

August 20, 2021

File No. 468

Madame Mayor and
Members of the Municipal Council of Hawkesbury:

RE: Complaint of September 4, 2020 - Inquiry Report

THE NATURE OF THE COMPLAINT:

The complainant has alleged various infractions of the Municipal Code. They are actually quite numerous, and are made against all members of Council, although principally against Her Worship Mayor Assaly. A complaint has also been made against the Hawkesbury BIA. With respect to the BIA, it is alleged that there are no records of any public meetings and that they have not remitted any financial statements for a number of years.

TIMING ISSUES:

The complaint in this matter was originally filed on September 4, 2020. Because of an allegation that the municipality's Integrity Commissioner (IC) of the time, John Saywell, might have too close a relationship with one of the individuals named in the complaint, and so be unable to properly or fairly discharge his duties to Hawkesbury and the complainant, Council ultimately made the decision to request that Mr. Saywell recuse himself entirely and transfer the file to someone else. All of that meant that the file did not come to this office until November 18th, 2020.

Unfortunately, when we received the file and started to review the large amount of material in it, two things quickly became apparent.

The first was that my basic, "schoolgirl-level" French-speaking ability would be woefully inadequate to the task of translating all of the material we had been provided. That meant, realistically, that there would have to be a considerable amount of time spent just in assembling and transcribing the material, and using some kind of translation service, before the inquiry itself could even commence.

The alternative would have been to hire a professional translator, which could certainly have been done, and may have been faster - but it would also have been much less flexible¹, and, ultimately, very expensive. We chose to use on-line translation, choosing "Google Translate", thinking that that would be a reasonable compromise.

The second issue: because of the time it would take to translate the material, it was unlikely that the file would even be in a condition that we could investigate it before the extended break this office customarily takes during the Christmas holiday season. This meant that the 60 day time limit for the completion and submission of the report set out in s. 18.9.5 of the Code, would be exceeded - in fact, it had already been exceeded before this office had even received the file!

In all previous IC matters in which this office has been involved, the Code provides only that the *complainant* needs to be made aware of the fact that the time provided by the Code may be exceeded, and to agree that that would be acceptable. The complainant and I, in fact, discussed the matter in our first interview, in mid-December of 2020, and the complainant agreed that we would not be able to complete the work in time, and that the time for completion of the report could be extended.

Unfortunately, because of my customary and past practice, I failed to notice that the delay also required that *Council* agree to the extension. Fortunately, the Clerk brought that to my attention, but much time had elapsed before she was able to do that, and before we were able to produce a report for Council to request the extension needed. Council graciously agreed to the extension.

In addition, as wonderful as technology is, and as dependent as we all are on it, these days, honesty compels me to say that it is **not** perfect. The email transmission of documents and transcripts - anything, actually - by several of the common professional transmission systems for large volumes of material tends to be time-limited. Once the time limit is exceeded, one has to obtain the document all over again, in order for any of the "links" to be still usable. Since Mr. Saywell had forwarded to me what had originally been sent to him, but, of course, without the attachments that could only be obtained through the use of the "links", a lot of time had already passed. I therefore had to have the document sent to me, all over again, in order for the links to function, so that we could see and read all of the documents which were referred to in the complaint. Then they had to be copied for translation, translated, and then

¹Along the way, I asked for documents to substantiate certain things, and they seemed always to be in French, which would have meant repeatedly hiring a translator, which would have slowed down this process even further and made it even more expensive.

reassembled in some fashion that made sense, put in context and placed in the correct location in the Complaint document.

Since the Complaint document itself is 22 megabytes - typically (and, until recently) too large to even send by email - and then there are over 30 "links" or connections which we had to follow up - simply trying to get all of the material in front of me, in readable format, and understandable English, has been an enormous undertaking, all BEFORE we could even start the actual inquiry.

As Council may also recall, we have actually sought **two** extensions from Council.

Some of the second extension relates to the COVID-19 crisis, as it has often been difficult to locate people at the telephone numbers which had been provided to this office, or through email connections which go their workplace. Some of it is also related to the Mayor's schedule.

I do not mean to suggest by that that the Mayor has been unco-operative - she has NOT. We have simply accepted that there have been extraordinary demands on any Mayor's time, including hers, during this pandemic. COVID-19 and vacations have also meant that some people whom I have contacted for this inquiry have simply not received my message or have not been able to return my calls.

However, we thought it better to complete the report at this stage and as best we can, despite being unable to speak with some people, rather than request a further extension from Council.

Although we realize that members of Council may not be interested in why things have taken so long, we thought it necessary to offer this lengthy explanation to try to explain, for the benefit of the public and Council, why it has taken such a long time to complete this report - much more than the By-law calls for, but also, to be fair, in rather extraordinary circumstances.

SUMMARY OF EVIDENCE GATHERED:

For the investigation, we have spoken to some, but not all, of the members of Council, the current and the previous Clerk, both the former and the current C.A.O., the complainant, the Mayor, a former newspaper reporter, several other former members of Hawkesbury staff, the Ombudsman's office, several other individuals whose names we have been given to speak to and an individual specifically named in the complaint as being a person who had allegedly been

“selected” or “chosen” to take over all of the complainant’s job responsibilities. We have also pursued all of the “links” we were provided, as best we could, and explored some of Council’s policies on line.

In a general way, it is alleged that the Mayor has acted in bad faith, engaged in acts of political vengeance (generally) and waged a personal vendetta against the complainant, putting the Mayor’s personal needs, desires and well-being ahead of those of the Town and its citizens.

Council as a whole is accused of failing to act as a guardian of the Municipal Act and the Code of Conduct, by allowing these problems to persist throughout its time in office so far.

Specifically, with respect to the Code of Conduct, breaches of ss. 8.1; 8.4.1; 8.6.1 and 8.6.2 are alleged. Those sections read as follows:

CONFIDENTIAL INFORMATION

8.1 Members have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. They either shall not, directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council, by the local board or required by law.

8.4 Members shall:

8.4.1 Keep confidential any information that is circulated to members marked confidential

Protection of Privacy

8.6.1 Confidential information includes information in the possession of, or received in confidence by the Town that the Town is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

8.6.2 No member shall disclose or release by any means to anyone, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council or local board to do so.

The events of June 16, 2020, and virtually everything that flowed from that day are offered as evidence of the Code of Conduct breaches alleged.

Although there are conflicting recollections of how what transpired at the in-camera meeting that day came to be public knowledge, which it did almost immediately, on that very day, the evidence is overwhelmingly in support of the complainant's belief as to what transpired that day, *except* the complainant's actual conclusion, which is *not* established: *to wit*

Three (3) individuals selected and named by the Mayor were discussed in-camera. Although the subject was not raised by the Mayor initially, but by a different Councillor, the matter was almost immediately taken over by the Mayor when that Councillor stumbled a bit with the issue and expressed a desire to speak with the CAO. The Mayor had, as found by the Provincial Ombudsman, previously organized a "voting bloc" of Councillors who knew that the matter was going to be raised at that in-camera meeting, and who had apparently signed a document of some sort in favour of terminating the employment of three (3) employees, all in the Recreation, Community and Cultural Activities area of the municipality. At the in-camera meeting, the CAO was also directed to terminate them forthwith. At that time, there wasn't a recording of in-camera meetings, apparently, so we are reliant upon the recollections of others. That concern has since been rectified, we are told.

Although the Mayor has indicated to the writer that the matter was already on the agenda and provided me with a copy of the agenda from the Town's website to demonstrate that fact, all of the evidence, from every other source, is definitively contrary to that position.

It is clear the "Discussion about Staff" which currently appears on the agenda, with no specifics, was added to the in-camera agenda, "at the last minute", at best. Whether it was done orally or in writing, and somewhat earlier in the day, or just before the meeting or even "after the fact", it is not possible, at this stage, to definitively determine. Nor is it necessary, given the actual complaints, for the purposes of this report.

However, given the former Clerk's advice to me that she had once been asked by the Mayor to change the minutes "after the fact", but before the minutes had been sent to Council to approve, which would be the usual way of doing things (and that she had refused), we are reluctant to simply ignore that issue. For the moment, we simply state that it occurred.

We suspect that the change to what now appears on the agenda was actually made after that Clerk's resignation and departure. Even though not expressly

the subject of the complaint, it is worthy of note and speaks to a need for improved security in and for the municipality's computers and programmes.

Regardless of how the agenda came to read as it does, it is clear that the information that three (3) employees were to be terminated forthwith, was disclosed to the staff who were present at the in-camera meeting, at that very in-camera meeting, for the very first time. The three (3) Councillors who had previously been approached knew that the proposal to terminate three (3) employees was coming, but, aside from the Mayor, no-one else did. After the matter had been dealt with in closed session, it was then revealed in open session, immediately after Council returned to the open session, on June 16, 2020.

Although the Mayor appeared to be attempting to keep the resumed open meeting session very short, and used language which appears to have been deliberately vague so as to address the privacy concerns, she did acknowledge that the then C.A.O. had expressed an unfavourable opinion about the instructions that he had received in-camera. She also acknowledged or "permitted" the C.A.O. to express his disagreement with those instructions, publicly, if asked. She does seem, from the actual recording, to still be trying to preserve the sanctity of in-camera meetings, with respect to the identity of the individuals who had been ordered to be terminated. However, she also recognized that the C.A.O. was entitled to express his disagreement with the instructions he had been given, if asked. It appears that giving the C.A.O. his freedom to express his disagreement with Council publicly, set in motion the chain of events which ultimately precipitated this complaint. Although the Mayor seems to have been trying to be discreet and respect the integrity and privacy of in-camera meetings during the resumed open meeting, clearly what had happened at the in-camera meeting "got out" into the community very rapidly. According to one source, the C.A.O. (who had been given permission to speak of his disagreement, if asked) said enough, publicly, although without disclosing any names, that, if you "knew the people involved", you could figure it out pretty easily. Certainly, by June 29th, one of the local newspapers had confirmation of two of the names, although the third, at that point, may still have been a matter of an "educated guess".

By July 14th, 2020, however, it was clear that there was another new person to be hired - meaning that the person who had held the post previously was no longer holding that job.

So, with respect to the complainant's first allegation - that the Mayor contravened the provisions of the Code of Conduct with respect to the

confidentiality of information received at a closed meeting - it does not appear that there is any actual proof of that. One can draw a lot of inferences, as the complainant did, from the events as they transpired. That, however, is not proof, even to the civil standard required by s. 18.9.7.2 of the Code.

From the video/audio, the transcript, and from a witness, it appears that the only person who disclosed the fact that there were three (3) people to be fired immediately, and to be fired by the then C.A.O., was the C.A.O. himself. Although he did not name anyone, the witness told me that, in effect, if you knew anything about what was going on in Hawkesbury at that point, it was "pretty easy" to figure out who it was going to be.

I accept that as true. The witness has no "axe to grind", and, in any "smaller" community, such as Hawkesbury, news, especially shocking news like that, can travel through the community extremely quickly. It may all be fed simply by speculation, and the news can be totally wrong, but word will spread extremely quickly and is often at least partly correct.

Accordingly, I find that the first allegation, (that the Mayor and Council breached ss. 8.1, 8.4.1, 8.6.1 and 8.6.2 of the Code of Conduct with respect to confidential matters) is not sustained. There was a loss of privacy and confidentiality, to be sure, but it was not caused by anything said or done by any member of Council .

However, material that had clearly been *intended* to be confidential, equally clearly, did not remain so. In fact, it could never have remained so, if anyone had taken even a few minutes to think it through.

Council's policy, apparently, is to ratify any steps taken or decisions made while in-camera, at the resumed open session which follows the in-camera meeting. The Mayor had apparently stated, during the in-camera session, that she did not object to the C.A.O. stating his disagreement with what had happened in-camera **and** that she would take full responsibility for the decision to terminate those employees. That was an incorrect statement, and she should not have made it - simply because no single person on Council could have terminated the employment of those three (3) people. The Mayor also said that she was willing to take full responsibility - but, practically speaking, it took at least three (3) other people to actually make it happen, hence the complaint to the Ombudsman and the other complaint to the IC.

The C.A.O. of the day reminded the Mayor and all of Council that he had been given the right to speak freely when the open session resumed. The C.A.O. was then expressly told, publicly, by a Councillor, that he should say, honestly, who

voted which way, if the subject came up or if asked². The C.A.O. then cautioned Council that the issue had all moved ahead too quickly because the matter was now public, that he had been told to terminate three employees. How ANYONE could think, at that point, that that would be an end of the matter, defies logic and common sense. The rest of staff, the press and the public would all immediately start to speculate who was going to be "shown the door".

Two (2) of those employees were, in fact, served with a letter from Human Resources within a week,³ by which time, the fact that three (3) employees were to be discharged was already public knowledge. The third employee was ineligible for dismissal at that time, having been placed on medical leave, and one cannot dismiss someone when they are on medical leave (generally speaking). However, despite whatever sense of incredulity may have accompanied whatever speculation was going on, it was inevitable that people would guess, talk and speculate about who the third person was. And, ultimately, as indicated above, all three were dismissed. Had the matter been handled differently - with less of a "cloak and dagger" air to it all - even though it would still have been a shock to those involved - the feeling of "underhandedness" and sneakiness which seems to have clouded the whole effort might not have become so widespread and entrenched.

The second specific Code of Conduct breach alleged is that the Mayor has engaged in and usurped many of the complainant's projects and job responsibilities, often without either the complainant or the C.A.O. being aware that she had done so. In this regard, the complainant points to ss. 10.1 and 10.2.2.3 of the Code of Conduct, which read as follows:

CONDUCT RESPECTING STAFF

10.1 Roles and responsibilities.

The Chief Administrative Officer (C.A.O.) shall take direction from and be responsible to Council of the Town, but shall not be instructed or directed by or be responsible to any individual member of the Council. The CAO shall consult with Council with respect to any matter of concern to the Town or to any of its local boards. Clearly defined roles, distinguishing between the concepts of "governance" and "management", are critical to the success of a municipality. It will be reinforced at the outset that Council sets the policy for the community; it does not engage or participate in the daily operations of the Town.

² Council's own Code also provides for it.

³ The fact that it took a week seems actually to have been a problem for the Mayor, as it seems to have taken too long, by her standards.

10.2.2.3 Questions or issues surrounding operational concerns or complaints, excluding the basic issues covered above, should be directed to the CAO or to the directors.

It appears that the focus of the complainant's concern under this heading is what has been said to be the Mayor's very active involvement in, and supervision of, matters which are technically part of the complainant's job description. It is unfortunate that the Code of Conduct itself seems to blend two separate things together, being the C.A.O's responsibility and Council's responsibility.

Most of the complainant's concern revolves around the hiring of a person - the complaint doesn't say by who, but, after we started to look into it, we can understand why the complainant didn't say by who, as no-one seems to know. That person (who must remain also unnamed for confidentiality reasons), was hired as a "Project Manager"⁴ - although, of what Project is also less than clear.

However, back to dealing with the specifics of the complaint: the complainant points to a number of events in which, the complainant believes, people were hired, and projects assigned with respect to matters that were within the job description of the complainant. There should not, in the complainant's opinion, have been those hirings and those tasks should not have been given to someone else, because they were within the responsibility of the department that the complainant was responsible for and running.

Firstly, it apparently is correct, as alleged, that there was no formal posting of a job opening or call for tenders for any kind of consultancy services about downtown or tourism or anything like that, at least that this office has been able to locate. We understand that, since the Town of Hawkesbury had been without a C.A.O. for some time prior to all of this occurring, that is not a surprise, although it is unfortunate. A town the size of Hawkesbury, arguably, is not large enough to require a C.A.O., but things like advertising and hiring for any business or purpose, ought to have some designated person responsible. We have only been able to learn the following about the hiring of this person and their job responsibilities:

The Town had apparently previously created an Industrial Strategic Community

⁴ It was also this issue which led to the writer's appointment as a (poor) substitute for Mr. Saywell, Hawkesbury's IC at the time. (I say "poor", simply because this office is physically distant, there is a language difficulty and we simply do not, nor can we have, in present circumstances and despite everybody's best efforts, any access to the real "flavour" of the community, its various factions and perceptions, all of which can have an impact on the impression one forms.....It has been a less than ideal scenario in which to conduct an inquiry, to be perfectly honest). The ONLY good news, we believe, is that this office's impartiality should not be in doubt - the writer neither lives nor works in the community, nor am I ever likely to do either - I have no "axe to grind", one way or the other, no "favour to curry", no "skin in the game", as they say - I am, from the perspective of the residents of Hawkesbury and environs, I hope, unchallengeably neutral. I may, however, also be unchallengeably ignorant of the community and I accept that this report and inquiry may be criticized on those grounds. That said, and we will come back to this later, there is a very great deal that can be said about how the Town of Hawkesbury has been conducting itself for a few years now, based on all the information this office has received. Some of that background is available in John Saywell's report of Dec 31, 2020, which is on the Town's website, and which I commend to anyone as helpful reading.

Development Association (ACDSIH), which was mandated to hire a "resource", who ended up being a person called the "Project Manager"⁵. The membership of ACDSIH consisted of all the members of Council plus two (2) other people. Although it attempted to hire a Project Manager, the scope of its articles of incorporation apparently did not permit the project manager to be involved in the downtown to the extent that the members believed was required. That was in 2019. The matter then apparently dropped off the radar for a little while, but then returned, in 2020, with the presentation **by the Mayor** of a new contract, between the person who had been suggested for Project Manager from before, and a new principal, or hiring body, being Hawkesbury Industrial Investment Association (AIH), Prescott-Russell Employment Service Center (CSEPR) and COMZAC (the BIA), who we will call "the triumvirate". The proposed contract was apparently agreed to.

The BIA/COMZAC **appears** to be the "lead player" in the triumvirate. We were unable to find out why - and, in fact, at least one of the other members doesn't agree that the BIA is the main player. However, it appears that way to the writer, but only, we suspect, because the BIA/COMZAC had a bit more formal structure, perhaps more regular meetings, some rules and some guidance provided by the *Municipal Act*, which is publicly available. The BIA also had accountants and auditors already in place, who were also the City's employees, which may have simplified the accounting and accountability. The triumvirate's decision to hire a Project Manager to co-ordinate their efforts also makes sense, or else there would be a real risk of people in the three different organizations replicating each other's efforts. How the triumvirate came to hire that particular project manager, however, seems to be shrouded in mystery.

The Town of Hawkesbury agreed to be available, through its senior staff, to provide information which the consultant/Project Manager might ask for or require, so long as there was no cost to the Town.

The contract itself [with the Project Manager] specifies that "... *the scope of the mandate is rather broad and cumbersome*" (Google's translation) and the resources limited. The mandate clearly relies on volunteers. The contract also puts an onus *on the consultant* to "familiarize" his/herself with the organizational structure and the responsibilities of the various department heads "*in order to try to avoid and limit duplication.*" (this writer's emphasis)⁶ What that also means, however, is that the contract is actually recognizing that there may very well be some overlap in the functions between the Town of Hawkesbury [through its staff] and the triumvirate's hired consultant. It puts the onus on the

⁵And sometimes the "Project Officer" or the "Urban Project Manager"

⁶This is also an example of a translation problem - a later version which I translated does not say the Project Manager will TRY to avoid duplication - It says that he will *minimize* duplication. Given my conclusion on this point, however, nothing turns on the difference.

consultant/Project Manager to **try** not to do what municipal staff may be doing, the operative word being "try". It does NOT say, however, what will be done or what will happen if there IS duplication, or how that will be determined or who will be the arbiter.....there is a lot missing, from this writer's perspective.

Section 204 of the *Municipal Act* provides that a municipality **may** establish a Business Improvement Area and, if it does, its management is to "oversee the improvement, beautification and maintenance of **municipally-owned land**, buildings and structures **beyond** that [the designated BIA area] provided". It is also to promote the [designated] area as a business or shopping area. In other words, the BIA/COMZAC may well oversee the improvement, beautification and maintenance of things like Town-owned parks, *even those outside of the actual, designated BIA geographic area*. Please note that it is the *Municipal Act* which gives the BIA that broad mandate, not any kind of Council decision or action.

So, as this office understands it, the contract placed the *onus on the consultant*, to **try** not to encroach, or to limit the encroachment, depending on one's translation, on the responsibilities of municipal staff, while recognizing that there was likely to be *some* overlap or duplication. It provides a right, without a remedy, though, for breach of either of those obligations..

If one tries to look at it objectively - how can one promote, manage and hold/host special events, or promote recreational, community and cultural activities or leisure and tourism activities [per the complainant's contract] in a town the size of Hawkesbury, unless one also works toward the "improvement, beautification and maintenance" of **municipally-owned land, buildings and structures** and "promotion of a business or shopping area" [the language of the *Municipal Act* for the undertakings of the BIA]?

Put another way, if we ask the question - How could we promote special events, cultural activities, tourism and the like? - the answer could easily be "We could try to make the Town look better, or, We could advertise a special event or area of Town, or We could promote certain shops or parks"..... all of which seems likely to tread on areas that the BIA would also want to be concerned about and with. It seems to this adjudicator as if some overlap was inevitable between the mandate of the Recreation and Tourism Department of City Hall and the mandate of the BIA/COMZAC. So, although the complainant's issue is sustained, in terms of the overlap of functions, the fault would lie with the drafter of her job description, as the *Municipal Act* certainly wasn't changed on her account. Her job description had been prepared before this Council was elected, so any failing with respect to that cannot be attributed to this Council.

However, the Town and the BIA are NOT the only players in this mix. The BIA is, as we said earlier, partnered with the Industrial Investment Association and the Prescott-Russell Employment Service Centre, (with the non-financial support

of the Town), in the arrangements with respect to the hiring of the consultant.

The consultant does not know how that all came about. As much as anything, he sees it simply as a "carrying on" with the kinds of things that he had been doing for the Town about 5 years ago. We suspect he hasn't really thought about it, either, as long as he knows generally what he is supposed to do, and is paid for doing it.

The Mayor denies drafting the consultant's contract with the triumvirate. Staff and former staff at Town Hall didn't draft it either, or the caution about making sure a lawyer was involved that Hawkesbury's Human Resources professional urged, might have been followed.

Speaking as a lawyer, I can only say that the contracts, although they seem to contain the bare essentials, at least at first review, are rather **unsophisticated** and simplistic. The "bare essentials" is actually an overstatement. We hope whoever did draft them is not offended by this language - but that is this writer's assessment of them. They appear to do the barest minimum of what might be needed - and that's all. They are, frankly, full of holes, from this writer's perspective.

The Hawkesbury Industrial Investment Association is incorporated, and has been since about 1934. The Prescott-Russell Employment Service Centre, the other partner in the threesome, is also incorporated, according to its website.

All of which means that it is highly **unlikely** that any of the members of that triumvirate considered themselves bound by the rules which govern BIAs, under the *Municipal Act*. Even the BIA member likely didn't think about it, since there were so many other parties, NOT bound by any BIA rules, participating.

We doubt, in fact, that anyone really thought about it - they were presented with an "opportunity" and decided to "go for it" - undoubtedly well-intentioned, but perhaps either misguided or, equally as likely, totally **unguided**, when it all happened. Nor, we think, could it be fairly said that the group **is** bound by the BIA's rules and policies. COMZAC/BIA is a 1/3 participant only, in terms of funding. All parties have to agree to the termination of the consultant's services, for example, meaning that it (the BIA) does not have any more power or rights than any of the other members over firing someone. Nothing in the agreements which this writer has seen says who is to have the deciding or controlling vote. Accordingly, we simply cannot conclude that the BIA/COMZAC was/is "in control" or, therefore, that **its** Rules apply. We can say, therefore, that the complainant's belief, in that regard, is not sustained.⁷

⁷ That is not the specific concern which comes from her complaint - her complaint is that a lot of the projects were created or intended, deliberately, to take responsibilities away from her, in order to give them to the Project Manager.

We also do not believe that there was any deliberate attempt to avoid the Town's or the BIA's hiring policies. We think that everyone simply got a bit "carried away" with their enthusiasm for some possibilities that perhaps had not seemed to be there before and just "went along with it". There may have been great enthusiasm for it, or there may have been a kind of "at least someone is going to be doing something" shrug, as part of a [perhaps] exasperated but unspoken thought process.....regardless of the motivation, the parties decided to enter into an agreement with a Project Manager, ostensibly with the assistance and non-financial support of the Town, and a person who had done previous work in the Town was then hired to be that Project Manager.

Although it was stated in the complaint that Madame le Maire herself prepared the contracts in question here, she has denied that. We ought to have no reason to doubt her word in that regard, particularly since they are really very simplistic, and we know that the Mayor is a lawyer by training.⁸ However, the Project Manager does not know who prepared them. Our information is that no-one on Town Staff prepared them. Others have suggested that, since the Mayor seems to have been so involved in the arrangements and the presentation of them, that she **must** have prepared them or had something to do with their preparation. Certainly, she herself or someone acting on her instructions, using her computer, has to have scanned them into the system by which they were circulated to others. That we have confirmed - but who actually prepared them still seems to be a bit of a mystery. ***However, on the balance of probabilities (which is the civil standard), we find that the Mayor does know something about who and how the contract with the Town, the triumvirate and the consultant was drawn up and has simply chosen to deny her involvement, for some reason we are disinclined to speculate upon.***

Another issue which has arisen is the degree or extent of overlap, between the job responsibilities of the complainant and those of the Project Manager. There is no doubt, as said earlier in this report, that some of the job responsibilities assigned appear to be duplicated, even though assigned to two different people. For example, the Project Manager asserts responsibility for "Revitalization of Main Street and the Pioneers' Place". Pioneers' Place is a park, which falls under the responsibilities of the Recreation and Tourism Director, not an "outside" consultant. So, to that extent, at least, there is an apparent overlap of responsibilities.

In speaking with the Project Manager, it is clear that he is much more focussed on the "revitalization of Main Street" part of the mandate he claims. And, although the complainant attested that the responsibility for Pioneers' Park

⁸ Lawyers do not deliberately make things difficult, they are just trained to try to see and try to provide for every possibility, no matter how remote.

rested with her office, which it did and does, we have been unable to see where the Project Manager has actually done anything with respect to Pioneers' Place so as to intrude upon her mandate. That does not mean that he has not - only that, aside from documents ostensibly adding such items as Pioneer's Place to his job responsibilities, it is not obvious to this office, from the resources which are available to us at this point, that he has actually done anything with that responsibility.

The case is similar with respect to Chenail Island and the Ministry of Natural Resources (MNR) file. The Project Manager appears to have claimed to have done some work or produced a concept plan with respect to the Island. The island is, we suggest, clearly, technically, within the complainant's broad position description because of its tourism and recreational significance. Other than the Project Manager claiming credit for a "concept plan" in relation to it, however, which we assume is only a small part of a larger issue with Chenail Island, we have not been provided or had access to anything that says that the Project Manager was actually given that responsibility, or by which person or department.

Furthermore, he doesn't appear to have a formal "position description" that we can look at. Such a "position description" as does exist, appears to be the contract between the Project Manager, the Town of Hawkesbury, the Industrial Investment Association, the Prescott-Russell Employment Service Centre and COMZAC/BIA. That contract appears to provide him a job in a field that he is accustomed to and enjoys working in. Since virtually everyone attributes the consultant's involvement to the Mayor and her influence, and we have no evidence to the contrary, except the Mayor's statement to that effect, we are compelled to accept that evidence as the only evidence we have. Does it meet the civil standard of proof? Well, when there is enough of it, and nothing substantive to contradict it, it can and, in this case, we find that it does. We do not know and will not speculate on the Mayor's motive for all of this. However, it does seem as if she took a "pet project" "between her teeth" and just "ran with it" (please pardon the mixed-up vernacular) - and no-one in any better position than a staff person, (such as another member of Council) appears to have tried to stop her, or even to put any kind of meaningful impediment in her way. Although staff have accepted and continue to accept, a great deal of responsibility, no member of staff is ever in a position to issue an order to a member of Council that **must** be followed - they are to do Council's bidding, not the other way around. So, no matter what anyone thought of it, it seems that the Mayor has simply proceeded, with a "pet project", in the manner she thought best.

As to the Ministry of Natural Resources (MNR) and "following their file", it has been alleged that the responsibility for managing that file was given to the Project Manager by the Mayor, without the complainant's knowledge. According to the complainant, the assignment of that matter to the Project Manager came

about because erosion on the shore of Chenail Island is something with which the Mayor has concerned herself particularly. Without knowing who at MNR has carriage of this matter, it is impossible, particularly given the constraints of COVID, to know who at MNR we should speak to about that issue. We have no evidence of who or how it came to be something that the Projects Manager was/is or thinks he is, responsible for.

If we cannot find an independent resource to corroborate something in the complaint, trying to look into that aspect of the complaint can end up being a time-wasting and irresponsible money-spending exercise. So, rather than simply spending Town money in a fruitless exercise, we have simply not pursued it further. The absence of proof, one way or the other, in that matter, however, does not change our ultimate conclusion - which is that the Mayor was extremely involved in the hiring of the Project Manager for the triumvirate, and that he has been given a number of responsibilities which are technically those of the Department of Recreation, although he was given them with a caution that requires **HIM** to **try** not to interfere with the activities and mandate of the Recreation department. For all intents and purposes, that section of his contract is essentially meaningless, since it contains neither a standard of proof, a burden of proof, what constitutes proof - nor a consequence of any kind for breach.....it is nice-sounding verbiage, but that's all. The complainant's concern on that point is, therefore, partially sustained.

That said, it has certainly become apparent to this writer, that the animosities here run deep - on both sides. However, if we go back to the section(s) of the Code which it is alleged have been breached by these various actions for which the complainant blames the Mayor, it is ss. 10.1 and s. 10.2.2.3 - both of which actually deal with the C.A.O., rather than the Mayor - which are alleged to have been breached. Those sections, in fairness, contain a number of parts.

Section 10.1 says that the C.A.O. *"...shall take direction from and be responsible to Council of the Town but shall not be instructed or directed by or be responsible to any individual member of Council."* Although it is clear that the Mayor was the main person insisting on the complainant's firing, it is also clear that the majority of Council supported that happening. Others certainly did not agree, and did not support either the "how" or the "when" of it happening, but there is no doubt that the majority of Council voted as "primed" to do.

That section goes on to say *"The C.A.O. shall consult with Council with respect to any matter of concern to the Town or to any of its local boards."* Well, until Council went in-camera on the afternoon of June 16, 2020, no-one except those whom the Mayor had "set up" in advance, had any idea that there was a matter of concern of any kind, for the Town, or that it could involve terminating the employment of three (3) people. So, yes, the C.A.O. failed to consult with

Council about it, contrary to the Code - but the C.A.O. cannot consult with Council on a matter which he doesn't even know exists. His failure to have done so lands at the door of the Mayor and three (3) other members of Council, not at the C.A.O.'s.

Further, *"Clearly defined roles, distinguishing between the concepts of "governance" and "management", are critical to the success of a municipality".* And there we have it, in broad terms but sparse language and without detail. However, the distinction between the two, which is essential, seems to have been completely lost on the Council or governance side of Council. The difference has become completely blurred and, in fact, seems to be totally absent, in Hawkesbury. *"It will be reinforced at the outset that Council sets the **policy** for the community: it does **not** engage or participate in the daily operations of the Town."* (My emphasis) The "daily operations of the Town" definitely include who is hired or fired, which employee is doing what work, and when, how and where they do it. All of which every Council is specifically mandated NOT to engage in - but, in Hawkesbury, definitely has.

In fact, **none** of the members of Council seems to have ever even read that statement. If they have read it, they have completely failed to understand what it means. We include all members of Council here, even though three (3) voted against the termination of the employees on June 16, 2020. We have included everyone because the in-camera debate seemed to focus, according to our information, on the fact that it was three people from the same department at the same time proposed for firing. That is completely an operational matter, and belongs with the C.A.O and the department head, not with Council. Even those opposed to the firing, focussed, as we understand it, more on the number of people from one department all at the same time, rather than the inappropriateness of Council engaging in the debate at all. Certainly the Mayor, and the three (3) councillors the Mayor had approached with the proposition to fire three (3) people, do not appear to have read that section of the Code or understood it. If they did read it, and do think that they understood it, then one has to ask, "Whatever did they think that they were doing on June 15 and 16 of 2020?"

We recognize that there is an unfortunate inclination to feel as if you are part of the day-to-day working group, when you actually work in the Town Hall building, so, generally speaking, any Mayor may be more prone to that way of thinking if they actually have an office in and work in, the Town Hall. This Mayor appears to be no exception, and, in fact, appears to have taken that perception of her role to a new level.

We do not believe that she is simply power-hungry or entirely motivated by the wrong things. We do not believe that she is motivated by personal greed, or

material goods, or even, necessarily, by power, although that certainly may be part of it. We **do** believe that she is extremely intelligent, but that also means, in our opinion, that she has a tendency to believe that she can do **anything** and everything better than those around her can do it, even if it is their assigned task or job. It also seems to mean, unfortunately, that, if challenged, she seems to be unassailably convinced that what she has been doing and is continuing to do, is "right" and the best for the Town. It also, unfortunately, seems to mean that she does not take criticism simply in stride, or even treat it dismissively - she appears to take things quite personally, as if any small, even very minor criticism, cuts her very deeply. She then seems to become determined to "prove" the other person wrong, in some way, in the responses she makes to allegations made against her. It also means that she can be somewhat inconsistent - she is challenging Commissioner Saywell's findings, attempting to quash his report, but it also includes a recommendation that she obtain the services of a professional management coach, which she has apparently gone ahead with.

So, even though the words fall under the heading of s. 10.1 "Roles and Responsibilities," and talk initially about the C.A.O. and his/her responsibilities, the section goes on to deal with the distinction between the jobs of Council members and the jobs of the employees generally.⁹ And, in that regard, as said earlier, the differences between "governance" and "management", "policy" and "operations" have become totally obscured in Hawkesbury. ***In that respect, the complaint is sustained.*** We find that the Mayor has tried to "step in" or "take over" a role which is definitively NOT her role. One need only look to the *Municipal Act* for that guidance, which Hawkesbury's own Code of Conduct indicates, at paragraph 10.3¹⁰:

The Mayor's role is set out in s. 225 of the *Municipal Act*, which states:

Role of head of council

225. It is the role of the head of council,

- (a) to act as chief executive officer of the municipality;
- (b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to the council;
- (c.1) without limiting clause (c), to provide information and

⁹The comment might be better placed under the heading "Interaction with staff" in the Code of Conduct.

¹⁰ "The *Municipal Act*, 2001 sets out the roles of members of Council and the municipal administration, including specific roles for statutory officers such as the Chief Administrative Officer, Clerk, Treasurer and the Integrity Commissioner"

recommendations to the council with respect to the **role of council** described in clauses 224 (d) and (d.1);

- (d) to represent the municipality at official functions; and
- (e) to carry out the duties of the head of council under this or any other Act.

Even as supplemented by s. 226.1¹¹ of the *Municipal Act*, none of the language used deals with assessing the performance of staff, or the hiring or firing of staff. Nor does the *Municipal Act* empower a Mayor to hire consultants for the municipality, or to draft contracts for the municipality, both of which appear to have been undertaken by the Mayor in Hawkesbury. It appears to the writer as if the Mayor simply “takes hold of” particular projects as and when they attract her attention, without regard for the proper structure, or chain of command, or qualifications, or repercussions. She may well have, as found by Mr. Saywell, a very entrepreneurial spirit, but that does not excuse her being ignorant or dismissive of the fact that there are rules, that those rules are supposed to govern - by both empowering and restricting - the way one acts, and that failing to follow those rules can have extremely adverse consequences, and for more than one person. For someone who possesses a lawyer’s qualifications, to be so “casual” about things like rules and regulations, is, in the writer’s view, a simply unfathomable failing.¹² Hawkesbury’s own Code of Conduct contains provisions, at ss. 10.5 through s. 10.9.3, which every member of Council ought to have read, carefully, and keep available to refer to, regularly!

The complainant has also stated that the Mayor has breached s. 13, in particular, ss. 13.1 and 13.2.1 of the Code of Conduct.

Section 13.1 requires a member to conduct themselves “in accordance with the

¹¹ 226.1 As chief executive officer of a municipality, the head of council shall,

- (a) uphold and promote the purposes of the municipality;
- (b) promote public involvement in the municipality’s activities;
- (c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
- (d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

¹²The Mayor expounded at some length on her asking a consultant for information after a tender, that it resulted in a better deal and that that was to the benefit of the Town. What she ignored, or perhaps didn’t know, is that there is a whole lot of case law, at the Supreme Court of Canada level, dealing with what is supposed to happen when a municipality puts something out for tender, and what the financial consequences can be. All of which is why the politicians are neither required, nor permitted, to get into the minutiae of any specific tender. Many Codes or Rules of Order for Council absolutely prohibit Council from having anything at all to do with the tendering process or the awarding of tenders.

Municipal Conflict of Interest Act, as amended from time to time”.

S. 13.2.1 states “In making decisions, always place the interests of the taxpayers first and, in particular, place them before the interests of colleagues on Council, or on a local board, staff, friends or family”.

The complainant alleges that the Mayor has breached these provisions because of her involvement with the Centre Cultural le Chenail (CCC), particularly during May and June of 2020, when it is alleged that the Mayor’s ongoing involvement with both the CCC and the Town, made it difficult to know who she was representing. We assume that the complainant is not using “representing” in its legal context.¹³

The example cited deals with the Tourism office and whether the CCC was supposed to sell boat launch passes in 2020, but was ostensibly without any kind of a contract or trained staff to do that. It had apparently also been decided at a meeting on May 28th, that the CCC would NOT offer boat launch passes in 2020, because of the pandemic, except in emergency situations. Notwithstanding that, the Mayor sent a staff person an email instructing her to change the recorded message to advise that launch passes could be purchased at the CCC.

Firstly, in terms of the specific complaint, the *Municipal Conflict of Interest Act* deals only with personal, individual financial interests, and Councillors voting in connection with them when they ought not to. Whether an individual on Council is involved in some other organization or not, is not relevant, unless the Councillor is being paid by that organization and a matter affecting that organization comes before Council in need of something financial from Council which could affect the Councillor’s finances. Without any evidence that the Mayor was somehow benefiting personally and financially from the CCC, the *Municipal Conflict of Interest Act* would not apply to any interactions the Mayor has with the CCC. Anyone on Council can advocate for a particular cause or policy or group, at any time, **so long as they¹⁴ are not being paid or financially affected in any way by doing so**. This office has been offered no evidence, nor even an actual allegation, that the Mayor has a financial interest in the CCC.

Section 13.2.1, as indicated above, requires all councillors to put the taxpayers’ interests first, ahead of the interests of “colleagues on Council, colleagues on a local board, staff, friends or family”. The complainant, however, did not provide any examples of anyone on Council putting the interests of colleagues, or a local

¹³ The Mayor does “represent” the Town for service of documents for legal purposes.

¹⁴ Or their spouse, family, etc., per the MCIA.

board, Town Hall staff, or friends or family whose interests had been put ahead of taxpayers' interests. The only example referenced was, again, the Mayor and her relationship with the CCC. However, as above, we have been offered no evidence of the Mayor putting the interests of the CCC ahead of the interests of the citizens of Hawkesbury or its Council.

Accordingly, that part of the complaint is also **not** sustained.

The complaint then goes on to cite section 5.1 of the Code of Conduct, and sections 10.2; 10.2.1; 10.5 and 10.8, along with ss. 13.1 and 13.2, which refer back to the *Municipal Conflict of Interest Act*.

The relevant sections are as follows:

- 5.1 All members to whom this Code of Conduct applies shall serve their constituents in a conscientious and diligent manner. Members shall not use the influence of office for any purpose other than the exercise of his or her official duties.
- 10.2 The Town has worked diligently at creating a positive working relationship between Council and staff. This has been successful, largely due to a mutual respect for each other's roles and responsibilities.
 - 10.2.1 Only Council, acting as a body, can dictate that staff perform such duties as are necessary to the efficient management of the affairs of the community, and/or research such matters as the Council deems necessary. Individual members do not have authority to direct the CAO, directors, or staff.
- 10.5 Council as a whole has the authority to approve budget, policy, governance and other such matters. Under the direction of the CAO, Town staff serves Council as a whole and in accordance with the decisions of Council. Members have no individual capacity to direct members of staff to carry out particular functions.
- 10.8 Members of Council shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual member or group of members of Council.

PART 13: MUNICIPAL CONFLICT OF INTEREST ACT

13.1 Members shall conduct themselves in accordance with The Municipal Conflict of Interest Act as amended from time to time.

13.2 The following principles should be used as a guide:

- 13.2.1 In making decisions, always place the interests of the taxpayers first and, in particular, place them before the interests of colleagues on Council or on a local board, staff, friends or family;
- 13.2.2 Always interpret the phrase "Conflict of Interest" in the broadest possible terms;
- 13.2.3 Any factor which could be considered a conflict by taxpayers should be treated as a conflict and be disclosed by the member;

With respect to this group of provisions, we are advised that the Mayor sent an email to the complainant and the former Clerk "ordering" (the complainant's word) them to call a meeting so that they could instruct the by-law enforcement officers how to handle the parking of Recreational Vehicles (RVs). The email was apparently copied to those by-law officers, other employees of the Clerk and the head of the CCC. The complainant advises that the Mayor sent a further email to the then C.A.O., certain department heads and some members of the CCC about a number of small scale activities, such as the erection of a sign, electrical costs and similar things. The complainant's concern was that the Mayor neither copied the other members of Council, nor did she indicate that she was acting in Council's name or on Council's behalf. Thus, the complainant says, adding to the difficulty of figuring out whether the Mayor is representing the Town or the CCC.

We have already dealt with the Mayor and her relationship with the CCC, in that, so long as it is NOT financial, the *Municipal Conflict of Interest Act* does not apply.

That does NOT, however, address some of the other parts of the Code of Conduct which DO apply and are alleged to have been infringed.

Was the Mayor using the influence of her office for something other than her official duties? Giving instructions to staff, to further instruct other staff, is certainly NOT one of the Mayor's official duties (s.5.1). Directing that staff perform certain duties, even if those duties ARE necessary to the efficient management of the affairs of the community, is NOT one of the Mayor's duties (s. 10.2.1) or responsibilities. No individual member of Council, whether they be Mayor or not, is entitled to direct staff to carry out any particular function. (Ss. 10.2.1 and 10.5). So, instructing staff on the municipal by-law, and how to

handle RV parking, or erect a sign or make a grant submission - NONE of these are something that the Mayor, or ANY member of Council, should be dealing with. Although we are certain that all members of Council, including the Mayor, think that they are serving their constituents in a "conscientious and diligent manner" (as required by s. 5.1), in this adjudicator's opinion, they are NOT. Diligence *could* include doing more than asked or required, because that is being thorough, but conscientiousness, we believe, does not, as it relates to a person's conscience - and it is especially not conscientious if the action involves spending more municipal money or taking away someone's job. That is not conscientiousness - that's casual and carelessness, in our opinion.

The Code of Conduct states that the Town "has worked diligently at creating a positive working relationship between Council and staff. This has been successful, largely due to a mutual respect for each other's roles and responsibilities"¹⁵. That is a very nice, forward-looking platitude - and it is absolutely, categorically, completely UNTRUE in Hawkesbury at this point in time.

If the Town has been working diligently at anything, it is at destroying its own reputation, albeit unintentionally. There is no "positive working relationship between Council and staff" as set out in the Code of Conduct. In over 40 years of legal practice, and over 10 as an Integrity Commissioner, I have virtually never seen such a completely, totally, awesomely dysfunctional relationship between staff and Council. Such efforts as may have been made to obtain a "positive working relationship" in Hawkesbury, so far, have been totally **UN**successful. Nor is there any "mutual respect" for the respective roles and responsibilities of Council and staff. That is blunt, we recognize, but it is also the plain, unvarnished truth, as we see it.

Accordingly, we find that the complainant's issue, although some of the examples provided don't correlate precisely to the specific sections of the Code cited in some respects, this **complaint**, overall, by the former staffer, **is sustained**. We believe that we have learned enough through this comprehensive process to state that the complainant has a legitimate cause for concern. And the taxpayers should, too.

The final specific issue for this writer to deal with falls under s. 10.9 of the Code, which says:

10.9 Members of Council shall not:

10.9.1 Maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff;

¹⁵ S. 10.2

- 10.9.2 Use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties.

On this point, it is difficult to know where to begin, the concerns are so numerous.

The specific concerns alleged are 1) that the Mayor and some other unnamed members of Council had accused the then C.A.O., of having an affair with the complainant because he defended her against their accusations and had recommended that she be given additional responsibilities, which, according to the Mayor, she was not equipped to handle.

The Mayor denies ever having made such an allegation, although she does admit to telling the former C.A.O. that some Councillors did think that the complainant and the former C.A.O. were having an inappropriate relationship. She also acknowledges telling the gentleman that, if she had thought that he was having an inappropriate relationship with the complainant, she would have raised the matter with Council, and, she says, she did not. This was intended to reinforce her denial of spreading the rumour or even agreeing with the rumour. On this point, the Mayor and former C.A.O. have a major disagreement in their recollection.

The former C.A.O. says that he asked every councillor if they thought he was sleeping with the complainant, and that they all denied both thinking that and spreading that rumour. The Mayor asserts that the former C.A.O. is "lying" (her word) - that he did not ask **every** council member (the emphasis is the Mayor's).

It is astonishing to us that she would hone in on his assertion that he asked EVERY Council member, rather than whether or not he had been telling the truth about an inappropriate possible relationship. She seems to have focussed completely on the least important thing: it doesn't matter whether **every** council member was asked, or only 5 of them - what matters is that the former C.A.O. felt the need to ask members of Council if they had thought he was having an improper relationship, which means that he did not believe the Mayor and would not simply accept what she had told him. That level of distrust between the Mayor and the C.A.O. simply should never exist.

The Mayor goes on to say some very disparaging things about the former C.A.O., which seems a bit bizarre, given that my information is that the former C.A.O. and the Mayor's spouse have a professional relationship. She says: "In the Commissioner's report", the former C.A.O. "states that I was taking pleasure at spreading rumours of his relationship with an employee, which was totally

false". Unfortunately, it is the Mayor's statement that appears to be false or mistaken.

This office has a copy of Commissioner Saywell's report - and Commissioner Saywell says no such thing. He does **not** say that the Mayor was spreading rumours, or that she was taking pleasure in it - the Commissioner said only that the Mayor had insinuated, at a private meeting, that there was an inappropriate relationship with an employee and that the former C.A.O. had found that intimidating. The two statements are striking in their differences, almost as if the parties were talking about two different things.

Regardless, according to the Mayor, the complainant did not have the qualifications to do the very job she had been expressly hired to do and she commented adversely on what she says was the Council decision to hire her in the first place.¹⁶ She goes on to express surprise at actions of the former C.A.O. who she says is hurting his own family, disparaging her to others and, she believes, is having some significant health issues.

She went on, at great length, to elaborate on what she characterizes as the misbehaviour of the former C.A.O., as well as that of the complainant, the Treasurer and the "interim" C.A.O. (Interim is the Mayor's word- we believe that she means the current C.A.O, who was the Acting C.A.O. at the time of the Mayor's comment).

CONCLUSIONS:

We could go on, at length, and quote the Mayor, also at length, but feel that that would be unproductive and and precise quotations would be a betrayal of our obligation to preserve privacy and secrecy.

Over the course of this inquiry, we believe tempers became a bit frayed; language, professionalism and decorum deteriorated, patience of any kind with the failings of others seems to have totally evaporated and frustration overtook everyone. To go on further with quotations describing the level of discord would also mean that we would be breaching s. 223.6.2 of the *Municipal Act*, in disclosing more than is necessary for the purposes of the report. And we would be duplicating all of the effort already put into this matter by both the Ontario Ombudsman, the former IC, John Saywell¹⁷, and Amberley Gavel. So, in addition to repeating ourselves, we would be repeating them, which is hardly an appropriate expenditure of time or municipal funds.

¹⁶This would have been the previous Council

¹⁷Both of these reports are available on the municipality's website and I would strongly recommend that both be read

And, on top of all that, we would be doing exactly what the Mayor has told us that she is anticipating, which is that, in her opinion, this entire process is only intended to show that the political person is wrong, no matter what.

We disagree with the Mayor - that is NOT the purpose of the legislation or this exercise. Nor is that always the outcome - see the Ombudsman's report on this matter, for example. The object of the exercise, we believe, is, yes, exposing misbehaviour or inappropriate behaviour, and, yes, recommending consequences that are appropriate, but, more importantly and hopefully, preventing it from happening again.

What we will say, is that Hawkesbury Town Hall seems, from this vantage point, as if it must be a very depressing, demoralising and unfulfilling place to work at the moment. Indeed, we know that a very large number of people have left employment with the Town, most, though not all, of their own initiative. Almost every single person we have spoken to through this exercise, has expressed both frustration with, but fear for, their job. Which might seem odd - to both dislike your job, yet not want to lose it - but it's not. It speaks to the level of dissatisfaction which seems to be simmering in Hawkesbury's civil service, which appears to be tempered only by the desperation of necessity.

And the only reason that we can point to, for all of that, is the level of dysfunction under which everyone seems to be operating - politicians and staff alike, although, given the summary dismissal of three (3) relatively senior people in 2020, the staff/employee side seems to the writer to be suffering more at present. They are, after all, at a much greater disadvantage than the politicians, all of whom seem to have income from a source that the problems at Town Hall do not directly threaten.

Regardless, as we said earlier, the problems appear to be widespread - although the focus of this complainant's concern was the Mayor, during this investigation, we became concerned about virtually the whole of Council, in terms of their understanding of their roles and responsibilities. It seems to us as if the majority of council have simply never really fully understood them, even if they have read them.

SUMMARY:

The complainant made a number of complaints about some members of Council, and the Mayor in particular. They overlapped, to a certain extent, and did not fall squarely within some sections of the Code. The most egregious problem, in fact, did not **seem** to even fall within the Code, although it actually does.

There is no express prohibition on the Mayor orchestrating the termination of a staff member or members - nor should there be - but that is only because it is so obvious that there shouldn't need to be one! That is so clearly NOT the responsibility of any member of Council that it, literally, "goes without saying"! True, the Mayor is apparently not the one who leaked the information to the media, it was a former staff person, but all of the substantive complaints, and all of those that were upheld, can be attributed to what happened leading up to, at and after the meeting of June 16, 2020. And all of the problems seem to come, we think, from a very real and fundamental lack of understanding of the differences between management and employees, and their respective jobs and responsibilities, in the municipal sector.

CONCLUSION:

The difficulty with matters like these, always, lies in determining an appropriate remedy, given that, as a matter of law, the only penalties¹⁸ that we can legally recommend are quite limited.

We endorse and recommend in a general way, the penalties urged upon Council by former IC John Saywell, although with some small changes. So, our recommendations are:

- 1) that Mayor Assaly, Councillors Bogue, Chamaillard and Tsourounakis each sign the apology in the form attached, and provide copies of same to the former Director of Recreation (Mme Trudeau), the former C.A.O. (Mr. Gatien), the present C.A.O. (Mme Dussault), Ms. Kim Maurice and Mr. Martin Desrosiers (both former employees) for their misguided and inappropriate behaviour on June 15 and 16 of 2020. (This is a reprimand by authority of article 18.10.2.6 of the Code of Conduct and s. 223.4 (5) of the *Municipal Act*, R.S.O. 1990, c. M. 45);
- 2) that Council, [as a group], obtain the services of a professional management coaching firm, which shall be, or be approved by, Amberley Gavel (or their designate, who must be a recognized municipal consulting firm), at the municipality's expense, to assist all members of Council to develop leadership skills appropriate to their municipal government. The coaching or instruction shall take place over a period of at least 3 months, and shall involve or require the attendance or involvement of EVERY member of Council, and which coaching or lessons may be taken simultaneously or in a class forum (This penalty is by authority of article 18.10.2.5);
- 3) that Council publicly reprimand Mayor Assaly for failing to abide by ss. 225, 226, 227 and 239 of the *Municipal Act*, R.S.O. 1990, c. M. 45 and Hawkesbury's

¹⁸ "Penalties" is what the *Municipal Act* calls them in s 223.4 (5), although we prefer to call them recommendations for the future.

own Code of Conduct;

4) the Council pass a resolution to a) define who Council considers to be a member of the management team, and b) that any hirings or firings of any member of the management team will require a two thirds (2/3) majority vote.

5) that Council provide a copy of this report and all other reports which are presently on the municipal website, and any other reports completed within the next six (6) months, to the Ministry of Municipal Affairs and Housing, accompanied by a resolution of council, in writing, authorizing the Ministry of Municipal Affairs and Housing to make inquiries of any of the authors of any of the reports as to their findings and the reasons therefor.

The reason for the final recommendation is so that the Ministry will know that this situation should not have happened, should not be allowed to happen again, and, that, if it does, it is the opinion of this author that the Ministry should intervene to address the problems.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Valerie M'Garry', with a large, stylized loop at the end.

Valerie M'Garry, IC *pro tem*
for the town of Hawkesbury

APOLOGY and Acknowledgement

I now understand and accept that my behaviour on June 15th and 16th of 2020, in relation to my dealings with staff of the Town of Hawkesbury and other members of Council, was wrong, very much in error and inappropriate.

I should not have agreed to dismiss any member of staff and I should not have made an agreement or a promise to dismiss any member of staff in advance. I now understand that it is not my job, nor my right, nor part of my responsibilities as a member of Council, to dismiss any member of staff, except the C.A.O. If I have a concern about a staff member's performance, I must take that concern to the Head of that Department, the Director of Human Resources or the Chief Administrative Officer, if I decide that I am concerned enough about their job performance that I absolutely must do something about it for the sake of the citizens of Hawkesbury.

I should also not have agreed to dismiss the staff members immediately or without any notice, as dismissing anyone in that fashion is against the law. It makes the municipality liable to pay damages to those people, in addition to the fact that the firing of staff is not my job or responsibility to do, as said above.

I also should not have agreed to dismiss them without insisting on consulting with the municipality's legal counsel, Director of Human Resources or the Chief Administrative Officer because there are legal ramifications for the municipality which I should not have overlooked or forgotten about or ignored.

I now realize that I should not have done any of the things in relation to staff of the municipality that I did on June 15 and 16 of 2020, and state that I will not do anything like that ever again. If I have any concern, of any kind, about a member of staff or their performance as a member of staff, I will request a meeting with the Head of that Department AND the Director of Human Resources to discuss my concerns. I will be cautious about what I say to anyone else about the matter.

September_____, 2021

Mayor Paula Assaly

Councillor André Chamaillard

Councillor Lawrence Bogue

Councillor Antonios Tsourounakis