

Motion Improving Local Democracy by Strengthening City Decision-Making (ADM-05-24)

To: Burlington Council

From: Tom Muir, Resident.

## **Special Council Meeting - Motion memo Improving Local Democracy by Strengthening City Decision-Making.**

**March 26, 2024**

Dear Councilors.

I offer my complete support and approval for the specifics of this Motion. I base this approval on the following sampling of my experience and reasoning more extensive than 5 or 10 minutes of speech, so it is in the form of correspondence on what I think is one of the most, if not the most, important Council actions I have seen to advance the democratic process of governance in Burlington. I say down with autocracy.

This support is based on my experience over the entire 2, going on 3 three terms of service in office of Marian Meed Ward. This experience has led me to lose faith and trust in her, and to think that she is not fit for the office, never mind the permanent Strong Mayor powers.

Her negative reaction to this Motion, is typical of her flawed judgement in her use of power, that I have experienced in her management of important matters and issues. I find that she wants what she wants and takes it.

I find she abuses her powers, regular, or Strong, and does not deserve them, acting arbitrarily in disregard to enforce her Municipal Act duties "to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement "to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality.

My recollection is that the City has to meet the housing targets in order for the Mayor to be granted the Strong Powers and in order to get the provincial funding that goes with the target and being granted the Strong powers. That is, you can't sign up to the target, and not meet the target and get the target funding, and get to keep the Strong powers.

That would not make logical sense. You could sign up for a target just to get the Strong Powers and money whether you meet the housing target or not, but still think to keep the powers regardless.

I cannot tell you all my experience, but I can provide a few fact correspondence specifics to give a relevant sample.

My first example, the Adi - Martha St. application and appeal process specifics will frame the background of behaviour that my initial loss of faith and trust due to lack of transparency, accountability, procedural fidelity, responsibility and control, and other shortcomings emerged.

From:

To: marianne.meedward@burlington.ca

CC: rick.goldring@burlington.ca; jim.ridge@burlington.ca

Subject: ADI Martha Street

Date: Wed, 16 Sep 2015 17:49:28 -0400

Councillor,

I would like an explanation of how the staff report on this project did not make it to Council within the 180 days mandated in the legislation.

None has ever been offered that I know of, and this is a failure of transparency and accountability. In fact, every referral I have seen or heard about this project, and the OMB appeal situation, reads like the failure I note didn't happen or have any consequences.

This time regulation is part of Planning 101, and so warrants said explanation.

I would like to know the line of responsibility for this failure. This allowed ADI a free pass to the OMB, and they did not have to base their appeal on

a reasoned planning argument against the city reasons for not approving the proposal.

I am asking you this question as the Ward Councillor, but also copying the Mayor and the City Manager as they are the Chief Executives of Council and Staff respectively.

Thank you,

Tom Muir

REMINDER; ADI Martha Street

To:

Cc:

Bcc:

10/08/2015 04:58 PM

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Dear Councillor, Mayor, and City Manager;

This is a reminder regarding the information request I made three weeks ago, in my message to you of September 16.

I asked for an explanation of how the staff report on this ADI project did not make it to Council within the 180 days mandated in the legislation as default grounds for OMB appeal.

I wrote the message referred to and copied below, but have not received any reply including said information and explanation, nor have I received the courtesy of an acknowledgement of my message.

My initial message was sent to Ward 2 Councillor Meed Ward, where the proposed project is located, and cc'd to Mayor Goldring and City Manager James Ridge, however, please note that the present message is sent to all of you. I also copied the City Clerk.

I find it disturbing that my initial message has been completely and inexplicably ignored by Councillor Meed Ward.

My question and inquiry is simple. My reasons for asking are numerous.

I'm asking to be informed about how the decision was arrived at to allow the 180 day period, mandated by legislation, to elapse before the Council vote was made?

Whether it was deliberate or inadvertent, an explanation to inform citizens is warranted.

I have reviewed all of the pertinent content of the newsletters put out by Councillor Meed Ward, dated March 31, and September 16. There is no explanation there addressing my question, and as I noted below, the latest newsletter commentary reads like the decision to let the timeline elapse did not happen.

What is written there rationalizes, and pardons, this failure to meet a deadline that triggers an automatic legal grounds for appeal to the OMB. It further denies that this failure matters, or is of consequence, and tries to project the blame for the predictable outcome on the developer ADI.

The 180 day deadline was not legislated for nothing, so you can't blame ADI for pursuing their legal rights. The fault lies in the city letting this happen.

The process timeline included in the March 31 newsletter shows that the city planning department recommendation for refusal of the ADI application was made public, and therefore provided to ADI, more than a week before the 180 day deadline. In this situation, it is irrational planning management for the city to then fail to meet the deadline.

The city failure to meet this 180 day deadline is a major victory for the aggressive approach of ADI. It gives them an automatic appeal standing with the OMB, a very valuable legal right.

Further, it apparently legitimizes the several marketing activities they now have underway. These too are aggressive, speculative and misleading.

These go beyond the controversial billboard on the proposed building site, and the storefront on Brant St being opened by ADI, advertising they are open for business for registration of purchases of "Lakefront Residences", in what is called "Nautique".

Further, for example, I received a post card size advertisement in the mail, from a Loyalty Real Estate Brokerage, selling the ADI project address, but it is called a "Burlington Condominium". It promises numerous project features, VIP first access, huge discounts, no lineups, instant gain on purchase, and wide selection of units.

As well, in the Hamilton Spectator real estate section, New Home Living, dated October 3, ADI is advertising "Nautique", as "arriving soon" and invites registration. Again, it is obviously the proposed project.

This is spectacle, and where it will lead is assuredly to nowhere good for the city and citizens. It reminds me of a gold rush promotion mentality where shares in a mine site - in this case a patch of pavement and dirt - that has been salted, but not proved, are being hustled for sale.

It begs the question of what the responsible city staffs were thinking to surrender control of this development situation to ADI? What kind of city organization would allow this to happen?

What kind of development planning strategy and tactics, and business plan does this action entail?

This appears an illogical retreat from a position of dominant planning argument, strength, and public support.

What is the rationale for revealing, then folding a winning hand, thus letting ADI outflank the city, go straight to the OMB, and then use this to market what they failed to get the city to approve on official planning grounds?

It could constitute city hall actions based on something sensible, or maybe worse, but how will we ever know with no information and transparency? It really needs inquiry, and needs to be visible.

Transparent decision making processes are part of the foundation of the good governance of a municipality.

You all know your duties and responsibilities under legislation and policy, and I will not read you chapter and verse, but just give a taste that is most relevant here.

Section 224, subsection (d) of the Municipal Act is a good starting point. It outlines the role of the municipal council as follows:

"224. It is the role of council,

(d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;

(d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;" *(my emphasis)*

The Municipal Councillors Guide 2014 states that , "*Clearly, accountability and transparency are a priority in maintaining public trust in council and in the management of your municipality. Section 224 of the Act explicitly includes ensuring the accountability and transparency of the operations of the municipality as part of the role of council.*" Control and responsibility are other givens.

The Burlington Citizens Engagement Charter contains similar and identical text, and city commitment and policy. As does the draft Code of Conduct, approved by Committee, and passed to the City Manager by Council for inclusion in the Strategic Plan. You can add in the Oath of Office that you take.

I hope that you can see your fundamental responsibilities, both legislated and policy, in this matter of providing the explanation I have asked for.

It's your duty, "to ensure the transparency and accountability" that underlie credibility and trust.

I look forward to your response and explanation.

Thank you, Tom Muir

In this Adi issue the Mayor of the day, Rick Goldring, assigned Ward 2 Councilor Meed Ward to provide an explanation, but I never got one that

was transparent with accountability, and then Mayor Goldring fibbed and told me he was glad I did get the explanation – I never did. Councilor Meed Ward failed to provide a promised meeting, and broke off our engagement. I have the paper record of all these interactions.

## **My Complaint to IC concerning the inappropriate Interference and failure in City Procedure of Mayor Meed Ward in the supposed independent, impartial, and third party of the investigation of the IC**

No Subject)

To: postoffice@principlesintegrity.org;

11/28/2022 11:07 AM

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Edit

Hello,

### **Overview.**

On November 9 I sent you an email in which I expressed my concern that Mayor Meed Ward inserted herself into this complaint contrary to her stated policy that Council did not get involved in conflict of interest complaints that you investigate independently.

This insertion involved her copying correspondence between me, her and Council, to one of your officers. This correspondence included the text of the November 3 evidence file I had sent you, that included her comments that appeared to indicate that she had already made up her mind about my complaint without your investigation and report.

I stated that I was concerned about what influence the Mayor would have or try to have, in communicating to the Integrity Commissioner, particularly when she said it is not her role to be involved, but she is getting involved, and is defending the Councillor in a biased manner that ignores evidence that I provided.

As I said, this past insertion raised issues that I didn't go into then, but have to raise today, with her Opinion in the Spectator on November 25. This

opinion puts the complaint in trivialized and false perspective terms. It again ignores the evidence I provided them. It tries to project blame to me as having issues with the IC advice, which is totally contrary to what the known facts are and is absurd.

**The Mayor stated; "It appears the constituent takes issue with the advice the IC provided to the Councillor. The IC will respond in due course."**

The Mayor and Council does not have all the evidence I submitted to the IC, but mainly the second dated November 3, and some of the original October 25 but none of the November 21. All she (and they) had to do was look at the IC Advice with their own eyes and they would have seen the facts underlying the complaint, and should have stayed out of this complaint as they say their policy is. No involvement or interference with Integrity Complaints.

I see no integrity in this deliberate involvement, especially by the Mayor, who has also persistently ignored the facts and defended the Councillor despite knowing there is a complaint filed to the IC.

Further, the Mayor circulated the Spectator Opinion to all of Council asking for sign-ons, another egregious involvement when she knows there is an active IC complaint, and she involves other Councilors.

The way the final paragraph is written and sounds, is if the Mayor already knows what the IC report will say and that they will respond in the way she says. It very much sounds like that she had a determining influence on the result.

**Other key issues emergent in these matters of conduct, transparency, accountability, credibility, and trust.**

Evidence correspondences on specifics of Mayoral and IC actions are available in full.

**Mayoral and Councilor Interference with IC investigation and apparent IC response to them in Report – November 25 Opinion letter to Spectator from Mayor, Councilor, and other Council members: My November 28 complaint to IC about interference:**



**The November 29 Final IC Disposition Report to Council.**

**This report has been buried with no public notice and no trace.**

**Complaint to Clerk Concerning Failure to Enforce Code of Good Governance and Code of Conduct by IC and Council**

**My Comment to Gazette regarding my complaint to the City Clerk et al regarding the contravention of the City Code of Good Governance by the IC and the City**

**The Mayor did not intervene to correct this contravention of the code of Good Governance by the IC and the Clerk**

Comment on Marsden story today

To: pepper@hwkp.com;

08/14/2023 03:32 PM

Anne Marsden is not the only person having problems with their email going to city hall.

On January 3, 2023 I sent an email to Kevin Arjoon, the Clerk, Tim Commisso, City Manager, Nancy Shea-Nicol, and Blake Hurley, Legal, and other Senior Managers in Burlington City. An edited part follows to show the essence of my comment point here regarding the fate of this email, and whether all of these people are getting their mail. It is something previously sent to the Integrity Commissioner and City Council.

January 3 2023

"I should have copied the Clerk and Legal on this correspondence to the Integrity Commissioner and Council earlier, but I did not expect the bad experience I have had. I am sending this material and information to you because I don't know where else to send it at City, and I feel your responsibilities as Senior Staff make these issues part of your responsibilities and purview.

I have read the City web pages on Transparency and Accountability, including the City Citizen Engagement Charter among other things.

I note that the City says - "The City of Burlington is committed to maintaining transparency in our information and accountability in our processes."

On the role of the Integrity Commissioner, the City says - "The role of the IC is to support the City's ethical framework and enforce the Code of Good Governance. They provide guidance on various ethical codes and policies and investigate potential breaches of the Code."

The following correspondence of mine provides evidence in my opinion indicating breaches of transparency, accountability, ethics and breaches of the Code that are relevant to the duties of the Clerks office as overseer of procedure and the written Codes of conduct.

1. The following Investigation procedure contained in the City Code of Good Governance page 7 of 9, was not followed by the IC:

#### Investigation

If the Integrity Commissioner determines that a formal investigation is required he or she shall proceed in the following manner, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under Parts I and II of the Public Inquiries Act:

- The Integrity Commissioner shall provide a copy of the complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within ten days
- The Integrity Commissioner shall provide a copy of the response provided by the member to the complainant with a request for a written reply within ten days.

I did not receive the response of the Councilor. I think this a serious contravention of the Code, and not keeping with the tenets of procedural fairness that IC cited for providing the Councillor with my evidence. With respect to me, it amounts to the withholding of evidence that the procedural order specified as required.

The Councillor was provided with all my complaint evidence, but I was provided with none of his response. That is obviously not procedural fairness as the Code says.

I asked for but did not receive any acknowledgement of receipt from the IC or Council or the Clerk or any Party, nor did anyone respond.

So, nobody responded and so, apparently, nobody is responsible, transparent and accountable no matter what the City says is Policy.

Like the case of Anne Marsden, did any of the Senior and Responsible staff on my mailing list not get my mailing?"

The Clerk is first, as he has the responsibility and duty to respond to my point of enforcing the procedural rules of the City and the Codes of Conduct. His Office also pays the bills for the IC.

The bottom line is: The Clerk did not respond to me regarding this failure by the IC to follow this written procedure in the Code of Good Governance, and did not provide any transparency or accountability in response of explanation of this IC failure and its previous failure to acknowledge my message raising it.

Further, the City Manager was copied, as were Senior Legals, and other Senior Managers with related purviews in my opinion. They stood down. The Mayor was sent this, but was silent on the procedural issue of the IC.

As I said, nobody appears to be transparent or accountable for even an explanation of my issue, or my legitimate message and request for action on what is a certain and exclusive duty of the Clerk, with a certain presumption of oversight by the City Manager.

**"In the Marsden story the City Clerk stated that her emails to Councillors and staff are diverted to the Clerk's Office.**

The reason, he claims, is so the emails can be properly actioned!"

I have to ask, was my email here diverted?

Arjoon has failed to respond to what I saw as actioning, his most basic duty - enforcing the procedural rules.

It looks like I am totally throttled from any communication however legitimate it appears to be, even regarding a fully legitimate and procedurally regulated City public process under the oversight of the City Clerk.

It looks like Anne may be too.

I have tried to communicate with Councillor Galbraith but he sent me a message telling me flatly, with no foundation at all, that I will receive no further communication from his office.

I wrote the Mayor asking her if she was going to allow this as it transparently violated any number of the City Code policies, and Engagement Charter, Provincial polices on Councillor duties, the Councillor's Oath of Office, and so on in common sense, shared by many friends.

The Mayor responded that the Councillor could limit interactions with someone when "deemed necessary", but with no elaboration, allowing it to be arbitrary. I searched for any City documentation, looking for where it was written what "deemed necessary" meant, and what grounds described it, but I could not find anything.

It is noteworthy that previously Mayor Meed Ward inserted herself into this IC complaint contrary to her stated City policy that Council did not get involved in conflict of interest complaints that the IC is stated to investigate independently, third-party.

This insertion involved her copying correspondence between myself, her and Council, to the IC, bypassing the responsibility of the IC to keep any information they receive (my evidence file) during their investigation confidential. This correspondence included an evidence file I had sent the IC, which included the added Mayor's inappropriate personal opinion comments regarding my evidence, directly to the IC.

I messaged the IC on November 28/22 at 11:47 am, expressing my multiple concerns about this Mayoral interference. It is further noteworthy that the IC sent their Disposition Report to me the very next day, November 29/22, at 4:20 pm, only 15 hours after receipt of my mail. In that report, they note some recent public attention generated by this matter. This public attention was in fact generated and led by Mayor Meed Ward and Councillor Galbraith.

In a Councillor Galbraith interview with the BurlingtonToday, he stated, without evidence, that the identification of him as the subject of an IC complaint was filed before the election itself - this is not true. He used this claim to go public with the Mayor to further interfere with the IC investigation.

He provided an IC March 8 2022 Advice Memorandum October 19, 6 days before the election, where the IC explicitly concluded that he had a conflict of interest for planning applications in the MTSA as a whole and was required to recuse himself from participation in these applications.

This IC March 8 Advice Memorandum and conclusion was published in the Gazette on that date. There was no mention of him being named in an IC complaint at this time before the election.

The real public attention was caused by the Mayor, Galbraith, and recruits, Nisan, and Sharman, elicited by the Mayor, with their Spectator Opinion piece of November 25, long after the election and filing of the complaint.

I ask, what is the Councillor doing interfering in an IC complaint that is against him, and adding another conflict of interest to the original conflict of interest complaint against him? Is this not also a conflict of interest and a violation of the Code of Conduct for the Mayor?

My focus point - nobody at IC, or Council, or the Clerk, or other recipients of my messages, even as I requested, acknowledged receipt, or responded with any transparency or accountability, despite obvious duties by lawyers as arbitrators at IC, City Hall staff Conduct Codes, and City professed Policy and Oaths of Office.

Did they lose their emails? Did the Clerk lose his?

Is this incompetence, or rot?

Thank You,

Tom Muir