples of this were provided by interviewees. [REDACTED]

[REDACTED] frequent changes in project managers on the Town Hall and Strathmore Commons project, and a lack of formal process in the management and tracking of contracts. On their own, each of these examples could be an aberration; however, taken together they indicate that [REDACTED]

[REDACTED] suggested one interviewee. This also means that the next CAO will have to "walk the talk" as the same person noted [REDACTED]

5.5.5 [REDACTED]

The topic of the [REDACTED] is tied into many of the events that led up to the submission of the formal complaint. This topic was added to the agenda and discussed at the *in-camera* meeting ostensibly called to discuss a tree grant. The specifics of the inappropriate use of an *in-camera* meeting are discussed earlier.

The [REDACTED] at the time, and in the manner in which it happened, [REDACTED]

This additional cost may not have been incurred had the appropriate process been followed. [REDACTED], so only minor comment is made here.

5.5.6 Trust

Without trust, a Council cannot operate. This section has been left until last because it is all encompassing. While it is not specifically related to any given topic noted above, it is core to the effectiveness of any Council. Trust in Strathmore's Town Council is broken and it has become that way over time. Just about every interviewee used the word 'trust' in some way, usually to indicate that the work of the Town was being slowed considerably because Members of Council do not trust each other, [REDACTED]

This Council has had a time of tumult that has occurred in part due to external factors, or at least factors beyond the internal workings of Council. They have had to deal with

[REDACTED] on the Town's new municipal building and Strathmore Commons; considerable turnover in the project managers of this project; obfuscation on the costs of the project; and the related decision [REDACTED] — but not before that [REDACTED] another Code of Conduct review that was managed through a third-party independent contract; and external factors such as the COVID-19 pandemic and considerable financial restrictions from other orders of government.

Taken together, the intra-Council issues, and those beyond Council specifically, resulted in trust becoming more and more strained.

6 Formal Complaint

Based on the results of the document review and interviews, and our experience in similar situations around Alberta, it appears that there was more than one contravention of Council's Code of Conduct Bylaw by Councillor Peterson. Councillor Montgomery alleges eight "breaches."

The title listed below corresponds with the first sentence of each of the specific items mentioned in the submitted formal complaint. Where there are quotes, they are written here *verbatim* written by Councillor Montgomery and attributed to Councillor Peterson.

#	Title	Date	Comment
1	"You're going to jail"	July 22, 2020	While there are differing recollections of the exact words or phrases used, it is apparent that inappropriate language and tone was used within the context of a Council meeting.
2	"You'll be sued"	July 22, 2020	While there are differing recollections of the exact words or phrases used, it is apparent that inappropriate language and tone was used within the context of a Council meeting.
3	"If we had gone into <i>in-camera</i> to discuss the tree grant, the person responsible for that would have been there."	September 2, 2020	There are differing recollections of context in this statement. Council is permitted to invite whomever they determine is necessary to attend a closed session of Council. There may be legitimate reasons not to have the subject matter expert present in a closed session. The topic of the tree grant may not have been an appropriate one to discuss <i>in-camera</i> , though that would depend on the substance of the topic itself.

#	Title	Date	Comment
4	<i>"The person responsible to that, was in fact, I believe, motioned to leave the chambers. At that point in time, I believed we were in serious problems, because the Code of Conduct, and the process by which in-camera policies (and or in, not sure due to mumbling) section 38 of the procedure bylaw, states that we were in violation of that."</i>	September 2. 2020	<p>The complaint implies intent behind a statement. Intent cannot be confirmed.</p> <p>The (mis)recollection of specific sections of legislation does not mean they do not exist.</p>
5	<i>"I think that the fact that other councillors indicated after the meeting that they were sorry that this had happened, and they acknowledged, that they did have knowledge..."</i>	September 2. 2020	<p>Interviewees disagreed on this point. The word 'sorry' did emerge regularly in interviews, and while some individuals support the Councillor's allegation that there was regret <i>that</i> something happened, others noted regret for <i>what</i> happened.</p>
6	When I requested Councillor Peterson provide the source behind her statement (#5) as per Procedure Bylaw 60 (e), she refused	September 2. 2020	<p>Heightened tensions with individuals being alternately defensive, and on the offensive, can lead to situations like this. Councillor Peterson, acting as Mayor, deferred to other Members of Council to self-identify if they so chose.</p>

#	Title	Date	Comment
7	Councillor Peterson's conduct while chairing the meeting – refusing to hear a point of order, and threatening to ask me to leave the meeting under false pretenses:	September 2, 2020	<p>The issue here is procedural rather than content-related. Listening to the recording of the September 2, 2020 Regular Meeting, procedure was followed up to a point.</p> <p>Procedure did not impinge on the statement being made at approximately 1:24 of the meeting. Although somewhat academic, rather than the term 'point of order,' the more appropriate parliamentary term may have been 'point of privilege.'</p> <p>The Acting Mayor did not fully follow section 70 of the Town's Procedure Bylaw in deciding whether to acknowledge the Point of Order. That said, the Mayor's ruling is final under s. 71 of the Procedure Bylaw unless the Mayor ruling is challenged.</p>
8	Release of <i>in-camera</i> information via 2 separate emails, prior to it being discussed in a public meeting, in the email titled "Handibus" sent on 2020-07-25 from Councillor Peterson to council, James and Jenn S.	July 25, 2020	<p>Section 46(b) of the Council Procedures Bylaw indicates that the <i>in-camera</i> portion of the agenda may be distributed to Members and other essential persons with the agenda package.</p> <p>So long as the recipients of the email were essential or were individuals integrated with the meeting agenda, and so long as that information was kept within the 'umbrella' of attendees at the <i>in-camera</i> meeting, we would suggest that follow-up <i>internal</i> emails sent via '@strathmore.ca' email accounts, and pertaining to the <i>in-camera</i> discussion, would not automatically be a contravention of Council's bylaw.</p>

The contraventions identified among the allegations above are minor in nature, but several do breach the letter of the Code of Conduct Bylaw and the Procedure Bylaw. The term 'weaponizing legislation' was used by several interviewees, and much of the

interaction noted in some of the allegations seems to be the use of meeting procedure to either inhibit or rush the debate. The term also appeared in print in the October 27, 2020 issue of *StrathmoreNow*.

As there are apparent breaches of the Code of Conduct, owing to breaches of both that Code and other Town bylaws, we recommend that a minor sanction be applied by Town Council. This would address the specific nature of this complaint, and give rise to a level of expectation that Members of Town Council are to hold themselves and each other to a very high standard as representatives of the Town of Strathmore engaged in service to the public.

Though we focused on the specifics of the formal complaint, there appear to be many other contraventions of the spirit of the bylaws associated with other interactions that have occurred between and among Members of Town Council, between Members of Town Council and Town Administration, and occasionally between Members of Council and the public.

The rules are in place, but it appears several Members of Town Council chose not to follow all the rules.

In the meeting at which the Investigator was chosen by Town Council, the Interim CAO noted that it would be likely that nobody would be 'happy' with the outcome of this review. If that is the case in the end, it is appropriate. As one Member of Council told the review team: *"I want everyone to be held accountable, myself included."*

There is always a chain of events that leads to outcomes such as this. The chain could have been broken at any point along the way, but it wasn't.

7 Bylaw Contravention and Application of Sanctions

Under the Council Code of Conduct Bylaw, the Mayor alone cannot decide whether one or more breaches of the Code have occurred, and the Mayor cannot unilaterally impose a penalty for breaches; only Council can do so, and it must be done by resolution.

An individual Member of Council can make a motion proposing one or more sanctions be applied from among the list of nine choices in Section 15 of the Bylaw. The last selection is a 'catch all' that allows Council to apply "*any other sanction...deemed reasonable and appropriate*," so long as that sanction does not contravene the MGA. To this end, the Mayor could ask, "*What penalty should be imposed on the Member?*"

A motion that Council could make, noting that motions are to be phrased in the positive, is: '*That Strathmore Town Council agrees a contravention of the Council Code of Conduct Bylaw took place.*'

If that motion is adopted, the following list of sanctions is available in Section 15.4 of the Code of Conduct and *may* be applied:

- a) a letter of reprimand addressed to the Member;
- b) requesting the Member to issue a letter of apology;
- c) publication of a letter of reprimand or request for apology and the Member's response;
- d) suspension or removal of the appointment of a Member as the chief elected official under section 150(2) of the Act;
- e) suspension or removal of the appointment of a Member as the deputy chief elected official or acting chief elected official under section 152 of the Act;
- f) suspension or removal of the chief elected official's presiding duties under section 154 of the Act;
- g) suspension or removal from some or all Council committees and bodies to which Council has the right to appoint members;
- h) reduction or suspension of remuneration as defined in section 275.1 of the Act corresponding to a reduction in duties, excluding allowances for attendance at Council meetings;
- i) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Member from fulfilling the legislated duties of a Councillor and the sanction is not contrary to the Act.

Council's authority consists of both power and responsibility, which should not be confused with Council's dedication to serve the community within the means of responsible, ethical and integral governance practices.

While the scope of this investigation was limited to specific incidents mentioned in this report, it is important to note that we found, at times, there were several other Members of Council that have acted against the requirements of the Town's Procedure Bylaw, Code of Conduct, and the Workplace Safety Policy.

8 Recommendations:

We recommend that:

8.1 General

1. Town Council make this report, or at least the executive summary, public once it is reviewed to redact any text that was generated out of a closed session of Council.

8.2 Formal Complaint

Since there was only one formal complaint filed under the Council Code of Conduct Bylaw, the two recommendations below deal solely with that complaint.

2. Town Council agree that Councillor Peterson did contravene sections 5.2, 8.2, and 9.1 the Council Code of Conduct Bylaw.
3. Town Council apply minimal sanction to Councillor Peterson for a minor breach of the Council Code of Conduct Bylaw.

8.3 Wise Practice

4. All Members of Town Council review and sign a covenant with each other that makes all Members mutually accountable to one-another for their behaviour.
5. Council Members understand that rules of procedure are adopted to provide predictability to the meeting process, not to impede it or to try and 'win' a debate in a Council or committee meeting.

8.4 Human Resources

6. Council work with the new CAO to build the trust of managers and staff in the Town. This may include greater levels of interaction, reporting, and transparency.
7. Regular annual evaluations of the CAO are conducted as required by the MGA, and that the evaluation includes goals for the coming year for the CAO.

8.5 Closed Session

8. Council be reminded of, and receive additional training on, the use of closed session (*in-camera*) meetings of Council, including what constitutes an appropriate topic to discuss in closed session.
9. Council be reminded that no recordings are to be made during *in-camera* sessions of Council. Further, no personal notes are to be removed from the session, and all documentation is to be returned to the Town once the meeting concludes.

8.6 Training and Professional Development

10. Members of Council regularly embark on governance-based professional development opportunities outside Strathmore.
11. Since much of the interaction that precipitated the formal complaint emerged in mainstream media and on social media, that Council Members update and reinforce their media policies and undertake professional development related to the appropriate use of communications tools.

8.7 Documentation

12. Town Administration include emphasis on respectful workplaces as part of the orientation for the 2021-2025 Town Council.
13. Town Council update the Social Media Policy (1209) to be clear that the policy also applies to Members of Town Council, and to add a section after the current section 4.7 that reads – in substance – with text similar to, “*Council Members representing the Town via personal or Town social media accounts are expected to conduct themselves at all times as representative of the Town in accordance with the Council Code of Conduct Bylaw.*”
14. The Town's Procedure Bylaw and Council Code of Conduct Bylaw be updated to identify that *in-camera* meetings may not be recorded and that material may not be removed from the *in-camera* meeting.
15. The informal complaint process that is available in Section 13.8 of the Council Code of Conduct Bylaw be used prior to the use of the formal process.
16. Council considers a modification to its Council Code of Conduct Bylaw to highlight the informal complaint process (section 13.8 a-b) by making it a stand-alone section.
17. Council modify and update the Town's Respectful Workplace Policy (1301) to account for how best to manage alleged contraventions by Members of Council.

9 Conclusion

What has occurred over the course of the 2017-21 Town Council's term is fundamentally a conflict of personality. Taken individually, the alleged infractions discussed in this review are typically minor 'he said – she said' occurrences. Taken together, there is a pattern that is based on mistrust and a fomenting negative culture. The good news is that changes can be made, although they have to be made consciously and with grace.

All interviewees were asked two questions about how well they think this Council has performed overall:

- *Rate the level of professionalism shown in the Council meeting process.*
The average response to this was 7.7 out of 10 (range of 6.5 to 9.0), indicating that, while this formal complaint has been sand in the gears, it has not stopped Council from the transaction of business.
- *Rate the leadership shown by Council since the last election. This focuses on Council's ability to provide good governance to the community.*
In response to this rating question, the average of the responses was 6.9 out of 10 (range of 4 to 9). This is lower than it ought to be for a smoothly running municipal council following the principles of good governance.

With the level of apparent rancor that led to this independent review, the review team had expected the responses to those two questions to be lower in the aggregate. This indicates that Council believes the Town is providing programs, services, amenities, and facilities to the benefit of the people who live in Strathmore, the businesses that operate there, and the community groups that are often the heart of a community.

The Town's Code of Conduct Bylaw must be followed, as must other pieces of legislation. It is up to Council to decide what to do next.

At the very least, as one interviewee said: "*Let's just bury this all for the next five or six months*" for the betterment of the Town until the citizens choose who will represent them for the 2021-2025 Council term. This Council has the opportunity to set the next Council up for success – to allow that Council to begin from the shoulders of this one, rather than scrambling to pick up the pieces. As one person said in an interview: "*I profoundly hope this sets the next Council up for success.*"

The review team thanks Town staff and administration for their insights and candor. This type of process is disruptive, and Town staff were very pleasant to deal with.

When we provide reviews such as this, our desire is to leave the community better off than when we first engaged. It is our sincere desire that Town Council in Strathmore will take these findings in that spirit, and will recommit to public service for the rest of this term, and for the rest of their time on Town Council, however long that may be.

10 Appendices

- 1) Interview Questions
- 2) Items Not Core to the Review

Appendix 1 – Interview Questions

These are the theme areas that were explored with each interviewee. The list was modified somewhat for Council vs Administration interviews:

1. In your own words, what are the key issues impacting this Council, as you see them?
2. What precipitated these issues in the first place?
3. Why do you think this review came about? Key reasons.
4. What impact have these reasons had on Council, management, and staff?
5. What do you see as a potential outcome from this review?
6. Describe Council's working relationship, collectively.
7. Rate the level of professionalism shown in the Council meeting process
8. Rate the leadership shown by Council since the last election. This focuses on Council's ability to provide good governance.
9. Describe Council's working relationship with the CAO.
10. Do you have an opinion on the financial condition of the municipality?
11. Who else do you feel we should be interviewing as part of this process? Any location for resources to review (i.e. social media).
12. Have we covered the major issues that we need to consider? Are there any areas we are missing?

Appendix 2 – Items Not Core to the Review

There were other germane issues that emerged during the course of this review that fall outside its scope, and these issues are worth noting as Strathmore strives to achieve its Vision.

The previous appendix lists the areas of interest that were typically explored during the interviews. What appears below are themes, concepts and ideas that emerged during the interviews, and which may be worthy of further exploration by Council. Some of these appear in the pages above, but many do not. The points are listed in alphabetical order rather than by frequency of occurrence or by priority.

Key issues impacting this Council:

1. Body language
2. Feeling of exclusion
3. Feeling rushed by Council to make decisions
4. Lack of governance, legislation and bylaw understanding
5. Lack of transparency amongst Council
6. Personality/Character
7. Policy that does not allow Council to talk to staff
8. Prohibiting opportunities such as change of seats on committees
9. The COVID-19 pandemic
10. Time of day, and day of the week, that meetings are typically held
11. Tone of voice while speaking
12. Unresolved (old) disagreements between some Members of Council.

What precipitated this review in the first place:

1. Additional fallout due to staff vacancies
2. Council Members having discussions with staff
3. Councillors' aggression towards each other and staff
4. Emails pertaining to *in-camera* discussions
5. Fear of litigation
6. *In-camera* discussion topics that were not on the agenda
7. Inconsistent treatment between some Members of Council
8. Lack of communication
9. Lack of strategic planning/focus
10. Lack of trust
11. Members of Council attempting to humiliate and intimidate others
12. Notes being taken during closed meetings.
13. Retaliation
14. [REDACTED]
15. The budget, and spending on the new municipal and community buildings
16. Toxic environment
17. Vulnerability