

Process and By-Law Review Hanwell Rural Community

April 17, 2023

****CONFIDENTIAL****

Conducted by Rollie King

MC Advisory

MC | ADVISORY

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EXECUTIVE SUMMARY

Background

Hanwell Rural Community (“**Hanwell**”) was incorporated as a rural community on May 23, 2014, under Regulation 2014-30 of the *Municipalities Act*. On January 1, 2023, Hanwell annexed the community of Upper Kingsclear and a portion of Island View. The community is located in York County in the Province of New Brunswick from the southern boundary of the City of Fredericton to just beyond Lake Yoho.

Hanwell is governed by a Council comprised of a Mayor, Councillors representing six Wards, and two Councillors at Large. It is supported by four staff including a CAO/Treasurer, Clerk/Assistant Treasurer, Administrative & Communications Coordinator, and a Building Maintenance Officer.

The Rural Community Offices are housed at *Hanwell Place*, along with the Community Recreation Centre. *Hanwell Place* is located at 5 Nature Park Drive, Hanwell, NB. It is situated next to the Recreation Park and Trails. Hanwell has a population of over 7,000 residents. There are more than 1,600 families and 125 businesses.

Reason for Review

Several informal complaints and concerns were raised by Councillors and Staff regarding the behaviour of Councillor Septon over a period of several months in 2022. These complaints and concerns related predominantly to numerous Facebook posts and emails from Councillor Septon. The CAO compiled the informal complaints into a document, summarizing 26 alleged breaches of the Code of Conduct By-Law for Council’s review and consideration. The document provided to Council is attached as Appendix “**A**” to this report.

The By-law and Policy that are specifically the subject of this review are:

By-Law No. 16-2019, A By-Law Establishing the Code of Conduct for Council

Policy #2022-08, Conflict and Complaint Resolution Procedure Policy

These are included as Appendix “**B**” and “**C**” to this report.

Council received the document in November of 2022 in advance of a scheduled Council meeting on November 16, 2022. They debated the allegations and ultimately concluded that 19 of the 26 allegations were founded and as a result, sanctioned Councillor Septon on December 6, 2022.

There was much discussion within Council regarding the concerns and how to handle them appropriately. This ultimately led to Council directing the CAO to engage an independent third party to conduct a review of the events and process leading to the sanctions in December 2022. I was engaged by the CAO of Hanwell in January 2023.

Objective of the Review

I was engaged to conduct the Review by the CAO of Hanwell on January 24, 2023. This engagement commenced with a meeting with the CAO and Mayor. Following the meeting I accepted the appointment.

The Review was intended to answer several questions as follows:

1. Did Council follow its By-Law and Policy?
2. Did Council follow process appropriately?
3. Was Council's conclusion reasonable regarding breaches of the By-law?
4. Has Councillor Septon changed his behaviour since the sanctions were imposed on December 6, 2022?
5. What improvements to the By-Law and Policy could be made, if any?

A formal complaint from a member of Council was subsequently filed with the CAO on January 27, 2023, shortly after I agreed to conduct this Review. The CAO requested I also conduct an investigation as a result of the formal complaint. I received the formal complaint on February 7, 2023. The investigation report dealing with that complaint was submitted on March 9, 2023. The formal complaint alleged further breaches of the Code of Conduct By-law from December and January as well as several of the breaches already dealt with by Council. I will refer to that Complaint and Report as part of my overall review.

Approach and Methodology

My approach and methodology included the following:

1. Materials Review;
2. Formal Interviews;
3. Gap Analysis; and
4. Conclusions and Recommendations.

Document Review

I was provided many documents by the CAO and Mayor including:

- Relevant Legislation, By-laws and Policies;
- Minutes of several Council meetings;
- Letters and email correspondence to and from Councillor Septon;
- Copies of Facebook posts;
- Budget documents;
- Presentation for Councillors; and
- RTIPPA responses related to the topics and incidents of concern.

I was provided numerous posts and emails from Councillor Septon as well as notes he made following some discussions. These notes were not provided to others by Councillor Septon to verify accuracy. Most of these documents from Councillor Septon were

provided during and after our interview sessions as well as after the Investigation was completed.

I also reviewed three documents provided to me by Councillor Septon after the Investigation Report was submitted on March 9, 2023. Those documents were a copy of an RTIPPA response (“**2223-RTI-051**”), his formal response to the Investigation Report (“**Investigators rebuttal**”), and further explanation (“**Personal letter to Mr. King for him to share as deemed**”) for my consideration during this Review.

I have not included copies of all documentation provided during the Review however I have included a list of these documents as Appendix “**D**” to this report.

Interviews

I formally interviewed the CAO and Assistant Clerk, individual Councillors (excluding those who joined Council in January 2023 following the implementation of the Local Government Reform, Councillor Septon who was the subject of the informal and formal complaints, the Mayor and Deputy Mayor. I conducted 11 interviews in total.

These interviews were held in February and March and were concluded prior to the filing of the Investigation Report on March 9, 2023. The interviews focused on several aspects including background for the various alleged breaches, the role of individuals in the relevant events, their individual interpretation of the By-law and Policy, details and explanations of the Facebook posts and emails provided, as well as other information that they felt was relevant to my review.

Gap Analysis

I reviewed the By-law and Policy in great detail, noting the processes outlined and whether specific steps were mandatory or discretionary. I considered the views and opinions of those interviewed during this analysis.

Special attention was paid to the Policy Objective, Policy Statement and Procedure Sections of the Policy. I considered whether there was due process provided to Councillor Septon and I also considered whether the By-law and Policy could be improved through amendments, corrections or clarifications.

The Purpose and Compliance Sections of the By-Law were particularly important especially given the requirement to consider whether the By-Law and Policy were followed. I will review these in more detail in this Report.

Conclusions and Recommendations

I was asked to make conclusions and recommendations regarding the questions put to me as the objective of this review:

1. Did Council follow its By-Law and Policy?
2. Did Council follow a fair process?

3. Was Council's conclusion reasonable regarding breaches of the By-law?
4. Has Councillor Septon changed his behaviour since the sanctions were imposed on December 6, 2022?
5. What improvements to the By-Law and Policy could be made, if any?

My conclusions are listed in this Executive Summary. The Report contains a detailed explanation of my analysis and conclusions as well as specific recommendations.

Conclusions

With respect to each of the questions for this Review:

1. I have concluded that Council did follow its By-law and Policy;
2. I have concluded that Council did follow a fair process;
3. I have concluded that Council's conclusion was reasonable regarding the alleged breaches;
4. I have concluded that Councillor Septon has not changed his behaviour since the sanctions were imposed on December 6, 2022, nor is he accepting that he has done anything wrong; and
5. I have identified several areas that could improve the application of the By-law and Policy. Some changes are for clarification or to improve process and others are intended to address potential conflict between the By-Law and Policy.

My reasons and explanation for these conclusions are provided in detail in this Report.

BY-LAW AND POLICY FRAMEWORK

By-Law and Policy Framework

The Framework under which Council operates is found in By-Laws and Policies. Hanwell is required by the *Local Governance Act* to have a Code of Conduct By-Law in place. The relevant By-Law is By-Law No. 16-2019, A By-Law Establishing the Code of Conduct for Council. A complete copy of the By-Law is included in this report at Appendix “B”. This By-Law was last amended on May 18, 2022. It had already been in place for several years.

The By-Law

The Purpose of the Code of Conduct By-Law is:

1. *To set clear expectations of behaviour of members of Council;*
2. *To provide information to the public as to the behaviour they can expect from members of Council;*
3. *To provide guidance to members of Council in how they conduct their duties as council members; and*
4. *To provide a process for responding to alleged breaches of the Code.*

The Code of Conduct By-Law spells out the Duty of Council as follows:

“Members of Council are held to a high standard as leaders of the community and as such, they are expected to be well informed on all aspects of municipal governance, administration, planning, and operations. They need to carry out their duties in a fair, impartial, transparent, and professional manner.”

The By-Law lays out specific expectations of Councillors. These expectations are enumerated in detail in each of the relevant sections of the By-Law. They include the following:

- Responsibilities;
- Confidentiality;
- Conflict of Interest;
- Conduct at Council/Committee Meetings;
- Respect For Decision-Making Process;
- Respectful Workplace;
- Communicating on Behalf of the Community;
- Conduct Respecting Staff/Council;
- Interpersonal Behaviour;
- Gifts, Benefits, and Hospitality;
- Use of Government Property, Resources, and Services;

- Use of Social Media; and
- Compliance with the Code of Conduct.

Section #17 of the By-Law is relevant for several of the questions to be answered during this Review. It is repeated here:

17. COMPLIANCE WITH THE CODE OF CONDUCT (ADDED May 18, 2022)

- a) Members are expected to adhere to the provisions of this Code.
- b) This By-Law is intended to be self-enforcing. It establishes standards of conduct for members. Members shall be thoroughly familiar with and adhere to the By-Law thereby enhancing public confidence in the local government by acting with integrity, respect, accountability, leadership, collaboration, public interest, and transparency.
- c) Council does not have the authority to disqualify or remove a member from office; only a court of competent jurisdiction or the Minister of Environment and Local Government can do so. Council does, however have the right to sanction a member, provided that the member continues to have sufficient access to information and services so as to be able to carry out their duties as a member.
- d) Persons who have reason to believe that this Code has been breached in any way are encouraged to bring their concerns forward. No member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person who, in good faith, provides relevant information in relation to a possible violation of this Code.
- e) Any reported violations of this Code will be subject to an investigation by Council.
- f) Complaints shall be dealt with by Council in accordance with the process set out in the Conflict and Complaint Resolution Procedure Policy.

The Policy

The Code of Conduct By-Law is supported by Hanwell Approved Policy. The relevant policy is Policy #2022-08, Conflict and Complaint Resolution Procedure Policy. The Policy specifically references the Code of Conduct By-Law as

“...a procedure for addressing conflicts and complaints between Council members, between staff, between Council members and staff, between the public and either Council members or staff...”

The policy is included with this report as Appendix “C”. It includes a Policy Objective, a Policy Statement and a Procedure with specific sections on the following:

- Informal Complaint Process;
- Formal Complaint Process;
- Sanctions and Consequences (Council);
- Sanctions and Consequences (Staff); and
- Mutual Resolution of Complaints.

The most relevant Procedural sections for this Review are:

Section #1 – Informal Complaint Process

Section #2 – Formal Complaint Process

Section #3 – Sanctions and Consequences (Council)

I will outline all of these sections and lay out my analysis in more detail later in this report.

APPROACH AND METHODOLOGY

My Review was to include the following broad steps:

1. Document Review;
2. Formal Interviews;
3. Gap Analysis; and
4. Conclusions and Recommendations.

I provide a brief outline here on the Document Review and the Interviews. The Analysis and Conclusions are contained in specific sections later in this Report.

The approach to this Review was complicated by the submission of a formal complaint by a member of Council on January 27, 2023. Some of the allegations cited the same issues brought forward in 2022. The Policy required that the investigation be completed by March 9, 2023 (Thirty days after the Investigator received the complaint). The Investigation Report essentially overtook this broad Review. I attempted to deal with both jointly to the extent possible.

Document Review

It is important for a Review such as this to fully understand the requirements of the By-Law and Policy. These were provided and reviewed early in this Process to ensure that I had a complete understanding of the Framework that Council and Staff worked within.

Other materials were also requested at the outset of this review including the Report to Council on the allegations made in 2022. Many other documents were identified and received during the Interview phase of this Review. The full list of documents received is included in this Report as Appendix “D”. The documents included the following categories:

- Email Threads;
- Social Media Posts;
- RTIPPA Responses;
- Correspondence;
- Council Minutes;
- Notes from Councillor Septon; and
- Responses from Councillor Septon.

It was important that I provide everyone concerned with full opportunity to be heard and to explain their perspective. I was very mindful that Councillor Septon be given full opportunity to respond and provide his understanding of the By-Law and Policy. The insertion of the Formal Complaint in the early stage of this Review required me to first interview the “**Complainant**” and the “**Respondent**” involved in that complaint in order to proceed with both the Investigation and this Review in tandem.

The interviews were designed and conducted to encompass questions and issues for both the Formal Complaint and this Review. The interviews focused on several aspects including background for the various alleged breaches, the role of individuals in the relevant events, their individual interpretation of the By-law and Policy, details and explanations of the Facebook posts and emails provided, as well as other information and background that they felt was relevant to my review. Many of the documents identified during the interviews were provided to demonstrate context and clarification and to support the position or perspective of those interviewed.

I conducted 11 interview sessions involving six counsellors and two staff members. The interviews were conducted as follows:

Complainant, Darren MacKenzie	February 15 and March 3, 2023
Respondent, Pat Septon	February 16, 21 and 26, 2023
Mayor, Dave Morrison	February 27, 2023
Deputy Mayor, Susan Jonah	February 27, 2023
CAO, Terri Parker	March 1, 2023
Clerk/Assistant Treasurer, Sherri Johnson	March 2, 2023
Councillor Tim Fox	March 2, 2023
Councillor Holly Hyslop	March 8, 2023

ALLEGATIONS AND SANCTIONS

The concerns raised in the informal complaints made by Staff and Council Members occurred over a period of time. They were compiled in a document submitted to Council by the CAO. The document is included in this Report as Appendix “A”. A brief description of the issue and background for each of the issues or events listed in Appendix “A” follows in this section. Councillor Septon was notified of the issues and provided a copy of the informal complaint compilation prepared by the CAO. He was notified and invited to attend the Council Meeting where the informal complaints were to be considered and discussed but he declined to attend, citing a “conflict of interest” in attending. He did provide a written response to the allegations outlined in the summary. This response is included as Appendix “E” in this report.

1. Recordings of Council Meetings

Council had a practice of recording Council meetings and posting the recording through the Hanwell internet radio station. The Complainant was actually the Councillor who looked after this process voluntarily. Council held administrative meetings in preparation for Council meetings where agendas were set. These meetings are considered operational or administrative in nature and are not the forum where Council decisions are made nor are they public.

There were internal discussions through email between Councillors and staff about adding an item for an upcoming Council meeting. The request was to consider stopping the practice of recording Council meetings. It was explained through interviews that data showed nobody accessed the recordings, so they were of little value but were an administrative burden to do.

Ultimately the item never made it to a Council agenda. The Councillor withdrew the request when some type of arrangement was made.

The first allegation refers to a social media post (November 4, 2022) made by Councillor Septon. The second allegation refers to an email to Council and Staff (November 5, 2022), in response to a request from the Mayor to take down the post.

The post contains a plea to the public to come out to the next Council meeting when Council would consider a motion to cease recording Council meetings immediately. The Mayor wrote to Councillor Septon asking that he take the post down as the item was not even on a Council agenda. It was pointed out that internal discussions should be just that. The Mayor cautioned the Respondent that he was in violation of the Code of Conduct in making the post.

The email is a response from Councillor Septon after he was asked by the Mayor to take down the post. He suggests that the Mayor shouldn't threaten him with Code of Conduct violations. He suggests that Council actions in the past were the reason he lost a previous job. He also threatens to take public action if any action is taken against him.

The allegations reference violations of Section 6(a) and 12(g) of the Code of Conduct By-Law.

2. Hanwell Park Academy

A new school had been constructed in Hanwell and was opening in September of 2022. Councillor Septon felt that for reasons of student safety there should be a crosswalk crossing Route 640 (the “**Hanwell Road**”). Council had much discussion and debate over the issue including discussions with the Provincial Department of Transportation and Infrastructure (“**DTI**”).

There were competing jurisdictions at play. Advice received was that the road including the installation of crosswalks was a Provincial responsibility. The road is a major thoroughfare with speed limits of up to 80 km/h. Advice was also provided that suggested a crosswalk would not be installed unless there was a sidewalk or a trail. Sidewalks and trails are a municipal responsibility.

Councillor Septon felt passionate about the need for a trail in order to be eligible for a crosswalk. There were dissenting views from some Councillors and Council was certainly divided on the issue. Ultimately there was a motion dealing with this issue and it was defeated at Council.

The allegation includes reference to social media posts and emails from Councillor Septon. In these posts he is critical of Councillors, Hanwell staff and the school Principal on the issue as well as the procedure followed at the Council meeting. In the second post he calls out the Principal for not wanting a trail or the chance for a sidewalk even after the Principal directly denied having made the specific comment.

The allegations reference violations of Sections 10, 11(e), 12(c), 16 (c) and 16 (d) of the Code of Conduct By-Law.

3. Closed Session - Contracts

Hanwell provides garbage collection through an external contract. The service was currently being provided by the company who had been awarded the contract through an open procurement process. The contract was up for renewal but permitted a one-year extension. It was placed on a Council agenda to be dealt with in closed session at a meeting in September of 2022. Council discussed the contract during the closed session. There were other factors at play including the desire to align the extension with the expiration of a contract with a neighbouring community eleven months later. Council ultimately made the decision to put it up for tender again rather than extend.

The complaint contains an email from Councillor Septon to Council and Staff questioning why the contract was dealt with in closed session. Councillor Septon felt that it should have been dealt with publicly and should have required public input.

There is no documentation to suggest that Councillor Septon raised a point of order during the Council meeting about going into closed session, but he certainly questioned the appropriateness in the email sent the next day. He goes on to suggest that Council was making decisions behind closed doors and that the public does not trust Council. He called for an external review of the procedures followed.

The allegation references violations of Sections 10, 12(g) and 13(a) of the Code of Conduct By-Law.

4. Policies & By-Laws

Council amended several By-Laws in the Spring including By-Law 29-2022 A By-Law Respecting the Remuneration of Mayor and Councillors. The changes were approved during the Council meeting of May 18, 2022. The By-Law was posted in July. The version posted online contained an error in the wording.

The allegation references emails starting on July 7, 2022, from Councillor Septon suggesting that staff deliberately changed the wording that had been ratified by Council and also suggesting that staff may have arbitrarily made changes to other By-Laws. These emails were copied to Staff and Council. Staff responded and confirmed that it was a clerical error and took steps to correct the By-Law.

The allegations reference violations of Sections 12(c) and 12(g) of the Code of Conduct By-Law.

5. Solar Array System

Council had approved a solar array for *Hanwell* Place. Money was allocated in the budget in anticipation of this initiative. Councillor MacKenzie was leading it. There were questions raised by a resident to the Mayor regarding a conflict of interest that was eventually dismissed as without merit. Councillor Septon made reference to this issue when meeting with a resident. The allegations reference an email he sent to Staff and Council where he referenced this discussion and disclosure.

The allegations reference violations of Section 6(c) of the Code of Conduct By-Law.

6. Budget Process

The Local Government Reform initiative required a different approach for approval of Council's budget. An advisory committee had been struck to prepare the draft budget for submission to the Province. Council held working budget meetings with Council and Staff during this process. These meetings were internal and not open to the public. The allegation references emails from Councillor Septon to Council and Staff regarding the budget that was finalized. He had an issue with how a request he had made was dealt with through the budget process.

The allegations reference violations of Sections 12(c) and 12(f) of the Code of Conduct By-Law.

Sanctions

Council initiated deliberations at the November Council meeting however they required more time. A Special Meeting of Council was held on December 6, 2022, in closed session. Council concluded their deliberations on the allegations and ultimately confirmed that 19 of the 26 allegations were in fact violations. Councillor Septon again declined to attend. They imposed sanctions on Councillor Septon in accordance with the Code of Conduct By-Law. A copy of the motion that was passed is included as Appendix “F” to this Report.

They upheld the following breaches of the Code of Conduct By-Law:

Section 6 – Confidentiality:

- 1 violation of Section 6(a)

Section 10 – Respectful Workplace

- 3 violations of Section 10

Section 12 – Conduct Respecting Staff/Council

- 5 violations of Section 12(c)
- 1 violation of Section 12(f)
- 2 violations of Section 12(g)

Section 13 – Interpersonal Behaviour

- 1 violation of Section 13(a)

Section 16 – Use of Social Media

- 1 violation of Section 16(a)
- 4 violations of Section 16(c)
- 1 violation of Section 16(d)

They imposed sanctions on Councillor Septon including:

- A public reprimand;
- A letter of reprimand;
- A suspension of Councillor Septon’s remuneration as a Councillor;
- A requirement for Councillor Septon to take training;
- Social media posts and emails on the Municipal Facebook Page or email platform would require the approval of the Mayor; and
- Public apologies to the Mayor, Deputy Mayor, Assistant Clerk, Clerk, the Principal of the school, and to Council.

It is my understanding that Councillor Septon's remuneration has been suspended; however, he has not complied with any other sanction. Councillor Septon does not accept the process nor the outcome of Council.

FORMAL COMPLAINT

The CAO received a formal complaint from a Member of Council on January 27, 2023. The complaint alleged that Councillor Septon had and continued to violate the Code of Conduct By-Law. It included details pertaining to the issues that were already dealt with by Council and captured in the previous section. Those issues included the following:

1. **Recordings of Council Meetings**
2. **Hanwell Park Academy**
3. **Closed Session – Contracts**
4. **Policies & By-Laws**

This Report will consider whether Councillor Septon did indeed violate various aspects of the Code of Conduct By-Law.

However, the formal complaint also provided allegations and details regarding events, posts and communications by Councillor Septon that occurred following the Special Meeting of Council on December 6, 2022, and continuing into January 2023. I will not provide a summary of those allegations in this Report. The Investigation Report filed March 9, 2023, described those circumstances and particulars.

I do provide a brief summary of the conclusion reached related to allegations that occurred on or following the December 6th Special Meeting of Council as it is important context for this Review and specifically lays out details that are relevant to one of the questions I am to answer. The conclusions reached in my Investigator's Report of March 9, 2023, include the following excerpts:

“Section 10 reads as follows:

*“All members of Council have a duty to treat members of the public, one another, and staff **with respect and without abuse, bullying, or intimidation**, and to ensure that their work environment is free from discrimination and harassment. Members of Council must ensure compliance with the New Brunswick Human Rights Commission and WorkSafe NB.” (emphasis added)*

*In reviewing the specific posts and emails I am of the opinion that the Respondent was disrespectful and intimidating on several occasions. The Respondent should have reasonably known that the comments would be taken as offensive. I have concluded based on his explanation during the interviews that he does not believe he must act respectfully if he believes it to be true. Further his threats should be taken as intimidating and abusive to Council. **I have concluded that this section has been violated.**”*

“Section 12(c) reads as follows:

*“No member of Council shall **maliciously or falsely harm the professional or ethical reputation** or the prospects of staff or other members of Council.” (emphasis added)*

*The Respondent does not believe harming reputation with public comments is wrong. In reviewing the documents and statements made by Councillor Septon I believe that he has harmed the reputation of staff and Council. I further have concluded that it was at times malicious or false as he was provided information in many circumstances that contradicted his statements, yet he continued to make them. **I have concluded that this section was violated.**”*

“Section 12(e) reads as follows:

“Council shall not use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with intent to interfere with the person’s duties including the duty to disclose improper activity.”

I note that this section uses the phrase “Council shall not...” rather than “Members of Council...”. This gave rise to whether it applies only to Council or also applies to Councillors. After considering the purpose and intent of the By-Law I have determined that it must apply to Councillors.

*I have considered the emails and posts and note that the Respondent has repeatedly threatened Council with further attacks. In his interview, Councillor Septon made clear that he would continue to attack Council in the public. **For these reasons I have concluded that this section has been violated.**”*

“Section 12(g) reads as follows:

*“Members of Council are not to use indecent, **abusive, bullying, harassing, or insulting** words or expressions toward another member, any staff or the community or any member of the public.” (emphasis added)*

*I have considered the statements made by the Respondent during his interview. He expressed to me that he believed it is ok to be abusive or insulting if he believes the statement to be true. Given this position and reviewing the statements made, I believe he has been abusive and insulting to Council. Please note that the posts and emails provided to support items #5 and #6 are directed almost exclusively at Council. Whether he also was abusive to Staff will be considered in the broader review. **Therefore, I have concluded that this section has been violated.**”*

“The first statement of Section 13(a) reads as follows:

“Treat every person with dignity, understanding and respect.”

It is clear to me that the Respondent was not respectful in his communications to staff and Council. It is one thing to have dissenting views but to express them in a disrespectful manner is not justified. I have concluded that this section has been violated.”

“Section 16(c) reads as follows:

“No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.

I have no doubt that many of the statements made in posts were unsubstantiated, offensive and disrespectful. Councillor Septon believes that he is justified in making such comments if he believes them to be true. That does not make them true. I have concluded that this section has been violated.”

There were other alleged violations of the Code of Conduct By-Law for which I concluded there was no violation. I have not provided those excerpts here. It is my understanding that Council will be provided with both Reports at the same time in order to consider them jointly as they are impossible to consider separately.

The Investigator’s Report includes recommendations. These recommendations are also provided here to be considered as part of this Review. Following are the recommendations:

“I am required by the Conflict and Complaint Resolution Procedure Policy to provide conclusions reached on the validity of the complaint as well as recommendations for appropriate sanction, if any.

My analysis has made clear that there were repeated violations of the Code of Conduct. In particular I have concluded that Sections 10, 12(c), 12(e), 12(g), 13(a), and 16(c) have been violated.

The issue of recommendations for appropriate sanction is much more difficult for two reasons.

First, the broader review of behaviours, process and framework has not been completed. Hypothetically if the conclusion reached on process was that it was flawed it raises the question of whether the decision of Council would stand and what is the appropriate remedy.

Council imposed sanctions on the Respondent for repeated violations. Despite the sanctions already imposed Councillor Septon continues to disregard the By-Law. Further sanctions should be more significant if they stand. However, if they were to be revoked recommendations on appropriate sanctions may be different.

The second reason that this is a difficult question to answer is because I cannot ignore Councillor Septon’s motivation following the December 6, 2023, sanctions.

He believes the sanctions were not warranted. Although the end does not justify the means he could be somewhat vindicated if there is ultimately a conclusion that the process was flawed or that the By-Law or Policy was not followed. That does not excuse his methods, but it does mitigate them to some extent.

Therefore, I am recommending that Council accept this review and defer any action or discussion until the broader review is complete.

I do believe that sanctions are warranted. I also believe that there should be penalties included in any sanction, but I cannot provide advice on the type of sanction until the review has been finished. Further I believe that in order to bring about any change in behaviour, sanctions must include further training and education on respectful workplace behaviours as well as municipal procedures. I also believe that without extensive mediation efforts there may be not improvement in the environment for Staff or Council.

I will provide recommendations in these areas as part of the broader review.

Respectfully submitted,

Rollie King

MC Advisory”

SUMMARY OF INTERVIEWS

I provide a brief summary of the statements made by those interviewed. I have only identified Councillor Septon as his was the subject of the complaints and sanctions.

Councillor Septon

Councillor Septon maintains his belief that he has done nothing wrong. He feels strongly that Council followed no process in dealing with the informal complaint in November. He provided me with a detailed explanation of why he felt that process was not followed.

Councillor Septon explained to me in great detail why he ran for Council. He provided me with many email threads and posts that were not included with the formal complaint. Councillor Septon believes that there is a need for more transparency.

He expressed the view that Council tries to hide everything from the public. He believes that it is his role to bring these concerns to light. He believes that he has an oversight role on Council.

Councillor Septon has provided his explanation for why he made the posts and emails. He feels he is justified and that his comments are accurate. He does not believe that anything was misleading or inaccurate.

He believes that the Code of Conduct By-Law is being misused. He explained that it should only be for serious misconduct and illegal activity. He feels that Council is trying to keep him from communicating with constituents and is trying to police what he can say.

He believes that it is appropriate to be critical of Staff and Council. He does not believe that many of his comments are disrespectful or inappropriate. He does not believe that comments he made could damage reputations or be taken as offensive. He feels he has a right to say what he has said as long as he believes it to be true. He expressed the view that *“Council can be mad and upset with me, but they cannot stop me from doing what I do.”* He believes that he is championing more transparency and accountability for the public. His only concession during our interviews was that perhaps he could wordsmith better.

Councillor Septon confirmed that he voted for the amendments to the Code of Conduct By-Law in May. He does not believe that it is being used appropriately against him in this case. He feels that it is being “weaponized”.

Councillor Septon referenced several occasions where he was “given a code of conduct”. When I dug into these particular circumstances it appears that if he is cautioned by the Mayor or Councillors, he takes these as threats or “code of conducts”.

Councillor Septon explained that he will continue to attack Council, Councillors and Staff if Council continues to attack him. He believes that he is justified in responding to Council in this manner. He believes that he can question Council and Councillor motives in public.

He does not believe that he should have to challenge Council through legal means in the court although he has indicated that he will do so if Council continues to attack him with the Code of Conduct.

Other Participants

All of those who participated in the interviews believe that Councillor Septon was inappropriate, disrespectful and unprofessional on numerous occasions. Most are of the view that he has repeatedly violated elements of the Code of Conduct.

Most described the toxic environment that he has created for Staff and Council. Many Councillors expressed the view that they may not remain on Council due to the conflict and tension this has created.

Most believe that the By-Law and the Policy were followed appropriately. Many of the participants explained that Councillor Septon did not necessarily understand process. They believe that his views on transparency and accountability are misinformed and shaped by his own conspiracy theory.

Most participants described situations where they were personally attacked verbally. These attacks are almost always in public as Councillor Septon posts everything and puts everything in emails when often it is easier to discuss in person or by phone.

Most participants have described the efforts that they have made in attempting to explain municipal and governance processes to Councillor Septon, but he does not accept their explanations or does not understand.

Most of the participants expressed frustration with the time, energy and resources that are being devoted to these issues. Many Councillors feel that it is distracting them from the work they should be focused on for the community.

It was described by many that staff time in particular has been and continues to be wasted due to the actions of Councillor Septon. They described situations where Councillor Septon called on the public to file requests for information under the *Right to Information and Protection of Privacy Act* (“**RTIPPA**”). Staff have been inundated with such requests since this call from Councillor Septon.

Most participants do not believe there are issues of transparency. They believe that Council acts appropriately and in the interests of the community. Several Councillors believe that Council’s reputation has been damaged in the eyes of the public. One Councillor stated, “*The public perception is that Council is divisive, divided, and dysfunctional.*”

Everyone wants the conflict to end. Most do not believe that Councillor Septon will change how he communicates despite sanctions already imposed.

GAP ANALYSIS

When conducting this analysis I considered all documentation, interview responses, and written responses from Council and Staff. I also reviewed and analyzed the Code of Conduct By-Law and Policy in detail. I did so while always considering there are five questions to answer as part of this Review.

In this section I outline my analysis for each question. For ease of reference the questions included in the scope of this Review are:

1. Did Council follow its By-Law and Policy?
2. Did Council follow a fair process?
3. Was Council's conclusion reasonable regarding breaches of the By-law?
4. Has Councillor Septon changed his behaviour since the sanctions were imposed on December 6, 2022?
5. What improvements to the By-Law and Policy could be made, if any?

In addition to these questions, I am also required to provide recommendations on appropriate sanctions for violations outlined in the Investigator's Report of March 9, 2023. I also include my analysis on this question in this section.

1. Did Council follow its By-Law and Policy?

This is essentially a question of procedure. A review of the relevant procedural elements of the By-Law and Policy was required.

Relevant Sections

The relevant By-Law Sections are as follows:

Section 2. PURPOSE

2(d) To provide a process for responding to alleged breaches of the Code.

Section 17. COMPLIANCE WITH THE CODE OF CONDUCT

17(a) Members are expected to adhere to the provisions of this Code.

17(b) This By-Law is intended to be self-enforcing. It establishes standards of conduct for members. Members shall be thoroughly familiar with and adhere to the By-law thereby enhancing public confidence in the local government by acting with integrity, respect, accountability, leadership, collaboration, public interest, and transparency.

17(c) Council does not have the authority to disqualify or remove a member from office; only a court of competent jurisdiction or the Minister of Environment and Local Government can do so. Council does, however, have the right to sanction a member provided that the member continues to have sufficient

access to information and services so as to be able to carry out their duties as a member.

17(d) Persons who have reason to believe that this Code has been breached in any way are encouraged to bring their concerns forward. No member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person who, in good faith, provides relevant information in relation to a possible violation of this Code.

17(e) Any reported violations of this Code will be subject to an investigation by Council.

17(f) Complaints shall be dealt with by Council in accordance with the process set out in the Conflict and Complaint Resolution Procedure Policy.

The relevant procedural sections of the Policy are provided as follows:

Procedure

1. Informal Complaint Process

Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying conduct that they believe violates the code of conduct. However, an individual is not required to complete this informal complaint process prior to pursuing the formal complaint.

Any person who has identified or witnessed conduct by a member of Council or staff and that person reasonably believes, in good faith, the individual is in contravention of this By-law or other legislated obligations may address the prohibited conduct by:

- (a) Advising the individual that the conduct violates this Code and human resources policies and encouraging the individual to stop.*
- (b) Make a request to the Clerk to assist in informal discussion of the alleged complaint with the individual in an attempt to resolve the issue.*
- (c) The Clerk may offer to facilitate the resolution of the complaint; if the Clerk is unable to assist for any reasons, he/she may offer the assistance of a professional mediator.*
- (d) In the event that the Clerk is the subject of, or is implicated in a complaint, the person may request the assistance of the Mayor.*

2. Formal Complaint Process

- (a) Anyone who has identified or witnessed conduct by a member of Council or staff that the person reasonably believes, in good faith, is in contravention of this By-Law or other legislated obligations is encouraged to attempt*

resolution using the formal complaint process prior to filing a formal complaint.

- (b) If informal resolution is not desired, not appropriate or has been attempted without success, a confidential formal complaint may be filed in accordance with the following procedure:
- i. All formal complaints shall be made in writing to the Clerk and shall be dated and signed. In the event that the Clerk is subject, or is implicated in a complaint, the person shall address their complaint to the Mayor.
 - ii. The formal complaint must set out reasonable and probable grounds for the allegation that the individual has contravened this By-Law, other legislative obligations, or relevant policies, including a detailed description of the facts, as they are known which gave rise to the allegation. Formal complaints can be submitted utilizing the form in Schedules "A" and "B" attached.
 - iii. Upon receipt of a formal complaint, the Clerk shall consider the following in determining whether the complaint shall be investigated:
 - Whether the complaint falls within the jurisdiction of this By-Law, other legislative obligations or relevant policies;
 - Whether there are sufficient grounds for an investigation; and
 - Whether the complaint is frivolous, vexatious, or not made in good faith.
 - iv. If it is determined that a complaint shall not be investigated, the Clerk will advise the complainant in writing outlining the reasons not to proceed and the file will be closed.
 - v. If the Complainant disagrees with the findings from the Clerk, the Complainant can file a letter of appeal with the Mayor and/or Deputy Mayor and the Mayor will have the item placed on the agenda at the next meeting of Council under closed session and Council shall determine the validity of the complaint.
 - a) If it is determined that a complaint shall be investigated, the Clerk shall appoint an outside investigator to conduct an independent investigation and the respondent shall be notified of such complaint.
 - vi. If the Respondent disagrees with the findings from the Clerk, the Respondent can file a letter of appeal with the Mayor and/or Deputy Mayor and the Mayor or Deputy Mayor will have the item placed on the agenda at the next meeting of Council under closed session and Council shall determine the validity of the complaint.
 - a) At this meeting, Council will determine whether to appoint an external investigator or panel to investigate the formal complaint to determine if the individual has violated the By-Law.

vii. *If an external investigation is warranted:*

- *The investigator must report back to the Clerk on appropriate censure, sanctions, or corrective action (if applicable) within 30 days of receiving the complaint.*
- *If the facts, as reported, include the names of one or more individuals who are alleged to have breached the By-Law or other legislated obligations, the individual(s) concerned shall receive a copy of the complaint submitted to the investigator, subject to RTIPPA.*
- *An investigator appointed by the Clerk shall review the complaint and shall take such steps as he/she may consider appropriate, including conducting interviews of Council members, staff or members of the public that are relevant to the complaint and may seek legal advice in appropriate circumstances. Information received during interviews may be in person or in writing. An investigator shall make all reasonable efforts to conduct their investigation on a confidential basis. The investigator will submit any supporting material to the individual whose conduct is in question with a request that a written response to the allegation, be received within 10 business days. A copy of the response shall be provided to the complainant with a request for a written reply within 10 business days.*
- *While, ultimately, the Clerk adjudicates the validity of any complaint and/or imposes the resulting sanction, if any, the investigator shall, upon conclusion of the investigation, provide the Clerk including the individual who is the subject of the complaint, with a written report outlining the conduct of the investigator's investigation, including any conclusion reached by the investigator on the validity of the complaint and their recommendation of an appropriate sanction, if any. This report shall be provided to the Clerk within 30 days of receipt of the complaint.*
- *An individual who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before the Clerk deliberates and makes any decision on the validity of the complaint and/or any sanction is imposed. The response must be received within 10 business days of receipt of the investigator's conclusions.*
- *An individual who is the subject of a complaint is entitled to be represented by legal counsel, at the individual's sole discretion.*

3. Sanctions and Consequences (Council)

- (a) *Should a breach have been deemed to have occurred consequences for said breach may include action deemed necessary by Council through a majority vote, and may include, but not limited to, the following:*

- i. Removal from membership and/or as chair of Committees either permanently or for an interim period;*
 - ii. Barring the member of Council from attending at closed session meetings either permanently or for an interim period;*
 - iii. Barring the member of Council from being circulated/informed of confidential matters/materials;*
 - iv. Demand of a public apology, either written or verbal;*
 - v. A verbal or written retraction of what was said/written;*
 - vi. Expulsion from the meeting room for the remainder of the meeting;*
 - vii. Letter of reprimand addressed to the member;*
 - viii. Public reprimand through a motion of censure;*
 - ix. A requirement to attend training;*
 - x. Required return of municipal property or reimbursement of its value;*
 - xi. Restricted access to municipal facilities, property, equipment, services and supplies;*
 - xii. Restrictions on contact with staff;*
 - xiii. Restrictions on how documents are provided to the member (i.e., no electronic copies, only watermarked paper copies for tracking purposes); and/or*
 - xiv. Reduction or suspension of the individual's remuneration as council may deem appropriate.*
 - xv. Any combination of any of the above.*
- (b) All breaches under this By-Law will be treated fair and in keeping with the severity of the infraction, the individual's past conduct will be taken into consideration.*
- (c) In deciding which consequence(s) to impose, Council shall consider the potential consequences listed above, but shall not be limited to those consequences.*
- (d) Once this has been determined, Council shall call in the complainant and respondent to inform them of their decision, including the reasons for that decision. Reasons shall be provided by a delegate from among the majority of Council.*
- (e) Minutes of this Closed Session meeting, including a summary of all evidence provided, all submissions made to Council, and a summary of Council's reasons for the decision, shall be kept, but shall not be made public and shall be retained by the Rural Community for a period of 7 years, in accordance with the Municipal Records Authority, following the end of the Closed Session meeting.*
- (f) The Breach shall be validated in open session of Council;*
- (g) Council shall endeavor to impose consequence(s) that are fair and in keeping with the nature and severity of the breach(es) of the Code of Conduct. Prior breaches of the Code of Conduct by the individual may be*

considered as aggravating factors which may justify more serious consequences for a subsequent breach.

(h) If a finding of a breach of the Code of Conduct has been made by Council, the matter shall be placed on the agenda of the next Open Session of a Council meeting, to have the following information recorded in publically available meeting minutes:

- *That Council has found the member to be in Breach of the Code of Conduct;*
- *The section of the Code of Conduct that was breached; and*
- *The consequences imposed on the member.*

(i) This by law is self-enforcing, however, should a member of Council not comply with the imposed consequences or penalties to the breach of the Code of Conduct, the following action may be taken:

- *Suspension of remuneration paid to the member of Council; prorated until such time as the member of Council complies;*
- *removal from membership and/or as chair of all committees either permanently or for an interim period;*
- *any combination of any of the above.*

Analysis

I first considered the procedural obligations found in the Code of Conduct By-Law.

The relevant sections of the By-Law are Section 2 and Sections 17 (c), (e) and (f). Section 2 in conjunction with Section 17(f) enumerates the procedures to be followed for adjudicating and resolving Code of Conduct complaints. The details of these procedures are set out in the Policy.

The Policy provides for two processes: an informal complaint process and a formal complaint process. The allegations and concerns raised by members and staff were considered informal.

The informal process is general in nature and lays out possible steps that attempt resolution through discussion and/or mediation. The procedure is not prescriptive. None of the steps outlined are required to be followed. Further, the Policy is ambiguous as to whether sanctions can flow from the informal process.

A great deal of focus for the interviews centred on the interpretation and applications of the Policy and specifically whether sanctions can be imposed as part of the informal complaint process. Councillor Septon, and one other Councillor explained their interpretation of the Policy during their interview sessions. They are both of the view that a formal complaint must be filed before Council can consider and invoke Sanctions. It is their interpretation that Section 2 (Formal) and Section 3 (Sanctions) must be followed sequentially. In other words, an Informal Complaint cannot result in sanctions or consequences determined by Council; a Formal Complaint must first be filed. All others

interviewed stated that a formal complaint was not required before Council could consider imposing sanctions.

I have reviewed the By-Laws and Policy in great detail and have concluded that an informal complaint is intended to be resolved on an amicable basis between the complainant and respondent and does not include an adjudication or resolution of the complaint on its merits. However, this does not preclude the imposition of sanctions, nor does it require a formal complaint as a pre-condition of sanctions. Specifically, I note that the By-Law and Policy establish mechanisms that may lead to sanctions.

First, sanctions may be imposed in response to a formal complaint filed by a third party under the Policy. This power was explicitly recognized by Councillor Septon and is largely irrelevant to this discussion as the imposed sanctions are not related to a formal complaint.

Second, section 17(c) of the Code of Conduct provides Council with the power to impose sanctions on a member where it becomes aware of a Code of Conduct violation. This power is located in its own section in the Code of Conduct and is independent of the Policy or a complaint, formal or otherwise.

If Councillor Septon's interpretation were accepted, Council would be unable to impose sanctions on a member unless a formal complaint were filed. This would have a chilling effect on Council's ability to address member misconduct. For example, it could result in the situation whereby Council becomes aware of serious misconduct via an informal complaint but is powerless to address that misconduct if the complainant is unable or refuses to file a formal complaint. This is an absurd result and is inconsistent with the purpose of the Code of Conduct, which includes "provid[ing] a process for responding to alleged breaches of the Code."

Likewise, there is nothing explicitly stated in the Policy that indicates a Formal Complaint is a necessary step before Council can impose Sanctions. Some of those interviewed pointed out that the Informal, Formal and Sanctions sections are individual and discrete sections. It was suggested that if Sanctions could only follow a Formal Complaint, then Sanctions should be a subsection within the Formal Complaint Process.

Finally, there are other considerations that must be noted. Section 3 of the Policy only requires that "*Should a breach have been deemed to have occurred consequences for said breach may include action deemed necessary by Council...*". It does not include explicit reference to a Formal Complaint being filed, nor the external investigation (Section 2.b)v.) and report that are required (Section 2.b)vii.) when a formal complaint is filed.

Subsection 3. vi. provides for the "*Expulsion from the meeting room for the remainder of the meeting.*" If Sanctions cannot be imposed without a Formal Complaint, it would be impossible for this sanction to be imposed. A Formal Complaint Process would require the complaint in writing (Section 2.b) i.), and a consideration of the merits of the complaint by the Clerk (Section 2.b) iii.).

The sanction provided for in Subsection 3.vi. could never practically be used as it would take time to follow the requirements of the Formal Complaint Process. The By-Law and Policy must have taken into consideration occasions when Council would need to take immediate action such as during a Council Meeting. This must mean that once Council is aware of inappropriate behaviour, they could consider it immediately and determine appropriate consequences.

While I have concluded that Council has the power to impose sanctions independent of a complaint, that power is not without constraint. Section 17(e) of the Code of Conduct requires that “...violations will be subject to an investigation by Council.” The Code of Conduct does not define the scope or content of an investigation; however, a reasonable interpretation of “investigation” normally includes a process for capturing facts, reviewing those facts in the context of relevant rules and reaching a conclusion.

Most witnesses indicated that the compilation of complaints provided to Council, included as Appendix “A” comply with this requirement in 17(f). The CAO compiled the complaints in the document and submitted it to Council including Councillor Septon. The report collected and summarized the allegations. Council reviewed, discussed, and debated the allegations outlined in the report. I therefore conclude that the steps that Council took meet the definition of an investigation under 17(e) of the By-Law.

During the course of its deliberations Council determined that some allegations were not supported or substantiated. They concluded that 19/26 allegations were founded. They considered the facts as presented to them and reached conclusions on each allegation.

Conclusions

For these reasons I conclude that a formal complaint process is not required prior to Council considering and imposing sanctions. The By-Law provides Council with the power to impose sanctions where it becomes aware of a Code of Conduct violation, which can be exercised independently of a complaint, formal or otherwise. However, before Council can impose sanctions it must conduct an investigation into the alleged breaches. The scope and content of an investigation are not defined in the By-Law; however, they require, at a minimum a process for capturing facts, reviewing those facts in the context of relevant rules and reaching a conclusion. By having the CAO collect and summarize the complaints and discussing and deciding whether the complaints amounted to Code of Conduct violations, Council conducted an investigation within the meaning of the By-Law.

Therefore, I conclude that Council did follow its By-Law and Policy.

2. Did Council follow a fair process?

This is essentially a question of procedural fairness. There are sections of the By-Law and Policy that are relevant and require analysis in order to answer this question.

Relevant Sections

Section 17(b) of the By-Law outlines that it is “self-enforcing” and places a positive obligation on members to be familiar with and adhere to the By-Law. Section 17(c) provides that Council has the right to sanction members with certain restrictions only related to fulfilling their duties as Councillors. Section 17(e) places an obligation on Council to investigate reported violations of the Code of Conduct.

The Policy, while technically inapplicable to sanctions imposed independent of a complaint, is nevertheless useful in determining the scope of procedural fairness owed to a member under investigation. The Policy Statement in the Policy is outlined as follows:

Policy Statement

Under Canadian administrative law, an administrative decision-maker, such as Council, has broad discretion to determine its own procedure for making decisions. Accordingly, the procedure set out below is subject to Council approval and modification as necessary.

The procedure suggested below is intended to be consistent with:

- *By-Law 16-2019 (A By-Law Establishing a Code of Conduct for Councillors)*
- *By-Law 01-2014 (A By-Law Respecting the Proceedings of Council and Administration)*
- *Local Governance Act, SNB 2017, c. 18*
- *Other Human Resources requirements; and*
- *General legal principles of procedural fairness and natural justice.*

Section 2.vii Bullet 5 states that: *“An individual who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before the Clerk deliberates and makes any decision on the validity of the complaint and/or the sanction imposed.”*

Sections 3.b) includes the phrase, *“All breaches under this By-Law will be treated fair and in keeping with the infraction...”*

Section 3.g) includes the phrase, *“Council shall endeavor to impose consequence(s) that are fair and in keeping with the nature and severity of the breach(es)...”* and *“Prior breaches of the Code of Conduct by the individual may be considered as aggravating factors which may justify more serious consequences...”*

Section 3.i) states also, *“This By law is self-enforcing,...”*

Analysis

The By-Law and Policy Sections outlined above indicate that Council is required to treat individuals who are subject to a complaint (Formal or Informal) are to be afforded a fair process.

I note that the Policy Statement in particular uses the phrase, “*General legal principles of procedural fairness and natural justice.*”.

“Procedural fairness and natural justice” requires that administrative proceedings should be conducted in a manner that is fair to the involved parties.

The factors that provide for a fair process include:

- The right to participate in the proceeding;
- The right to be notified of the allegations;
- The right to be heard and present one’s case;
- The right to adjudicators free from bias; and
- The right to reasons for decisions.

Other factors to look for include an understanding of the rules, in this case the Code of Conduct, and an awareness of the consequences of inappropriate behaviour.

Council followed their own procedures as outlined in the By-Law and Policy. The process followed was clear on most elements of procedural fairness and natural justice.

In this case, Councillor Septon was provided with the opportunity to participate in the Closed Session of Council. He declined to attend. He did prepare a written response which was provided to Council.

He was provided that right to be heard, in that he provided notice of the allegations made against him. He was provided with the same Report provided to the remainder of Council. The allegations were provided days in advance of the Council meeting allowing Councillor Septon time to prepare.

Councillor Septon was provided reasons for the decision of Council. The Motion provided for specific details of the behaviour that was being sanctioned. He was informed of the violations of the Code of Conduct along with the statement he made (on social media or in emails).

Councillor Septon understood the requirements for the Code of Conduct. The By-Law was amended in May of 2022 and the changes were unanimously accepted by Council. Councillor Septon attended that meeting and voted for the changes. Councillor Septon expressed a full understanding of the By-Law during our interviews. However, he is of the view that the Code of Conduct is only intended to be used for very egregious behaviour including criminal actions. Councillor Septon himself described several occasions where

the Mayor counselled or warned him that his behaviour was violating the Code of Conduct By-Law. Councillor Septon received these cautions as threats.

Apprehension of Bias

The right to a process free from bias is much more difficult to assess in this case. Generally, it requires that the individual be judged by a body that is independent. There is also a related element of this right that requires individuals be investigated by independent parties. While this element of the right is usually a low threshold, it increases drastically when the investigator is a sub-ordinate or *de facto* decision maker. I have considered this issue in great detail.

Councillor Septon feels strongly that the process was flawed in that he was judged by the same Councillors who brought forward concerns or complaints. In his words, “Council acted as judge, jury and executioner.” On its face there is validity to this concern. This same view was expressed by one other individual who was interviewed.

Some of those interviewed did express an element of discomfort in that they expressed concerns and were then placed in the position as members of Council to determine guilt and consequences for those same concerns.

the Province of New Brunswick implemented its Government Reform initiative (effective January 1, 2023) that merged, consolidated or amalgamated many municipal units across the Province. They provided training for Councillors in all municipalities, whether they were newly elected or continuing to serve their communities.

I was provided with a copy of the Presentation entitled, “*Effective Governance and Administration, Local Governance Orientation*” dated January 19, 2023. Members of Hanwell Council participated in this training.

This presentation included a discussion on Conflicts of Interest and on Code of Conduct By-Laws. There are two elements that are relevant for this analysis. First, a Code of Conduct By-Law is a mandatory By-Law required by legislation. Council must use the By-Law to govern their values, behaviour and communication using the Code of Conduct. It is a necessary tool for self-regulating behaviour because Councillors are accountable to the public, generally through regular election cycles. They are not employees who can be held accountable through progressive discipline policies.

The second element is that Code of Conduct “Begins with Council” and “Ends with Council”. A Code of Conduct By-Law by its very nature, is self-enforcing by individuals and by Council. Only Council can police its own members’ behaviour. This sets up the situation where members of Council must call out other members of Council, through either procedural “Points of Order” which are predominantly procedurally driven, or through the Code of Conduct By-Law for inappropriate behaviours unbecoming a Councillor.

Hanwell Council is made up of a Mayor, six Councillors who represent Wards, and two Councillors at Large. The Deputy Mayor is chosen from the group of Councillors. All to say that this is not a large group. It can only make decisions during Council meetings through motions and voting. Individuals have no authority to make decisions independently.

Under normal circumstances, there would be no apprehension of bias where Council adjudicates a complaint made against a member by a third party. In that case, Council would not have any “skin in the game,” so to speak, and would simply be exercising its adjudicative function under the Code of Conduct By-Law.

Where the complaint or allegations are raised by a Council member, an apprehension of bias can be avoided by having the member who raised the allegations complaint recuse themselves from the adjudication of those allegations.

This case, however, does not fall in either of these categories as concerns and allegations of Code of Conduct breaches were raised by the Mayor and almost every other Councillor on Council at the time as well as Staff in statutory roles required by legislation (Clerk, Treasurer).

I considered how a Council with 9 members including the Mayor could eliminate the apprehension of bias in this case. Applying the principle of recusal strictly would require that most members of Council could not participate in the decision-making process at the Council meeting. If enough Councillors were required to recuse themselves, it would create the situation where Council would not have enough members for quorum and therefore could not make any decisions. In this case, it is simply not possible for Council to recuse themselves from the adjudicative process. Further, while a third party would be free of the apprehension of bias, only Council is empowered to adjudicate Code of Conduct complaints. Therefore, delegating Council’s adjudicative function is simply not an option in this case. Accordingly, the apprehension of bias could only be eliminated at the investigative stage of the process.

In this case, Council itself performed the investigative function. They gathered evidence by requesting the CAO compile Code of Conduct violations, read and considered the allegations, made factual determinations regarding which allegations were made out and reached a conclusion based on their findings. However, as noted above, Council had “skin in the game” as many of the allegations were brought forward by Councillors themselves. Accordingly, a reasonable person, viewing the process objectively, would have a reasonable apprehension of bias.

Finally, where there is an apprehension of bias, an adjudicator must consider and explain that apprehension when making its decision. That did not happen in this case.

Note, however, this does not mean that Council actually was biased in investigating and adjudicating this complaint. To the contrary, I find that Council acted reasonably in adjudicating and was actively aware of and avoided bias in its decision making.

I accept that the Councillors and Mayor took reasonable steps to attempt to adjudicate the alleged violations objectively. Certainly, many Councillors stated during interviews that they attempted to treat Councillor Septon fairly during this process. The decision illustrates that Council considered each alleged violation (26 items) and actually only found 19 violations concerning Councillor Septon's behaviour over a period of several months.

One piece of advice in hindsight is that Council could consider an external investigator when it involves member-to-member conflict as a measure to ensure objective decision-making. Council is taking that step now through this Review. In future such a step is advisable even though the current By-Law and Policy do not require it.

However, regardless of whether there was actual bias or not, a reasonable apprehension of bias will render a process procedurally unfair unless the outcome would be a foregone conclusion. In this case the outcome required findings of uncontroverted facts and applying interpretations to the Code of Conduct. Accordingly, while, as will be demonstrated below, Council's ultimate conclusion on Councillor Septon's code violations was correct, it was not a foregone conclusion.

For these reasons I must conclude that there was a reasonable apprehension of bias which rendered the process procedurally unfair. However, I also conclude that, although there was an apprehension of bias, there was no actual bias in Council's decision. Council provided Councillor Septon with ample prior notice of the allegations including providing him with a copy of the same document provided to the rest of Council regarding the allegations. It provided Councillor Septon with an opportunity to attend the deliberations and defend against the allegations, an opportunity he unilaterally declined. It read and considered Councillor Septon's written submissions when determining whether the violations were made out. Finally, it took steps during and following its adjudication to ensure a fair process and ensure that it made its decision on objective facts by considering the actual posts and written statements made by Councillor Septon and avoiding speculation or conjuncture.

Therefore, I conclude that there was a reasonable apprehension of bias that tainted the procedure; however, there was no actual bias in the procedure.

3. Was Council’s conclusion reasonable regarding breaches of the By-Law?

To answer this question, one must consider the individual allegations. I approach this analysis with a reasonableness test. That is, should a reasonable person consider that the behaviors and statements made by Councillor Septon would be inappropriate or offensive. I draw on my experience as a human resource professional, knowledge with respectful workplace policies, and as a leader in the Nova Scotia public sector in various roles over a full career.

Analysis

It is necessary to refer to the report prepared by the CAO for Council in November, found at Appendix “A”. It is also necessary to refer to the Motion passed by Council on December 6, 2022, found at Appendix “F”. For this analysis I provide brief comment for those alleged violations upheld by Council. In a few circumstances I will also provide more detail. For some of the events and circumstances I was provided more detail than that provided to Council. I also rely on the interviews with Councillor Septon and others in these cases.

The six events are categorized in Appendix “A” as follows:

1. Recordings of Council Meetings;
2. Hanwell Park Academy;
3. Closed Session – Contracts;
4. Policies & By-Laws;
5. Solar System; and
6. Budget Process.

I review the decisions reached for each in this order.

1. Recordings of Council Meetings

There were two allegations of violations regarding this situation. They were Section 6.a) and 12.g) of the By-Law:

Section 6.a) is cited, however, the relevant subsection is actually 6.b) referenced in the report at Appendix “A”. I provide both a) and b) here:

“Every Council member must hold in strict confidence all information of a confidential nature acquired in the course of his/her term with the community. Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct.

- a) *Using confidential information, which is not available to the general public, and to which members of Council have access by reason of his/her position with the community to further his/her personal interests or the interests of others.*
- b) *To disclose, either directly or indirectly, release, make public or in any way divulge any such information (verbal or written) or any aspect of the “Closed*

Session” deliberations to anyone, unless expressly authorized by Council or required by law to do so.”

Section 12.g):

“Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public.”

Based on the interviews it is my understanding of this situation that there were internal discussions including an intention to bring forward a motion at a future date to cease recording Council meetings. The member who brought this forward was expressing an intention. There had been no decision to bring the item forward nor was there a decision to place the item on an agenda at the time of the discussion.

Councillor Septon responded to the Mayor’s request to take down the post by email with the following excerpt:

“...while your actions may have cost me my job last time, it won’t happen this time. Be aware, any action taken against me will be public, if any action is taken, please ensure you do it correctly this time around, as it will be brought higher”

Councillor Septon disclosed this intention on a social media post in an effort to encourage the public to come to the meeting to protest. However, he acted prematurely by posting this information. It was an internal discussion and was not yet a part of any public agenda for a Council Meeting. Councillor Septon himself acknowledged that he posted the information prematurely.

The motion identifies as the reason for the Section 6 violation, that internal communication regarding information that will be brought forward at a future meeting should be considered confidential until it is brought forward.

Council indicated in the motion as the reason for the Section 12.g) violation was that the email response to the Mayor was threatening in tone.

Certainly, the nature of the email is inappropriate and unprofessional based on my experience. If I were a manager, there is no question that I would take issue with an email of this nature. In addition, there was no evidence to support the suggestion by Councillor Septon that the actions of the Mayor or Council had cost him his job in the past. He made the assertion that this was the case during his interviews. However, there was no evidence to support this claim.

I conclude that Council’s conclusion was reasonable with respect to this violation.

2. Hanwell Park Academy

There were 11 allegations corresponding to this situation. 9 were confirmed by Council.”

The relevant sections to be considered are Section 10, Section 12.c), Section 16.a), Section 16.c), and Section 16.d).

Section 10 – Respectful Workplace states:

“All members of Council have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying, or intimidation, and to ensure that their work environment is free from discrimination and harassment. Members of Council must ensure compliance with the New Brunswick Human Rights Commission and Worksafe NB.”

Section 12.c) states: *“No member of Council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council.”*

Section 16.a) is cited above.

Section 16.c) states:

“No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.”

Section 16.d) states:

“Where members provide a personal view or opinion on social media, members should take steps to ensure that such personal views or opinions are not construed to be those of the Rural Community of Hanwell as a whole and/or that such personal view or opinion does not accurately reflect the decisions of Council or bring the decision-making process of Council into dispute.”

The circumstances surrounding this situation are quite complex. Councillor Septon felt passionate about having a crosswalk installed so that children could cross the highway to access the school. This required consultation with the Department of Transportation and Infrastructure as the highway was a provincial responsibility. In order to qualify for a crosswalk, I understand that there was a provincial requirement for a sidewalk or trail on both sides of the highway. Sidewalks and trails are a municipal responsibility. There were many issues to consider including whether a trail or sidewalk could be placed in that location, was it practical, were there other options and alternatives.

There was much discussion and debate about this issue at Council. Ultimately, a motion to move forward with the installation of a trail was defeated at Council. There is no question that Councillor Septon was a leading advocate for this motion.

The trouble arose as a result of social media posts and emails from Councillor Septon. He made unsubstantiated claims such as the that the RCMP did not want the trail installed. He asserted claims that were misleading and could harm the professional reputation of Staff including a statement to the effect that the CAO and another member of Council had no compassion for a child who was struck by a vehicle.

He made statements without verification. He was critical of the Principal of Hanwell Park Academy on social media. He made claims about the Principal that were not accurate even after the Principal corrected him directly. These actions are particularly troubling.

Councillor Septon provided me with an email thread between him and the Principal. The Principal took exception with Councillor Septon making statements about the Principal without speaking with the Principal directly. The Principal was not present at Council when this issue was dealt with, nor did the Principal provide any written submission. The Principal even specifically stated in an email that what Councillor Septon was saying was not true. The Principal used words to the effect that “I did not say that”. Yet even after receiving this statement and clarification from the Principal, Councillor Septon continued to make the same statements in a post the very next day. When asked why, Councillor Septon indicated that until the Principal provided a public statement at Council, he (Councillor Septon) would not believe him. I pressed him on this response by pointing out that he had received the position of the Principal directly. There was no obligation for the Principal to make a public statement at Council. The Principal was not a part of the Council process. A great deal of time was spent discussing this particular situation during the interview sessions. He provided no other valid reason. I believe that his position on this is at best inappropriate and actually quite concerning to me as it illustrates a lack of understanding of facts versus opinions.

Council identifies the reasons for the violations of Section 10 as follows:

- Email sent to Principal that was very unprofessional; and
- Social Media post criticizing the Principal in public.

I would suggest that there were other violations of the Code of Conduct By-Law with respect to these communications. This is based on the information I received from Councillor Septon directly during the interview sessions. However, Council did not consider other examples in its deliberations.

Council identifies the reason for the violation of Section 12.c) as a lack of respect for the Mayor and Clerk’s office for attempting to explain the situation. I would also note that the claims made by Councillor Septon of the CAO should have been recognized as potentially damaging to her professional reputation. Again, I suggest that Council could have also cited other violations of the Code of Conduct.

Council identifies the reason for the violation of Section 16.a) as an unprofessional email sent to the Principal stating that he was working against the Minister of Transportation’s guidelines to achieve safety.

Council identifies the several reasons for the violations of Section 16.c), including:

1. Making a statement that the RCMP did not want a crosswalk built, when there had been no communication with the RCMP;
2. Falsely stating that the Principal was not in favour of a path, sidewalk, or trail, when the Principal never stated he was against a sidewalk;
3. A disrespectful email sent to the Principal; and
4. A social media post requesting the Principal make a public statement.

Council identifies the reason for the violation of Section 16.d) was because a decision on installing a trail had been made and no further discussions have occurred on social media.

I am of the view that the posts and emails were quite unprofessional and inappropriate. Some of the statements were known, or ought to be known to be false or at best inaccurate. Councillor Septon showed no remorse for his repeated statements attributed to the Principal. Some of his statements were most definitely damaging to the reputation of Staff and Councillors. Some posts certainly had the effect of calling Council decision-making into question and undermining public confidence in Council.

Councillor Septon was very passionate about this issue and that is admirable. However, the ends do not justify the means. The Code of Conduct By-Law requires high professional standards of Councillors.

I conclude that Council's conclusion was reasonable with respect to these violations.

I further conclude that Council could have confirmed other violations for some of the same incidents.

3. Closed Session – Contracts

There were 5 allegations cited in the report to Council. Council confirmed 3 violations.

The relevant Sections of the By-Law include Section 10, Section 12.g), and Section 13.a).

Section 10 and Section 12.g) are cited previously.

Section 13.a) states:

“Treat every person with dignity, understanding and respect:

Members of Council shall abide by the provisions of the Human Rights Act and, in doing so, shall treat every person including other members of Council, committees, boards, municipal staff, individuals providing services on a contract basis, and the public with dignity, understanding and respect. Everyone has the right to an environment free from harassment and discrimination.”

The situation was described previously. Following the Closed Session Councillor Septon requested an opinion on whether it was appropriate to deal with the garbage collection contract in closed session. The CAO sought and obtained advice that confirmed the action of Council to deal with the contract in closed session was appropriate.

Council identifies the reason for the violation of Section 10 as the email to the Clerk referenced above.

Council identifies the reason for the violation of Section 12.g) as the email to the Clerk also referenced above.

Council identifies the reason for the violation of Section 13.a) as the email to the Clerk which was considered insulting.

These events are appropriate. What is at issue are the emails between Councillor Septon and the CAO. I have reviewed the emails and I believe that they are inappropriate. They are disrespectful and unprofessional. Councillor Septon made comments such as, "...I don't expect recourse or you to care", and "Once again you can do no wrong...".

Councillor Septon may disagree with Staff advice or the decisions of Council. However, he must act in a professional and respectful manner. The tone and implication of the emails would be offensive to any reasonable person.

I conclude that Council's conclusion was reasonable with respect to these violations.

4. Policies & By-Laws

There were four allegations cited in the report to Council. Council confirmed 3 violations.

The relevant section is Sections 12.c). This section is cited above.

The situation was described previously. A number of email threads were provided by Councillor Septon during his interview sessions that are relevant for this analysis. The chronology is important for this analysis. I rely on the email threads that he provided for some of the following chronology:

- On May 18, 2022, Council amended A By-Law Respecting the Remuneration of Mayor and Councillors.
- On May 22, 2022, at 8:42 a.m., the Assistant Clerk emailed Councillor Septon asking, *"Hi Pat, I am just finishing up amending the few things missed and I want to make sure I captured all of the misses. I remember you had mentioned that you noted some errors/omissions? Do you remember what they were?"*
- On May 22, 2022, at 9:20 a.m., Councillor Septon responded by email. Part of his response was, *"By-Law 02-2014, Expense reimbursement – 5B, It states \$300 but I think it should be up to \$300 and it shouldn't be for missing salary, it should be*

for the job. (IE I get \$358 pay a day plus... what makes my value worth more than a retired councillor or someone who makes less). I think we agreed to UP TO \$300 and not tied to salary.”

- On May 22, 2022, at 9:44 a.m., the Assistant Clerk responded by email and said, “Thank you, the only one I had missed was the “up to”. It has been changed.”
- On July 7, 2022, at 8:24 p.m., Councillor Septon emailed the Chair and Vice Chair of the Governance Committee and copied Mayor and Council. This email and the continuing thread are in the report provided to Council in November.

A large number of By-Law amendments were being dealt with by Council that spring. It was a challenge administratively to ensure the changes considered were accurately captured.

Council was provided the email thread commencing in July when Councillor Septon saw the amended By-Law posted online. It was not correct. The error centered on the phrase “**shall be \$300 when authorized by Council**”. The incorrect version posted included the phrase “**up to \$300**”.

The issues arise when Councillor Septon suggests that Staff deliberately changed the By-Law prior to posting. He also accused the Chair and Vice Chair of making arbitrary changes to the By-Law. Staff and Councillors took offence to this claim. It was explained that it was a clerical error and Staff immediately took the appropriate steps to correct it. Councillor Septon did not accept this explanation and continues to believe that it was deliberately changed. He questioned the motives and integrity of his colleagues as well as staff. He even suggested that all of the Staff work should be audited.

I reviewed the email thread commencing in May that was provided by Councillor Septon. I spent a great deal of time reviewing the email thread with him during his interview sessions.

There are several concerns with this situation. Some were considered by Council. I do not believe they had access to the email thread from May 22, 2022. That initial exchange between Councillor Septon and the Assistant Clerk leads me to believe that Councillor Septon may have actually caused or contributed to the eventual error. In his email exchange he stated that it should read “**up to \$300**”. I asked repeatedly why he would have suggested it was an error in his May email, but I was not provided with a credible response. He was asked why he would claim that Staff changed the By-Law deliberately and again I was not provided with a credible response.

He did confirm that the motion read and passed by Council included the phrase “**shall be \$300**”. Further he did not write back on May 22, 2022, questioning the change when the Assistant Clerk confirmed that she had made the change on May 22, 2022.

Council identifies the reasons for the violations of Section 12.c) were for accusing the Governance Committee of arbitrarily changing motions/laws/policies, for accusing staff of falsifying documents when it was determined that it was an error, and for continuing to accuse staff for making the change deliberately even after they apologized.

I was not provided with any valid grounds for Councillor Septon to accuse Staff or members of deliberately changing the By-Law. He did not accept that he may actually have contributed to the error or at the very least some confusion in his email response on May 22, 2022. He did not accept that a reasonable person would find the accusations offensive. He did not accept that his accusations were potentially damaging to Staff and Councillors and called their integrity into question without grounds.

I conclude that Council's decision was reasonable with respect to these violations. I note that other sections could also have been referenced.

5. Solar Array System

There was 1 allegation cited in the report to Council. Council did not confirm this violation.

6. Budget Process

There were 2 allegations cited in the report to Council. Council confirmed these violations.

The relevant sections are Section 12.c) and Section 12.f).

Section 12.c) has been cited above.

Section 12.f) states:

"Members shall respect the role of staff as a corporate body who are charged with making recommendations that reflect their professional expertise and a corporate perspective, providing advice and analyses, implementing Council decisions, and carrying out their daily responsibilities as required under the Local Governance Act, and that staff are expected to do so without undue influence from any member or group of members.:"

There were a series of emails between Councillor Septon and Council and Staff regarding the budget. Councillor Septon had made a specific request that ultimately was not made. The emails were captured in the report to Council.

Council identified the reason for the violation of Section 12.c) was for accusing the Deputy Mayor and the Clerk of using charity/community budget for a private party on a boat without grounds.

Council identified the reason for the violation of Section 12.f) was for being disrespectful to the Clerk during the budget process.

The offending emails included claims that he had no say in the budget, that it was not his budget and other comments. The tone and statements made in the emails were

disrespectful. A reasonable person would have taken offense to these statements. Further, I was provided with a series of emails during my interviews that demonstrated the efforts that Staff went to in order to explain the process to Councillor Septon. Despite these efforts Councillor Septon made disrespectful statements regarding the Deputy Mayor and the Clerk. These assertions had no grounds. The funds allocated were for the Yoho Lake Association. The cheque was written to the association. There was nothing inappropriate.

I conclude that Council's decision was reasonable with respect to these violations.

4. Has Councillor Septon changed his behaviour since the sanctions were imposed on December 6, 2022?

I rely on my Investigator's Report of March 9, 2023, to answer this question. I concluded in that report that Councillor Septon does not accept the sanctions imposed. I have also concluded that he continued to violate several Sections of the Code of Conduct By-Law. The majority of those instances were out of protest for what he believed to be a flawed and inappropriate process. I am not aware of any other examples of posts and emails other than those considered during the investigation into the Formal Complaint.

I am concerned that Councillor Septon will not change his behaviour for several reasons.

Councillor Septon does not accept most of my conclusions in the Investigation Report. He takes issue with Councillor MacKenzie filing the formal complaint. He continues to state that he will defend himself if the Code of Conduct By-Law is enforced on him again.

I have received and reviewed a response from Councillor Septon. Following the filing of the Investigator's Report, I had indicated that if he had additional comments, I would take those into consideration when completing this Review. There are several relevant notes to be made based on Councillor Septon's response to me.

There are two significant issues to outline here. First, Councillor Septon believes his role is to represent his constituents and to provide oversight to Council and Staff. I believe that this belief that he has an oversight role is at the root of many of the conflicts covered by this report. Individual counsellors have no authority. Only Council as a body has authority. Councillor Septon is one member of that body.

I have observed that Councillor Septon believes it is his right to debate and advance issues without regard as to how and what he says in that debate. I do not believe that he accepts that the Code of Conduct By-Law is intended to apply to issues between Council members. The By-Law is clear in its Purpose, Duties and Responsibilities. It prescribes how Council members are expected to act. I have not seen any acknowledgement from Councillor Septon that his comments were inappropriate, unprofessional, insulting, or disrespectful either during our interviews or in any responses he submitted following the interviews.

I conclude that Councillor Septon has not changed his behaviour since the sanctions were imposed on December 6, 2022.

5. What improvements to the By-Law and Policy could be made, if any?

Code of Conduct By-Law

I have noted very few opportunities for improvement to the By-Law. There are a few wording changes that would make the various sections read consistently. Section 17.e) could be clarified in terms of what an investigation would entail. Section 18 requires all Councillors to sign a Statement of Commitment to the Code of Conduct. I understand that this Section has not be enforced. As a matter of practice all members should be required to do so.

Conflict and Complaint Resolution Procedure Policy

The Policy contains the procedural elements that are critical to enforcing the Code of Conduct By-Law. There are several areas that could benefit from clarification.

The first procedural question relates to the purpose of the Informal and Formal Complaints. The Informal process is vague and general and does not prescribe steps. Anyone may use the Informal Complaint Process or the Formal Complaint Process. Clarification on whether a Formal Complaint must be filed if the issue remains unresolved at the Informal stage is needed. An explicit process must be included that describes how Council becomes aware of Informal Complaints is required to avoid the confusion on whether Council can impose Sanctions based on the Informal Complaint.

The Formal Complaint Process is highly prescriptive in contrast to the Informal process. There are changes required in terminology in order to be consistent with the By-Law.

There are steps that are not well laid out. For example, clarification is required regarding the steps in 2.b) iv, v and vi.

In subsection v., there is no timeline or deadline for a Complainant to appeal the Clerk's decision to the Mayor. In subsection vi., there is no timeline or deadline for the Respondent to appeal a decision of the Clerk.

The time limit for an investigator's report to be filed in subsection vii. should have a discretionary element for the Clerk to extend the deadline on an application by the Investigator. In some cases, a 30-day time limit may be difficult to conclude an investigation.

There is an obligation for the Respondent to receive a copy of the report when it is filed. It is not common to provide the full report. It makes it more difficult to provide confidentiality. An alternative is for the Investigator to prepare a summary to be provided to the Respondent that includes the relevant details of the findings and why.

Subsection vii. Is confusing in bullet 4. It refers to the Clerk adjudicating validity and imposing sanctions, yet if the complaint is about a Councillor it is only Council that has the authority to make those decisions. This section could be subdivided for Staff and Council Members.

I conclude that there are areas of improvement for the By-Law and Policy that could be made. I have provided a brief description of these areas above.

RECOMMENDATIONS

This Review was prepared to provide an analysis and conclusions. Those are found throughout the Report.

There is one outstanding issue to address. I am required by the Conflict and Complaint Resolution Procedure Policy to provide recommendations for appropriate sanctions as a result of the conclusions reached in the Investigator's Report of March 9, 2023.

I had previously recommended that this issue be deferred until this Report was complete and filed.

Sanctions

Council has already imposed sanctions on Councillor Septon for repeated violations of the Code of Conduct By-Law. Despite the sanctions already imposed, Councillor Septon continues to disagree with and disregard the By-Law. Generally, Section 3.h) provides that sanctions should be more serious as a result of the previous violations.

I do not believe that Councillor Septon will change his behaviour willingly based on my observations to date. I do believe that he does not understand his role as a Councillor versus the role of Council. I do not believe that he has a solid understanding of appropriate, respectful and professional communication. I do not believe that he has a solid understanding of the complex processes that municipalities must follow including those for budget and other functions.

My recommendations include some punitive measures but more restorative and remedial measures. I am not confident that just punitive measures will bring about positive change.

For these reasons I provide the following recommended sanctions for consideration.

1. Continued suspension of remuneration for another six-month period;
2. Continued removal from Committees of Council;
3. A requirement for regular, confidential meetings with the Mayor and Deputy Mayor for ongoing support and mentoring;
4. A requirement for six months of coaching by a professional leadership coach to address his communication style and to provide training and education on respectful workplace behaviours;

5. A requirement for extensive training on the role of Councillors, the role of Council, and the municipal processes that are required to be followed; and
6. A requirement to participate in mandatory workplace restoration sessions with an external mediator.

Respectfully submitted,

Rollie King
MC Advisory

APPENDIX A

Councillor Pat Septon

Subject: Recordings of Council Meetings

Ex.	Date	Subject	Code of Conduct violation
A	Nov 4-22	Councillor MacKenzie asked Clerk to add the recording of council meetings on the either the information session notes or the agenda for the next council meeting. Councillor Septon took this information that was not public yet and stated "I have just been informed that there will be a motion to stop recording council sessions, and will be supported by at least 2 council members".	Confidentiality- Section 6a. "To disclose, either directly or indirectly, release, make public or in any way divulge any such information (verbal or written) or any aspect of the "Closed Session" deliberations to anyone, unless expressly authorized by Council or required by-law to do so.
B	Nov 5-22	Mayor Morrison requested that you take down the post as the agenda had not been finalized and the email correspondence was between Council and staff. A response from Councillor Septon stated "While your actions may have cost me my job last time, it won't happen this time. Be aware, any action taken against me will be public, if any action is taken, please ensure you do it correctly this time around, as it will be brought higher".	Conduct Respecting Staff/Council- Section 12g. "Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expression toward another member, any staff of the community, or any member of the public."

Councillor Pat Septon

Subject: Hanwell Park Academy

Ex.	Date	Subject	Code of Conduct violation
A	July 9-22	<p>Stating in a post on the Residents of Hanwell site that “the vast majority of people will be bussed during school hours”. When questioned on it by a constituent you stated that “if someone stated that at council they errored”</p> <p>It was stated during the meet and greet and was also tweeted by yourself on April 26 that all students would be bussed.</p>	<p>Communicating on Behalf of the Community-11e. “No member of Council shall make a statement when they know that that statement to be false.”</p> <p>Use of Social Media- 16c. “No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.”</p>
B	August 31-22	<p>Email council, re: school. Email was written with sarcastic undertones, and with the perception that the Clerk and Councillor MacKenzie had no compassion for the child who was struck by a vehicle. This was not the case as the Clerk was merely explaining the false information provided by the constituent.</p>	<p>Conduct Respecting Staff/Council- Section 12c. “No member of council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council</p>
C	September 7-22	<p>Social media post as a councillor providing false information (that the principal, recommended that council not build the trail and that DTI and the RCMP did not want it built)</p>	<p>Use of Social Media- 16c. “No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.”</p> <p>Use of Social Media- 16d. “Where members provide a personal view or opinion on social media, members should take steps to ensure that such personal views or opinions are not construed to be those of the Rural Community of Hanwell as a whole and/or that such personal view or opinion does not accurately reflect the decisions of council or bring the decision-making process of Council into dispute.”</p>

Ex.	Date	Subject	Code of Conduct violation
D	Sept 8-22	<p>Email to the Principal Pierre Plourde re: bike racks.</p> <p><i>Principal Pierre Plourde forwarded the email to the Clerk and the Mayor.</i></p>	<p>Respectful Workplace- “All members of Council have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying, or intimidation, and to ensure that their work environment is free from discrimination and harassment. Members of Council must ensure compliance with the New Brunswick Human Rights Commission and WorkSafe NB”</p>
E	Sept 8-22	<p>Social media post criticizing the Principal in public. “I take great issue with the Principal not wanting us to work towards and advocating against a safe means for our children, but preparing for them to cross regardless (As I do DTI and the RCMP)</p> <p>An email was sent to Pierre Plourde after the social media post “I, like many are gravely concerned about the safety of the kids crossing and the blind hill coming from Mazerolle direction. You can see my frustration, you were working against the Minister of Transportation’s guidelines to achieve safety!</p> <p><i>Principal Plourde responded by email “Again, I am simply disappointed that you never spoke to me directly about this”</i></p>	<p>Respectful Workplace- “All members of Council have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying, or intimidation, and to ensure that their work environment is free from discrimination and harassment. Members of Council must ensure compliance with the New Brunswick Human Rights Commission and WorkSafe NB”</p> <p>Use of Social Media- 16a. “Once posted on social media, any material or comment is accessible to anyone with an internet connection. Furthermore, the content can never be effectively removed. As public figures and representatives of the Rural Community of Hanwell, members should act with discretion and be judicious in what material they post on social media. As with any other communication, members are accountable for content and confidentiality. Care should be exercised in debates or comments on contentious matters, as feelings and emotions can become inflamed very quickly.</p> <p>Use of Social Media- 16c. “No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.</p>

Ex.	Date	Subject	Code of Conduct violation
F	Sept 9-22	Social media post criticizing the Principal in public. "Yet Hanwell Park Academy's Principal expressed his opinion against having a trail to the school so we could advocate the province for a cross walk. This opinion evidently affected our vote as to why we didn't need a trail. What was the Principals plan for the childrens safety!!!"	Use of Social Media- 16c. "No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.
G	Sept 19-22	Principal Pierre Plourde emailed Mayor Morrison and Clerk stating that Councillor Septon was asking for a public statement from him. "This was after posting something on facebook asking that I make a public statement- he is blocked from all of the school's social media....a friend shared with me his post that was full of errors....I have since deleted and cannot get it because he is blocked."	Use of Social Media- 16c. "No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.

Councillor Pat Septon

Subject: Closed Session, re: contracts

Ex.	Date	Subject	Code of Conduct violation
A	Sept 7-22	A special meeting of council was held on Sept 7 th to discuss the possible renewals of garbage, recycling contracts so that we would have the prices for the budget. This was in closed session. Councillor Septon posted on his facebook page the results of the garbage collection going to tender before the Clerk had a chance to notify the contractors.	Interpersonal Behaviour- 13a. Treat every person with dignity, understanding and respect: Members of Council shall abide by the provisions of the <i>Human Rights Act</i> and, in doing so, shall treat every person including other members of Council, committees, boards, municipal staff, individuals providing services on a contract basis, and the public with dignity, understanding, and respect.”
B	Sept 8-22	An email to Council regarding the process of the Closed Meeting of Council. Councillor Septon stated in an accusatory tone that the Clerk did something wrong. “As normal, I don’t expect recourse or you to care. But for the record, I formally recommend an external review of last nights procedures as I feel it is just wrong.”	Respectful Workplace- All members of Council have a duty to treat members of the public, one another, and staff with respect”
C	Sept 9-22	Councillor Septon emailed the Clerk “Please let me know when it is acceptable to share the public meeting portion of our meeting. When it is no longer a secret. I dislike the secrecy obviously. Thank you.	Conduct Respecting Staff/Council Section 12g. “Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public.
D	Sept 9-22	After discussing the closed session process with Councillor Septon and providing him an email from Brenda Knight-Municipal Advisor stating that the Clerk handled the closed session correctly, Councillor Septon replied “Once again, you can do no wrong, and the hours spent trying to make me the bad guy. Openness and transparency means something different to me than you guys (<i>insinuation staff and council</i>)	<p>Conduct Respecting Staff/Council Section 12g. “Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public.</p> <p>Interpersonal Behaviour- 13a. Treat every person with dignity, understanding and respect: Members of Council shall abide by the provisions of the <i>Human Rights Act</i> and, in doing so, shall treat every person including other members of Council, committees, boards, municipal staff, individuals providing services on a contract basis, and the public with dignity, understanding, and respect.”</p>

E	Sept 9-22	Once again Councillor Septon emailed the Mayor, Deputy Mayor and Clerk stating again “And please let me know when our public vote is no longer secret. Garbage collection is in public interest.”	Conduct Respecting Staff/Council Section 12g. “Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public.
F	Sept 9-22	An apology email sent to the Clerk “I don’t believe we were right in anyway in what we did, but I was wrong to share publicly if for no other reason because I realized this was rushed and I could have waited another day.”	

Councillor Pat Septon

Subject: Policies & By-Laws

Ex.	Date	Subject	Code of Conduct violation
A	July 7-22	Email sent to Governance Committee stating that he, Councillor Septon, needs to check the work done by the committee "I would have to review all our work to see what other changes if anything else were done. Do we do this a lot? Should we do an audit? Like a list of other arbitrarily changed motions/laws/policies?"	Conduct Respecting Staff/Council- Section 12c. "No member of council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council
B	July 8-22	Accusing Asst Clerk of Falsifying documents in an email to all of Council and Staff without any merit or prior issues and/or a discussion with the Asst Clerk first.	Conduct Respecting Staff/Council- Section 12c. "No member of council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council
C	July 12-22	The Assistant Clerk responded to the accusation with an explanation that it was a clerical error. Councillor Septon once again responded to Council and Staff in an accusatory tone that he felt the changes seemed intentional. "I am not interested in a he said she said. Please see thread below. The changes to the by-law seems intentional"	Conduct Respecting Staff/Council- Section 12c. "No member of council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council
D	July12-22	Councillor responded "I may add, I should not be attacked for challenging issues/methodologies. Especially when those process turned out to be wrong. Though the attack on me was as predictable. I look forward to the Mayor's and Clerk's office to be used as a club against me again for pointing it out".	Conduct Respecting Staff/Council Section 12g. "Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public.

Councillor Pat Septon

Subject: Solar System/Councillor MacKenzie/Resident

Ex.	Date	Subject	Code of Conduct violation
A	July 7-22	<p>A meeting was held between Councillor Septon and resident [REDACTED] discussing various items. An email was sent to Mayor, Council and Staff stating "I wanted to ensure I did my due diligence on the Solar project. To be clear, I stated emphatically Councillor MacKenzie isn't a direction I would entertain. He is above board and I would argue probably paid more than I would." The complaint against Councillor MacKenzie was being investigated by the Mayor and Clerk and no comment should have been made before it officially went to council.</p>	<p>Confidentiality- Section 6c. "To disclose to unauthorized persons confidential information to which the member of Council has access by reason of his/her position as a member of Council within the Community.</p>

Redaction pursuant to s. 21(1) of the RTIPPA

Councillor Pat Septon

Subject: Budget Process

Ex.	Date	Subject	Code of Conduct violation
A	Oct 27-22	<p>A discussion regarding the budget was being done via email. Councillor Septon had asked for each councillor to be allocated funds to do projects in the community. These would be similar to donations. At the budget meeting Council and the advisory committee stated they didn't think it was ethical or legal, so we increased the donation budget to provide councillors with additional funding if organizations needed it. <i>Councillor Septon was not at this budget meeting.</i></p> <p>On Oct 27th, he sent an email to the Mayor and Clerk "I have no say in the budget! The only thing I wanted was to separate the charitable givings by councillor, so I wouldn't be put in a position again where I had to vote so as you (<i>the Clerk</i>) and the deputy mayor to have 10% of our charity/community budget so you can have a private party on a boat in Yoho, while I was trying to get the vote for a safe passage for kids to cross the highway to get to our facilities."</p> <p>"This budget is yours, the Mayor's, but arguably absolutely more so the Province's. Because I wasn't even in the room for checks and balances. The only meeting I was at, it would you and Greg telling us what you were doing. I heard the second one was the same as I was down the hall in another meeting. I could have asked for a donkey for every home, but if we are not in the room reviewing how it affects the budget, what difference does it make"</p>	<p>Conduct Respecting Staff/Council- Section 12c. "No member of Council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council.</p> <p>Conduct Respecting Staff/Council- Section 12f. "Members shall respect the role of staff as a corporate body who are in charge with making recommendations that reflect their professional expertise and a corporate perspective, providing advice and analyses, implementing Council decisions, and carrying out their daily responsibilities as required under the <i>Local Governance Act</i>, and that staff are expected to do so without undue influence from any member or group of members.</p>

APPENDIX B



By-Law No. 16-2019

A By-Law Establishing the Code of Conduct for Council

Pursuant to subsection 10(2)(b) of the *Local Governance Act*, SNB 2017, c.18, amendments thereto and regulations adopted thereunder, the Council of the Rural Community of Hanwell hereby enacts as follows:

1. TITLE

This By-Law may be referred to as the "Code of Conduct By-Law".

2. PURPOSE

The Rural Community of Hanwell Code of Conduct has four main purposes:

- a) To set out clear expectations of behaviour of members of Council;
- b) To provide information to the public as to the behaviour they can expect from members of Council;
- c) To provide guidance to members of Council in how they conduct their duties as council members; and
- d) To provide a process for responding to alleged breaches of the Code.

3. DEFINITIONS (AMENDED May 18, 2022)

For the purposes of this By-Law:

"Act" means the *Local Governance Act* (SNB 2017, c 18) and amendments. (Added May 18, 2022)

"Community" means the Rural Community of Hanwell.

"Community Resources" includes but is not limited to all real and personal property, vehicles, facilities, equipment, supplies, services, documents, and computer programs belonging to the community.

"Complainant" means the party who makes the complaint. (Added May 18, 2022)

"Members of Council" means a member of Council and includes the Mayor, Deputy Mayor and Councillors, and may be referred to as "members" herein.

"Respondent" means the person who has had a complaint made against them. (Added May 18, 2022)

"RTIPPA" means the *Right to Information and Privacy Protection Act*, c.R-10.6 and assorted regulations as amended.

"Social Media" means web-based applications such as Facebook, Twitter, etc. and on-line forums that allow users to interact, share, and publish content such as photographs, text, audio and video.

"Staff" means the Clerk and/or an employee or employees who work for the community as a corporate body and are under the direction of the Clerk.

4. DUTY OF COUNCIL

Members of Council are held to a high standard as leaders of the community and as such, they are expected to be well informed on all aspects of municipal governance, administration, planning, and operations. They need to carry out their duties in a fair, impartial, transparent, and professional manner.

5. RESPONSIBILITIES

This Code applies to all members of Council. It is the responsibility of council to be aware of and comply with the Code of Conduct.

- a) Members of Council will conduct their duties with integrity, accountability, and transparency.
- b) Members of Council are to act honestly, with reasonable care, and exercise due diligence in the performance and discharge of official functions and duties.
- c) Members of Council understand that the public has a right to transparency in decision making.
- d) Members of Council will at all times serve the interests of the community in a conscientious and diligent manner.
- e) Members of Council will avoid the improper use of the influence of their office.
- f) Members of Council shall not attempt to influence or interfere with employees, officers, or other persons performing duties, either directly or indirectly, financially, politically, or otherwise, under the *Provincial Offences Procedure Act*, SNB 1987, c P-22.1.

6. CONFIDENTIALITY

Every Council member must hold in strict confidence all information of a confidential nature acquired in the course of his/her term with the community. Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- a) Using confidential information, which is not available to the general public, and to which members of Council have access by reason of his/her position with the community to further his/her personal interests or the interests of others.
- b) To disclose, either directly or indirectly, release, make public or in any way divulge any such information (verbal or written) or any aspect of the "Closed Session" deliberations to anyone, unless expressly authorized by Council or required by-law to do so.
- c) To disclose to unauthorized persons confidential information to which the member of Council has access by reason of his/her position as a member of Council within the Community.
- d) Council shall comply with the RTIPPA at all times. Public comments, discussions, and disclosures to the media regarding employees of individuals that breach a person's privacy, is deemed to be contrary to this Code of Conduct.

7. CONFLICT OF INTEREST

Conflict of Interest shall be governed by the community's "By-Law Respecting the Proceedings of Council and Administration", #01-2014.

8. CONDUCT AT COUNCIL/COMMITTEE MEETINGS (AMENDED May 18, 2022)

Members of Council must conduct themselves with decorum at all Council and committee meetings in accordance with the provisions of the Procedural By-Law and this Code of Conduct.

Any member of Council found to be out of order may be asked to leave the meeting and further suspensions may occur. (ADDED May 18, 2022)

9. RESPECT FOR DECISION-MAKING PROCESS

Members of Council must not attempt to influence the decision-making process as it relates to the award of contracts or settlement of claims through personal contact or interaction with the parties administering or directly involved in the process.

10. RESPECTFUL WORKPLACE

All members of Council have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying, or intimidation, and to ensure that their

work environment is free from discrimination and harassment. Members of Council must ensure compliance with the New Brunswick Human Rights Commission and WorkSafe NB.

11. COMMUNICATING ON BEHALF OF THE COMMUNITY

- a) A member must not claim to speak on behalf of Council unless is authorized to do so.
- b) Unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor, it is the Deputy Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
- c) A member who is authorized to act as Council's official spokesperson must ensure that their comments accurately reflect the official position and will of Council as a whole, even if the member personally disagrees with Council's position.
- d) Members must keep in mind that they are always a representative of the Rural Community of Hanwell, including when engaging in social media activities, and Members are encouraged to identify when views expressed are theirs alone and not official municipal communication.
- e) No member of Council shall make a statement when they know that statement to be false.
- f) No member shall make a statement with the intent to mislead Council or members of the public.

12. CONDUCT RESPECTING STAFF/COUNCIL (AMENDED May 18, 2022)

- a) Members of Council as a whole have the authority to approve budget, policy, committee processes, and other such matters.
- b) Staff serves the Council as a whole and the combined interests of all members as evidenced through the decisions of Council.
- c) No member of Council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council.
- d) No member of Council shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing such activities.
- e) Council shall not use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with intent of interfering with the person's duties including the duty to disclose improper activity.

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- f) Members shall respect the role of staff as a corporate body who are charged with making recommendations that reflect their professional expertise and a corporate perspective, providing advice and analyses, implementing Council decisions, and carrying out their daily responsibilities as required under the *Local Governance Act*, and that staff are expected to do so without undue influence from any member or group of members.
- g) Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public.

13. INTERPERSONAL BEHAVIOUR

- a) Treat every person with dignity, understanding and respect:

Members of Council shall abide by the provisions of the *Human Rights Act* and, in doing so, shall treat every person including other members of Council, committees, boards, municipal staff, individuals providing services on a contract basis, and the public with dignity, understanding, and respect. Everyone has the right to an environment free from harassment and discrimination.

- b) Discrimination:

Members of Council shall not discriminate against anyone on the basis of their age, marital status, family status, creed or religion, physical disability, mental disability, race, colour, ancestry, place of origin, national origin, social condition, political belief or activity, sexual orientation, gender identity or expression, and sex (including pregnancy).

- c) Harassment:

In accordance with the *Human Rights Act*, harassment shall mean engaging in vexatious comment or conduct that is known or ought to have been known to be unwelcome. Without limiting the generality of the foregoing, members of Council shall not:

- Make racial, homophobic, sexist or ethnic slurs;
- Display pornographic, homophobic, sexist, racist or other offensive or derogatory material;
- Make leering (suggestive staring) or other offensive gestures;
- Make written or verbal abuse threats;
- Vandalize the personal property of others;
- Commit physical or sexual assault;

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- Make unwelcome remarks, jokes, innuendos or taunting statements about a person's physical appearance, age, marital status, family status, creed or religion, physical disability, mental disability, race, colour, ancestry, place of origin, national origin, social condition, political belief or activity, sexual orientation, gender identity or expression, and sex (including pregnancy);
 - Make unwelcome remarks, insulting gestures or jokes which cause embarrassment or awkwardness;
 - Refuse to converse or interact with anyone because of their racial or ethnic background, colour, creed, sex, sexual orientation, age, record of offenses, marital status, same-sex partnership status, family status or disability;
 - Make unnecessary or unwanted physical contact, including touching, patting, or pinching; and
 - Demand sexual favours or requests.

14. GIFTS, BENEFITS, AND HOSPITALITY

Members of Council are expected to represent the public and the interests of the community and to do so both impartially and objectively. The acceptance of a gift, benefit or hospitality can imply favoritism, bias, or influence. There are times when the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of an elected official. Members of Council shall not accept gifts that would appear to be in gratitude for influence or to induce influence.

Members of Council are not precluded from accepting the following:

- a) Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee for speaking at an event or for representing the community at an event;
- b) A political contribution under the *Municipal Elections Act*;
- c) Food and beverages at meetings, banquets, receptions ceremonies or similar events;
- d) Food, lodging, transportation and entertainment provided by other levels of government, by other local government or by local government boards or commissions;

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- e) A stipend from a board or commission that the Councillor serves on as a result of an appointment by Council;
 - f) Reimbursement of reasonable expenses incurred in the performance of office;
 - g) Reimbursement of reasonable expenses incurred, and honorariums received in the performance of activities connected with municipal associations;
 - h) Communications to the offices of a member, including subscriptions to newspapers and periodicals; or
 - i) Gifts of a nominal value, (e.g. baseball cap, t-shirt, flash drive, book, etc.).

The stipend paid to each member of Council is intended to fully remunerate members of Council for service to the community.

15. USE OF LOCAL GOVERNMENT PROPERTY, RESOURCES AND SERVICES

- a) No member of Council shall make use of, or permit the use of, any premises owned by the Rural Community of Hanwell, staff, or other resources (computers, net works, websites, social media) other than for carrying out the business of the Rural Community of Hanwell.
- b) Members of Council shall avoid waste and extravagance in the provision or use of the Rural Community of Hanwell's resources or property.
- c) Members of Council shall not use the facilities, equipment, supplies, services, or other resources of the Rural Community of Hanwell for any election campaign or campaign-related activities on community property.

16. USE OF SOCIAL MEDIA (ADDED May 18, 2022)

- a) Once posted on social media, any material or comment is accessible to anyone with an internet connection. Furthermore, the content can never be effectively removed. As public figures and representatives of the Rural Community of Hanwell, members should act with discretion and be judicious in what material they post on social media. As with any other communication, members are accountable for content and confidentiality. Care should be exercised in debates or comments on contentious matters, as feelings and emotions can become inflamed very quickly.
- b) No member shall attempt to disguise or mislead as to their identity or status as an elected representative of the Rural Community of Hanwell when using social media, or otherwise.

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- c) No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.
 - d) Where members provide a personal view or opinion on social media, members should take steps to ensure that such personal views or opinions are not construed to be those of the Rural Community of Hanwell as a whole and/or that such personal view or opinion does not accurately reflect the decisions of Council or bring the decision-making process of Council into dispute.

17. COMPLIANCE WITH THE CODE OF CONDUCT (ADDED May 18, 2022)

- a) Members are expected to adhere to the provisions of this Code.
- b) This By-law is intended to be self-enforcing. It establishes standards of conduct for members. Members shall be thoroughly familiar with and adhere to the By-law thereby enhancing public confidence in the local government by acting with integrity, respect, accountability, leadership, collaboration, public interest, and transparency.
- c) Council does not have the authority to disqualify or remove a member from office; only a court of competent jurisdiction or the Minister of Environment and Local Government can do so. Council does, however, have the right to sanction a member, provided that the member continues to have sufficient access to information and services so as to be able to carry out their duties as a member.
- d) Persons who have reason to believe that this Code has been breached in any way are encouraged to bring their concerns forward. No member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person who, in good faith, provides relevant information in relation to a possible violation of this Code.
- e) Any reported violations of this Code will be subject to an investigation by Council.
- f) Complaints shall be dealt with by Council in accordance with the process set out in the Conflict and Complaint Resolution Procedure Policy.

18. STATEMENT OF COMMITMENT (ADDED May 18, 2022)

Members acknowledge the importance of the principles contained in this Code which will be self-regulated by Council. Members are required to sign a "Statement of Commitment to the Code of Conduct" (Schedule "A") within seven (7) calendar days of this By-Law coming into force, and then within seven (7) calendar days of taking the oath of office pursuant to Section 58 of the *Local Governance Act*.


19. SEVERABILITY (ADDED My 18, 2022)

If a court of competent jurisdiction declares any portion of this bylaw invalid, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

20. ENACTMENT

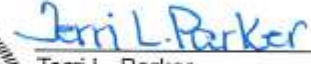
In case of any conflict between this By-Law and the Act, the latter shall prevail. This By-Law shall come into effect on the date of enactment there from:

FIRST READING: (By title)	<u>November 20, 2019</u>
SECOND READING: (By title and in its entirety)	<u>November 20, 2019</u>
THIRD READING AND ENACTMENT: (By title)	<u>December 18, 2019</u>
AMENDMENT:	<u>July 15, 2020</u>
AMENDMENT:	<u>May 18, 2022</u>



Dave Morrison,
Mayor





Terri L. Parker,
Clerk

SCHEDULE "A"

STATEMENT OF COMMITMENT TO THE CODE OF CONDUCT OF
MEMBERS OF COUNCIL

I, (Full Name) _____ declare that as a member of the Rural Community of Hanwell Council, I have read, support and acknowledge I am bound to follow By-Law #16-2019 "A By-Law Establishing the Code of Conduct for Council.

Signed: _____

Declared this _____ day of _____, 20__

Before me:

Clerk

APPENDIX C



Policy #2022-08

Conflict and Complaint Resolution Procedure Policy

Policy Objective:

To establish a procedure for Council of the Rural Community of Hanwell ("Council"), for addressing conflicts and complaints between Council members, between staff, between Council members and staff, between the public and either Council members or staff, under By-Law 16-2019, "A By-Law Establishing the Code of Conduct for Council", adopted and enacted on December 18, 2019.

Policy Statement:

Under Canadian administrative law, an administrative decision-maker, such as Council, has broad discretion to determine its own procedure for making decisions. Accordingly, the procedure set out below is subject to Council approval and modification as necessary.

The procedure suggested below is intended to be consistent with:

- By-Law 16-2019 (A By-Law Establishing a Code of Conduct for Councillors)
- By-Law 01-2014 (A By-Law Respecting the Proceedings of Council and Administration)
- Local Governance Act, SNB 2017, c. 18
- Other Human Resources requirements; and
- General legal principles of procedural fairness and natural justice.

Procedure:

1. Informal Complaint Process

Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying conduct that they believe violates the code of conduct. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint.

Any person who has identified or witnessed conduct by a member of Council or staff and that person reasonably believes, in good faith, the individual is in contravention of this By-law or other legislated obligations may address the prohibited conduct by:

- a) Advising the individual that the conduct violates this Code and human resources policies and encouraging the individual to stop.

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- b) Make a request to the Clerk to assist in informal discussion of the alleged complaint with the individual in an attempt to resolve the issue.
 - c) The Clerk may offer to facilitate the resolution of the complaint; if the Clerk is unable to assist for any reasons, he/she may offer the assistance of a professional mediator.
 - d) In the event that the Clerk is the subject of, or is implicated in a complaint, the person may request the assistance of the Mayor.

2. Formal Complaint Process

- a) Anyone who has identified or witnessed conduct by a member of Council or staff that the person reasonably believes, in good faith, is in contravention of this By-Law or other legislated obligations is encouraged to attempt resolution using the informal complaint process prior to filing a formal complaint.
- b) If informal resolution is not desired, not appropriate or has been attempted without success, a confidential formal complaint may be filed in accordance with the following procedure:
 - i. All formal complaints shall be made in writing to the Clerk and shall be dated and signed. In the event that the Clerk is subject, or is implicated in a complaint, the person shall address their complaint to the Mayor.
 - ii. The formal complaint must set out reasonable and probable grounds for the allegation that the individual has contravened this By-Law, other legislative obligations, or relevant policies, including a detailed description of the facts, as they are known which gave rise to the allegation. Formal complaints can be submitted utilizing the form in Schedules "A" and "B" attached.
 - iii. Upon receipt of a formal complaint, the Clerk shall consider the following in determining whether the complaint shall be investigated:
 - Whether the complaint falls within the jurisdiction of this By-Law, other legislative obligations or relevant policies;
 - Whether there are sufficient grounds for an investigation; and
 - Whether the complaint is frivolous, vexatious, or not made in good faith.
 - iv. If it is determined that a complaint shall not be investigated, the Clerk will advise the complainant in writing outlining the reasons not to proceed and the file will be closed.
 - v. If the Complainant disagrees with the findings from the Clerk, the Complainant can file a letter of appeal with the Mayor and/or Deputy Mayor and the Mayor will

have the item placed on the agenda at the next-meeting of Council under closed session and Council shall determine the validity of the complaint. (Amended September 21, 2022)

- a. if it is determined that a complaint shall be investigated, the Clerk shall appoint an outside investigator to conduct an independent investigation and the respondent shall be notified of such complaint.
- vi. If the Respondent disagrees with the findings from the Clerk, the Respondent can file a letter of appeal with the Mayor and/or Deputy Mayor and the Mayor or Deputy Mayor will have the item placed on the agenda at the next meeting of Council under closed session and Council shall determine the validity of the complaint. (Amended September 21, 2022)
 - a. At this meeting, Council will determine whether to appoint an external investigator or panel to investigate the formal complaint to determine if the individual has violated the By-Law.
 - vii. If an external investigation is warranted:
 - The investigator must report back to the Clerk on appropriate censure, sanctions, or corrective action (if applicable) within 30 days of receiving the complaint.
 - If the facts, as reported, include the names of one or more individuals who are alleged to have breached the By-Law or other legislated obligations, the individual (s) concerned shall receive a copy of the complaint submitted to the investigator, subject to RTIPPA.
 - An investigator appointed by the Clerk shall review the complaint and shall take such steps as he/she may consider appropriate, including conducting interviews of Council members, staff or members of the public that are relevant to the complaint and may seek legal advice in appropriate circumstances. Information received during interviews may be in person or in writing. An investigator shall make all reasonable efforts to conduct their investigation on a confidential basis. The investigator will submit any supporting material to the individual whose conduct is in question with a request that a written response to the allegation, be received within 10 business days. A copy of the response shall be provided to the complainant with a request for a written reply within 10 business days.
 - While, ultimately, the Clerk adjudicates the validity of any complaint and/or imposes the resulting sanction, if any, the investigator shall, upon conclusion of the investigation, provide the Clerk including the individual who is the subject of the complaint, with a written report outlining the conduct of the investigator's investigation, including any conclusion reached by the investigator on the validity of the complaint and their recommendation of an appropriate sanction, if any. This report shall be provided to the Clerk within 30 days of receipt of the complaint.

- An individual who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before the clerk deliberates and makes any decision on the validity of the complaint and/or any sanction is imposed. The response must be received within 10 business days of receipt of the investigator's conclusions.
- An individual who is the subject of a complaint is entitled to be represented by legal counsel, at the individual's sole expense.

3. Sanctions and Consequences (Council)

- a) Should a breach have been deemed to have occurred consequences for said breach may include action deemed necessary by Council through a majority vote, and may include, but not limited to, the following:
- i. Removal from membership and/or as chair of Committees either permanently or for an interim period;
 - ii. Barring the member of Council from attending at closed session meetings either permanently or for an interim period;
 - iii. Barring the member of Council from being circulated/informed of confidential matters/materials;
 - iv. Demand of a public apology, either written or verbal;
 - v. A verbal or written retraction of what was said/written;
 - vi. Expulsion from the meeting room for the remainder of the meeting;
 - vii. Letter of reprimand addressed to the member;
 - viii. Public reprimand through a motion of censure;
 - ix. A requirement to attend training;
 - x. Required return of municipal property or reimbursement of its value;
 - xi. Restricted access to municipal facilities, property, equipment, services and supplies;
 - xii. Restrictions on contact with staff;
 - xiii. Restriction on travel and representation on behalf of Council;
 - xiv. Restrictions on how documents are provided to the member (i.e., no electronic copies, only watermarked paper copies for tracking purposes); and/or

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- xv. Reduction or suspension of the individual's remuneration as council may deem appropriate.
 - xvi. Any combination of any of the above.
- b) All breaches under this By-Law will be treated fair and in keeping with the severity of the infraction, the individual's past conduct will be taken into consideration.
 - c) In deciding which consequence(s) to impose, Council shall consider the potential consequences listed above, but shall not be limited to those consequences.
 - d) Once this has been determined, Council shall call in the complainant and respondent to inform them of their decision, including the reasons for reaching that decision. Reasons shall be provided by a delegate from among the majority of Council.
 - e) Minutes of this Closed Session meeting, including a summary of all evidence provided, all submissions made to Council, and a summary of Council's reasons for the decision, shall be kept, but shall not be made public and shall be retained by the Rural Community for a period of 7 years, in accordance with the Municipal Records Authority, following the end of the Closed Session meeting.
 - f) The Breach shall be validated in open session of Council.
 - g) Council shall endeavor to impose consequence(s) that are fair and in keeping with the nature and severity of the breach(es) of the Code of Conduct. Prior breaches of the Code of Conduct by the individual may be considered as aggravating factors which may justify more serious consequences for a subsequent breach.
 - h) If a finding of a breach of the Code of Conduct has been made by Council, the matter shall be placed on the agenda of the next Open Session of a Council Meeting, to have the following information recorded in publicly available meeting minutes:
 - That Council has found the member to be in Breach of the Code of Conduct;
 - The section of the Code of Conduct that was breached; and
 - The consequences imposed on the member.
 - i) This by law is self-enforcing, however, should a member of Council not comply with the imposed consequences or penalties to the breach of the Code of Conduct, the following actions may be taken:
 - Suspension of remuneration paid to the member of Council; prorated until such time as the member of Council complies;
 - removal from membership and/or as chair of all committees either permanently or for an interim period;

- any combination of any of the above.

4. Sanctions and Consequences (Staff)

- a) Should a breach have been deemed to have occurred consequences for said breach will be actioned by the Clerk following the Rural Community of Hanwell Human Resources Policy, when approved.

5. Mutual Resolution of Complaints

- At any time after a complaint is submitted, and before a dedicated meeting is held to hear evidence regarding the complaint, the complainant and respondent may mutually agree to resolve the complaint.
- Should either party wish to propose a resolution to the complaint, they may discuss potential resolution amongst themselves and/or their respective legal counsel, or they may submit a proposal to the Clerk, who shall send the proposal to the other party.
- In the event that the parties agree on a proposed resolution, the terms of the resolution shall be documented in writing and provided to the Clerk, at which time the Clerk shall remove the complaint from the agenda of the next Meeting of Council, or, if a dedicated meeting has been scheduled to hear evidence regarding the complaint, cancel the meeting.
- If the terms of the resolution are not followed, a party may so inform the Clerk, who may return the complaint matter to the agenda of the next scheduled Meeting of Council.

Original Date of Adoption by Council: July 20, 2022

Date of Revision Approved by Council: Sept 21, 2022

Mayor's Signature: *[Signature]*

Clerk's Signature: *Jenni L Parker*



SCHEDULE "A"

Formal Complaint Form - Member of Council

Complainant Information:

Name:	_____
Residence:	_____
Mailing Address:	_____
Phone Number:	_____
Email Address:	_____
Please Note: This form may be sent to the member (s) of Council; supporting documentation relevant to this complaint may be sent to the member (s) of Council; this form and supporting documents may be sent to an external investigator.	

Member(s) of Council in Question:

Rule(s) of the Code of Conduct believed to have been contravened:

Outline the details of your Complaint. Include names of any witnesses.

Use additional pages, as necessary.

Provide clear and specific information. If you refer to any documents, please attach copies of these documents to this Complaint Form:

Complainant's Signature: _____

Date: _____

SCHEDULE "B"
Formal Complaint Form - Staff

Complainant Information

Name:	_____
Residence:	_____
Mailing Address:	_____
Phone Number:	_____
Email Address:	_____
Please Note: This form may be sent to the respondent; supporting documentation relevant to this complaint may be sent to the respondent; this form and supporting documents may be sent to an external investigator.	

Outline the details of your Complaint. Include names of any witnesses.
Use additional pages, as necessary.
Provide clear and specific information. If you refer to any documents, please attach copies of these documents to this Complaint Form:

Complainant's Signature: _____

Date: _____

APPENDIX D

DOCUMENT	DATE
LEGISLATION	
<i>Local Governance Act, SNB 2017, c18</i>	
<i>Right to Information and Protection of Privacy Act, SNB 2009, cR-10.6</i>	
BY-LAWS - HANWELL RURAL COMMUNITY	
A By-Law Establishing the Code of Conduct for Council	
A By-Law Respecting the Proceedings of Council and Administration	
A By-Law Respecting the Remuneration of Mayor and Councillors	
COUNCIL MEETING MINUTES - HANWELL RURAL COMMUNITY	
Minutes of Regular Meeting of Council	May 18, 2022
Minutes of Regular Meeting of Council	July 20, 2022
Minutes of Regular Meeting of Council	September 21, 2022
POLICIES	
Policy #2022-08 Conflict and Complaint Resolution Procedure Policy	
CORRESPONDENCE	
Letter to Councillor Septon - Defamatory Comments - Removal from Committees	February 11, 2022
Letter to Councillor Septon - Allegations of Code of Conduct Violations	November 10, 2022
Letter to Councillor Septon - Notice of Formal Complaint (incl. Complaint)	February 7, 2023
Letter from Clerk - Code of Conduct Allegations against Councillor Septon	December 5, 2022
Letter from CAO to N. Couturier - RTIPPA Request #8	January 25, 2023
Letter from CAO to Councillor MacKenzie regarding Formal Complaint	January 27, 2023
Letter from N. Couturier to Council - Allegations against Councillor Septon	February 16, 2023
EMAILS/EMAIL THREADS	
Email thread related to removal from Council Committees	February 11, 2022
Email thread - To Council - Removal from Council Committees	February 14, 2022
Email thread related to defamation of character accusation	February 16, 2022
Email thread related to Harassment Complaint	February 18, 2022
Email and attachment - Code of Conduct draft and policy draft	February 18, 2022
Email thread related to Harassment Complaint	February 20, 2022
Email thread related to Harassment Complaint	February 23, 2022
Email from Mayor to Council - Resolution of Harassment Complaint	February 28, 2022
Email thread related to dissolution of Transportation Committee	March 21, 2022
Email thread related to Council Motion - By-Law amendment	May 20, 2022
Email thread related to By-Law error	July 7, 2022

Email from Clerk related to By-Law error	July 12, 2022
Email thread related to By-Law error	July 13, 2022
Email Response from Councillor Septon to Mayor/Deputy Mayor - By-Law error	July 13, 2022
Email thread related to solar array questions	August 17, 2022
Email Thread from Councillor Septon to Principal - Sidewalk/Trail Issue	September 8, 2022
Email thread from Principal, Hanwell Park Academy	September 19, 2022
Email to Councillor Septon regarding work on "Spookfest"	October 22, 2022
Email threads (2) from Mayor regarding Budget Process	October 27, 2022
Email thread related to intention to bring motion forward on recording meetings	November 4, 2022
Email thread from Mayor to Councillor Septon - Recording Meetings	November 5, 2022
Email thread from Mayor to Councillor Septon - Recording Meetings	November 5, 2022
Email from Clerk regarding Code of Conduct report for Council	November 11, 2022
Email from Councillor MacKenzie - formal Complaint against Councillor Septon	January 12, 2023
Various Responses from Councillor Speton following Interview Sessions	February 1, 2023
Email from N. Couturier to Mayor, CAO regarding Councillor Septon	February 17, 2023
Email to Investigator from Councillor Septon - Formal Complaint	March 12, 2023
OTHER	
Response from Councillor Septon - Defamation of Character	February 14, 2022
Update - Sidewalk/Trails Update	Spring 2022
Responses from Councillor Septon regarding defamation of character	
Facebook Post - Councillor Septon - Sidewalk/Trail discussion	
Excerpt from Council Meeting Transcript during Sidewalk/Trail Debate	
Notes by Councillor Septon - Discussion with Mayor/Deputy Mayor (Committees)	May 11, 2022
Notes by Councillor Septon - Discussion with Mayor/Deputy Mayor (Harassment)	March 1, 2022
Facebook Post - Councillor Septon - Sidewalk/Trail discussion	September 9, 2022
Council Motion - Vode of Conduct Violations - Councillor Septon	December 6, 2022
Notes by Councillor Septon - Explanation on Alleged Violations of Code of Conduct	
Fdocumentation to Support Formal Complaint from Councillor MacKenzie	January 1, 2023
Saltwire News Item - "CBRM mayor breached code of conduct over Canada Day backlash"	February 28, 2023
Resonse to Investigation Report from Councillor Septon	March 12, 2023
Comments from Councillor Septon - Investigation Report	March 12, 2023
RTIPPA Response - 2223-RTI-052	March 12, 2023
Facebook Post by W. Hyslop related to Councillor Septon	
Copy of Audited Financial Statements 2022 - Hanwell Rural Community	
RTIPPA Response - Solar Project	
Presentation from Local Governance Training	January 19, 2023

APPENDIX E

Specific allegations in regard to Councillor Septon Code of Conduct Complaint Nov 10, 2022

1st note: WHO MADE THE COMPLAINT? Who am I facing, who is my accuser? Trump's 'people are saying' argument is not for a legal exercise. This is a serious legal document. I was told via Letter from the Clerk it was everyone on Council who made the complaint except Councillor Hyslop.

2nd. The sheer number of false or misleading statements in this document is indicative of issues in the past, but obviously designed to incite or impugn my reputation with Council, as was done to me in the past. In this legally signed affidavit against me after the Clerk's investigation on behalf of 'people' please look at what is truth, and what is blatantly false by reading your own emails, and the thread! I will not stand for falsehoods, misinformation or lies.

This was brought on when the Mayor David Morrison emailed and threatened me with a code of conduct if I didn't take down information that was factually and provably true of a pending motion that was to be brought in front of Council. CC'd to all of Council and Staff. The Investigation goes on to "charge me" with a code of conduct for this, and for asserting I would defend myself if this immoral and unethical action takes place. The Mayor threatened me, and to this investigator that is fine, however I get charged with threatening council for stating I will defend myself if it happens? Further, the investigator states that conversations were held in closed session. I respect that divulging items of a closed session is wrong but changing how this information was shared to trump up charges is egregious as it is deliberately lying. The investigator goes on to sign this legal document as true and send recommendations to Council. "After investigating it has been determined that there 26 violations of the Code of Conduct. This wasn't an informal investigation, it was determined! To this day, not 1 question to me, unlike the Code of Conduct investigation that was afforded Councillor XXXXXXXXXXXX. There are many other facts that are provably false, misleading, or wrong but that doesn't go with objectives. I believe that the public has rights, this body believes those rights are not true, unless they agree with them topic by topic.

Additionally, I am getting charged with a code of conduct for telling Council of an issue I caught with staff (noting our job as Councillors among other things is to oversee, Nose in, Fingers out). I didn't make up what I caught, it happened. I am also found guilty of a code of conduct by the investigator for sharing my opinion and feelings of matters I see of Council. All of which I stand behind. The assertion by my chargers of the code of conduct and the investigator is that my opinions and feelings breach the code of conduct if they don't agree with them. I stand behind every assertion I made and reject that only feelings and ideas this body likes can be presented.

When I walked into council after being first elected, it was the most dejected bunch of people remaining I have ever seen. Some of the very people in this current council was feeling the way I am now. We swapped out 50% of council, and here we are in the same boat. When do we look inward? Rules are designed to ensure a fair and level playing field. This is harassment and

an abuse of power. I am not the problem. Telling truth is not a problem. Speaking to constituents is not a problem! According to this document having an opinion contrary to others is a problem, speaking to the public portion of our public debate is a problem. Speaking to a constituent is a problem. Engaging with the School Principal after he engaged me is a problem. Sharing facts is a problem. This is exceptionally dangerous, illegal, un-ethical and immoral these actions taken against me. The truth matters, even when it is against me.

If I am wrong, I should resign. If they are wrong, they should resign! That is ethics.

Solar System / Councillor XXXXXXXXXXXXXXX

A: This date was Aug 16. We discussed it at Council Sept 7, 2022 in closed session. I was speaking to THE constituent. I was not aware nor informed there was an official complaint seeing as I just MET WITH THE CONSTITUENT about SOLAR! I was warned by the Mayor and Clerk AFTER talking to my constituent that they were aware and looking into an issue. My actions in this case was talking to the constituent and I told him I would not hear any issues in regards to Councillor XXXXXXXXXXXXXXX involvement regarding XXX. I simply had no authority to do so if he was to speak to it. I would do the same with any representative. That until otherwise proven, I thought XXX was above board. I refused the conversation. I didn't even know there was a complaint filed even after this meeting, it wasn't I who disclosed anything, he did to me, HE WAS THE COMPLAINTANT! The Clerk and the Mayor know this, as they made me aware via private email AFTER! Proving this is a vindictive assault on my character to further impugn my reputation with council

Further, I did discuss the constituents' concerns regarding Solar. Who authorized this spending, how much we spent, what was our budget etc and found things to be not right. I still do!

I emailed the Clerk Aug 16:

Thanks Terri,

Redacted pursuant to s. 21(1) of RTIPPA

And no reason to rush this, but some facts are not the same. IE (██████) has a 400amp just an fyi. His house like mine could use a 34 kw system, except at my house I would need to re-do my electrical he started out with a beefed up system. He put money into his panel and I am jealous including he has an auto start generator when the power flickers like ours at the office but at a home owners scale. If your quote included electrical that sure makes a difference.

However, because a constituent has asked me about it, can I please have a copy of the quotes we received, or at the least the quote we accepted. No rush, you have other fish frying at the moment I imagine after covid.

Thank you, pat

I still have nothing. I only get what the Clerk, Mayor and Deputy Mayor want me to get. No time to get me oversight information, but all the time to record all my social media and emails looking for grievances to document. I give full authority to publicly release all my emails.

I have serious questions about our operations, and as an elected official on behalf of the people I have a right to have it. Instead, I get this crap every time I try to engage the public or get information from the office.

Policies and By-Laws

A: It was a deliberate act to change a motion! As recorded in emails. It wasn't false or fake, it HAPPENED! If there were mistakes that happened, a reasonable action would be to tell us how this issue would never happen again, and actions taken to ensure it. Instead, this office uses it's power to attack me, and not even yet explaining the corrective actions taken to insure trust and accuracy going forward. Including using it here, in a code of conduct against me. Think on that.

B: Because of actions taken by this council in the past, and actions by the Clerks office I told the Mayor and Deputy Mayor I will deal with the Public as a whole, or Council as a whole. I will remain to do so until faith in our process is restored. I have no faith in truth and fair conduct with leadership or the Clerks office. That isn't me attacking, it is a point of fact! I have no trust.

C: As it is written, it is!

D: It is the Clerks office and Mayor who attacked me! And frankly, exhibit D of this document on this page for my being right.

Hanwell Park Academy

A: I stand behind my ALL MY statements - Nothing I stated was false! Here is the response:

From Facebook:

[Claude Robichaud](#)

[Pat Septon](#) did I read correctly that only "VAST MAJORITY" will be bused. What happened to ALL the students would be bused as was stated at a Council Meeting.

[Pat Septon](#)

[Claude Robichaud](#) if someone stated that at council they errored. The province clearly stated in Nov to us it was the vast majority. Prior to Nov we didn't have that detail mind you.

Here is an email from the Clerk Nov 1, 2022

I can tell you at the moment that when CBC got wind of the pedway proposal that you put on social media, I received an email from the school district in July

."FYI, the district is aware of how busy traffic can be at peak times on Hanwell Road so they will be offering busing to the vast majority of students when the school opens - this includes students within typical walking distance."

It is also in a traffic study, emails and we talked about it in Committee meetings, admin sessions and with experts after this time. It is not illegal, immoral or wrong to error, it is however unethical, unscrupulous to attack me for speaking and sharing the truth.

Is it the investigators assertion that I am not allowed to speak the truth to the public if it makes someone on council or the clerk's office feel bad? An error happened, considering all the things said by this office on the subject, I think I was very conservative and reasonable in my response while still sharing facts with my electorate.

B: Please explain the Complainant's (whomever that is?) definition of sarcasm. It wasn't sarcasm, it was a statement regarding the tone of the emails!

My email:

I am at a complete loss. Why are people who disagree with us (one calls me Trudeau to try to piss me off) in excusable. Of the entire message I sent that is what you both are focusing on?

Where is our compassion for the kid, for the kids.

-p

C: It was specifically recorded during Council Sessions Aug 2022, but not exclusively then, it was also included during admin sessions and emails. https://youtu.be/0-wOgkWy0_8

Deputy Mayor Transcript:

45:04

standards for the sidewalk and crosswalks and just because we don't necessarily agree with the answer it doesn't mean the standards are not the

45:10

standards and we have been told repeatedly that DTI the Department of Education, Principal and I believe the RCMP do not

45:16

see the value in this trail and which we've never seen is catch up as you've pointed out and we don't know 45:21

the cost though and it's so near the 640 the purpose of the most the standalone is simply get people safely from nature

The Mayor Transcript:

52:52

for road improvements be they crosswalks sidewalks traffic lights and any other infrastructure anywhere in hanwell

52:58

regarding roads which in fact we do not own and do not have any control over is highly unjust also dti has already

53:05

corresponded with us that they will not support such a trail along the 640 and the Principal of the Academy has said he

53:11

is not in favor he stated that the trail in existence from Hanwell place to the Academy is more than adequate and safer

53:18

for the students to use, with this in mind I cannot support this motion and my vote is nay

53:24 therefore the motion is

defeated thank you council at this time too I want to remind councillors bylaws 01- 2014

d 53:32

a violent respecting the procedures of council and administration section 5i any decision of council adopted in a

53:38

public meeting is the official position of the entire council again thank you

D: The Principal injected himself into our political debate and was quoted as to reasons why the Mayor and Deputy Mayor didn't want the trail. The trail was needed to be considered for a crosswalk, yet, he was against it but put bike racks there. The Department of Education, The Principal and DTI have injected themselves into our politics, and should the worst happen I am ensuring there is a paper trail so we are not the only ones liable. (March 2022 the Clerk shared (recorded and in email prior) we would not be liable for any issues if a child gets hurt, I am doing my due diligence to ensure others will be brought to task with our community, if the Clerks stated legal opinion fails). See previous.

Seeing as the Principal has accused me of lying in this official legal complaint, and that I am making false statements, contrary to what he told the Clerk, Mayor and Deputy Mayor, I request a written explanation, and for council to be able to interview my accuser. He lied, I did, or something else is wrong. ***Please see attached full email with the Principal for clarity!*** I didn't bring it up, this complaint did. I didn't deal with him via social media, I made sure it was official when he reached out to me as an open and transparent person would.

E: I stand by my statement in this parsed portion.

F: I stand by my statement, and we have a recording above as proof of point.

G: I never posted on any school social media. I did not delete a single post! I did tag the school

I recall after I seen they made plans to house bikes, however argued to the Clerk, Mayor and Deputy Mayor against the steps required to having a crosswalk to be able to get those bikes there! So this fact will be available to be proven if so. But I ask ALL COMMUNICATIONS WITH THE PRINCIPAL be made public to Council during the time(s) in question. From the Mayor, Deputy and the Clerks office or my accuser. The ENTIRE THREAD not parsed.

Via email, he clearly stated he made no such statements to the Mayor, the Clerk or the Deputy. I told him his name was used and it was CLEAR as one of the reasons they voted against it. He stated he would be talking to the Mayor, and the Clerk to clear it up. To date, no corrections have been forth coming and he rallied against safety for our children when he knew the bikes had to cross the 640 to get to his school. He is hypocritical to recommend a path in the woods as all the safety he and the school district needed when he knew the kids had to cross the highway to get the bikes there.

***** NOTE ADDED Dec 5, 2022 – not in original. Due to an RTIPPA request I got a document that showed on Sept 11, 2022 the Principal sent in a document stating he never once agreed to this, that the clerk and mayor took his words and twisted them. . RTIPPA all communications between the principal and the Clerk/Mayor *****

Closed Session Contracts

A: I posted when I was legally allowed to. I posted the PUBLIC portion of our debate! This should never have been behind closed doors. Such as the year prior. I recognize that an outside opinion was sought. I still challenge Ms. Knight's opinion shared to justify our secrecy in a process that was public only a year ago. Moreover, I disagree with Ms. Knight's assessment we don't need time to study the issue before making informed choices. This closed session was secret even from us up and until 7pm, though I assume not everyone. Not only is this practice bad technically, its also poor practice. I was not keeping it secret from the public!

B: This process was wrong, and I have grown to expect that no matter if proven right or wrong, the Clerk will not own up to being wrong. Leadership will not call it out, or address it professionally, except to call me out. As if "owning Pat" is the sole & only objective. A specific case in point is later during closed session Nov 1, the clerk stated along with the Deputy Mayor that they did not change the by-laws for the garbage contract the year prior to make this new contract seem better. The next day when I literally proved they did, Feb 23, 2021 the clerk argued against the fact even after. Instead of acknowledging I was right. Mistakes can't be made at the Clerks or Mayors office is my only known truth.

C: I stand by my statement!

D: I stand by my statement and question Ms. Knights judgement in this situation. I know, even me questioning judgment can get me my next code of conduct, all the while exactly what you are doing here. For her to not even care that everything is so secret even to me, a duly elected official of the community at 7pm, then be expected to make choices that have real ramifications to it's citizens seems dangerous. I indeed question it!

E: I stand behind my statement

F: I did apologize. Someone had to be the grown up. I stand by what I did but offered an off ramp. In my opinion, this was rushed and ill thought out, I shouldn't of expected anything less of the public portion. It makes me wonder what is behind this and I am elected to question our actions along with making choices. Something is wrong here. Sharing a public portion of a public event cannot be a bar we condone!

Budget Process

A: Due to an immoral and or wrong previous process I was taken off all committee assignments. The first few meetings were talking about ideas as I was understanding. ONLY AFTER MY COMPLAINT about raising our taxes XXX (deleted until public) or greater did I get some 12th hour involvement. Knowing things cost \$5mil in a new community is different than knowing what the math will be to Mr. and Mrs Constituent. I was not involved as this was a committee thing being run by the Clerk, the Mayor, the Deputy, Greg Lutes of the Province and select citizens and Councillors. Even then it wasn't our Council's, it was clear during my one and only meeting this wasn't something we get to vote on. This point I added stands correct!

Recoding of Council Meetings

A: This was in email and NOT CLOSED SESSION! It was statements of facts GIVEN VIA EMAIL by Councillors MacKenzie and Deputy Mayor Jonah on their upcoming ACTION that affects the community! They intended to pass or put forward a motion, one that would further hide our work from the public! It is for this reason right here I believe we need MORE RECORDINGS not less! Truth matters, even when against me.

B: Sometimes one is taken back. In this document as a whole, a few times I am wondering how we got to the reality meets absurd/false so brazenly. The Mayor literally threatened me with a code of conduct for sharing something that is factually true, and in every councillor's email box as well as the "investigators"! But I get a code of conduct for asking it to be right if done? That I will not sit idly by this time, and stating clearly, I will stand up for myself. The Mayor's threat to charge me with a code of conduct for sharing truth is acceptable to leadership, the investigator but my assertion to let you know I will not take falsehoods laying down is too far? It is I who am being intimidated. This record of actions didn't just happen it is obvious the Clerk's office, the Mayor and Deputy Mayor have a file on me. Or "people". Do they host a file on all Councillors, or just the ones who disagree with them? It is this type of skullduggery that has me with zero confidence and faith in leadership and the Clerk's office. At least this time, they had the decency tell me about an investigation before telling me I'm guilty. It was wrong then, and

now. It is they who eroded my trust repeatedly. They need to be overly open to help rebuild it, including an apology for this and the sheer number of false accusations in this officially signed legal document to Council. Truth and transparency matter! Integrity matters.

-Pat Septon
Councillor at Large

Any correspondence with employees, agents or elected officials of the rural community of Hanwell may be subject to disclosure under the provisions of the Right to Information and Protection of Privacy Act of the Province of New Brunswick

APPENDIX F

December 6, 2022 Special Meeting of Council

Motion

On November 28th, 2022 a Special Meeting of Council was held in closed session, to discuss a matter pursuant to section 68(1)(j) of the *Local Governance Act* (labour and employment matters, including the negotiation of collective agreements).

WHEREAS Hanwell adopted By-Law #16-2019 “A By-Law Establishing the Code of Conduct for Council”, and

WHEREAS Hanwell also has a “Conflict and Complaint Resolution Policy” Policy #2022-08 which describes the procedure and the sanctions and Consequences for Council and Staff, and

WHEREAS Policy #2022-08 states the procedure of the **Informal Complaint Process** as: Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying conduct that they believe violates the code of conduct. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint. Any person who has identified or witnessed conduct by a member of Council or staff and that person reasonably believes, in good faith, the individual is in contravention of this By-Law or other legislated obligations may address the prohibited conduct by:

- A). Advising the individual that the conduct violates this Code and human resources policies and encouraging the individual to stop.
- B). Make a request to the Clerk to assist in informal discussion of the alleged complaint with the individual in an attempt to resolve the issue.
- C). The Clerk may offer to facilitate the resolution of the complaint; if the Clerk is unable to assist for any reasons, he/she may offer the assistance of a professional mediator.
- D). In the event that the Clerk is the subject of, or is implicated in a complaint, the person may request the assistance of the mayor, and

WHEREAS members of staff and all members of Council, except Councillor Holly Hyslop, brought forward verbal concerns/complaints regarding Councillor Pat Septon and his comments on social media, and internal emails, and

WHEREAS the Mayor and Deputy Mayor have discussed previous unprofessional matters with Councillor Septon it was determined that the Clerk research the alleged concerns/complaints. After researching the emails and social media posts from July 1- Nov 5th, 2022 a report was brought forward to Councillor Septon and Council with a possible 26 violations to the Code of Conduct By-Law #16-2019. In a letter to Councillor Septon, the Clerk explained that the report would be brought forward to Council in Closed Session to review, and that Councillor Septon could address Council before a decision was made, but didn't appear at the November 28th meeting, and

WHEREAS Councillor Holly Hyslop disagreed with the procedure followed, a letter will be read into the minutes stating why she voted “No” for each alleged violation and that letter will be attached as part of this motion.

THEREFORE, I move that after careful deliberation in reviewing the violations presented that we through a majority vote have determined that Councillor Septon has breached the Code of Conduct By-Law #16-2019 for the following violations:

Confidentiality- Section 6a. “To disclose, either directly or indirectly, release, make public or in any way divulge any such information (verbal or written) or any aspect of the closed session deliberations to anyone, unless expressly authorized by Council or required by law to do so”. (1 violation)

- Reason- All internal communication regarding information that will be brought forward at a meeting, should be considered confidential until it is brought forward.

Respectful Workplace- Section 10. “All members of Council have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying, or intimidation, and to ensure that their work environment is free from discrimination and harassment. Members of Council must ensure compliance with the New Brunswick Human Rights Commission and WorkSafe NB.” (3 violations)

- Reason- Email sent to the principal that was very unprofessional
- Reason- A social media post criticizing the principal in public
- Reason- Unprofessional email about the Clerk and how contracts are discussed in closed session.

Conduct Respecting Staff/Council- Section 12c. “No member of council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council.” (5 violations)

- Reason- accusing the Governance Committee of arbitrarily changing motions/laws/policies.
- Reason- accusing staff of falsifying documents when it was determined that it was a clerical error (typo in a by-law regarding a per diem payment for council when doing municipal work).
- Reason- after an apology by staff, Councillor Septon continued saying the changes to the by-law were intentional.
- Reason- lack of respect to the Mayor and the Clerk’s office for explaining the situation.
- Reason- accusing the Deputy Mayor and Clerk of using charity/community budget for a private party on a boat in Yoho.

Conduct Respecting Staff/Council- Section 12f. “Members shall respect the role of staff as a corporate body who are in charge with making recommendations that reflect their professional expertise and a corporate perspective, providing advice and analyses,

implementing Council decisions, and carrying out their daily responsibilities as required under the *Local Governance Act*, and that staff are expected to do so without undue influence from any member or group of members. (1 violation)

- Reason- Disrespectful to the Clerk during the budget process, continually saying that he, Councillor Septon, had nothing to do with the budget yet he only missed one budget meeting and that it "wasn't his budget".

Conduct Respecting Staff/Council- Section 12g. "Members of Council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public. (2 violations)

- Reason- An email sent to the Clerk and copied to Council "Once again, you can do no wrong, and the hours spent trying to make me the bad guy. Openness and transparency means something different to me than you guys. (*Insinuating staff and council*).
- Reason- A response from Councillor Septon to the Mayor in a threatening tone "Be aware, any action taken against me will be public, if any action is taken, please ensure you do it correctly this time around, as it will be brought higher."

Interpersonal Behaviour- Section 13a. Treat every person with dignity, understanding and respect: Members of Council shall abide by the provisions of the *Human Rights Act* and, in doing so, shall treat every person including other members of Council, committees, boards, municipal staff, individuals providing services on a contract basis, and the public with dignity, understanding, and respect. (1 violation)

- Reason- The email sent to the Clerk and Council about the Clerk doing no wrong and trying to make Councillor Septon look like the bad guy and then insulting council.

Use of Social Media- Section 16a. "Once posted on social media, any material or comment is accessible to anyone with an internet connection. Furthermore, the content can never be effectively removed. As public figures and representatives of the Rural Community of Hanwell, members should act with discretion and be judicious in what material they post on social media. As with any other communication, members are accountable for content and confidentiality. Care should be exercised in debates or comments on contentious matters, as feelings and emotions can become inflamed very quickly." (1 violation)

- Reason- unprofessional email sent to the principal stating that he was working against the Minister of Transportation's guidelines to achieve safety!

Use of Social Media- Section 16c. "No member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way." (4 violations)

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- Reason- stating that the RCMP did not want a crosswalk built, when there had been no communication with the RCMP.
 - Reason- stating that the Principal of the Hanwell Park Academy was not in favour of a path, “**sidewalk**”, or trail. The principal never said he was against sidewalks.
 - Reason- a disrespectful email sent to the principal of the Hanwell Park Academy
 - Reason- a social media post requesting that the principal make a public statement (the principal emailed the mayor saying that Councillor Septon is now blocked from all of the school’s social media).

Use of Social Media- Section 16d. “Where members provide a personal view or opinion on social media, members should take steps to ensure that such personal views or opinions are not construed to be those of the Rural Community of Hanwell as a whole and/or that such personal view or opinion does not accurately reflect the decisions of council or bring the decision-making process of Council into dispute.” (1 violation)

- Reason- a decision of Council was made to not place a trail between Hanwell Place and the school, and no further discussion should have been discussed on social media.

It has been determined that the following consequences imposed on Councillor Septon will be:

- A public reprimand through a motion of censure will occur.
- A letter of reprimand will be provided by the mayor stating that Councillor Septon’s behavior will be reviewed on an ongoing basis, for the next year and that any further violations will be dealt with as soon as it occurs, at the next council meeting after the possible violation, to discuss further sanctions.
- Councillor Septon’s remuneration will be suspended for the period of December 7, 2022 to May 31, 2023. Any further violations may result in the suspension being extended.
- Councillor Septon will be required to take training at the expense of the municipality and the courses will be determined in the near future.
- All social media posts on Pat Septon- Councillor at Large, and emails from PSepton@hanwell.nb.ca are to have prior approval from the mayor before being released.

The following consequences must be actioned within 30 days:

- An apology must be given to the Mayor, Deputy Mayor in person and in writing.
- An apology must be given to the Asst. Clerk and Clerk in person and in writing.
- A public apology must be given to Principal Pierre Plourde in person as well as on social media.
- An apology must be given to Council in person and in writing.

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