



**SUBJECT: Integrity Commissioner – Investigation of a Code of Conduct
Complaint Against A Member of the Committee of Adjustment
– Nicholas Leblovic**

TO: Mayor and Members of Council

FROM: Office of the City Clerk

Report Number: CL-09-23

Wards Affected: not applicable

File Numbers:

Date to Committee: N/A

Date to Council: April 18, 2023

Recommendation:

Approve the recommendation as outlined in Appendix A to report CL-09-23 from the Integrity Commissioner:

Direct staff to make arrangements for the conduct of training to be conducted by the Integrity Commissioner on the ethical framework applicable to local board members.

PURPOSE:

To transmit the report issued from the Integrity Commissioner dated April 6, 2023, for City Council's review and disposition.

Background and Discussion:

The Code of Good Governance

The City of Burlington has a Code of Conduct for Local Boards (Code), which was established by way of report [CL-03-19](#) and approved on February 25, 2019, by City Council. The Code has been attached to this report as appendix B.

The City of Burlington's Code's main purpose is as follows:

The policy outlines the Code of Conduct for the City of Burlington's Local Boards and Committees; it guides members to act with honesty and integrity, serving in a diligent manner, and performing their duties in a manner which promotes public confidence.

The Integrity Commissioner

The Integrity Commissioner is appointed by and is accountable to the Burlington City Council. The City of Burlington has an established accountability framework, with the Integrity Commissioner playing an essential role. The role of the Integrity Commissioner is established through section 223 of *the Municipal Act, 2001, S.O. 2001, c. 25* (the Act). The Act authorizes a municipality to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by the municipality. In particular, section 223.4 of the Act provides Integrity Commissioner with the ability to conduct an inquiry, their powers of inquiry, access to information, and potential penalties.

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member.

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry.

Information

(3) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry.

Same

(4) The Commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality or a local board that the Commissioner believes to be necessary for an inquiry.

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

The firm Principles Integrity serves as the City of Burlington's Integrity Commissioner, were originally appointed by way of By-law 45-2018 and reappointed by way of report CL-30-22. Principles Integrity provides integrity commissioner services for a number of municipalities across the province.

Complaints

The established process complaint process (part of the Code of Good Governance) dictates that any complaint is submitted directly to the Integrity Commissioner. The City of Burlington website has a webpage dedicated to the Integrity Commissioner and provides a direct contact for any enquiries. Potential complainants who contact the Office of the City Clerk are provided the contact information for Principles Integrity Commissioner and are instructed to connect directly. The Office of the City Clerk is not involved in complaints, unless directly interviewed by the Integrity Commissioner. Invoices received by the Office of the City Clerk are anonymized.

The complaint process itself is nuanced, which allows the Integrity Commissioner many tools at their disposal to resolve complaints. The complaint process also provides options to complainants and the respondent to resolve complaints through alternative ways. The complaint process forms part of the to the Code of good Government, attached as appendix C to this report.

The Complaint and Recommendation Report

A recommendation report was filed by the Integrity Commissioner with the Clerk on April 6, 2023. As part of their process, the complainant and the respondent were also provided a copy of the report also on April 6, 2022, this report is appended as appendix A.

The report indicated that a complaint was filed on December 22, 2022, from an applicant to the Committee of Adjustment in regard to the conduct of a member of the Committee of Adjustment (Leblovic) at during a hearing in December. The Integrity Commissioner report addresses the investigation conducted in accordance with section 223.4 of the Act and conveys their findings and recommendation.

Strategy/process

The City Clerk has worked with the Integrity Commissioner to ensure that the rules of how this item is disposed with is clear. The Integrity Commissioner will be present at the City Council meeting on April 18, 2023, to respond to questions of Council.

- Nicholas Leblovic or a representative may request to delegate at Council regarding the report.
- The Integrity Commissioner will provide opening remarks on their report.
- In accordance with the Procedural By-law Members of Council can ask questions of clarification, two at a time to the Integrity Commissioner.
- Once questions of Council have been exhausted, the Mayor will open the floor for any motions.

- The recommendation as listed in this report could be put on the floor, if Council wishes not to endorse the recommendation the report could be received for information.
- Once a motion is placed on the floor speaking times will coincide with Council rules, this means each member is afforded, two, five-minute speaking times. If a member wishes to speak for a third time this is put to a vote and is only provided to members through the successful passing of two thirds vote of Council.

Options Considered

The rules as outlined in the Code of Good Governance states that:

If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report their findings to Council including a recommendation as to the imposition of a penalty as set out in the Municipal Act.

Therefore, a recommendation is made by the Integrity Commissioner and is conveyed to Council, who makes the final decision.

Financial Matters:

Total Financial Impact

The costs of Integrity Commissioner activities are captured through the annual reporting process.

Source of Funding

Integrity Commissioner costs are funded from the Office of the City Clerk operating budget.

Other Resource Impacts

Not applicable.

Climate Implications

Not applicable.

Engagement Matters:

Not applicable.

Conclusion:

This is a transmittal report to convey a report from the Integrity Commissioner to City Council regarding an investigation into a Code of Conduct for Local Boards and Committees complaint against a member of the Committee of Adjustment, Nicholas Leblovic.

Respectfully submitted,

Kevin Arjoon

City Clerk

905-335-7600 ext. 7702

Appendices: (if none delete section)

- A. City of Burlington, Code of Conduct Complaint Against a member of the Committee of Adjustment Nicholas Leblovic, April 6, 2023
- B. Code of Conduct for Local Boards and Committees
- C. Code of Good Governance (for Complaint protocol)

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.