INTEGRITY COMMISSIONER 2019 ANNUAL REPORT

CITY OF ST. ALBERT

SAGE ANALYTICS

September 30, 2019

Mayor Cathy Heron and Council
City of St. Albert
5 St. Anne Street
St. Albert, Alberta, T8N 3Z9

RE: Integrity Commissioner 2019 Annual Report

Dear Mayor and Council,

The Integrity Commissioner 2019 annual report is provided in the following pages. The report includes background information, a description of the Integrity Commissioner role, and a description of the complaint investigation process.

It has been a quiet year with no formal code of conduct complaints received or investigated. The Council Code of Conduct Bylaw and the Integrity Commissioner Bylaw have been reviewed and recommendations for bylaw amendments are provided for Council's consideration.

Thank you for your commitment to public service accountability for elected officials.

Respectfully submitted,

(Original signed)

Shari-Anne Doolaege, MPA, Q.Arb, CLGM
Integrity Commissioner, City of St. Albert
President, Sage Analytics Inc.

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1. Background

Alberta municipalities are subject to the legislative provisions of the *Municipal Government Act* (MGA)[1]. Various MGA amendments came into force on October 26, 2017. One of the MGA amendments focused on strengthening the accountability of elected officials and required municipalities to have a Code of Conduct in place by July 23, 2018. The City of St. Albert complied with the new legislation and passed a Council Code of Conduct Bylaw No. 38/2017 that came into force on March 31, 2018.

The related MGA section 146.1 reads as follows:

> ***Division 1.1***
> ***Codes of Conduct***
> ***Bylaws — codes of conduct***
>
> ***146.1(1)*** *A council must, by bylaw, establish a code of conduct governing the conduct of councillors.*
>
> *(2) A code of conduct under subsection (1) must apply to all councillors equally.*
>
> *(3) A council may, by bylaw, establish a code of conduct governing the conduct of members of council committees and other bodies established by the council who are not councillors.*
>
> *(4) A councillor must not be disqualified or removed from office for a breach of the code.*
>
> *(5) The Minister may make regulations*
>
> > *(a) respecting matters that a code of conduct established under subsection (1) must address;*
> >
> > *(b) respecting the date by which councils must establish a code of conduct under subsection (1);*

[1] The *Municipal Government Act*, *Revised Statutes of Alberta 2000, Chapter M-26,* Current as of April 1, 2018; Accessed online: http://www.qp.alberta.ca/documents/Acts/m26.pdf

(c) respecting sanctions to be imposed for a breach of a code of conduct established under subsection (1);

(d) respecting matters that a council must take into consideration in establishing a code of conduct under subsection (1) or (3), or both;

(e) respecting implementation of a code of conduct established under subsection (1) or (3), or both;

(f) respecting any other matter the Minister considers necessary or advisable to carry out the intent and purpose of this Division.

2. Council Code of Conduct Bylaw No. 38/2017

The City of St. Albert Council Code of Conduct Bylaw No. 38/2017[2] includes the following Purpose and Application:

> *The purpose of this Code of Conduct is to provide standards for the conduct of Council Members relating to their roles and obligations as elected representatives of the City and a procedure for the investigation and enforcement of those standards. This Code of Conduct is one aspect of accountability and transparency both internally, as among Members and as between Council and Administration, as well as externally, with other orders of government, the media and the public at large.*

The Council Code of Conduct Bylaw No. 38/2017 outlines the role for an Integrity Commissioner to receive, review, investigate, and adjudicate formal complaint allegations that a member of Council has contravened the Code of Conduct.

[2] The City of St. Albert Council Code of Conduct Bylaw No. 38/2017 can be accessed online at: https://stalbert.ca/uploads/legislative/Bylaw_38-2017_-_Council_Code_of_Conduct.pdf

Other key sections in the Council Code of Conduct Bylaw No. 38/2017 include:

- Framework and Interpretation
- Statement of Principles and Values
- Confidential Information
- Conflicts of Interest
- Respect for the City and its Bylaws and Policies
- Attendance
- Conduct at Meetings
- Respect for Decision Making Process
- External Communications
- Use of Social Media
- Discrimination and Harassment
- Conduct Respecting Administration
- Use of Municipal Property and Resources
- Expenses
- Gifts and Benefits
- Election-Related Activity
- Council Self-Evaluation Sessions
- Compliance with this Code of Conduct
    - Sanctions for Noncompliance
- Complaint Procedures
    - Informal Complaint Procedure
    - Formal Complaint Procedure
        - Addressed to the Integrity Commissioner

3. Role of Integrity Commissioner

The City of St. Albert passed an Integrity Commissioner Bylaw No. 45/2017[3] that came into force on March 31, 2018. This bylaw complements the Council Code of Conduct Bylaw by establishing the role, appointment, and duties of the Integrity Commissioner.

The Role of the Integrity Commissioner is defined in Bylaw No. 45/2017 as follows:

> *The role of the Integrity Commissioner is to receive, review, investigate and adjudicate Formal Complaints and if a contravention of the Code of Conduct is established, to provide recommendations to Council regarding the imposition of a penalty.*

4. Appointment of Integrity Commissioner

The City of St. Albert undertook a competitive recruitment process in 2018 and City Council subsequently appointed Shari-Anne Doolaege, MPA, Q.Arb, CLGM as the Integrity Commissioner for the City of St. Albert. The contract specifies a one-year term, effective November 6, 2018.

This appointment reflects a reciprocal agreement and understanding that formal complaints will be received and handled by the Integrity Commissioner. The service is provided as an independent contractor on a flexible, as needed basis. The appointment allows the City to exercise preparedness where formal complaints can be addressed in a consistent and timely manner.

Shari-Anne is the president of SAGE Analytics Inc.[4], a municipal consulting company based out of Edmonton, AB. She has a strong background and education in municipal government, evaluation, complaint investigation, and dispute resolution. She has also served as a provincially appointed municipal inspector for nine municipalities since 2015.

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[3] The City of St. Albert Integrity Commissioner Bylaw No. 45/2017 can be accessed online at: https://stalbert.ca/uploads/legislative/Bylaw_45-2017_-_Integrity_Commissioner.pdf

[4] The SAGE Analytics Inc. website can be accessed online at: https://sageanalytics.ca

5. Complaint Investigation Process

The Integrity Commissioner is responsible to handle formal complaints[5]. Formal complaints must be in writing, dated and signed by an identifiable individual and addressed to the Integrity Commissioner[6]. The identity of the Complainant remains confidential and is not disclosed. A formal complaint must set out reasonable and probable grounds for the allegation that the Council member has contravened the Code of Conduct, including a detailed description of the facts, as they are known, giving rise to the allegation.

Once a formal complaint is received, the Integrity Commissioner conducts a preliminary review to determine whether to proceed to investigate the formal complaint or dispose of it in a summary manner. If a complaint is investigated, the Integrity Commissioner has the authority to speak to anyone and to examine relevant documents in the control and custody of the City.

The Integrity Commissioner provides a report within 90 days after receiving the formal complaint. The report outlines the findings, the terms of any settlement, or recommended corrective action. The report is provided to the Council, the Complainant, and the Council member that is named in the complaint investigation.

The named council member is given reasonable notice of the basis for the proposed findings and any recommended sanction and an opportunity to comment on the proposed findings and any recommended sanction.

Council will consider the Integrity Commissioner report and may vary a recommendation that it impose a penalty. All reports from the Integrity Commissioner to Council, other than annual or other periodic reports, are strictly confidential. Integrity Commissioner reports will be made available to the public only after Council rises and reports on the matter.

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[5] The Formal Complaints Procedure is referenced in the City of St. Albert Council Code of Conduct Bylaw No. 38/2017, section 70.

[6] Integrity Commissioner contact information is provided on the City of St. Albert website: https://stalbert.ca/cosa/leadership/integrity/

Informal complaints[7] are addressed directly by any individual who identifies or witnesses behaviour or activity by a Council member that they reasonably believe, in good faith, is in contravention of the Code of Conduct. They may also request the Mayor to assist in informal discussion of the alleged complaint with the Council member in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in a complaint, an individual can request the assistance of the Deputy Mayor.

6. Annual Statistics and Activities

No formal complaints were received by the Integrity Commissioner as of the date of this annual report.

Although complaint investigation services were quiet over the past year, several activities were taken to remain attentive to the Integrity Commissioner role.

Related activities include:

1. Reviewed the City of St. Albert Council Code of Conduct Bylaw No. 38/2017 and Integrity Commissioner Bylaw No. 45/2017. Prepared suggested amendments.
2. Maintained periodic email correspondence and had a July 12, 2019 meeting with the City's contract representative.
3. Monitored, networked, and kept informed on the growing field of Council Conduct and Integrity Commissioner services.
4. Promoted awareness and provided education about Council Conduct and the Integrity Commissioner role.
5. Advanced dispute resolution services by completing mediation training.
6. Undertook complaint investigation services for other organizations.

[7] The Informal Complaints Procedure is referenced in the City of St. Albert Council Code of Conduct Bylaw No. 38/2017, section 69.

7. Budget

Compensation for Integrity Commissioner services is set out in the contract as follows:

- ◊ $2,000 per month for retainer
- ◊ $200 per hour for complaint investigation services

The contract specifies that the amount payable to the contractor will not exceed $40,000.

Since November 2018, the City has spent a total of $20,000 plus GST to retain Integrity Commissioner services. The service is well under budget as of the date of this report, September 30, 2019 which is 10 months into the annual contract.

8. Recommendations

The following recommendations are based on a review of relevant City bylaws and consideration of the evolving field of Council Conduct and Integrity Commissioner services.

Council Code of Conduct Bylaw No. 38/2017

1. **Council Self-Evaluation**

   The Council Code of Conduct Bylaw No. 38/2017, s. 64 states that Council will hold an annual self-evaluation session, focused primarily on relationships, strategy and conduct. This self-evaluation can be very helpful for officials to gauge their overall effectiveness and consider insights from their Council colleagues. Periodic external governance evaluations can also be helpful to provide an objective perspective on governance effectiveness.

   Bylaw No. 38/2017, s. 64 reads as follows:

   Council Self-Evaluation Sessions

   64. *Council shall hold Council Self-Evaluation Sessions every twelve months.*

   a. *Council Self-Evaluation Sessions may include reviews of Council's working relationships and whether the working relationship is, or have been, inconsistent with this Council's values, approved plans, goals and objectives, this Code of Conduct or any other City bylaw or policy.*

   City Council did not hold a self-evaluation session over the past year. This should be completed and could be done fairly easily and economically. As a client, the City is welcome to use a variation of the SAGE Governance Evaluation Model©[8] for self-evaluation at no cost. This can be available in hard copy or online format.

   RECOMMENDATION: That City Council undertake a 2019 self-evaluation in accordance with the Council Code of Conduct Bylaw No. 38/2017.

[8] The SAGE Governance Evaluation Model© contains proprietary information and is the intellectual property of SAGE Analytics Inc., to be used only with permission. https://sageanalytics.ca/governance/

2. Integrity Commissioner Reports

City bylaws reference that the Integrity Commissioner will report to Council following a complaint investigation as well as through an annual report. In some areas the bylaw wording is restrictive in describing what shall and shall not be reported on. As an example, Bylaw No. 38/2017, s. (j) is shown below:

> **j.** *Where the Formal Complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council except as part of an annual or other periodic report.*

There may be times where greater latitude in Integrity Commissioner reporting could provide a benefit to Council and other potential readers. In the above example, a short and timely report could be provided at the Integrity Commissioner's discretion as a courtesy to keep Council updated and explain that no action was taken. Additional reporting can increase transparency in the process without disclosing sensitive confidential details of the complaint and Complainant.

RECOMMENDATION: That City Council consider amending the Council Code of Conduct Bylaw No. 38/2017 to allow additional reporting to Council at the discretion of the Integrity Commissioner.

3. Anonymity of Council Members as Complainants

The City of St. Albert upholds a whistleblower complaint approach where the identity of the Complainant is not disclosed in reports, and the Complainant's identity is also not disclosed to the council member that is named in the complaint.

In the event that a council member files a formal complaint against another council member, anonymity would be upheld within the current investigation process. Some jurisdictions do not extend the anonymity of a complaint to members of Council. As an example, the Code of Conduct for Council Members in the City of Ottawa, ON contains the following clause in Part II, Formal Complaint Procedure[9]:

> **3(c)** *If the complainant is a Member of Council, a citizen member of the Transit Commission or the staff person of a Member of Council, their identity shall not be protected if the Integrity Commissioner finds that the complaint was not made in good faith.*

Open and candid discussions should be encouraged, particularly among elected officials where a strong professional working relationship is needed for good governance. The informal complaint process should be the first option for elected officials to seek understanding and resolution. Maintaining anonymity of the identity of a Council colleague as a Complainant may not be practical and it would obviously exclude the opportunity for open dialogue among officials.

RECOMMENDATION: That City Council consider amending the Council Code of Conduct Bylaw No. 38/2017 to limit the anonymity of a Council member Complainant, except in exceptional circumstances.

[9] Reference to the City of Ottawa Code of Conduct Bylaw accessed from : https://ottawa.ca/en/city-hall/accountability-and-transparency/accountability-framework/code-conduct-members-council-and-related-policies/code-conduct-and-related-policies#code-conduct-members-council

4. Informal Complaints

The Council Code of Conduct Bylaw No. 38/2017, section 69 describes how the informal complaint procedure is to be addressed directly by individuals themselves (Complainants); or they may request that the Mayor assist with an informal discussion with the named Council member in an attempt to resolve the issue. If the Mayor is the subject of the complaint, or is implicated, the Complainant may request the assistance of the Deputy Mayor.

There is value in a direct approach to conflict resolution through open dialogue; however, this approach may not be ideal if the complaint is complex and the dispute resolution skills of the Complainant, Mayor, Deputy Mayor, and named Councillor are limited.

Engaging the services of the Integrity Commissioner or another skilled and neutral party to assist with informal complaints could lead to a more smooth and peaceful resolve for informal complaints. The Integrity Commissioner currently has no jurisdiction to assist with informal complaints for the City of St. Albert.

If complaints can be addressed swiftly through an informal process, such as a facilitated discussion, there is less likelihood that an issue would grow and lead to a future formal complaint. Formal complaints are more costly to address, and often harder on relationships and reputations.

RECOMMENDATION: That City Council consider amending the Council Code of Conduct Bylaw No. 38/2017 and Integrity Commissioner Bylaw No. 45/2017 to expand the jurisdiction of the Integrity Commissioner to include assisting with informal complaints upon request.

Integrity Commissioner Bylaw No. 45/2017

5. **Expanded Dispute Resolution Options**

The Integrity Commissioner Bylaw No. 45/2017 is strictly focused on investigation and adjudication of formal complaints. A situation could arise where a formal complaint is initially received and then at some point during the process a mediated, educational, and informal approach may be more suitable or desirable for the parties.

Mediation is confidential and maintains a strong focus on the relationship between the parties. A mediation approach could be added as an option for the parties to engage in upon mutual consent. This would also require the Complainant to agree to disclosing their identity to the named Council member.

If resolution is not achieved through mediation, the formal complaint investigation could resume. If resolution is achieved through mediation, the outcomes would remain confidential between the parties, and the formal complaint would be reclassed as an informal complaint resolved through mediation.

RECOMMENDATION: That City Council consider amending the Integrity Commissioner Bylaw No. 45/2017 to allow for expanded dispute resolution options.

9. Summary

St. Albert City Council has complied with legislation to establish a Council Code of Conduct Bylaw and has voluntarily taken a proactive step to appoint an Integrity Commissioner to investigate formal complaints. The Council Code of Conduct Bylaw and the Integrity Commissioner Bylaw establish the investigation processes to address formal and informal complaints involving allegations against elected officials.

This Integrity Commissioner annual report contains recommendations for process improvements. This iterative component is particularly important since the legislation and the Council Code of Conduct Bylaw are relatively new and the field of Integrity Commissioner services is evolving and will be tested over time. Recommendations are provided for consideration during future bylaw reviews.

The description of the Integrity Commissioner role and complaint investigation process in this annual report can doubly serve as an educational component highlighting public service accountability for elected officials.

One of the truest tests of integrity is its blunt refusal to be compromised.

Chinua Achebe