

August 26, 2019

Common Council
City of Saint John
8th Floor City Hall
15 Market Square
Saint John, NB
E2L 1E8

Re: Request for legal opinion of Bylaw-LG-5, Code of Conduct for Elected Representatives

As the City Solicitor has the authority and responsibility under the Local Governance Act to examine and provide Common Council with opinions on the validity and enforceability of municipal by-laws, I am requesting a review of by-law LG-5, the Code of Conduct for Elected Representatives to determine whether Deputy-Mayor Shirley McAlary was correct in stating publicly that: “the code of conduct is really a useless document because there’s nothing in there that gives us any authority to do anything against another member of council.” (See Telegraph-Journal, August 21, 2019).

The Deputy-Mayor’s comment is difficult to comprehend given that Article 11.1 of the Code of Conduct for Elected Representatives, which this council unanimously adopted on July 8, 2019, states:

Should a Member of Council breach any of the principles outlined in this Code of Conduct Bylaws, the possible courses of action that are available to Council include but are not limited to:

- (a) Reprimand;**
- (b) Expulsion of Member from a meeting of Council or Council committee;**
- (c) An apology by the Member of Council to the impacted individual(s), Council and or the general public;**
- (d) Removal of the Member from the Council Committee and/or bodies;**
- (e) The Offences and Penalties contained in the Local Governance Act that apply to Members of Council who violate the Disclosure of Conflict of Interest provisions of the Act;**
- (f) Other penalties and sanctions contained in relevant federal or provincial legislation.**

In anticipation that the City Solicitor will advise Common Council that Article 11.1 does indeed provide it with the appropriate authority to reprimand the Mayor and fellow members of council for violations of By-law LG-5, the Code of Conduct for Elected Representatives, I am re-submitting the two letters received by Common Council on August 19, 2019, which it filed with no action.

I again respectfully ask that Common Council introduce and adopt a motion of censure against the Mayor for his deplorable behaviour on social media on July 30, 2019, in contradiction of Article 8.7 of the Code of Conduct, and reprimand Councillor David Merrithew for his disrespect of citizens as demonstrated during the same exchange on the Mayor’s Facebook page on that date. (See my previous letters for further details). I believe Common Council also has a duty to ask Mr. Darling to issue a public apology to Mr. Randall Goodwin, members of the Saint John Citizens Coalition and citizens in general for his abhorrent behaviour, which led to the spread of hatred and the threat of physical violence in our community. (Note Article 11.1c above).

On the other hand, should the City Solicitor determine that Bylaw-LG5 is, as Ms. McAlary claims, a “useless document because there’s nothing in there that gives us any authority to do anything against another member of council”, I respectfully request that Bylaw-LG5 be revoked, reviewed, re-written and re-introduced, *this time with wording that reflects proper due diligence*.

Citizens of Saint John have a right to know that their Mayor and members of Common Council intend to do more than just pay lip service to ethics, but truly share a common basis of acceptable conduct, and are willing and able to appropriately reprimand or otherwise hold to account any among you who stray from the basic principles of courtesy, integrity and justice that you have sworn to uphold as trusted public officials.

I look forward to your response.

Yours sincerely;

Douglas James

Enc. 2 letters dated August 13, 2019; screenshot of FB exchange July 30, 2019