

Integrity Commissioner

Report to Council on an Inquiry Respecting the Conduct of Councillor Chiarelli

November 3, 2020

THE COMPLAINTS

- 01 I received a total of five formal complaints against Councillor Chiarelli between September 6, 2019 and October 8, 2019. Three complaints were received from members of the public who were interviewed for possible employment in the Councillor's office. Those three complaints were the subject of my report to Council on July 15, 2020. I received two other formal complaints from two former employees of the Councillor: the first on September 16, 2019 alleging that Councillor Chiarelli contravened Section 4 (General Integrity), Section 7 (Discrimination and Harassment) and Section 10 (Conduct Respecting Staff) of the Code of Conduct for Members of Council ("Code of Conduct"), and the second on October 8, 2019 claiming that the Councillor was in breach of Section 4 (General Integrity), Section 7 (Discrimination and Harassment) and also Section 10(c) (Conduct Respecting Staff) of the Code of Conduct.
- 02 This report concerns the formal complaints filed by the two former employees from Councillor Chiarelli's office. The detailed allegations of each formal complaint are as follows:

Complaint 1:

- During a job interview with Councillor Chiarelli, the Councillor asked the individual if she would be willing to go "on assignments" to flirt with men at networking events, including at bars, to convince them to volunteer for the Councillor's office and give the Councillor's office information, and told her that this was a very regular practice.
- While the individual was employed in the office of Councillor Chiarelli, the Councillor:
 - Showed her pictures on his phone of his previous staff and told her to wear revealing clothing, as a member of his staff had done, when she was to go "on assignment";
 - Took her to a bar, bought her drinks until 2 a.m. and told her stories of his employees who got men drunk and danced with them until they ejaculated, and told her that he wanted her to convince men that she would have sex with them so they would volunteer for the office or give information to her for the office, but that he would fire her if she did have sex with them;

- In a text message, told her to wear something “sexy” to an event, “not ho-ish” and “no bra required”;
- Made inappropriate comments regarding matters such as her appearance and body, nicknames for her and her co-workers, sexual activity having occurred in the office, others’ sexual interest in him and others’ belief that he had sexual relationships with members of his staff, including her;
- Told her to keep “bar assignments” secret, continued to tell her about “assignments” he wanted her to go on, had her attend events that she felt occurred at inappropriate times and for which she felt she had no reason to attend (for example, an event at a night club);
- Exhibited abusive behaviour towards her and her co-workers including making fun of and speaking down about her and her co-workers, telling her that constituents and co-workers hated her, creating fear in the office by making threatening comments about negative actions he would take against a staffer who had quit and blaming that staffer’s departure on her; and
- With respect to his professional duties, was consistently absent or late for meetings, fell asleep in meetings, did not provide the complainant with direction regarding her duties, and once behaved in an erratic manner with a constituent that made the complainant fearful for her safety.

Complaint 2:

- During a job interview with Councillor Chiarelli, the Councillor:
 - Presented the individual with a photo of herself in costume, suggesting that she was bra-less in the photo, and stating going bra-less “could attract a man from across the room”; and
 - Pressured the individual into sharing intimate details about her personal life by implying it would help the Councillor “protect” her and demonstrate that she could be trusted.
- While the individual was employed in the office of Councillor Chiarelli, the Councillor:
 - Made inappropriate comments regarding the individual’s appearance and body, directly to her and to others;

- Made inappropriate comments regarding the individual's co-workers (including comments related to their appearance and attire), and the sexual activity of business associates and previous office staff; and
 - Regularly informed office staff that they could be fired at any time without cause, suggesting that any reports of harassment or inappropriate behaviour should be dealt with "internally", and implying that a former staff member had lost a new job because they had "done something negative" to the Councillor.
- 03 As described in my first report to Council, the allegations set out in all five formal complaints are analogous in nature, and for this reason, I conducted one inquiry. However, each complaint has been treated separately, with individual findings and recommendations. This report sets out findings and recommendations for the two former employees' complaints.

SUMMARY OF FINDINGS

- 04 For the reasons set out in this report, I make the following findings in relation to the two complaints:

Complaint 1: I find that Councillor Chiarelli breached Sections 4 and 7 of the Code of Conduct. I find that Councillor Chiarelli has not breached Section 10 of the Code of Conduct.

Complaint 2: I find that Councillor Chiarelli breached Sections 4 and 7 of the Code of Conduct. I find that Councillor Chiarelli has not breached Section 10 of the Code of Conduct.

INQUIRY PROCESS AND STEPS

- 05 I met personally with each of the two complainants (separately) to review the complaint process and the options before them, as follows:

Complaint 1: On September 10, 2019, Complainant 1 contacted me by email to request a meeting to discuss her experience while working in a City Councillor's office. I met with Complainant 1 on the afternoon of September 10, 2019, to discuss the complaint process. I met with Complainant 1 again on September 16, 2019, at which time she filed her formal complaint, including a sworn affidavit.

Complaint 2: On October 1, 2019, Complainant 2 contacted me by email and indicated she wished to file a formal complaint against Councillor Chiarelli for violations of the Code of Conduct. I spoke with Complainant 2 on the phone on October 4, 2019, to discuss the complaint process. I met with Complainant 2 on October 8, 2019, at which time she filed her formal complaint, including a sworn affidavit.

- 06 The Complaint Protocol (Appendix A of By-law 2018-400, the Code of Conduct for Members of Council) sets out the framework for receiving complaints, conducting investigations and reporting to Council. (see Appendix 1)
- 07 Following an intake analysis of each complaint, I concluded that each separate complaint was not frivolous or vexatious. I determined that I had jurisdiction over the complaints. In considering jurisdiction, I reviewed the City's *Violence and Harassment in the Workplace Policy* and the *Council-Staff Relations Policy*, which states that the language of the Code prevails in any discrepancy between the *Council-Staff Relations Policy* and the Code. Consequently, I decided that there were sufficient grounds for a formal investigation. In conformity with the Complaint Protocol, I issued a notice of inquiry to each complainant and the Councillor, as follows:

Complaint 1: Notice of Inquiry was sent on September 20, 2019. The Councillor was provided with a copy of the complaint and asked to provide a written response by October 4, 2019.

Complaint 2: Notice of Inquiry was sent on October 9, 2019. The Councillor was provided with a copy of the complaint and asked to provide a written response by October 24, 2019.

The Respondent

- 08 As stated above, I conducted one inquiry into the allegations set out in all five formal complaints. My first report to Council respecting the first three formal complaints from members of the public was received on July 15, 2020. The first report detailed my efforts to engage with the Respondent and his non-participation in the inquiry. Those details are repeated here for the purposes of a full and complete report to Council. I have added the relevant correspondence with the Respondent since the July 15 report along with the details of my initial correspondence in respect of Complaint 1 and Complaint 2.

- 09 As stated above, Notice of Inquiry for Complaint 1 was sent to the Respondent on September 20, 2019. He was provided with a copy of the complaint and asked to respond in writing by October 4, 2019.
- 10 On September 24, 2019, I received a communication from Councillor Chiarelli's legal counsel. The letter raised a "preliminary procedural issue" with respect to the processing of complaints and my authority and/or jurisdiction to move forward with an investigation. Councillor Chiarelli's legal counsel argued that allegations against the Councillor fell within the scope of the *Ontario Human Rights Code* and the jurisdiction of the Human Rights Tribunal of Ontario, and thus, he argued I did not have jurisdiction to continue my inquiry.
- 11 I responded to Councillor Chiarelli, through his legal counsel, on October 3, 2019. I advised his legal counsel that I was of the opinion that the formal complaints before me at that time fell squarely within my jurisdiction as Integrity Commissioner and that the investigation would proceed.
- 12 That same day (October 3, 2019), Councillor Chiarelli released a public statement in which the Councillor wholly denied the allegations respecting his conduct that had been identified in public media reports and challenged my jurisdiction to investigate these matters (see Appendix 2). In his public statement, the Councillor stated, "I can say, without reservation, that I have never treated a member of my staff (including job candidates) in a sexually harassing, discriminatory, or inappropriate "gender-based" fashion." The Councillor further indicated he would be willing to respond to "any human rights complaint that any former employee, or candidate for employment, might see fit to file against [him]," and characterized the Formal Complaint Procedure as a "process that clearly restricts and prejudices [his] ability to defend [himself]."
- 13 On October 9, 2019, I sent a Notice of Inquiry to the Respondent relating to Complaint 2 with a request for a written answer by October 24, 2019.
- 14 On October 10, 2019, I received a second communication from Councillor Chiarelli's legal counsel. I was advised of the Councillor's intention to file a Judicial Review Application regarding my jurisdictional authority. I was further advised that, "Councillor Chiarelli will not be responding substantively to any complaint that has been filed with [my] office to date, or any similar and/or related complaint that might be filed, until a judicial decision on this extremely important

jurisdictional issue has been rendered by the Ontario Divisional Court.” (see Appendix 3)

- 15 On October 18, 2019, through my counsel, I responded to Councillor Chiarelli’s position, set out a legal analysis of the jurisdiction issue, and confirmed my jurisdiction under the Code of Conduct. (see Appendix 4)
- 16 The October 18, 2019 letter also advised the Respondent’s legal counsel of my intention to proceed with the investigation and offered another opportunity for the Respondent to confirm his willingness to participate by October 29, 2019. The Respondent was further advised that should he choose not to participate, the fact-finding process would conclude without his response and I would issue my reports to Council.
- 17 No response was received to the letter of October 18, 2019 from the Respondent or his legal counsel.
- 18 Having received no response to the notices of inquiry for the two complaints from the Respondent, no reply to my legal counsel’s October 18, 2019 letter, and no notice of an application for judicial review from the Respondent’s legal counsel, I continued my investigation.
- 19 Despite his earlier confirmation that he would not participate, in my efforts to ensure a fair process, I instructed the Investigator to offer the Respondent an opportunity to be interviewed. On December 10, 2019, a written request was sent to the Respondent to take part in an interview under oath, as provided for in s. 33 of the *Public Inquiries Act, 2009*. (see Appendix 5)
- 20 Three days later, on December 13, 2019, the Respondent’s legal counsel confirmed to my Office that the Respondent had been admitted to the Ottawa Heart Institute. He advised that the Respondent would undergo open heart surgery and would not be in a position to consider whether to participate in the investigations until his medical recovery had progressed to a stable and acceptable level (approximately 6-12 weeks later). (see Appendix 6)
- 21 On January 29, 2020, I issued notice to City Council of my intent to report on an ongoing investigation. My interim report was released with the Council agenda on February 7, 2020, five calendar days in advance of the meeting as required by the Council Procedure By-law. The evening of February 11, 2020, the day before the Council meeting, the Respondent’s legal counsel issued a letter to City

Council and myself (see Appendix 7) formally requesting that “all current proceedings and related investigations be stayed and/or terminated, on the basis of actual bias and/or Councillor Chiarelli’s reasonable apprehension of bias.” In that letter, the Respondent repeated his intention to move forward with a Judicial Review Application, but also indicated his intention to “exhaust any and all internal mechanisms, related to the City’s internal policies and procedures, so that it cannot be later argued that a judicial review application was somehow premature.” In my response to the Respondent’s legal counsel, I denied the request to stand down, confirmed my interest in interviewing the Councillor and requested he confirm his willingness to participate. (see Appendix 8)

- 22 In the subsequent weeks, through communications with his legal counsel, I sought to confirm the Respondent’s intention to voluntarily participate in an interview as part of the inquiry. I was advised that due to the Respondent’s medical condition, the Respondent was not able to confirm whether or not he would participate in an interview once he was medically cleared by his doctors. (see Appendix 9) Without a definite commitment from the Respondent, I elected to issue a summons under Section 33(1)(3) of the *Public Inquiries Act* for the Respondent to attend an interview. (see Appendix 10) The interview was scheduled for April 6, 2020, approximately 1.5 weeks following the Respondent’s anticipated return to work on or about March 24, 2020, as outlined in the medical certificates provided by the Respondent’s legal counsel.
- 23 I first sought the agreement of the Respondent’s legal counsel to issue the summons to him, on behalf of his client, on February 28, 2020. (see Appendix 11) I received no response from the Respondent’s legal counsel. Consequently, on March 4, 2020, I engaged the services of a process server to serve the summons on the Respondent at his home. The process server made four attempts to serve the Respondent. During the first three attempts between March 4 - 11, 2020, the process server observed individuals in the house who would not answer the door. On the fourth attempt (March 16, 2020), the process server arrived at the Respondent’s home and viewed the Respondent sitting at a computer through a front window. As the process server walked up the driveway, he saw the Respondent get up from his chair and move towards the front door. When he knocked on the door, the process server could hear the door then lock. After knocking and ringing the bell, the process server saw the Respondent looking through the front window. The process server waved the envelope at the Respondent and informed him that he was serving a summons from the City of

Ottawa. When the Respondent refused to answer the door, the process server placed the envelope at the door and deemed the personal service complete as the documents were brought to the Respondent's attention. The process server provided a sworn affidavit of the events (see Appendix 12).

- 24 In the days after the Respondent was served, the situation involving the COVID-19 pandemic evolved quickly. On March 17, 2020, Premier Ford declared a state of emergency in the Province of Ontario. Shortly thereafter, a wide range of measures and closures came into effect.
- 25 On March 20, 2020, in light of the measures associated with the COVID-19 pandemic, I advised the Respondent's legal counsel that his appearance scheduled for April 6, 2020, was postponed *sine die*. (see Appendix 13)
- 26 On March 25, 2020, the Mayor of the City of Ottawa declared a state of emergency due to the COVID-19 health crisis. Then on March 28, 2020, the Province issued an emergency order prohibiting gatherings of more than five people. As it became clear the COVID-19 measures would be in place for some time, and in an effort to avoid undue delay to the inquiry, I decided the interview would have to proceed by way of a teleconference.
- 27 During this time, the Respondent appeared to resume some of his official duties. Specifically, the Respondent attended the City Council meeting of February 26 and participated in the Special City Council meetings of March 26 and April 8 (by teleconference). He also appeared to be resuming some of his constituency duties and was active on social media (including a personal video message he posted on March 22).
- 28 No updates were offered by the Respondent or his legal counsel with respect to the Respondent's medical recovery. It continued to be my understanding that the Respondent's anticipated return to work date was March 24, 2020 (although it is clear he had already returned to some of his duties almost a month earlier).
- 29 On April 14, 2020, I advised the Respondent and his legal counsel that because of the COVID-19 health crisis, the interview was rescheduled to May 6, 2020 and would proceed as a teleconference. I requested confirmation of the Respondent's participation. (see Appendix 14)
- 30 On April 17, 2020, I received a response from the Respondent's legal counsel and was advised that the Respondent had experienced another medical

emergency on April 14, 2020. (see Appendix 15) I was also provided with a medical certificate from the Respondent's reassessment on March 26, 2020 which stated the Respondent was to remain off work until June 29, 2020 (despite that advice, the Respondent again participated in the April 8 Council meeting).

- 31 In addition to the update on the Respondent's medical situation, the Respondent's legal counsel argued that, in his opinion, the Respondent had not been properly served with any summons. Taking into consideration the efforts of the previous months, I responded to his legal counsel on April 24, 2020 (see Appendix 16) and provided the Respondent with notice that the May 6, 2020 interview was cancelled and advised that no further requests for interviews would be made. If the interview had proceeded as planned and the Respondent had failed to attend as summonsed, I would have had the option to apply to a court, under the *Public Inquiries Act, 2009* to have Councillor Chiarelli held in contempt for his failure to comply with the summons. However, I determined that I would not pursue this course of action as the costs of such a Court application would be an added City expense. I am conscious of the fact that the investigation is funded ultimately by the taxpayers, and I do not intend to increase costs with further efforts to compel the Respondent's participation.
- 32 I also informed the Respondent's legal counsel that in the absence of his participation, I intended to rely on the Respondent's public statements as his response to the allegations set out in the formal complaints and would proceed with making my findings and reporting to Council as appropriate.
- 33 On May 12, 2020, I received a response from the Respondent's legal counsel in which he asserted that the Respondent had in fact provided confirmation of his intention to participate in the investigation in past correspondence. (see Appendix 17) I disagree. Neither the Respondent nor his legal counsel ever asserted such in any of the correspondence. The Respondent's legal counsel also stated that there is no obligation on counsel to accept service of a summons on a client's behalf. I was further advised that the Respondent's legal counsel had received instructions to move forward with an application for Judicial Review.
- 34 On May 12, 2020, I provided the Respondent with a final opportunity to provide his firm and unequivocal commitment to participate in the investigation when he was medically cleared to do so, by end of day on May 15, 2020. (see Appendix 18) I received no response from the Respondent or his legal counsel.

- 35 At all times during the inquiry, and in accordance with the Complaint Protocol, the Councillor was afforded the opportunity to provide written responses, information, and documentation, to be interviewed and to present his position in response to the allegations. Because of his refusal to respond to an invitation to participate, I issued a summons for his appearance to provide testimony under oath. He contested that the summons was properly served, although there is no doubt that it was brought to the Respondent's attention.
- 36 Shortly after a judicial review pre-hearing conference in August 2020, on September 3, 2020, through my legal counsel, I extended an offer to interview the Respondent in writing. (see Appendix 19) My legal counsel received no response to the offer.
- 37 As a result, I have opted to file my report with Council relying on the Respondent's public statement of October 3, 2019¹, as his substantive response to the two complaints addressed herein (see Appendix 2):

"I can say, without reservation, that I have never treated a member of my staff (including job candidates) in a sexually harassing, discriminatory, or inappropriate "gender-based" fashion."

Duty of Confidentiality

- 38 The *Municipal Act, 2001* stipulates:

Duty of confidentiality

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

- 39 During the course of the investigation, both complainants and witnesses expressed fear and anxiety about participating in the inquiry. They were apprehensive that the Councillor could use his position, authority and his powerful contacts in the community to negatively impact their reputations or their current and future employment, in retaliation for their coming forward to testify.

¹ While the Notice of Inquiry regarding Complaint 2 had not yet been provided to the Respondent, I took his statement to apply equally to the allegations contained in Complaint 2.

- 40 I have not received any evidence of actual reprisals. I am aware that a private investigator did attempt to contact one of the witnesses on behalf of the Councillor, but no actual exchange took place. The witness was first contacted on April 28, 2020 and a voicemail was left for the witness in which the private investigator identified himself and stated that he was investigating things on behalf of the Respondent. In the voicemail, the private investigator informed the witness that he “wanted to clear up a few things with [her] and get [her] opinion on some things in question.” The witness did not return the call and was contacted a second time on May 7, 2020. The witness did not take the second call and no voicemail was left.
- 41 While there are serious consequences for a respondent who retaliates against complainants and witnesses, in light of the expressed concerns and my duty of confidentiality, I have again exercised my discretion, and I have not disclosed the names of the complainants and witnesses in this report. However, because of the documentary evidence and summaries of oral testimony contained in this report, I have no doubt that the Respondent on reading this report can determine the identity of the individuals. Redactions in this report simply aim to protect the names of the complainants and witnesses from the public.

Delegation of Investigative Powers

- 42 The formal investigation into the first of the five formal complaints began on September 17, 2019. Given the nature of the allegations, I sought out expertise in harassment investigations. After reviewing the profile of four companies and interviewing three of the said firms, I retained the company that in my view best fit the complex nature of these complaints. The seasoned investigator had specific experience in conducting harassment investigations.
- 43 The Investigator was delegated the responsibility for the investigation in accordance with s. 223.3 of the *Municipal Act, 2001*:

Delegation

223.3 (3) The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

223.3 (4) The Commissioner may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

223.3 (4) The Commissioner may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

- 44 The Investigator was tasked with gathering evidence, conducting interviews under oath and providing a detailed analysis of the relevant facts as part of an investigative report.
- 45 The following excerpt from the investigative report describes the scope of the investigation:
- “The investigation was conducted by interviewing complainants and witnesses under oath. In total 34 individuals have been interviewed by this inquiry, 26 of them providing sworn testimony which was recorded [the remaining eight individuals affirmed their statements to be true]. Among the 26 individuals were the five complainants; past, current and potential employees of the Respondent; individuals to whom the complainants had confided their experiences; City of Ottawa officials and employees. The investigation examined extensive email, Facebook messages, photographs and text messages provided by complainants and witnesses.... The investigation reviewed an extensive “keyword” search of [documentation] and...cell phone records. City of Ottawa Human Resource department records were examined. The investigation also reviewed [relevant] public social media entries.”
- 46 The witnesses either (i) approached the Integrity Commissioner’s office directly or (ii) were identified by a complainant or another witness and the Investigator contacted the potential witness. All of the witnesses participated voluntarily.
- 47 The majority of this intensive work was accomplished by December 10, 2019 in an effort to meet the 90/180 day objective for reporting dates in the Complaint Protocol.
- 48 I sought to meet with the Respondent on numerous occasions. As detailed above, the Respondent never agreed to participate and never replied to the notices of inquiry.

- 49 On February 4, 2020, the Investigator submitted a summary of her investigation performed to date, without the Respondent's input, pending a decision on his participation.
- 50 Pursuant to my interim report to Council of May 27, 2020, I instructed the Investigator to submit her final investigation report, without an interview with the Respondent. I received her final report on June 18, 2020.
- 51 If, in the course of an inquiry, municipal integrity commissioners determine that there are reasonable grounds to believe that a contravention under another Act has occurred, they have an obligation to suspend that aspect of the inquiry and refer the matter to the appropriate authorities:

Reference to appropriate authorities

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act, other than the Municipal Conflict of Interest Act, or of the Criminal Code (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98; 2017, c. 10, Sched. 1, s. 23.

- 52 On review of the testimony of several individuals interviewed by the Investigator, both complainants and witnesses, I did determine that there are reasonable grounds to believe that contraventions of other Acts have occurred.
- 53 As prescribed in Section 223.8 above, I did not investigate those issues and referred the matters to the appropriate authorities.
- 54 While not required by the Complaint Protocol, on October 23, 2020, I provided the Respondent, through his legal counsel, with a copy of my draft report to City Council and invited him to comment on it. The Councillor was given a deadline of October 30, 2020 and advised of my intent to report to Council on November 25, 2020. My legal counsel received a response from Councillor Chiarelli's legal counsel on October 30, 2020 (see Appendix 20). The letter stated that Councillor Chiarelli remains medically unable to participate in the process. Counsel's only substantive comment on the draft final report was that there was calculated use of "highly-charged terms like "grooming" and "Stockholm Syndrome". To clarify,

those terms were used by the complainants and witnesses and were not selected by the investigator or by me. On November 2, 2020, I instructed my legal counsel to offer the Councillor, through his legal counsel, a final opportunity to confirm he would definitively participate in an interview when he was medically cleared to do so and to suggest measures that could be taken to facilitate this process for the Councillor (see Appendix 21). The Councillor was provided 24 hours to respond. No response was received.

- 55 I reviewed the investigation report, along with the sworn testimony summaries, the recorded oral interviews, and the documentary evidence gathered by the Investigator. I have also carefully reviewed the Respondent's published October 3, 2019 statement in which the Councillor wholly denied the allegations respecting his conduct.
- 56 Based on this body of evidence, the analysis of the facts, the Investigator's report, and the Councillor's public statement of denial, I prepared my final report to City Council with my findings and recommendations.
- 57 Pursuant to the Complaint Protocol, I filed my final report with the City Clerk on November 3, 2020.

BACKGROUND AND STRUCTURE OF THIS REPORT

- 58 As part of her investigation, the Investigator interviewed each complainant, under oath or affirmation, and gathered documentary evidence relevant to the inquiry.
- 59 In addition, the Investigator interviewed various witnesses. All witnesses have affirmed or sworn an oath that their statements are true.
- 60 For ease of reference the complaints are dealt with in the following structured manner:
- Each complaint is dealt with separately.
 - Each allegation within the complaint is dealt with separately.
 - First, the testimony of the complainant is summarized, with supporting documentation noted.
 - Second, the testimony of witnesses that is relevant to the specific allegation of the complainant is summarized, with supporting documentation noted.

Similar Fact Evidence

- 61 Some witnesses present direct corroborating evidence. Other witnesses present what is referred to as “similar fact evidence”. Similar fact evidence is rarely admissible in criminal cases; however, the general rule of admissibility is more flexible in civil cases. I have taken into consideration similar fact evidence when I deemed it relevant and of such “striking similarity” whereas proof of a fact in issue requires only that there is an objective improbability of coincidence.²
- 62 The purpose of this evidence is to demonstrate an established pattern of conduct, which make it more likely that the alleged misconduct took place and is addressed in the Analysis section of this report. I did not admit all of the similar fact evidence.

Complaint 1

- 63 Complainant 1 worked in the Respondent’s office from December 2018 to June 2019. Working with Complainant 1 during that period were the following individuals:
- Witness 1: Worked for the Respondent from October 2017 to May 2019. Her position in the office was initially Constituency Liaison, and later Director of Operations.
 - Witness 2: Worked for the Respondent from January 2019 to April 2019. Her position in the office focused on media communications.
- 64 The Investigator also interviewed three other witness who provided testimony relevant to the allegations of Complainant 1. All three witnesses worked in the Respondent’s office within months of Complainant 1:
- Witness 7: Worked for the Respondent from April 2018 to November 2018.
 - Witness 8: Worked for the Respondent from June 25, 2018 to July 26, 2018.
 - Witness 9: Worked for the Respondent from July 2019 to December 2019.

² R. v. Handy, 2002 SCC 56 (CanLII), [2002] 2 SCR 908, <<http://canlii.ca/t/51r6>>, para. 82.

65 Complainant 1 was interviewed under oath by the Investigator on October 21, 2019. In the final report, the Investigator provided a summary of Complainant 1's sworn statement. Excerpts from the summaries of Complainant 1's statement and testimony, that are relevant to the allegations, are set out below. Also included are excerpts from the statements of witnesses that are germane to Complainant 1's allegations and evidence.

66 **Allegation 1**

“During a job interview with Councillor Chiarelli, the Councillor asked the individual if she would be willing to go “on assignments” to flirt with men at networking events, including at bars, to convince them to volunteer for the Councillor’s office and give the Councillor’s office information, and told her that this was a very regular practice.”

67 In her report to me, the Investigator provided the following summary, in relevant part, of Complainant 1's experience during her job interview that led to her working in the office of the Respondent:

“[Complainant 1] had been working at Ralph’s Sports Bar in December 2018 when she met the Respondent. He frequented the bar and one day he had consulted [Complainant 1], who was in a supervisory role at the bar, about using the bar to host an election party. In time, the venue was determined not to be large enough to host the party. [Complainant 1] had then removed the Respondent’s particulars from her phone. A few weeks later the Respondent contacted her by text to canvass whether she was still interested in doing small assignments for him. [see Appendix 22] [Complainant 1] had to ask who it was that was texting her. She didn’t recall having discussed any possible assignments with the Respondent, she thought his inquiries could have been related to bartending. [Complainant 1] said the Respondent indicated it related to a bigger role for her and they arranged to meet at the Big Rig pub on Dec 13, 2018.³ [Complainant 1] said the Respondent texted that he would be wearing a suit and inquired what she would be wearing. She indicated she would dress casually, and the Respondent then asked “BTW what’s your long-term plan? And is everything we say confidential?” [Complainant 1] reassured him it was, and they arranged to meet at 9pm on Dec 13, 2018.⁴ [Complainant 1] described the meeting as very casual. She wasn’t clear at first whether it was a job interview

³ Date corrected from investigative report (Dec 13, 2019 to Dec 13, 2018)

⁴ Date corrected from investigative report (Dec 13, 2019 to Dec 13, 2018)

since she was having a glass of wine and the Respondent was talking about his career and asking her about movies, food and music. The Respondent told [Complainant 1] he liked the movies In the Loop and Mission Impossible. [Complainant 1] said that the Respondent talked about staff in his office and asked her if she'd wear a bikini in a movie. He said he'd been a judge at a film festival. [Complainant 1] said he wondered if she'd travel to Florida to film something and asked if [Complainant 1] could legally cross the border. [Complainant 1] said that the Respondent talked generally about the role in his office she could fill and how some of the duties related to getting volunteers to help out. The interview lasted 2-3 hours. After the meeting and when she was home that evening, the Respondent texted her again saying "I forgot to tell you one other requirement. Can you call for 1 minute?" [see Appendix 23] She said that when she called [see Appendix 24], the Respondent asked if she was willing to go on secret assignments and he repeated the need for keeping things confidential between them. She said the Respondent wanted her to go to random networking events at bars where she should flirt with men to both convince them to volunteer, and to get information for his office. [see Appendix 25] [Complainant 1] stated that they arranged to meet again on December 15, 2018⁵ and she described that meeting as being stranger than the first. [see Appendix 26] [Complainant 1] said the Respondent told her she would be hired and that her assignments would be referred to as the 'NOC list' meaning non-official cover which she observed was a term that she thought had come from the movie Mission Impossible. Her position would be referred to as one dealing with "constituency matters".

"During the second job interview on December 15, 2018, [Complainant 1] had told [the Respondent] that she had previously been a dancer, but that she hadn't danced in over a year. [Complainant 1] just wanted [the Respondent] to know, because she wanted to move forward with honesty and transparency. In case it ever came up, she didn't want [the Respondent] to be blindsided."

- **Witness 1:** "[Witness 1] stated her first contact with the Respondent was when he reached out to her on August 27, 2017, via Facebook. She stated she did not know of him prior to that. [Witness 1] theorized that because the Respondent had interviewed one of her workplace colleagues perhaps that was how the Respondent found her. The Facebook conversation began at 11:27 pm and went on until August 28 at 2:13 am. [see Appendix 27] A great

⁵ Date corrected from investigative report (Dec 15, 2019 to Dec 15, 2018)

many topics were covered in this discussion. The Respondent commented to [Witness 1] that his business was probably like [Witness 1's] (in the restaurant industry) where people somewhat sexually harassed women. The Respondent then added, "but most say there is no point in making a big issue out of it for many of the same reasons you're in business". [Witness 1] found his comment to be weird and off-putting. She responded in a detailed manner that explained she knew sexual harassment was wrong. The Respondent then wrote "Well if it is significant, and if the woman wants me to, I can handle it in some unconventional ways" The Respondent also told [Witness 1] she would need to assume a "chameleon" identity for events and provided an example of one staffer going to three different events in one day and still later being "that girl" at the bar/club event, all the while keeping to the mission which is often not obvious to anyone else at the venue. The Respondent spoke of how individuals should dress before [Witness 1] was interviewed when he wrote "... what I hate most is when they ask me what I think they should wear, I tell them, and then they get all offended ...because it isn't what they were thinking", and "And I know what works." The Respondent continued "And in many cases, a female can manipulate males that way. Because guys are often stupid or at least temporarily stunned." Closer to the end of that same exchange when they were setting up a meeting time, the Respondent told [Witness 1] everything would have to be done secretly and also noted loyalty is absolute, as is confidentiality. The Respondent wrote that [Witness 1] did not need to dress formally but she "...could dress like one of the events you might go to. But formal is stuffy." [Witness 1] told the Respondent she was good with fashion. The Respondent then told her "Even you will need to be outside your comfort zone sometimes." The conversation continued about dress with the Respondent telling [Witness 1] "...Some are scary and super-hero-ish. Some are quasi skanky. Some are just impressive." The Respondent closed by telling [Witness 1] it had been an odd Facebook exchange but random was better than running an ad.

[Witness 1] met the Respondent for an interview on August 29, 2017. [Witness 1] described her interview as something that went on for a number of hours. She was told stories by the Respondent about previous staff members, sexual acts that they had committed and how those had come to pass in the office. [Witness 1] was told stories about previous staff members and what they wore, how she would be required to dress in all different kinds of ways. [Witness 1] said the Respondent asked if she would be willing to or

not willing to wear a bra to specific types of events. [Witness 1] was asked if she had previously sold drugs, or been a dancer, or been a prostitute, or if she had children and then was told that none of that would have any effect on whether or not she would be hired – but that it would play a role in what types of events she would attend. During the 3 months before [Witness 1] was hired, the Respondent would send her numerous photos of other women he claimed he was interviewing for the role she was pursuing, and she did not know why.”

68 **Allegation 2:**

“Showed her pictures on his phone of his previous staff and told her to wear revealing clothing, as a member of his staff had done, when she was to go ‘on assignment’.”

- “[Complainant 1] said that in conversation with the Respondent, he alluded to no bra being required by explaining how previous staffers dressed, for example referring to a Daisy Duke outfit which she would understand to mean to dress without a bra.”
- “[Complainant 1] asked [the Respondent] to show her pictures (sic: of the type of clothing he expected her to wear.) [The Respondent] showed [Complainant 1] a picture of who [Complainant 1] believed was [name redacted] wearing this white sort of cut off T-shirt that showed the side of her breast. [Complainant 1] thought it had a picture of [the Respondent] on the back of it with [Councillor Chiarelli] slogan or “something.” The shirt was cut out under the arm with a large opening. [Complainant 1] said she couldn’t remember if the person’s face was showing. [The Respondent] did show [Complainant 1] other pictures of [name redacted] in her Comicon uniforms. The pictures were pretty provocative looking, but [Complainant 1] didn’t even know why [the Respondent] had them. [Complainant 1] didn’t know whether [name redacted] went to Comicon on an assignment for him or whether she just enjoyed doing it for a hobby herself. The picture was of [name redacted] in her Comicon outfit, a super-hero costume. [The Respondent] would tell her to wear things that would show off side boob like [name redacted] did when she went on assignment. [Complainant 1] couldn’t remember if the Comicon picture was at a Comicon event or not. The side breast photo appeared to be a club event or in a club atmosphere. In the photo of [name redacted] and the side breast, her head was turned away slightly. There was a guy in the photo that was pointing at the picture on the back of her shirt and [Complainant 1]

recalls [the Respondent] making a comment along the lines of the man did not care how much [name redacted] was showing because he was more interested in the [Councillor Chiarelli] logo.”

- **Witness 1:** “The Respondent spoke of a former staffer [name redacted] who left a box of this clothing at his house when she moved on from the office and in particular one Canada Day shirt that had both the front cleavage and side cleavage cut out. It was cut into a crop top and the Respondent talked about how great [the former staffer] looked in this top and how he would want other staff members to wear that top on Canada Day because it worked really well. A diamond surrounding the cleavage in the front was cut out and the “side boob” was cut out under the armpit on the side. [Witness 1] was asked at that time whether or not her breasts were real and that it would play into what type of clothing she could or could not wear to events.”
- **Witness 2:** “[Witness 2] stated she had known the Respondent for approximately 6 years having met him through mutual friends. The Respondent had reached out to her through Facebook in mid-December 2018 asking if she knew of anyone who would be interested in working in his office. [see Appendix 28] She described how he insisted on an evening meeting at a Starbucks to discuss the matter and so she met with him at the College Square Starbucks at 8:30 to 9:00 pm after the Respondent was 1.5 hours late. The actual job requirements of the position were discussed for five minutes and the majority of the 1.5-hour meeting was spent by the Respondent telling her stories of his previous staff members, relating how they looked and what they would wear. She stated that he related a story about sending two staff members to Blind River to go into a bar to get information on a city issue. [Witness 2] left the meeting feeling uncertain about whether the meeting had indeed been a job interview since it didn’t feel as though it was. Nevertheless, she went to a second interview a short time later at the Big Rig on Pinecrest in Ottawa at 7:30 pm with the Respondent again arriving late. The meeting followed the same structure as the first one where the Respondent related stories of his past but focussed on a political staffer he named who did work as a costume play model. She stated that he talked a lot about what she would wear, things that would show off her breasts and particularly “side boob”. She stated that she was asked by the Respondent what she would wear [to an event] and she replied she would

want to dress professionally. [Witness 2] was employed by the Respondent [in January 2019].”

- **Witness 8:** “The Respondent had made comments suggesting [Witness 8] go braless by telling her others had done so, but [Witness 8] would not compromise her standards. He wanted [Witness 8] to select an outfit from his collection of clothing left by a previous employee in order to prepare for Canada Day. [see Appendix 29] The two met at a restaurant for the purpose of [Witness 8] trying on the clothing the Respondent provided. [see Appendix 30] There was a Canada Day shirt that the Respondent wanted [Witness 8] to wear that was so revealing that her breasts were barely covered. It was something that resembled rags to her because it was so cut up. [Witness 8] selected the least revealing of all options, not modelling any of them for him. It was a see-through top with spaghetti straps, and low cut [see Appendix 31]. [Witness 8] never returned the shirt. The Respondent was planning to do a “test run” with [Witness 8] and [Witness 7] that never came to pass. He described [Witness 7] to [Witness 8] as a person who was very sexual, willing to do anything, willing to do what he asked.

The Respondent and [Witness 8] attended Bluesfest on July 7, 2018 which was her first event given she did not do the test run on Canada Day. During a text exchange just prior to the event [see Appendix 32], the Respondent told [Witness 8] to wear the white top he had given her. [Witness 8]’s mother saw the outfit [Witness 8] was planning on wearing, including the top the Respondent provided, and refused to let her daughter leave dressed in that manner. [Witness 8]’s mother insisted she change as [Witness 8] could not represent the City of Ottawa dressed in such revealing clothing. The festival was uneventful and afterwards [Witness 8] saw no reason for her to have been there in the first place.”

69 Allegation 3

“Took her to a bar, bought her drinks until 2 a.m. and told her stories of his employees who got men drunk and danced with them until they ejaculated, and told her that he wanted her to convince men that she would have sex with them so they would volunteer for the office or give information to her for the office, but that he would fire her if she did have sex with them.”

- “[The Respondent] told [Complainant 1] that [name redacted] would dance with men until they ejaculated, and that [name redacted] would also participate in the events as well. [The Respondent] told her [name redacted] was really good at it.”
- “[Complainant 1] was asked to explain when [the Respondent] took her to the bar and bought her drinks until 2 am. [Complainant 1] was unsure what [the Respondent] expected of her at the random networking events. [The Respondent] never told [Complainant 1] to do the things that [name redacted] did, but he told [Complainant 1] stories to imply that was what he expected. That is how [Complainant 1] interpreted it. [The Respondent] told [Complainant 1] he wanted her to convince men that she would have sex with them to volunteer for the office but not that she had to dance with them or anything, just to flirt with them and get them drunk and that they would be so embarrassed that they got drunk, they would not want to tell anyone about it and so they would volunteer. [The Respondent] did tell [Complainant 1] that if she actually slept with them, he would have to fire her. [The Respondent] mentioned [name redacted] and [name redacted] did a lot of these events, they would go home with these men and [the Respondent] would follow them and pick them up and that he would go to the bars with them. [The Respondent] said that if [Complainant 1] did any of these events that he would go to the bars with her as well to make sure that she was safe. [Complainant 1] advised that she and [the Respondent] sat a table close to the bar at Tailgators and [the Respondent] went on about his random stories. [Complainant 1] was trying to get a better understanding of what the NOC list [“nonofficial cover”] assignments would look like, and it was at that point, that [the Respondent] told her he wanted her to convince men (as described above) to volunteer for the office and for her to obtain information. [The Respondent] wanted information on his colleagues or people that may be opposed to him, he didn’t say specific information, he wanted to know what they were up to or if they had information on [the Respondent]. [The Respondent] wanted them to be used as plants for [the Respondent] and [the Respondent] thought the Mayor always had plants that would email [the Respondent]. [The Respondent] wanted these people to do this nonofficial cover (NOC) work for him. The reason [Complainant 1] was to convince the men she was going to have sex with them would be as a means that they would do something for [the Respondent] in return, spying essentially on whomever [the Respondent] thought were out to get him. The people would

be volunteering to act as spies, or plants to send random emails, or apply for jobs in other people's offices and spy in order to obtain information for him on his colleagues is the way [Complainant 1] understood it. [Complainant 1] never actually went on any of the bar assignments. [The Respondent] never told her to approach specific people, it was more of [Complainant 1] going to sit at a bar and wait for a guy to approach her if she was dressed the right way. [Complainant 1] was to flirt with the men and bring the conversation back to volunteering for [the Respondent]'s office to do the sort of things described. [The Respondent] told [Complainant 1] if she ever actually did have sex with the men, then he would have to fire her as it would look like she prostituted herself out for his office and [the Respondent] could get in trouble. [The Respondent] bought her wine throughout the night. [Complainant 1] said she had at least 5 glasses of wine, maybe more, between 9pm ([Complainant 1] said it could have even been before 9pm) and 2am. She could feel the alcohol but was still coherent and understood what was being said and what she was doing. [The Respondent] never had a drink of alcohol to her knowledge."

- **Witness 1:** "The Respondent told her a story about a previous staff member who was grinding with a man at a bar event and ejaculated in his pants and because the man was so embarrassed, the staffer was able to get him to be a really great volunteer for the office. [Witness 1] did not know who the staff member was."

70 Allegation 4

"In a text message, told her to wear something "sexy" to an event, "not ho-ish" and "no bra required".

- "For an event on January 7, 2019, the Respondent suggested [Complainant 1] dress "sexy," not "ho-ish," and he said "depending on the dress, no bra required" and she was to wear black, blue or red. [see Appendix 33] [Complainant 1] wore a plain black cocktail dress. [Complainant 1] stated that when she asked the Respondent what she should wear to the event, she was not really asking for the feedback he gave. She said she meant - did the Respondent still want [Complainant 1] in office attire so she looked like his assistant or did he want [Complainant 1] to be dressed in cocktail attire. She stated that at no point did she ask the Respondent to be blunt or critique her in that way."

71 Allegation 5

“Made inappropriate comments regarding matters such as her appearance and body, nicknames for her and her co-workers, sexual activity having occurred in the office, others’ sexual interest in him and others’ belief that he had sexual relationships with members of his staff, including her.”

- Complainant 1 stated that “[t]he Respondent wanted to give nicknames to people so he could hide who he was talking to or what he was talking about if ever there came to be something like this (an investigation). [Complainant 1] found the names to be degrading and offensive. In a text on January 4, 2019, the Respondent and [Complainant 1] discuss the nicknames. [Complainant 1] was ‘Isla’ – Mission Impossible rogue nation that has a nice knife scene. [Witness 1] was ‘Max the Arms Dealer’. [Witness 2] was ‘Foxy Cleopatra’ a character from a movie. [Complainant 1] did not know if there were other nicknames for people.” [see Appendix 34]
- “[Complainant 1] stated the Respondent made comments to one of her colleagues that it was too bad that [Complainant 1] was wearing a bra at one of the events because the person sitting across from them had the last name of [name redacted] and the Respondent thought it would have been funny if [Complainant 1] didn’t have a bra on and was sitting next to this person.” (see Appendix 35)
- “After an event on January 7, 2019, the Respondent engaged in a lengthy text exchange with [Complainant 1] alleging a woman at the event was making sexual comments about [Complainant 1] including that she had “good boobs” and the woman was insinuating that the Respondent and [Complainant 1] were engaged in a sexual relationship. [Complainant 1] does not believe that the [Respondent’s] conversation [with “the woman”] ever happened. [Complainant 1] believes it was the Respondent’s way of hitting on her. [Complainant 1] said although she was making jokes within that exchange, the conversation made her feel very uneasy. [Complainant 1] said in many situations she tried to deflect the tone he was setting in the conversation by using humor as a defence mechanism because it [the conversation] made her uneasy.” (see Appendix 36)
- “On June 3, 2019 the Respondent initiated a lengthy text exchange with [Complainant 1] that was sexually explicit in nature. [Complainant 1] was very

offended by the conversation and said it was an example of the Respondent claiming a citizen wanted to have a sexual relationship with him.” (see Appendix 37)

- “The Respondent told [Complainant 1] stories of a staffer sleeping with [Councillor names redacted]. The Respondent called the staffer a slut and said she had likely passed on STD’s to another male. The Respondent told [Complainant 1] that other people had sex on and under [Complainant 1]’s desk and that she should clean it before [Complainant 1] caught something. The Respondent told her that one of his male former staffers had taken apart an office chair and put a lid from a can of tuna between it and put it back together causing it to smell so that the girl that was sitting there would think that something was wrong with her. The Respondent said that the male employee had hidden cameras in the office to videotape himself (male employee) having sex with whatever girl was working in the office at the time. The Respondent told [Complainant 1] she didn’t need to worry as the Respondent had found the cameras and removed them from the office.”
- “In a series of texts on February 17, 2019 the Respondent and [Complainant 1] are discussing potential assignments and the Respondent at one point refers to two girls he knows, who are escorts and the Respondent told [Complainant 1] the escorts were baffled that the Respondent didn’t try to “boink” them.” (see Appendix 38)
 - **Witness 1:** “The Respondent told [Witness 1] that a previous staff member, he did give a name but [Witness 1] could not remember who it was, had had sex with [Councillor name redacted] under her (the staffer’s) desk which was eventually [Witness 2]’s desk. They were told a number of sexual acts had happened in the office and the Respondent finally caught on because he saw people sneaking into the office after hours on a camera in the hallway on Councillor’s row.”
 - **Witness 2:** “The Respondent told [Witness 2] - that is your desk over there but be careful as the chair may have stains on it and it may smell because [Witness 7] and [name redacted] had sex on that desk. [Witness 2] doesn’t know if that actually happened. She would like to believe it didn’t because in her view that is just “mean.” That was her first day. [Witness 2] said to the investigator “I am not kidding but the scarf that I am wearing now, I washed it many many times, I stuck it immediately over the

chair and we ordered new ones the first week I started, that never came in. Because I was like, what the fuck! Like no. It was shocking”. [Witness 2] said she wouldn’t sit on her chair unless it had her scarf on it. The Respondent told that story often. [Witness 2] could not be specific as to when the Respondent said it again, but he alluded to people having sex in the office every so often. [Witness 2] didn’t know if anyone actually did have sex in the office, but she sincerely hoped that the Respondent would have done something about it. The Respondent seemed to be totally fine with it. [Witness 2] never said anything in protest to him, she didn’t know how to react when he said that, she didn’t know how to question it, she didn’t know politics and didn’t know if that was normal. [Witness 2] said the next day she brought Lysol wipes and disinfected her desk. In this situation, given the craziness of politics, she thought it might have been condoned. [Witness 2] questioned why the Respondent had to disclose personal information about others to her. It seemed to her entirely inappropriate.”

- **Witness 7:** “He also spoke of sexual encounters involving other councillors or City staff and expressed how [Witness 10] liked older women. [Witness 7] never had sex in the Respondent’s office. [Witness 7] felt [Witness 1] would sometimes embellish stories to make the Respondent seem “cool.”

The Respondent spoke of other women having a sexual interest in him. [Witness 7] provided the example of the Respondent saying an elderly constituent had the hots for him which she believed because the elderly ladies loved him. It was more funny than uncomfortable.

[Witness 7] did not believe the Respondent had any sexual interest in staffers. [Witness 1] and [Witness 7] joked that he was the least sexual man they had ever met but said the most sexual things they had ever heard. [Witness 1] and [Witness 7] did not feel uncomfortable by him, they did not feel he was creepy, he may have said creepy things, but it was never for his own sexual gain. [Witness 7] noted that despite the sexual nature of a lot of comments he made, for the Respondent it seemed like it was a tactic rather than sexual or inappropriate in his head. It always seemed like a game, it was like staff were a pawn used to assist sexually, not ever for him.”

- **Witness 9:** “[Witness 9] advised the Respondent had spoken of a Councillor having sex on his desk in the office. The Respondent did not go into detail, just laughed saying it was his office people had sex in.”

72 Allegation 6

“Told her to keep “bar assignments” secret, continued to tell her about “assignments” he wanted her to go on, had her attend events that she felt occurred at inappropriate times and for which she felt she had no reason to attend (for example, an event at a night club).”

- “[Complainant 1] detailed how the Respondent wanted her to go on assignments at random bars and to not discuss this with her co-workers, including statements regarding [Witness 1] and [Witness 2]. The “grooming” behaviour started very early on for [Complainant 1] where the Respondent would discuss the events, many of which [Complainant 1] has text conversations. Some examples are: on December 19, 2018, in part the Respondent said to [Complainant 1] “We need to go over the plan again. While this is a fairly easy one, it is also your first...” [see Appendix 39(a)]; on December 21, 2018, in part, the Respondent said to [Complainant 1]: “...We can target a different Saturday for a first sneaky networking of randoms [sic] at those places...” and he would perfect a system to catalogue the different types of contacts/enthusiasts [see Appendix 39(b)]; on January 4, 2019 the Respondent described [Witness 2] as being very by the books so wouldn’t be the right fit for random networking events [see Appendix 39(c)]; on January 26, 2019 at 11:44 pm the Respondent texted [Complainant 1] saying he just returned from three events and suggested to [Complainant 1] if she would have attended she could have changed to get someone for his “noc list of knee-cappers at a random networking event...” [see Appendix 39(d)]; on June 5, 2019 the Respondent told [Complainant 1] that she or the right part-timer but not [name redacted], would have to go on an event after fireworks on Canada Day.[see Appendix 39(e)]”
- “In a text dated December 28, 2018, after [Complainant 1] asked the Respondent about any potential employment for her boyfriend. The Respondent asked her if her boyfriend would be jealous or be “ok” with her doing “bar assignments” and if the boyfriend knew of her previous employment as a dancer. The Respondent then changed the subject and told [Complainant 1] he approved of how she looked on the job. The Respondent

said [Complainant 1] had “nailed it” with what she had worn and her hair was perfect. [Complainant 1] stated she had never asked the Respondent to critique her in that way. [Complainant 1] responded “...And thank you for the feedback. I’ve never had an office job before so any and all critiques are very useful for me. And I’m glad you like my hair lol”. [Complainant 1] stated she responded in the manner she did to be polite.” (see Appendix 40)

- “On January 28, 2019, a lengthy text exchange occurred between the Respondent and [Complainant 1] regarding the assignments and targeting specific individuals [see Appendix 41]. [Complainant 1] asked what NOC meant as she didn’t understand when he told her “knee cappers”. He said it was a “Mission Impossible term for a list of people who would help by doing what we need done but never revealing they are doing it because we asked them to.” He told [Complainant 1] it means “non official cover” and a “real life spy agency use it too.” He continued “You can’t trust them [targets] so you need things to move to a point where they feel they can’t betray you. It would always be guys...” and, “that there was a formula that worked for someone who could do it”. The Respondent told [Complainant 1] not to speak about the NOC assignments in front of [Witness 2]. He said “I know what works so hopefully you will agree...”. He spoke negatively about the abilities of [Witness 1] and [Witness 2], including that [Witness 2] was lacking “big boobs.” [Complainant 1] did not believe that this was something that [Witness 2] had said but rather in the way the Respondent viewed her. He also said in that same string of texts “This type of assignment is super-secret because it could appear manipulative.” The Respondent told [Complainant 1] he had samples of clothing for her to wear on NOC list assignments.”
- “[Complainant 1] felt the Respondent wanted her to keep the assignments secret, he knew [Witness 2] was a very professional person and that [Witness 2] would know the assignment was not appropriate, the time of day for the assignment sometimes was not appropriate, and she felt because [Complainant 1] told him she had been a dancer previously, the Respondent assumed that she was a loose woman and that he could speak to her in that way (crying). The Respondent did tell [Complainant 1] that he didn’t think [Witness 2] had any street smarts [see Appendix 39(c)], which [Complainant 1] believed was the Respondent’s way of saying [Witness 2] knew better. [Complainant 1] felt [Witness 2] would not accept the ‘random networking’ as

normal because she has worked in an office capacity before and knew how professionals were supposed to behave.”

- **Witness 1:** “[Witness 1] advised the volunteers were this elusive list that they were always to be recruiting towards without receiving any training or information about how to do so. The NOC list was people who would be willing to do covert ops so if they wanted someone to do an op ed in the paper or they wanted someone to tweet or Facebook on their behalf, they would be people who had real existing Facebook, Twitter, accounts or were real people from the ward who would be able to come to [the Respondent]’s defence in any given circumstance.”

73 Allegation 7

“Exhibited abusive behaviour towards her and her co-workers including making fun of and speaking down about her and her co-workers, telling her that constituents and co-workers hated her, creating fear in the office by making threatening comments about negative actions he would take against a staffer who had quit and blaming that staffer’s departure on her.

- “[Complainant 1] stated that the Respondent was frequently sowing doubt in the minds of his staff about the trustworthiness of other colleagues in a way that [Complainant 1] suggested was deliberate. For example she referenced the text messages of December 28, 2018 [see Appendix 40] and January 4, 2019 [see Appendix 39(c)] about her past employment. [Complainant 1] said it really showed the manipulation and how the Respondent would spin the story and was immediately using it against [Complainant 1] with her colleagues. [Complainant 1] said there was no reason that [Witness 1] would ever think that [Complainant 1] was a dancer. [Complainant 1] never spoke about that part of her past and [Complainant 1] hadn’t danced in over a year. [Complainant 1] thinks that the Respondent was talking to [Witness 1] about it and was saying to her that [Witness 1] thought that [Complainant 1] was a stripper to create distrust between them.”
- “On June 3, 2019 the Respondent told [Complainant 1] that one of his stalkers hated her and was jealous of [Complainant 1] spending time with the Respondent. [see Appendix 37] In another instance, the Respondent told [Complainant 1] that constituents like the women from [redacted] hated her and that they did not want to meet with her, and that [Witness 1] had to go to

those meetings. [Complainant 1] said she only met the women once. [Complainant 1] does not think they hated her; the Respondent just wanted [Complainant 1] to be uncomfortable all the time. In another instance, the Respondent mocked [Complainant 1] after she stuttered her name in a meeting.”

- “Relative to the Respondent’s conduct and behaviour, [Complainant 1] said after a certain point she went into a survival mode when it came to the Respondent as she could see the manipulation that was taking place and [Complainant 1] tried to brush things off with jokes. The comments made [Complainant 1] uncomfortable and they made her feel unsure about everything as far as her position went. [Complainant 1] didn’t at any point tell the Respondent not to talk to her in these ways nor did she say that she didn’t want to hear from the Respondent about the comments from other people because she did not feel like she could stick up for herself in that way with him. [Complainant 1] did not feel she could stand up to him because of the way she had heard him speaking about other people in the office that had or were working for him.”
- “According to [Complainant 1] there was a lot of animosity and distrust that the Respondent created among staffers. The Respondent pitted the staffers against each other insinuating that the others were talking about [Complainant 1]. The text of ... January 4, 2019 [see Appendix 39(c)], above demonstrate the Respondent creating distrust between his staff. Because of this, [Complainant 1] would go to work feeling very confused about her role, feeling very defeated because she was working with people who did not like her. At a later point [Witness 1], [Witness 2] and [Complainant 1] realized what was happening and began to trust each other. [Complainant 1] did not understand why the Respondent wanted to create a lack of trust between his own staff. Now, [Complainant 1] believes it was fear mongering and a control tactic for the Respondent to make them think they could only trust the Respondent. During the time he was saying all the bad things about [Complainant 1] to [Witness 1] and [Witness 2], he was still being very cordial with [Complainant 1]. The Respondent was very erratic and impatient and then he would go back to joking. It wasn’t until after [Witness 2] left that the Respondent’s aggression and rudeness became much worse as the Respondent believed [Witness 2] and [Complainant 1] had conspired for [Witness 2] to quit.”

- “[Complainant 1] thought the Respondent chose women very specifically, ones that he could mold and manipulate. For [Complainant 1], being in the Respondent’s office was very much like Stockholm syndrome⁶ with the amount of fear and manipulation he used. There was constant grooming to try to emphasize how normal it was to do these assignments and how everyone else who worked for him had done them.”
- “[Complainant 1] stated that the Respondent bullied all of his employees in his own specific way. When the Respondent found out that [Witness 2] had made a complaint to the Clerk’s office, the Respondent held a meeting with [Complainant 1] and [Witness 1] and basically said it was because of all their talk of sex in the office and said that [Complainant 1] created a toxic work environment. [Complainant 1] told the Respondent that if [Witness 2] had made a complaint suggesting that [Complainant 1] had created a toxic work environment then [Complainant 1] wanted an opportunity to defend herself and speak to that. He said no. The Respondent called [Complainant 1] a couple of days later, went into what [Complainant 1] referred to as “this spiral of paranoia” and said that [Witness 2] had conspired to do all of this and that they were going to have a scandal on their hands now. [Complainant 1] stated that afterwards the Respondent began saying he was going to sue [Witness 2] and that [Witness 2] had better fix up her house real nice, because he was planning on taking it from her. [Complainant 1] said that the Respondent claimed she had ruined [Witness 2]’s career in this city, and she will never be a police officer in this city because of the ties that the Respondent had, he would make sure it never happened for her. [Complainant 1] said nothing ever happened and the complaint disappeared. [Complainant 1] knew the complaint was not about her or [Witness 1] but about the work environment the Respondent was creating.”
 - **Witness 1:** “[Witness 1] was asked if she believed the Respondent was manipulating/controlling her and the other office staff. [Witness 1] said absolutely, everything from the second you are interviewed is a manipulation tactic. The Respondent would constantly tell them he did his articling for law at CSIS and he learned how to pass a lie detector test. Every detail of everything because the Respondent takes people with

⁶ “Stockholm syndrome: the psychological tendency of a hostage to bond with, identify with, or sympathize with his or her captor.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/Stockholm%20syndrome> (6 August 2020).

limited political knowledge, or at least limited municipal political knowledge, and everything is to put trust in him and distrust in everything else. They were encouraged to watch “House of Cards” and “In the Loop” which are politically messed situations. Everything was always your co-workers are stupid, your co-workers are against you, don’t trust [Witness 2] because she [sic] friends with someone from [name redacted]’s office, don’t trust [Complainant 1] because she was stripper, [Witness 7]’s this, it was a constant downgrading of all of her colleagues to the point that she could barely give a situation because it was daily with every person who worked in the office. It was constant put downs; it was constant talking about their incapability. [Witness 1] would suggest maybe more training was needed, more direction, more explanation but it would be skirted around. It was always everyone else was the enemy, “we are the unit right.” Like the Respondent saying “all my trust is in you and I don’t trust everyone equally” it becomes Stockholm syndrome⁷, you become neurotic and you start thinking that everyone else is out to get you and with all of this, with all this craziness about SNC Lavalin and Blind River and all of these things you start to think the corruption is real, everyone else is corrupt and we’re in this to be honest and the other people just have their roles, like they are not part of our unit, our team.”

- “The Respondent had sent messages to [Witness 1] as well saying that [his wife] and [his daughter] thought that [Complainant 1] should be fired. This was very early on in [Complainant 1’s] time working there.”⁸ (see Appendix 42)
- “In April 2019 [Witness 2] made a complaint to the City of Ottawa Human Resources department about misconduct in the Respondent’s office relating to him. [see Appendix 43] The Respondent made a point of telling [Witness 1] that the complaint related to the conduct of both her and [Complainant 1]. [Witness 1] and [Complainant 1], unbeknownst to the Respondent, were aware this was not the case as they met with [Witness 2] before [Witness 2] made her complaint. There is extensive communication about [Witness 2]’s complaint ... [Witness 1] stated the Respondent was going to personally make calls and destroy any chances

⁷ Ibid

⁸ From Complainant 1’s testimony and supported by text messages provided by Witness 1.

[of Witness 2] becoming an officer because [Witness 2] didn't realize how powerful the Respondent was." (see Appendix 44)

"[Witness 1] said everyone was pretty afraid of the Respondent. He made it very clear, and then when that whole thing happened with [name redacted] it backed it up, but he made it very clear that he had spies. She stated as the Dean of Council, obviously he is connected to somebody, somewhere, so you always sit back and kind of question what kind of power does this guy have? If she said the wrong thing, or she quit her job, or she upset him what's the Respondent going to do? Because he was predictably unpredictable in his behaviours for things like when [Witness 2] made her claim - he was going to sue her, he was going to sue her for the entire value of her house, he was going to ensure she never became a cop - you know you go a lot of it is crazy talk, but you know where are the boundaries. [Witness 1] wondered what kind of power this person has. And you are left kind of always in this weird fear zone, not necessarily of the Respondent, but of the Respondent's pack."

- "[Witness 1] was concerned about being fired at all times, she did not have a strong political background and they went through 11 other employees during her time. Some who quit, some who were fired. The Respondent always had this over his head that he had this ultimate power that he could let staff go whenever he wanted to."
- **Witness 2:** "The investigator asked [Witness 2] to explain in greater detail what the Respondent did to make her believe he was manipulating or controlling her and the other office staff. [Witness 2] said the Respondent would say things like – [Complainant 1] said something about [Witness 1] or [Witness 2] said something about [Complainant 1] to her and vice versa. The Respondent would make up lies so the three ladies would hate each other. [Witness 2] said they all thought they could trust the Respondent. The Respondent would make up lies so they could trust him. She described it as a weird, manipulative, controlling thing. [Witness 2] said the Respondent would be like, "you know what, [Complainant 1] thinks you make too much money. She thinks that you don't deserve to get paid what you do" and it would piss [Witness 2] off as she didn't know "this girl." [Witness 2] would be mad at [Complainant 1] for no reason and then [Complainant 1] would be mad at [Witness 2] for something similar the Respondent had said to [Complainant 1] about [Witness 2]. She said

that was the dynamic they had in the beginning of her tenure and it was toxic. At first when they would be mad at each other, they didn't talk about it to each other."

"[Witness 2] described it as pretty hostile at first, since you were thinking automatically your colleagues didn't like you. [Witness 2] said one night in early April [2019] the three of them went out for drinks after work. There was some event happening that day and the Respondent had told [Witness 1] one thing and [Complainant 1] another. The Respondent was supposed to go to the event. He told [Complainant 1] not to go and then asked [Witness 1] "where is [Complainant 1], where is she supposed to be?" [Witness 2] didn't know all the details but the Respondent got the two of them [[Complainant 1] and [Witness 1]] into a fight regarding this event over who was supposed to be there. The Respondent ended up taking his daughter [see Appendix 45]. [Witness 1] and [Complainant 1] ended up getting a little bit tipsy and got into an argument with each other. It was the beginning of April, the same day [Witness 2] went to her lawyer's office regarding the house she had purchased. [Witness 2] said she tried to calm them down and said they would discuss it the next day.

The following day was a Friday and the three ladies spoke about the situation within the office. [Witness 2] disclosed that she was looking for another job because she couldn't do it anymore and they needed to discuss what was going on. [Witness 2] said "I think the common denominator about why we are not getting along is [the Respondent]." He was telling them all lies about each other. At that point they decided they were going to tell each other right away what he would say about the others. They were going to work together and not against each other. She said that was when they all started to see the Respondent's "crazy" come out a little bit more because they started to pick these lies up as they were happening.

[Witness 2] said during that discussion they decided to stop hating each other. [Witness 2] was asked what she meant when she said they all knew the Respondent was a little bit crazy. [Witness 2] stated he was really into conspiracy theories, specifically everything to do with Huawei and SNC Lavalin. The Respondent was obsessed with those companies and would often send his staff on goose chases to get information which was literally inaccessible to people like them in the government. [Witness 2] did not

know how he expected them to get any of what he was asking. [Witness 2] felt the Respondent made up these ideas in his head that there were people working against him constantly and that he had enemies everywhere.”

- “[Witness 2] spoke of a list of complaints that she provided to [name redacted] (Program Manager, Council Support Services), upon her departure from her job in the Respondent’s office. [Witness 2]’s complaint was two pages of hand written notes titled “Toxic & Abusive” and contained a list of points she saw as issues within the office. [Witness 2]’s points noted there was a lack of training and unreasonable expectations; the Respondent suggested staff should dress provocatively and conduct themselves inappropriately at events; extremely inappropriate talk regarding previous, current and other political staff; the Respondent’s lack of attendance at the office, late for or cancelling meetings, not fulfilling his duties leaving it [Witness 1]; speaking of sexual encounters in the office including on [Witness 2]’s desk; the Respondent’s wife involvement in his office; pitting employees against each other; unclear, cryptic communication and inappropriate tasks among others.” (see Appendix 43)
- “When [Witness 2] was asked if she had any concern of being fired, she advised she would question herself if she was in trouble. As an example; at an IT sub-committee meeting, the staff were sitting at a table full of other councillors because the Respondent had asked them to take notes. The Respondent was late, and when he walked in, he looked at his staff and sternly said “go, answer emails” in front of everyone. After the meeting he returned to the office as if nothing had happened. It was that whole Stockholm syndrome abuser mentality. Councillors’ staff are not protected the same way, so they were always worried about getting fired. The Respondent had ultimate control over their future at city hall. The Respondent would say something like he was looking for someone to do constituent work in front of [Complainant 1] who did the constituent work. That is how he would present it, never actually say “I am going to fire you.” It would be alluded to.”
- “[Complainant 1] was not provided any training except what [Witness 1] could offer when she began working for the Respondent. She was told to watch the movies “In the Loop” and “Mission Impossible.””

- “The Respondent would often imply [Complainant 1] wasn’t doing her job, that she was stupid. When [Complainant 1] would ask questions, the Respondent would tell her she doesn’t pay attention to things. [Complainant 1] made it very clear to him during her interviews that she had no political background. [Complainant 1] said her role and his expectation were unclear. The Respondent was always very erratic in his responses and never gave straight answers. On May 27, 2019, [Complainant 1] asked what the deadline was for a constituent issue and the Respondent texted back “While I was unclear...” [Complainant 1] said it was the nastiness in the Respondent. [see Appendix 46(a)] On May 28, 2019 [Complainant 1] asked him where she could find a copy of the consultant’s proposal for the rental study. The Respondent texted her back where he said “OMG you need to pay attention when I explain something to you. This was the most discussed issue during the last election....” [Complainant 1] was not working in the Respondent’s office during the last election. The Respondent would send her messages putting pressure on her and sending her into a panic to the point where she could not establish any work/life separation. He sent [Complainant 1] a text message on a Sunday morning May 26, at 5:28 am saying “OMG we have almost no time. We have to get people out to the rental housing study....” [see Appendix 46(b)] He was always unclear when [Complainant 1] asked for instructions. Once [Witness 1] had left the office, [Complainant 1] had to do [Witness 1]’s job as well. The Respondent came into the office one day and started yelling at [Complainant 1] saying “you’re not doing your f - ing job...” [Complainant 1] was scared to ask the Respondent for the overtime for all the work she was putting in. [see Appendix 46(c)]”
- “[Complainant 1] said that the Respondent never gave feedback on her actual work, only cryptic references which [Complainant 1] was left to figure out on her own. On top of the very offensive sex talk, the Respondent was very abusive in the mind games he played, the verbal abuse he delivered, the way he put the three staffers down to each other, and how he ran [Complainant 1]’s name through the mud. [Complainant 1] stated she did not understand why the Respondent would want to create so much chaos between his team members. The power he used over them, the manipulation and the control were what made her sick in the end.”

74 **Allegation 8**

“With respect to his professional duties, was consistently absent or late for meetings, fell asleep in meetings, did not provide the complainant with direction regarding her duties, and once behaved in an erratic manner with a constituent that made the complainant fearful for her safety.”

75 The Investigator reported that “[t]here is evidence that the Respondent was often absent, late or fell asleep in meetings and did not provide [Complainant 1] with sufficient direction with respect to her duties. The portion of this allegation which relates to having made [her] “fearful for her safety” relates to a car accident where a citizen side swiped the Respondent’s vehicle damaging his mirror. [Complainant 1] described the Respondent’s driving in pursuit of the offender as dangerous and provided a video of the encounter between the Respondent and the citizen after the Respondent had caught up to the offender. From the video it cannot be said that there was anything unusual or erratic in the manner in which the Respondent interacted with the citizen, but [Complainant 1]’s allegation relates to the driving that preceded the video.”

76 I have reviewed the testimony that is relevant to this allegation by Complainant 1.

77 I do not doubt that Complainant 1 was afraid during this reported incident, but there is insufficient substantiation to support the part of the allegation that refers to dangerous driving.

78 I have also concluded that the evaluation of the performance of the Respondent in his duties as a councillor by a former employee can be a very subjective if not biased opinion. This allegation of falling asleep or being constantly late, I deem to fall outside of the scope of this investigation and not within the jurisdiction of the Integrity Commissioner.

Complaint 2

79 Complainant 2 worked in the Respondent’s office from November 2015 until she left, on medical leave, in February 2018.

80 Working with Complainant 2 during that period were the following individuals who were also interviewed by the Investigator:

- Witness 1: Worked for the Respondent from October 2017 to May 2019.

- Witness 3: Worked for the Respondent from December 2015 to June 2017. Her position in the office was Media Relations.
- Witness 4: Worked for the Respondent from January 2012 to December 2016. Her position in the office was Community Relations Assistant.
- Witness 5: Having worked for the Respondent before, returned to work for the Respondent from March 2013 to October 2017. Her position in the office was Executive Assistant.

81 Complainant 2 also had direct interactions related to her complaint with Witness 10, a former City Councillor.

82 The Investigator also interviewed three other witnesses who provided testimony relevant to the allegations of Complainant 2:

- Witness 6: Worked for the Respondent from August 2013 to February 2015.
- Witness 7: Worked for the Respondent from April 2018 to November 2018.
- Witness 11: Worked for the Respondent from January 2011 to November 2012. He was the Respondent's Chief of Staff.

83 Complainant 2 was interviewed by the Investigator on October 22, 2019. In the final report, the Investigator provided a summary of Complainant 2's sworn statement. Excerpts from the summaries of Complainant 2's statement and testimony, that are relevant to the allegations, are set out below. Also included are excerpts from the statements of witnesses that are germane to Complainant 2's allegations and evidence.

84 **Allegation 1**

“During a job interview with Councillor Chiarelli, he presented Complainant 2 with a photo of herself in costume, suggesting that she was bra-less in the photo, and stating going bra-less ‘could attract a man from across the room’.”

85 In her report to me, the Investigator provided the following summary, in relevant part, of Complainant 2's job interview that led to her working in the office of the Respondent:

"The first time [Complainant 2] met the Respondent was during his New Year's Eve event on December 31, 2014. [Complainant 2] had been a volunteer within the cosplay (Costume Acting) community along with [name redacted], another employee of the Respondent's. [That employee] had put out a request for volunteers to attend the family focused event in costume. [Complainant 2] attended as a female version of the X Men character Cyclops⁹, a costume that exposed her midriff and in which she was photographed.

Shortly after that event the Respondent added [Complainant 2] on Facebook and first messaged her on January 4, 2015 to thank her for coming out to the event. [see Appendix 47] On September 30, 2015 [Complainant 2] was looking for a change in employment so she reached out to the Respondent thinking he may know who was hiring at the city. At the Respondent's suggestion, the two met at Starbucks (Hunt Club/Merivale) on October 2, 2015 after 7pm.

...

[Complainant 2] said that not long after the first meeting, she met the Respondent again in the evening at Tailgater's pub for at least three hours. [Complainant 2] said she really needed a job. The Respondent said to her that he did not think one of his employees [name redacted, Witness 4] was doing a good job and he said he thought [Complainant 2] could fill that role. The Respondent spoke of the office and general day to day duties such as attending community events, but he told [Complainant 2] there was a second side to the job.

The Respondent explained that he had his assistants recruit volunteers for the election and people like [name redacted] had guys drooling over her and they would be signing up to do whatever she wanted. He spoke of bars in general terms but focussed on the secretive aspect, espionage type missions, what his staff could do, the manipulation tactics he approved of and liked, including his staff going to strip clubs to spy on people.

...

⁹ Cyclops is member of the fictional superhero team, the X-Men ["X-Men." Peter Sanderson and Frank Plowright, Encyclopædia Britannica, <https://www.britannica.com/topic/X-Men>, (14 October 2020).]

The Respondent wouldn't necessarily say that staff had to go out and flirt with people but liked to tell stories of people doing just that and how productive those individuals were at obtaining many volunteers, thus strongly implying flirting was a very effective method that he approved of. He told a story of [name redacted] dancing with a man at an event and the man ejaculating in his pants because of their dancing. [Complainant 2] laughed it off and did not understand what it had to do with volunteers, but the Respondent spoke in a manner that seemed as though he was proud or liked the fact other people desired his assistants. He also had a history of retelling stories and would forget who the story was actually about, often injecting different names. [Complainant 2] heard two versions of the ejaculation story, the second featured [name redacted, Witness 5], another staffer. The Respondent said men would sometimes have their guard down and wouldn't expect a woman to be smart if they were good looking which caused [Complainant 2] to feel like the staffers were being used as tools.

During the interview, the Respondent asked [Complainant 2] if she knew what could draw a man from across the room or attract a man from across the room. [Complainant 2] was confused and could not remember if she gave an answer, but then the Respondent pulled up a photo of [Complainant 2] on his phone dressed as the character Yuna and told her the answer was in the photo. The character had one green eye and one blue eye, so [Complainant 2] responded "eyes." The Respondent told her it was going braless, not wearing a bra. [Complainant 2] laughed it off and immediately corrected his statement by informing him she was in fact wearing a specific type of bra given she was not comfortable going braless. [Complainant 2] produced a photo that was similar to the one the Respondent had shown her only she was not directly facing the camera and her chest was not as visible. [Complainant 2] suspected the Respondent acquired the photo from one of her friend's Facebook accounts. [Complainant 2] said it didn't occur to her to tell the councillor it was inappropriate because she really needed a job even though she was uncomfortable and disgusted with what she was learning. [Complainant 2] said she thought the Respondent had asked her what she would or would not be comfortable wearing to which [Complainant 2] believed she informed him she would not go braless."

- **Witness 3:** "[Witness 3] explained that she had been working at a Value Village when the Respondent head hunted her to work in his office. The Respondent recruited [Witness 3] to work in his office after frequenting her cash lane at Value Village, eventually leaving her a business card, inviting her

to contact him if she was interested potential employment in his office. [Witness 3] contacted the Respondent and a job interview took place at St-Louis Bar and Grill in the evening in 2015, with the Respondent arriving late. [Witness 3] stated that during the interview – which she described as being more of a conversation – the Respondent described the utility of having women dressed provocatively to attend events to attract young men. She stated that the Respondent spoke specifically of blouses that were revealing of female breasts referring to it as “side boob”. [Witness 3] said she was asked if she would be willing to wear clothes like that and to dress without a bra. [Witness 3] went on to be employed by the Respondent [in December 2015].”

86 Allegation 2

“Pressured the individual into sharing intimate details about her personal life by implying it would help the Councillor “protect” her and demonstrate that she could be trusted.”

- “The Respondent spoke of people attacking his assistants as a way to get at him, alluding to people trying to uncover damaging information to be used against them. [Complainant 2] was asked if she had any big secrets or what the worst thing she had ever done was, because as he explained, he could be prepared to protect her. She said he claimed it demonstrated that the Respondent could trust [Complainant 2] and he pressured her by telling her he knew another staffer’s biggest secret. [Complainant 2] felt she needed to come up with something if she wanted the Respondent to think he could trust her, so she disclosed she [redacted] a year earlier.”

87 Allegation 3

“Made inappropriate comments regarding the individual’s appearance and body, directly to her and to others.”

- “On or about February 15, 2017 the Respondent, in [Complainant 2’s] presence, showed [Witness 10, name redacted and now a former councillor] a photo of [Complainant 2] dressed up as Cyclops¹⁰ from [Complainant 2’s] Instagram on-line account, where her abs are exposed. [see Appendix 48]

¹⁰ Ibid

This caused her to feel very uncomfortable. [The former councillor] laughed it off and tried to change the subject.”

- “Likewise, possibly on that same day, [Complainant 2] was chatting with two men while she waited for the Respondent at the Ontario Stone and Gravel convention. The men were being flirty and inquiring about her presence at the event. The Respondent appeared and interjected in the conversation and spoke of [Complainant 2] being a Superhero, and then showed the above noted photo. The Respondent said [Complainant 2] was used to a different kind of convention (Comicon) leading the men to talk about sponsoring her to go to the Niagara Comicon. At the time she didn’t recognize how uncomfortable, disgusting and disturbing it was, but now recognizes nothing about it was normal. The Respondent had also spoken to other staff in the office about her ‘abs’. [Complainant 2] thought she had a dependency and a need to please the Respondent that was being fostered in her by him. She described it as grooming behaviour. [Complainant 2’s] nickname in the Respondent’s phone was ‘Abigail’ which was a reference to her ‘Abs’. [Complainant 2] said she coped with the strain of these exchanges with humour and a lot of awkward laughing.”
 - **Witness 10:** “[Witness 10] a former councillor was interviewed under oath on November 29, 2019 and asked to tell the investigator about the day he attended the Respondent’s office on official business, and the Respondent showed [Witness 10] a picture of one of his staffers. [Witness 10] said to be honest he did not have a straight recollection of that day. [Witness 10] said he could speak in a general sense that the Respondent has said things that are inappropriate on numerous occasions where [Witness 10] has been with the Respondent whether it was in his office, at events or other places, as opposed to showing [Witness 10] things on his phone. [Witness 10] said it was not to say that the Respondent hadn’t, [Witness 10] just did not have a vivid recollection of him showing [Witness 10] specific people on his phone. [Witness 10] asked if there was anything the investigator could offer to help him recollect it, if there were individuals who were present or things that happened that day. The investigator advised [Witness 10] that the photo was of [Complainant 2]. [Witness 10] stated he thought he knew who [Complainant 2] was and that may have occurred. [Witness 10] asked if it was possible to tell him what the picture was. The investigator told [Witness 10] it was a super-hero type picture.

[Witness 10] said it rings a bell but [Witness 10] still didn't have anything to add as far as specifics because it was just another "Rick" kind of moment. [Witness 10] was told it was a super-hero where the Respondent was alleged to have commented about her stomach or her abs. [Witness 10] said yes, the Respondent would have said something like that about [Complainant 2]. [Witness 10] said that was probably true, yes. [Witness 10] said he did recall it now that the investigator had mentioned it, but he would not have picked that out, but yes the Respondent had probably said those things and would have talked about their figure, how they look and their bodies, but specifics [Witness 10] would not be able to recall. The Respondent would quite often say all sorts of things, sometimes he would talk about women in his office or women that used to work in his office. [Witness 10] said it certainly didn't seem like it was any sort of hurtful or rude way. Obviously, it was disrespectful for the people he was talking about, but the Respondent did not really say it in a way that was mean or rude, but more in a joking way. When [Witness 10] was in the Respondent's office and the staff were there, the staff would kind of laugh, but also shake their heads. [Witness 10] added maybe the Respondent said or did things differently when others were there, differently than maybe how he dealt with staff, given what [Witness 10] has seen in the media with the Respondent being manipulative and things like that."

- **Witness 3:** "In addition to clothing the Respondent enjoyed speaking of staffers' appearance. He spoke of [Complainant 2]'s abs, [Witness 3] had gained a significant amount of weight and he would ask her if she had tried the gym or what would make her feel sexy because she didn't want to wear any of the clothes he expected her to."
- **Witness 5:** "The Respondent also spoke of [Complainant 2]'s abdominal muscles. [Witness 5] didn't recall details but was shown a picture, where [Complainant 2] was dressed up as an X-Men character¹¹."

88 Allegation 4

"Made inappropriate comments regarding the individual's co-workers (including comments related to their appearance and attire), and the sexual activity of business associates and previous office staff."

¹¹ Ibid

- “Following her employment interviews, the Respondent continued to speak of individuals in an inappropriate manner. The Respondent talked about how his staff looked and their strengths in certain ways. The Respondent described [a former employee] as a blond bombshell, well endowed, and mentioned her wearing a shirt where you could see “side boob”. [Complainant 2] believed the Respondent had a weird obsession with “side boob”. The Respondent had photos of [the former employee] at the Animation Festival where she was wearing a T-shirt with a cartooned version of the Respondent as Marty McFly from the movie Back To The Future on the back, with “side boob” showing due to the large cut out under the arms. The Respondent told [Complainant 2] of [Witness 5] talking about how her body had been destroyed by pregnancy and questioning how she was then going to represent his office. [Complainant 2] felt all aspects of that were deeply disturbing: no one should ever have a baby and then worry about their body being not up to snuff for essentially pimping themselves out to get volunteers. It was a common occurrence for the Respondent to talk of other’s sex lives. The Respondent said [Witness 4] had slept with [name redacted].”

- **Witness 3:** “The Respondent took pleasure in showing photos of [a former employee, name redacted] in her Comicon outfits, photos of her “side boob” exposed and similarly presented a photo of [Witness 4] in sheer shirt, no bra where you could basically see her nipples. The Respondent asserted that [Witness 4] selected the shirt, but [Complainant 2] and [Witness 3] did not believe him. He frequently spoke negatively about [Witness 4] to cause dissention among his staffers. He later moved to showing pictures of [Complainant 2] in Comicon outfits.”

“The Respondent told sexual stories at someone else’s expense, speaking of [Witness 5] being sexually open, [Witness 11] having sex in the office and [Witness 4] cheating on her partner.”

- **Witness 4:** “[Witness 4] was asked if she had sexual relations with [name redacted] based on stories the Respondent had told other staffers. She did not. The Respondent had confided to another staffer that [Witness 4] had cheated on her then boyfriend and was involved in an affair while she worked for the Respondent.”
- **Witness 5:** “(From the interviews conducted during the investigation, it had also been brought forward that the Respondent stated [Witness 5]

had been involved in sexual relations with [name redacted].) [Witness 5] was asked if she had been involved in a sexual relationship with [name redacted] and she was not but the Respondent told her that [Complainant 2] was involved with [name redacted], and that [name redacted] slept with past assistants, but [Witness 5] did not know she was one of them too; The Respondent also said that [a former male employee, Witness 11] and [name redacted] had an affair; a former staffer and her boyfriend had sex in the ward office; [name redacted] gave [name redacted] a 'blow job' in the car park at City Hall, or possibly the front lawn or both - there was allegedly security footage so [name redacted] was fearful that she would end up on CBC giving this guy a blow job and she was married. Other stories the Respondent told included that [name redacted] had an affair with one of his assistants and was having sex against a window at the front of City Hall during some sort of concert on the front lawn, and that [name redacted] used to give [name redacted] blow jobs at work.”

“[A former female employee] wore a revealing shirt to the Animation Festival in 2015 with the Respondent’s face on it but [Witness 5] was unaware if the Respondent told her to wear the shirt as he had only shown [Witness 5] the pictures. The shirt was cut out under the arms and [Witness 5] did not think [name redacted] was wearing a bra. In another picture, possibly of [name redacted], she was wearing a fancier ball gown type dress showing a lot of “side breast”. [Witness 5] recalled feeling encouraged to dress provocatively and to use their sexuality to benefit him and his career. She said it wasn’t that “you must”, it came from all of his innuendos.”

- **Witness 6:** “[Witness 6] said the Respondent told her stories of other staffers such as how [Witness 11] had sex on one of the desks with another Council member, how [Witness 11] was a womanizer who refused to take off his suit during sex, how an employee and her boyfriend were having sex at BFP [Ben Franklin Place] when a constituent walked in, how a staffer had made a man ejaculate while dancing at a club, how [Witness 4] was cheating on her partner, how [Witness 5] got intoxicated and was singing karaoke while the Respondent recorded her.”
- “On September 11, 2016 the Respondent wrote to [Complainant 2] about [name redacted], an Algonquin PR student he had recruited. The Respondent

wrote that [the individual] wanted to meet him privately and [the individual] said “it would have to be secret...” [Complainant 2] wondered why [the individual] would want it to be secret at which point the Respondent wrote “... Maybe she thinks she will be the first to try feminine manipulation. She has nice hair, It masks the trickiness completely.” [Complainant 2] joked saying “haha all I can think of is mean girls...that’s why her hair is so big...it’s full of secrets.” He responded with “She is a danger or, at best, a simple innocent princess.” In [Complainant 2’s] view, it was a typical description by the Respondent of their appearance and how he thought they could be used.” (see Appendix 49)

- “[Complainant 2] said the Respondent told stories of former employees, including [Witness 11] who allegedly had to be physically removed from the office because of either a sexual assault or sexual harassment. The Respondent remains friends with [Witness 11] who the Respondent described as a womanizer. After an event attended by both [Complainant 2] and [Witness 11], [Complainant 2] said the Respondent told her [Witness 11] said he could have had [Complainant 2] (sexually) but, for the Respondent’s sake, he had backed off. On another occasion the Respondent told her that [Witness 11] was reporting to him that [Witness 11] was at the Crazy Horse bar and could see [Complainant 2] in the bar. [Complainant 2] was at home. The Respondent seemed to relish telling stories about [Witness 11] including after [a former employee] found a pubic hair on her desk that [Witness 11] was having sex in the office; that [Witness 11] really liked anal sex; and that [Witness 11] once used a hotel curtain to wipe his private parts after sex. [Witness 11] was said by the Respondent to have naked pictures of staffers, including [a former female employee]. [Complainant 2] found the graphic nature of the Respondent’s stories disgusting.”

89 Other witnesses interviewed by the Investigator were also told stories about Witness 11, as follows:

- **Witness 1:** “[Witness 1] was told [Witness 11] slept around frequently and it was a problem for the Respondent’s office, she was not given names or whom he slept with, other than [Witness 11] had slept with a co-worker.
- **Witness 3:** “The Respondent told sexual stories at someone else’s expense ... [Witness 11] having sex in the office ...”

- **Witness 4:** “He told her stories of ... and [Witness 11] sleeping with people in the office and two other councillors [sic].”
- **Witness 5:** “...The Respondent also said that [Witness 11] and [name redacted] had an affair...”
- **Witness 6:** “[Witness 6] said the Respondent told her stories of other staffers such as how [Witness 11] had sex on one of the desks with another Council member, how [Witness 11] was a womanizer who refused to take off his suit during sex ...”

90 The Investigator interviewed Witness 11 on December 16, 2019 and provided the following summary, in relevant part, of his testimony:

“[Witness 11] said that with the exception of [name redacted] he did not have sexual relations with anyone else in the office and never discussed his sexual behaviour or preferences with the Respondent. He said that his sexual relations with [name redacted] were the reason he left the office. The Respondent had noticed strained relations between the two of them and told them to get their act together which was when [Witness 11] told the Respondent that he was responsible for the strain and in non-specific terms told the Respondent he’d had a relationship with her. The Respondent said that he had to go because of that and [Witness 11] agreed. [Witness 11] regretted the relationship. He did not provide any details to the Respondent beyond accepting responsibility for the strain in the office dynamic which he feels the Respondent was smart enough to understand.

He never had sex in the office with anyone, he never had sex with a City councillor. He never spoke to the Respondent about sex or his sexual experiences. He said he’d never been to the Crazy Horse bar and therefore never told the Respondent that he’d seen a colleague at that bar. In all of his time in the office he was never witness to any directions to female colleagues on how to dress for events. He never heard of the practice of sending colleagues into bars or clubs. He did say that he was aware of one incident where someone at a community event had complained to him that a member of the staff had been overly affectionate while at an event and that he had related those details, which he could not now recall at all, to the Respondent who said he’d deal with it. He doesn’t recall who it was. He never took photos of colleagues and the Respondent never showed him pictures of colleagues

or women on his phone. He did not put cameras in the office. If ever there were pictures of colleagues, it was for placement on a website or the internet relating to office matters.”

91 Other than having a sexual relationship with an office colleague, Witness 11 made it clear in his testimony that he did not participate in any sexual activity in the office proper, nor did he share any of his sexual experiences with the Respondent.

92 Complainant 2’s testimony continues as follows:

- “In another instance, on November 7, 2017 on BBM which [Complainant 2] provided, the Respondent spoke of [name redacted] longing for [name redacted]’s asset, and how [name redacted] was hooking up with many women per month. [see Appendix 50] Her emoji response clearly shows that [Complainant 2] did not want to hear about it. In the text the Respondent refers to [name redacted] as [redacted] and [name redacted]’s “asset” to mean her vagina. [Name redacted] ran a website called [redacted], thus the nickname the Respondent gave him. [Complainant 2] was disgusted. She didn’t address the text with the Respondent at the time and she just laughed it off. On February 7, 2018 the Respondent texted [Complainant 2], which she provided, suggesting he witnessed another politician sexually harass one of the Respondent’s staff. [see Appendix 51] When [Complainant 2] asked “like what?” the Respondent said “...I wouldn’t mind being seen around town with her on my arm... Not really harassment. Just piggy. Also [name redacted] is not really all that. But she does carry herself very well and is super friendly so I think that creates the illusion of attractiveness? Or attractiveness but in a different way...” The Respondent had commented to [Complainant 2] that [name redacted] was a little more conservative in the way she dressed, something he had also said of another staffer named [name redacted]. He was concerned [the other staffer] couldn’t fulfil the flirtatious role and actually brought it up as what he perceived to be a weakness in her when he offered her fulltime work. [The other staffer] declined the offer. [Complainant 2] strongly discouraged [the other staffer] from taking the job. The Respondent had told [the other staffer] that [she] didn’t know how pretty she was and was basically implying that he wanted [her] to honeypot. (Note: [Name redacted] worked for the Respondent between February and April 2018.)”

- “[Complainant 2] said the Respondent liked to select individuals who would attract people by being flirtatious, suggesting they knew how to carry themselves or dress. Staff were expected to have men fawn over them to elicit volunteers no matter what the event was. When the office was understaffed the Respondent would bring in individuals who had limited experience, or who had “diamond in the rough” type qualities on the premise they could fill the flirtatious role. It wasn’t about qualifications or if they could do any of the actual office work.”
- “[Complainant 2] said she managed to stay on the Respondent’s good side. [Complainant 2] wasn’t sure why, but she thought because men would still flirt with her no matter how conservatively she was dressed. While working for the Respondent, [Witness 3] had put on a significant amount of weight and was dejected because no one was ‘hitting on her’, and therefore unable to acquire supporters for the lists. The Respondent would use [Complainant 2] as a comparison to [Witness 3] to further humiliate [Witness 3]. Flirting had become a central focus of their job to appease the Respondent.”

93 Allegation 5

“Regularly informed office staff that they could be fired at any time without cause, suggesting that any reports of harassment or inappropriate behaviour should be dealt with “internally”, and implying that a former staff member had lost a new job because they had “done something negative” to the Councillor.”

- “[Complainant 2] said the Respondent belittled [Witness 4] and [Witness 3] to [Complainant 2], something that became part of the culture in the office. [Complainant 2] explained: “You want to pick on someone else when you weren’t the one getting picked on, so you weren’t the weakest link”. The Respondent often targeted a staff member who he thought was not doing enough or was not up to par, and that person would be the scape goat for all the problems of the office. The Respondent wanted people to speak positively about him and challenged those who didn’t. [Complainant 2] was so desperate that she had a friend tweet back at the Mayor during budget time and asked friends, family or even ex-boyfriends to help out whenever possible. In [Complainant 2’s] view the Respondent was like an inappropriate father figure. The Respondent created dependency by messaging you at all hours, telling you everything and it ended up feeling like a relationship, like a

close personal friend that cared about you and it really wasn't an employee, employer relationship at all.

[Complainant 2] referred to it as a balancing act in prioritizing his conspiracy theories, the never-ending volunteer lists, with trying to get actual work done. The volunteer lists were focussed on the election and New Year's Eve but [Complainant 2] had never seen the list used. New Year's Eve was mostly students picking up their volunteer hours for graduation. The Respondent made his staffers use codenames for everything, including his codename Betty for the Mayor. She referred to the Respondent as King Pin in her phone. Even other members of the office were in her phone with codenames."

- **Witness 4:** "[Witness 4] said the Respondent selected women that he saw as young, naïve, living away from home or who had a bad home life, more often than not people who had some sort of mental health or addiction issue and who he perceived as dumb. [Witness 4] said her mental health really declined (doctor diagnosed) working for the Respondent. He would do whatever he could to consistently try to manipulate the system and threaten to fire you. He created a work environment that was very toxic. He piled on the work with no help or direction, and if he came in at all he added manufactured tension. He would try very hard to segregate the office and alienate staff from each other by telling them lies. At one point [Witness 4] had a complete breakdown in the office, she verbally quit and walked out."
- **Witness 6:** "[Witness 6] said she felt very manipulated. [Name redacted] (a colleague) described to her that working with the Respondent was like being in an abusive relationship, a statement [Witness 6] believed to be completely true. She said "... just the power...the power difference...the mind games..." ensuring employees did not become close, him telling her others didn't like her and speaking poorly of [Witness 4] to her. He would manipulate [Witness 6] by telling her secrets or embarrassing things about the other employees. [Witness 6 stated that there was the "... the threat that he could fire you at any moment and not just fire you but that he could make your life miserable. That he would make you unemployable. So, it was more than just the fear of losing your job.]"¹² She said he had the ability to make you want to please him as the boss. At first he was very

¹² Excerpt from the testimony of Witness 6.

kind, and she believed he had her best interests in mind. He would make promises and once he garnered her trust would start asking her to do small things that made “you slightly uncomfortable... pushing further and further...” until she was broken down, could no longer fight his power and became afraid. [Witness 6] said he controlled her.”

- **Witness 3:** “Symptoms of [Witness 3’s] decline in mental and physical health escalated during her time in the Respondent’s office as she gained weight, developed a drinking problem and became severely depressed, including because of the fact men were not hitting on her and his constant demeaning comments on her performance. The primarily toxic atmosphere created with the Respondent’s controlling manipulative behaviours was something he thrived on. He implied jobs weren’t permanent, would overwork them to the point of exhaustion with no work life balance. Distrust and animosity grew as he wanted staff to dislike each other and the staffers never wanted to become his target. An environment of loyalty was paramount, and it was their job to defend the Respondent at all times. [Witness 3] believed the Respondent hired young inexperienced vulnerable women who all bonded on a certain sadness, including girls with no dad, ergo trusted the Respondent as the male figure.”
- “In October/November 2017 [Complainant 2] said she was suicidal. In late 2017, she began dating an individual who knew what was going on and told her it was wrong. [Complainant 2] kept telling her boyfriend she needed to get through the election as the Respondent said getting through an election would make her more valuable, but in reality, she realized the Respondent wanted her to work for free during the election. The Respondent had also led [Complainant 2] to believe he would assist her in getting an equivalency degree which was important and appealing to her. Only after [Complainant 2] was off sick in February 2018 [see Appendix 52], did she realize the stress she was under, which ultimately caused her to go on disability and eventually quit. [Complainant 2] had a hard time letting go because she wanted to use the Respondent as a reference, he preyed on gaslighting and only recently after others had spoken out publicly, did she realize she wasn’t crazy.”
- **Witness 5:** “[Witness 5] described the work environment was beyond stressful. The Respondent complained about [Witness 4] to [Witness 5] all the time, saying how incompetent she was, how brutal she was, but really,

she didn't have any experience. [Witness 5] tried to soften the complaints to [Witness 4] but resentment started to build because [Witness 5] was always taking the brunt of it. He had cleaned out all employees previously and threatened to fire them ALL the time. [Witness 5] asked why he didn't just fire [Witness 4] if she was so incompetent, but he wouldn't do it and she now concludes that he had control over [Witness 4] and if he asked [Witness 4] to take her bra off she would do it.

[Witness 5] said the manipulation and control came in the form of "gaslighting", he normalized a very toxic and inappropriate environment. [Witness 5] said the banter, the gossip, the crude conversations just doesn't happen in a regular work environment. Almost like he was pitting them against each other, he wanted them to only be loyal to him and trust him. He isolated his employees and wanted them not to like each other, not to form bonds. The Respondent would share information and then tell her she wasn't allowed to share it with other staff.

[Witness 5] said the work environment was definitely abusive. He used to send PIN messages to the staffers at 3 am telling them how incompetent they were and what a disaster it all was during one of his paranoid breakdowns. Most often he did it over the phone but occasionally in text or in person. That sort of treatment became normalized. He encouraged them to bully and intimidate City staff into doing things ("be tough", "be a knee-capper")."

- **Witness 7:** "At one-point when [Witness 7] and [Witness 1] were both feeling underappreciated and overworked they met [Complainant 2] for lunch. [Complainant 2] advised [Witness 7] and [Witness 1] that her mental state had deteriorated in the Respondent's office, that she had to go on a leave of absence and that she was not okay. [Complainant 2] advised after quitting the job, she bettered her life and built better relationships. [Complainant 2] described the office to [Witness 7] as so unbelievably toxic."

She stated: "There was no work-life balance working in the Respondent's office. [Witness 7] stated at the end of the day, she and [Witness 1] were so exhausted that they would either go home or get drunk. It was so unhealthy; they were tired and frustrated and [Witness 7] found herself in some uncomfortable situations. She was not mentally well. [Witness 7]'s

parents were telling her to quit, she was gaining weight and losing weight, not sleeping enough and getting sick. [Witness 1] and [Witness 7] were discussing the health toll the job was taking on them on a daily basis from October on.”

- “[Complainant 2] said the Respondent told her a story of a person who was being inappropriate to one of his staff and instead of the staffer filing a complaint, they made certain the harasser suffered consequences by losing a deal that needed municipal approval. The Respondent insinuated that if a staffer complained they would be “labelled” as someone who was difficult to work with. If one made a harassment complaint that would be bad for future job prospects. The Respondent created fear by telling his staff that anything they said, would get back to him. The Respondent used [name redacted] to illustrate his point, saying she made sure someone who left the Respondent’s office was fired from their next job. The Respondent would mention he could fire individuals at any time but preferred if someone left the job amicably. [Complainant 2] recalled specifically on her second day in the office, [name redacted] abruptly left and she had no idea what was happening. [Witness 5] informed [Complainant 2] that the Respondent had gotten very upset and left [name redacted] with the impression she had been fired on the spot. [Name redacted] had told [Complainant 2] the Respondent had fired individuals in the past in that manner, so [name redacted] too thought she had been fired. [Complainant 2] feared she would be fired so she tried to stay on the Respondent’s good side, she did what she was told because she needed the job and because she was in too deep to see any other option.”
- **Witness 4:** “[Witness 4] said the Respondent segregated his staff from everyone else so he could rule the office the way he wanted, so he could get away with doing this. [Witness 4] said that if you decided you wanted to say no, the Respondent would threaten your job, like “this is part of your job, you have to go to these.” [Witness 4] said that she was backed into a corner and if she said no or if she tried to say no, first off, he would get angry, and that when the Respondent got angry the Respondent got very explosive. [Witness 4] said that he would then threaten your job and you would now be worried whether you were going to be fired if you didn’t go to these events.”

- **Witness 5:** “[Witness 5] said the Respondent threatened to fire them frequently, especially around the volunteer list. [Witness 5] recalled a specific incident where the Respondent went on a rampage because he had heard he was being talked about and sent all the staffers home. [Name redacted] left in tears, [Complainant 2] had not seen this before and was shocked, and [Witness 5] didn’t react because it happened so often.”
- **Witness 6:** “In February 2015 [Witness 6] knew she had to quit even though she was afraid to do so. She knew it was important for her mental health and for her relationship with her boyfriend. She felt trapped in the job but wanted to leave on good terms. On multiple occasions the Respondent said he had the power to make people unemployable and to ruin them. When [Witness 6] left, the Respondent was very concerned and frequently asked for reassurance that they would remain friends. She felt it was his way to maintain loyalty and control.”
- **Witness 7:** “[Witness 7] was concerned about being fired. [Witness 7] said she felt there would never be a warning if you were going to be fired which held true for other staffers. [Witness 7] witnessed the firing of [name redacted]. [Witness 7] also recalled when the Respondent told her he could fire her for being late after she had stayed several nights in the office trying to do the receipt reconciliation without any direction or understanding on how to complete the task. That same day, the Respondent instructed [Witness 7] to attend BFP to turn over her work after hours and the Respondent never showed up. She left the documents and her key in the office, asked security to lock it up and quit that day, January 3, 2019.”

ANALYSIS

The Investigator’s Conclusions

94 With respect to the allegations made by Complainant 1, the Investigator reported as follows:

“In the case of [Complainant 1], she alleges that:

- (1) The Councillor asked the Complainant if she would be willing to go “on assignments” to flirt with men at networking events, including at bars, to

convince them to volunteer for his office and give his office information, and told her that this was a very regular practice. There is significant evidence including from the Respondent himself that this was his practice. Indeed, there is evidence from texts with [Complainant 1] that he wanted her to attend random networking events on several occasions and that she did in fact do this. **The investigation finds this allegation to be established.**

- (2) The Councillor showed the Complainant pictures on his phone of his previous staff and told her to wear revealing clothing, as a member of his staff had done, when she was to go “on assignment”. There is considerable testimonial evidence from both complainants and witnesses that the Respondent frequently showed photos of his staff in revealing clothing. **The investigation finds this allegation to be established.**
- (3) The Councillor took her to a bar, bought her drinks until 2 a.m. and told her stories of his employees who got men drunk and danced with them until they ejaculated, and told her that he wanted her to convince men that she would have sex with them so they would volunteer for the office or give information to her for the office, but that he would fire her if she did have sex with them. This is a consistently reported theme of the Respondent’s job interview process. The text messaging with [Complainant 1] by the Respondent is entirely corroborative of this allegation as well. **The investigation finds this allegation to be established.**
- (4) In a text message, the Councillor told the Complainant to wear something “sexy” to an event, “not ho-ish” and “no bra required”. **The investigation finds this allegation to be established.**
- (5) The Councillor made inappropriate comments to the Complainant regarding matters such as her appearance and body, nicknames for her and her co-workers, sexual activity having occurred in the office, others’ sexual interest in him and others’ belief that he had sexual relationships with members of his staff, including her. There is a considerable body of evidence demonstrating this conduct by the Respondent with [Complainant 1] in text messaging and a similar pattern of conduct with others. **The investigation finds this allegation to be established.**

(6) The Councillor told the Complainant to keep “bar assignments” secret, continued to tell her about “assignments” he wanted her to go on, had her attend events that she felt occurred at inappropriate times and for which she felt she had no reason to attend (for example, an event at a night club). Similar to Allegation 1 there is significant evidence from multiple witnesses and complainants. **The investigation finds this allegation to be established.**

(7) The Councillor exhibited abusive behaviour towards the Complainant and her co-workers including making fun of and speaking down about her and her co-workers, telling her that constituents and co-workers hated her, creating fear in the office by making threatening comments about negative actions you would take against a staffer who had quit and blaming that staffer’s departure on her. There is evidence that the Respondent was abusive towards [Complainant 1] directly and about [Complainant 1] to [Witness 1]. There is ample evidence that the Respondent created fear in the office through multiple streams of manipulation and misrepresentation. **The investigation finds this allegation to be established.”**

- 95 The Investigator also reported on allegation no. 8: With respect to his professional duties, the Councillor was consistently absent or late for meetings, fell asleep in meetings, did not provide the Complainant with direction regarding her duties, and once behaved in an erratic manner with a constituent that made the Complainant fearful for her safety.
- 96 But as stated above in paragraphs 76-78, I carefully reviewed the testimony and concluded there is not enough evidence to support her safety concerns and that the evaluation of the Respondent’s professional performance as a Councillor is not central to this complaint and outside my jurisdiction.
- 97 While I do not doubt that the behaviour objected to by Complainant 1 is an honest report of her view of the conduct of the Respondent, I find that these kinds of assessments can be highly subjective.
- 98 There is no specific job description for a city councillor. Being chronically absent or late for meetings, being vague in defining duties and not accounting for time spent out of the office falls more into the realm of incompetence than that of the Code of Conduct. That kind of judgement and evaluation of a councillor’s

performance is best left to the voters who, in an election hold the power to make a finding and retain the ultimate sanction: removal from office.

99 With respect to the allegations made by Complainant 2, the Investigator reported as follows:

“In the case of [Complainant 2], she alleges that during an interview with the Complainant for a position as a staffer in his office, the Respondent:

- (1) Presented the Complainant with a photo of herself in costume, suggesting that she was bra-less in the photo, and implied going bra-less “could attract a man from across the room”. There is a significant body of evidence as to the Respondent’s focus on ‘Braless-ness’ in this inquiry and his view of female sexuality being exploited for his political purposes. **The investigation finds this allegation to be established.**
- (2) Pressured the Complainant into sharing intimate details about her personal life by implying it would help him “protect” her and demonstrate that the Complainant could be trusted. Similarly, there is a significant body of evidence including in email messages to others that the Respondent questioned prospective employees in this regard. **The investigation finds this allegation to be established.**
- (3) Made inappropriate comments regarding the Complainant’s appearance and body, directly to her and to others. [Complainant 2]’s evidence as well as the evidence of [Complainant 1] and [Witness 1] and others establishes the Respondent’s propensity for this conduct. **The investigation finds this allegation to be established.**
- (4) Made inappropriate comments regarding the Complainant’s co-workers (including comments related to their appearance and attire), and the sexual activity of business associates and previous office staff. **The investigation finds this allegation to be established.**
- (5) Regularly informed office staff that they could be fired at any time without cause, suggesting that any reports of harassment or inappropriate behaviour should be dealt with “internally”, and implying that a former staff member had lost a new job because they had “done something negative” to the Respondent. **The investigation finds this allegation to be established.”**

The Respondent's response to the two complaints

- 100 As outlined earlier, the Respondent, through his legal counsel, has refused to respond in writing to the two complaints as required by the Complaint Protocol; he refused to schedule an interview to testify in the investigation; he deliberately sought to avoid service of a summons to appear before me to be examined under oath under the Ontario *Public Inquiries Act, 2009*.
- 101 The Respondent was given ample opportunity to reply in writing to each of the two complaints. He declined to do so, including an offer in early September 2020 to answer written interview questions. On October 23, 2020 he was provided a draft copy of this report for comment. No comments related to the allegations were provided. On November 2, 2020, through my legal counsel, I extended a final opportunity for the Councillor to confirm he would participate in an interview when he was medically cleared to do so and to suggest accommodations that could be made to assist the Councillor. No response was received.
- 102 It was his choice to not participate and leave the body of evidence against him unchallenged during the investigation. While he did not respond to the allegations in the course of the investigation, he did make a public statement in the media.
- 103 On October 3, 2019, the Respondent issued a public statement stating (see Appendix 2), in relevant part:
- "I can say, without reservation, that I have never treated a member of my staff (including job candidates) in a sexually harassing, discriminatory, or inappropriate "gender-based" fashion."*
- 104 That is the only pertinent statement made by the Respondent in response to the complaints. It is a wholesale repudiation.
- 105 Consequently, in the absence of any other reply or input from the Respondent on the substance of the complaints, I have taken that published statement as the deemed substantive and comprehensive response to the complaints filed against the Respondent and have considered that denial in formulating my findings.

Use of Similar Fact Evidence

- 106 Many of the interactions between the Respondent and Complainants 1 and 2 happened without witnesses present. For the incidents which involved other

individuals, I reviewed and relied on the relevant evidence from witnesses (including Witness 1, 2, 3, 4, 5, and 10).

107 A number of the witnesses gave evidence which must be assessed as similar fact evidence, as it did not relate to the specific incidents set out in the allegations of Complainant 1 and Complainant 2. While my role is not to make a binding decision, but instead to provide my recommendation to Council, I determined that it was important to consider the legal principles that apply to the admissibility of similar fact evidence. Accordingly, I sought and obtained legal advice about when and how a decision maker may use similar fact evidence.

108 “Such evidence is generally not admissible because it tends to prejudice the trier of fact, but can be admissible if the probative value of the evidence outweighs its prejudicial effect”.¹³

109 The Supreme Court of Canada “stated in *R v. Handy*, 2002 SCC 56, that there is a ‘dangerous potential’ that similar fact evidence ‘may capture the attention of the trier of fact to an unwarranted degree. It has potential for prejudice, distraction, and time consumption, and these disadvantages will almost always outweigh probative value.’”¹⁴ The danger is that the trier of fact will determine that the Respondent is a “bad person” and likely liable or become preoccupied from the determination on the particular allegations.¹⁵

110 In deciding whether to include the similar fact evidence in my report, I followed the three step process:

- a. Evaluate the probative value of the evidence;
- b. Assess the prejudice to the Respondent; and
- c. Balance the probative value with prejudicial effect

111 In evaluating the probative value of the evidence, I determined that there were specific issues to which the similar fact evidence was relevant. This is clear from the organization of the fact section above.

112 I considered the connecting factors from the *R v. Handy* case, namely: the extent to which the other acts are similar in detail, proximity in time, circumstances surrounding or related to the similar acts, number of occurrences, any distinctive

¹³ *College of Physicians and Surgeons v. Peirovy*, 2018 ONCPSD 6 at p. 8

¹⁴ *College of Physicians and Surgeons v. Peirovy*, 2018 ONCPSD 6 at p. 8 citing from *R v. Handy*, 2002 SCC 56 at para. 37 (*Handy*)

¹⁵ *R v. Arp* [1998] 3 SCR 339 at para 40

features, and intervening events or any other factors that would tend to support the underlying unity of the similar acts.¹⁶ I concluded that the evidence set out in the facts section was highly connected to the incidents in the allegations. For example, in considering that allegations that the Respondent shared sexualized stories in the office and showing pictures of past employees scantily clad, one of the key issues is: did the Respondent use his interactions with his employees as a means of normalizing a sexualized workplace in furtherance of his engagement of employees to go “on assignment”? In respect of the toxic workplace, one of the key issues is: did the Respondent create a toxic workplace environment where employees had negative impressions of and interactions with their colleagues, were fearful for their jobs, and felt it necessary to follow all of the Respondent’s directions?

- 113 Much of the evidence was supported by documentary evidence which assisted my conclusion that the evidence was reasonably capable of belief. I determined that there was not evidence of a motive to collude. All of the witnesses had moved on from the Respondent’s office, so the outcome of the inquiry had no direct effect on their employment or financial security.
- 114 I considered whether there was only generic or vague similarities in the evidence. However, there were significant distinctive features in the interactions: for example, there were photographs shown of prior staff members dressed in Comicon outfits; the Respondent engaged in sexualized conversations in interviews or from the beginning of the witnesses employment with the Respondent’s office, normalizing this behaviour; the Respondent provided some staff with revealing clothing to wear to events; the Respondent used text message with staff to direct them what to wear; and the Respondent attempted to keep the employees from speaking with each other while creating an environment of suspicion among colleagues.
- 115 The potential prejudice is in reasoning prejudice, in the idea that the decision maker may conclude that the Respondent is a “bad” person based on the similar fact evidence. However, I concluded that I would not be unduly distracted and influenced by the inclusion of this similar fact evidence.
- 116 When weighing the probative value against the potential prejudice, I am not to engage in a mechanical or mathematical exercise of adding up the similarities

¹⁶ *R v. Handy* at para 82

and dissimilarities in the evidence and deriving a net balance. Rather, drawing the balance is a matter of judgment.¹⁷

- 117 Since the allegations related both to specific incidents and the general workplace environment, I reviewed the evidence of Witnesses 1, 2, 3, 4, and 5 who all worked in the Respondent's office at the same time as one or more of the complainants. To the extent that the corroborative evidence provided did not relate to the same incident described by the complainant, I considered whether the evidence could be relied on as similar fact evidence. I concluded that the probative value of the evidence outweighed the prejudicial effect of my reliance on it.
- 118 While Witness 7 was not an employee at the same time that Complainant 2 was actively working, she became employed only two months after Complainant 2 went on medical leave. Witness 1 was a common employee over the period of Witness 7 and Complainant 2's employment. Witnesses 1 and 7 interacted directly with Complainant 2 at a lunch where Complainant 2 explained why she had gone on medical leave. I determined that Witness 7's evidence about the stories that the Respondent told (including about woman having sexual interest in him and sexual encounters at the office) and about the toxic workplace was probative of a number of the allegations. While I recognized the prejudicial effect of this evidence, I concluded that its probative value outweighed its prejudicial effect.
- 119 Witnesses 6, 8, and 9 were employed within eight months of Complainant 1 or 2 which I determined met the similar timeframe requirement in the similar fact evidence analysis. These witnesses provided similar accounts of the sexualized stories which the Respondent told to them, including Witness 9 who is male. Witness 6 also testified about the threats of firing staff, and Witness 6 and 8 both testified about the requests to go braless or wear specific, revealing clothing. This evidence showed a consistent pattern of behaviour by the Respondent toward his female employees between the time period August 2013 to June 2019.
- 120 The evidence showed that the Respondent typically had two or three staff members at one time and that he judged and then tested his ability to use certain staff member's sexuality for his own purposes. Not all of the witnesses were

¹⁷ *College of Physicians and Surgeons v. Peirovy*, 2018 ONCPSD 6; *R v. Shearing*, 2002 SCC 58 at para. 73

involved in the precisely same behaviour (such as going “on assignment”) and this held true over the six year time period. Instead, the Respondent picked his person to go on bar assignments once he determined that the staff member would be “willing” to performed the sexualized tasks. To the other, he told sexualized stories and pitted the employees against each other. The similar fact evidence was necessary to confirm this pattern.

121 Witness 11 was the subject of many of the Respondent’s stories. As a result, his evidence was deemed relevant to the investigation. Witness 11 spoke of a very different experience in the Respondent’s office from January 2011 to November 2012 than the Complainants and Witnesses 1-8. As a result, I determined that it was necessary to consider Witness 11’s evidence as potentially exculpatory evidence.

122 In the course of the investigation, I reviewed evidence from an additional nine other witnesses. These witnesses testified about matters which did not involve Complainant 1 or Complainant 2. Accordingly, I classified their evidence as similar fact evidence. I undertook an evaluation of the probative value of that similar fact evidence. I concluded that these witnesses’ evidence did not meet the probative value threshold, so I did not consider that evidence or include it in this report.

Analysis of Credibility and Reliability

123 Credibility and reliability are fundamental principles when evaluating testimony. “Credibility refers to the witness’s sincerity and willingness to speak the truth as he or she believes the truth to be. Reliability relates to the witness’s ability to accurately observe, recall and recount the events at issue.”¹⁸ I appreciate that “an honest witness can still be mistaken and, consequently, his or her evidence while sincerely given, may be unreliable.”¹⁹

124 In assessing credibility and reliability, I looked at the totality of the evidence and considered whether there were any inconsistencies (and if so, the impact of those inconsistencies).

125 It was not easy for many of these women to come forward in the way that many did, some as complainants and others as witnesses. However, they have said that they believe in doing the right thing, they do not regret having acted as

¹⁸ *Ontario (College of Physicians and Surgeons of Ontario) v. Phipps*, 2018 ONCPSD 48

¹⁹ *Ibid*

witnesses in this investigation. In participating and sharing their experience, they wish to prevent more harm coming to other women.

126 Overall, I conclude that both complainants and the witnesses were credible and reliable.

127 In making this conclusion, I did specifically address the following possibilities of collusion and/or fabrication.

Conspiracy by “political adversaries”

128 In the public statement issued by the Respondent referenced earlier, he claimed that these complaints are part of an organized political conspiracy because of his seeking information about the LRT procurement programme. Specifically, he stated the following:

“People should know that I formally retained legal counsel in July of this year, after learning that I was being targeted over my attempts to bring greater transparency to the LRT procurement process. I had no idea, at the time, of the direction that these political attacks might take. Then, we were made aware of one of my political adversaries attempting to persuade a number of women to join an organized group to speak negatively about me.”

129 In the course of the investigation, the Investigator became aware of a text message that circulated asking if an individual would be interested in coming forward to the media about her experience working for the Respondent and seeking “a critical mass”. (see Appendix 53) The circulation of this text was also reported in the media.

130 I have reviewed the detailed testimony of individuals involved in the circulation of the text message. The following is a summary of what transpired and how the Respondent became aware of the text message:

- On June 27, 2019, the Respondent’s former political challenger became aware of a woman who had interviewed with the Respondent, who had been asked inappropriate things and who was planning to go to the media with her story. The Respondent’s former political adversary was asked if she knew anyone else who had experienced the same thing or had heard anything on the campaign trail during the 2018 municipal election.

- The Respondent's former political adversary recalled that a friend of hers knew an individual who had previously worked for the Respondent who may have described some strange work while employed by the Respondent.
- On June 28, 2019, the Respondent's former political challenger texted her friend (see Appendix 53), who then took a screenshot of the text and forwarded the text to the former employee.
- On July 4, 2019, the former employee then forwarded the text message to Witness 4, with whom she had worked with while employed by the Respondent.
- That same day, Witness 4 spoke with the Respondent and emailed the text message to the Respondent.

131 I have no doubt this text message is the organized action and conspiracy theory the Respondent refers to in his public denial of October 3, 2019. The Respondent's former political challenger, the former employee and Witness 4 were all questioned under oath by the Investigator.

132 All parties were frank and honest about their participation in circulating the text message.

133 I have reviewed the testimony and the evidence which reveals that the former political challenger did not know the names of the complainants nor did she communicate directly with any of the witnesses.

134 The former political challenger was aware of the media reports on June 28, 2019 and did make contact with a friend about the Respondent but there is no credible basis for some kind of organized political conspiracy or a critical mass being created as a consequence of the text message. The former political challenger's text relates to the job interview experience by a complainant dealt with in my report to Council on July 15, 2020. There is absolutely no evidence relating to the two complaints apposite to the exchange of text mentioned herein.

135 Furthermore the Respondent's claim that he was "*being targeted over my attempts to bring greater transparency to the LRT procurement process*" is completely unfounded. Neither the complainants nor any of the witness referred

to this issue in testimony and the Investigator did not uncover any evidence related thereto.

136 Complainant 1 and Complainant 2 did not work together in the Respondent's office. The testimonies of both complainants have common themes of toxic and abusive working conditions. But I could not find any statement or vocabulary in either testimony that would point to any collaboration between the two complainants that undermines their credibility.

137 I have concluded that there was no conspiracy movement and no collusion by complaints.

Possible Collusion relating to Complainant 1 and her office colleagues

138 Complainant 1, Witness 1 and 2 were colleagues in the office of the Respondent for the period of December 2018 through May 2019. To my knowledge, Complainant 1 is still employed and on stress leave. Witness 1 and 2 both left the office in May 2019. Witness 1 and 2 testified in support of the allegations made by Complainant 1. The testimony of Witness 1 and Witness 2 substantively corroborates that of Complainant 1, particularly to the point that the Respondent often pitted his employees against each other and deliberately created a toxic workplace environment.

139 On reviewing the sworn testimony of the three colleague employees, I noted that in explaining to the Investigator why they remained in the employ of the Respondent, all three witnesses used the term "Stockholm syndrome"²⁰ to justify why they continued to work in a context of fear, manipulation and harassment. The Stockholm syndrome in lay terms is a term commonly used to describe many difficult relationships ranging from mild to severe. The fact that three witnesses under oath would use the exact same term and vocabulary does raise however, the issue of a possible contrived testimony.

140 The three colleagues all reported that at the end of March or beginning of April 2019, they discovered how the Respondent had been manipulating each one of them and telling each of them lies about their colleagues. The realization emerged from an argument between Complainant 1 and Witness 1 about a miscommunication related to an event to which the Respondent brought his

²⁰ "Stockholm syndrome: the psychological tendency of a hostage to bond with, identify with, or sympathize with his or her captor." Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/Stockholm%20syndrome> (6 August 2020).

daughter instead of Complainant 1 as originally planned (see Appendix 45). The three colleagues realized how the Respondent was pitting them against each other and agreed to cease the office hostilities and work together to minimize the negative impact on their lives caused by the conduct of the Respondent.

- 141 In my view that meeting can be interpreted as a form of collusion. But it was a collusion with the intent to survive, by three women in an abusive relationship with an abusive employer. It is a scenario that is unfortunately too often played out in too many workplaces: “How can we work together to manage an abusive boss and reduce the stress in our work lives?” Given the state of affairs in the office of the Respondent it is not surprising that the three women would seek each other’s support to get through the day. They suffered a common degrading condition. That they came to a common conclusion that what happened over time was akin to the Stockholm syndrome is more than probable.
- 142 On May 1, 2019, Witness 2 left the office because of the toxic work conditions. That day she filed a written complaint with the Program Manager of Council Support Services (see Appendix 43) That grievance was discussed by the three employees and it was made in an exit interview by Witness 2 long before the subsequent complaint filed by Complainant 1 on September 16, 2019.
- 143 Considering the conditions under which the three colleagues were working, given that the term “Stockholm syndrome” is now common parlance to describe such relationships and that there are no other parts of their testimony given after September 2019 that points to possible collusion, I have decided to accept the testimony as credible evidence.

Witness 11 and the sexual encounters attributed to him

- 144 Witness 11 is the former male employee who was the object of several alleged sexual encounter stories relayed multiple times in multiple versions to others by the Respondent. Witness 11 indeed confirmed to the Investigator that he had a consensual sexual relationship with an office colleague and that it was the reason why he left the employ of the Respondent. But in sworn testimony he refuted and denied all of the sexual actions allegedly attributed to him. He confirmed that he never had sex in the office.
- 145 It is important to note that no witnesses testified that they were party to or observed any these events related in the oft repeated sexual tales by the Respondent.

146 In my view there is no reason to disbelieve either the account of Witness 11 or the testimony of the complainants or several other that sexual encounter stories about Witness 11 were told by the Respondent.

147 I find that there are no inconsistencies in the testimony Witness 11 and that he is credible.

General review for inconsistencies in evidence and testimony

148 Witness 2 reported that she was never asked to go to clubs and bars on covert assignments to recruit young male volunteers. Her testimony described how the Respondent, in fact, segregated the tasking of three employees and only Complainant 1 was chosen for bar assignments.

149 She was his media communications person so she usually went to events where the media would be present, like the ground-breaking of a community housing complex was an event she went to or a real-estate conference she went to. Complainant 1 went to most of the afterhours events, involved drinking, involved being out late. Witness 2 was sort of the daytime person. Witness 1 had worked there the longest, so she generally did the events where the political people were present. As an example; a construction event a lot of different councillors attended, she would have attended something like that.

150 Witness 11 stated that in 2011 and 2012 when he worked for the Respondent, staff had a lot of flexibility in dividing up the assignments and determining who would attend the numerous events. The Respondent didn't decide who would go where. The goal at these events was to engage with constituents, canvass them for issues and then follow up to ensure those issues were resolved. He testified that he never heard of any initiatives to go into bars to either elicit information or spy on anyone. This testimony appears to be an outlier when compared to the witnesses and complainants; however, this is also the one witness who worked for the Respondent many, many years ago. Because the Code was not in force in 2011 and 2012, I determined that I could not rely on any witness statements relating to this time frame, and have excluded all other evidence from witnesses who testified about their experiences at that time.

151 The apparent inconsistency in these reports is powerfully dispelled by the extensive testimony and documentary evidence provided by the other witnesses who were employees. None of the experiences of those employees were identical. But they carried the same common denominator: the Respondent was

selective in which employees he would ask about their willingness to use their sexuality for his gain. His recruitment *modus operandi* was also consistent: he would carefully judge whether this person would be a good fit for the office and decide how to best use them for his nefarious missions. The Respondent also deliberately fostered a divisive and toxic workplace, so that the employees would mistrust each other and not share their experience.

- 152 I conclude that Witness 2 and Witness 11 are both telling the truth, and that their experience was simply different than those who were actually selected and tasked to go on “bar assignments” by the Respondent.
- 153 Witness 10, a former City Councillor, did not have a clear recollection of the Respondent showing him a photograph of Complainant 2 dressed in a superhero costume and making comments about her abs. However, Witness 10 believed that it was true (i.e. that it likely happened). Witness 10 confirmed that the Respondent often talked about women in his office or women that used to work in his office. While noting that he did not believe that it was intended in a hurtful or rude way, Witness 10 stated that it was disrespectful for the people he was talking about despite being said in a joking way. I believe that Witness 10 was a credible and reliable witness. He acknowledged his own memory failings with respect to a specific incident but confirmed the general manner in which the Respondent spoke of his current and former female employees.
- 154 On review of all complainant and witness statements, I did not find any substantive inconsistencies of a material nature which would demonstrate carelessness with the truth. None of the abusive encounters or experience reported in the testimony of several of the witnesses were identical but they were analogous in tone and content; telling of stories about sex and asking about willingness to use their sexuality to the Respondent’s political gain, then judge whether this person would be a good fit for the office and decide how to best use them.
- 155 I find that both complainants were credible, honest, and open. Each complainant had good memory of their experience in the employ of the Respondent and neither of them appeared to have an interest in the outcome (other than a desire to hold the Respondent to account). Each of the complainants gave consistent testimony, supported by documentary evidence. I also find that their evidence was reliable.

156 I also find the witnesses to be credible. Their testimony was valuable in substantiating the complainants' testimony and in assessing the issues of any recent fabrication and collusion. There were no material inconsistencies with the complainants' testimony or documentary evidence.

157 I see no reason the complainants or the witnesses would lie or make false statements, and certainly all affirmed their statement was true.

Credibility of the Respondent's Public Response

158 The Respondent's public statement and blanket denial published on October 3, 2019 states:

"I can say, without reservation, that I have never treated a member of my staff (including job candidates) in a sexually harassing, discriminatory, or inappropriate "gender-based" fashion."

159 The Respondent refused to participate in the investigation. In contrast to the content of all the testimony and the evidentiary documents, the Respondent's denial is simply unbelievable.

Analysis of Documentary Evidence

Complainant 1

160 In addition to her sworn affidavit and testimony, Complainant 1 provided text messages between herself and the Respondent. The messages span the course of her involvement with the Respondent, beginning when he first reached out to her in December 2018 regarding her interest in doing "small assignments" for the Respondent and ending just before she left the Respondent's office in June 2019 on stress leave.

161 Parts of Complainant 1's testimony is corroborated by two witnesses who were employed in the Respondent's office during the same timeframe. Witness 1 also provided substantial documentary evidence that verifies aspects of Complainant 1's testimony, including the manner in which the Respondent spoke about Complainant 1 to her colleagues.

Complainant 2

162 In addition to her sworn affidavit and testimony, Complainant 2 provided some Blackberry messages and Facebook messages.

163 Complainant 2's testimony is specifically supported by the testimony of three witnesses who were employed in the Respondent's office during the same timeframe.

Documentary Evidence

164 Both complainants and several witnesses submitted documentary evidence in the form of screen shots of text messages and Facebook conversations exchanged directly between them and the Respondent. Some of the testimony and documentary evidence pre-dates the adoption of the Code Conduct for Members of Council in May 2013. Consequently, I have not taken into consideration any testimony or documentary evidence for events prior to May 2013.

165 Many of the text exchanges appended to this report stand as proof that the meetings between the Respondent and his staff did occur and provide dates, times and telephone numbers. These elements add credibility to the testimonies offered.

166 In addition, some of the text exchanges offer considerable insight into the intentions of the Respondent, such as his obsession for the covert sexually exploitive tasking of his staff, his attitude towards women in the workplace and sexual harassment. Others actually confirm inappropriate requests and sexual content, innuendo and language.

167 The direct quotes below are extracts from the documentary evidence and are the Respondent's own words.

168 **On random confidential covert networking events:**

- In Appendix 25:

“I was referring to the original plan, way back when you had just been hired. That plan was to do random networking at the bar tomorrow night - something we will no longer do tomorrow night but we will do that on a different Saturday.”

- In Appendix 27:

“True. Some women, with only schooling and little experience, also have a problem here with the "chameleon" identity they sometimes need to assume for events we go to.”

“I mean, for esamoke [sic], one staffer, in one night, dressing and acting to stand out at a pig roast in Fitzroy and then later that night being refined at the library gala and then still later, being "that girl" at a [sic] event at a club/bar. All while keeping to the mission which is often not obvious to anyone else at the venues.”

- In Appendix 29:

“As far as "clubbing" goes, I'm not sure which of our couple of tried and true formula things would work best on you. But we have time to do that, at least before Canada night.”

- In Appendix 39(b):

“We can target a different Saturday for a first sneaky networking of randoms [sic] at those places. After those, on another day/night we may do something that is more formal?”

“And don't let me wiggle out of these”

“And then we'll perfect a system to catalogue the different types of contacts/enthusiasts”

“I was referring to the original plan, way back when you had just been hired. That plan was to do random networking at the bar tomorrow night - something we will no longer do tomorrow night but we will do that on a different Saturday.”

- In Appendix 39(d):

“Yeah. So if I had brought you and we had focused and done that instead of just being seen, it would have paid off. Also, you could have changed and we could have gone from the last one to a random networking to get someone for our noc list of knee-cappers.”

“then there is a chance the strategy is going to be that we classify events into 1) random networking (all 3 types) to learn and to get people for each of our 3 lists; 2) public interaction events like public consultations and 3) meetings with groups we already have connections with. And if that's it, you may be able to do almost all the #1s. [Name redacted] can't likely succeed at #1s and we can't have [name redacted] doing them because she has to do #3s and #2s.”

- In Appendix 39(e):

“Remember you, or the right part timer (not [name redacted]) need to do a random networking stint with me after the fireworks have ended on the night of Canada Day.”

- In Appendix 40:

“Is he going to be just as ok with you at networking bar assignments if he's around our building?”

- In Appendix 41:

“That means the random networking night events in which we are trying to recruit people for our "noc list" will not involve [name redacted] or even [name redacted] much. So it will be all, or mostly you on those. [Name redacted] will be at assignments where we are targeting specific individuals”

“It's a Mission Impossible term for a list of people who will help us by doing what we need done but never revealing they are doing it because we asked them to”

“You can't trust them so need things to move to a point where they feel like they can't betray you. It would always be guys. However, at other night events, you will be trying to recruit for our other lists. But they are not as challenging”

“We probably won't talk about the noc list assignments in front of FoxyCleopatra -at least not yet- because I'm not sure she should know AND I don't think she could do it and succeed, so I don't want her asking to do it. But there's a formula that works ... for someone who can do it”

“He [sic] NON noc list missions are what [name redacted] can take you on. She may have good tips for you. I don't think [sic] she's ever done a noc list

mission and, secretly, I think you could be better at them. I know what works so hopefully you will agree, or just believe me.”

“Yes. She is not going to succeed much at bars/clubs/ artsie random networking night assignments. But at others she will be ok”

“This type of assignment is super secret because it could appear manipulative”

169 **On how staff should look and wear provocative clothing:**

- In Appendix 26:

“Also, what shirt size works best for you (not baggy)? I have to get you an RC T-shirt”

- In Appendix 27:

“So a different person every 5 minutes. Sounds ideal 😊 But even if the staffer is no good at that, what I hate most is when they ask me what I think they should wear, I tell them, and then they get all offended ... because it isn't what they were thinking.”

“And I know what works”

“Ok. And you do not need to dress formally!

“If anything you could dress like one of the events you might go to. But formal is stuffy”

“Even you will need to be outside your comfort zone sometimes”

“Other woman in my office is an accomplished cos player. One of the others, that is”

“Yes. Some are scary and super hero-ish. Some are quasi skanky. Some are just impressive.”

“If you are good at fashion, the fashion you currently choose to wear, then you may be a bit artistic”

- In Appendix 29:

“Ha. Well I can explain it all. But even if you stumble a bit at executing some events, it's probably going to be better than the one who doesn't even show:)”

Oh she also tried the excuse that she didn't have a thing to wear. I told her we had a bunch of stuff in all sizes assembled by a former staff member. So then she changed the subject”

“Yes. She was told what she should wear (two things, one for each event) a week ahead of time. And she said yes for sure but then, the night of, it became one of 4 different reasons for her to stay home and Sleep”

Anyway i [sic] don't know how you normally dress - except for your stunning Metro uniform, of course :) But I believe for most of the day to day times in the first week, you will wear things that will actually align with what [name redacted] (or I) recommends. Not expecting you to buy new stuff.”

- In Appendix 30:

“Ok. Also I can bring some of the things you can try on in the restaurant washroom to get some idea.”

“Ok. Make sure you are wearing something that is easy to change from and into shirts like that. So not a dress.”

- In Appendix 32:

W8: “I’m just not 100% sure what to wear”

R: “Give me some options”

W8: “I have the white top you gave me that I can wear with some jean shorts or leggings”

W8: “I just don’t want to freeze”

R: “Ok wear that. It’s going to be 19C or warmer til we leave”

W8: “I’m wearing it with jeans”

R: “Ok.”

W8: “I’ve got a bralette underneath it, this should work”

R: "19C is warm for some. Cold for others?"

W8: "I'm on the fence"

W8: "I might get cold but a lot of people will be there"

R: "It will be fine"

- In Appendix 33:

C1: "It says cocktail attire"

R: "Yes. So feminine dressy but sexy."

C1: "I think I'll buy a dress tomorrow"

R: "It's easier for guys"

C1: "K I've got this"

R: "You said be blunt so: not Ho-ish but depending on the dress no bra required and black, blue or red usually works."

R: "It doesn't have to be expensive"

- In Appendix 35:

"[Name redacted] gushed about me for the first time ever - good to see his conversion. Also If [Complainant 1] hadn't worn a bra tonight (which would have worked we [sic] in the sexy but not overt cleavage option), it would have been funny because we were sitting with an Indian business owner named "[name redacted]". Only [name redacted] seemed unaware of the meaning of his name.

- In Appendix 36:

"By the way, you looked great and were dressed exactly right for tonight"

- In Appendix 40:

"Oh that reminds me .. you said to critique how you LOOK on the job. At the office so far, in terms of what you have worn, you have nailed it. Also your hair is perfect for this."

- In Appendix 41:

“Your shirt size is small to medium, right?”

“I will bring you some examples”

170 **On explicit sexual language and comments:**

- In Appendix 36:

“And she thinks I'm boinking you because you just want a "brush with greatness”

“She also said you have good boobs and nice eyes”

“Yup. She wants to know if I'm cheating on you and banging my other staff too”

“Yes. Now she says your lips are hot too and that I must have picked you because of them”

- In Appendix 37:

“...and said "I need to spend time with you just some. I'll cut to the truth, I'd love to play with you. Any time. Or many times. Many different dates. Not just one. And I'm not even like that. I've only been with a total of four men in my life. So I'm not always doing this. You're just so meaningful to me!"

“She invited me to a 24 hour “session" which she says would “leave no stone unturned” That sounds too tiring”

- In Appendix 37:

“She said that if she knew I was going to be at that event tonight or any other event she would be there wearing somethings slinky and make up ... "just to help you out and, oh ok, to spend a little quality time with you. And I've never done that before with anyone else ". So slinky at an electricity night at the museum cocktail. *I'm speaking about the chicken woman. Not the one that hates you”

- In Appendix 41:

“Yes. And she will need to get offended less because it pops up everywhere but yes, way more when dealing with guys on the prowl”

“Also she reminds me everyday [sic] that she's lacking big boobs”

- In Appendix 38:

“And two girls he knows, who are of a certain profession, want me to hire them - and they both seem baffled that I did t [sic] try to blink them - ha! *boink, not "blink".”

- In Appendix 50:

“Also, FYI, [name redacted] still longs for [name redacted]’s asset. But once he could bare to move on, [name redacted] was hooking up with an average of 16 different females per month. And all for free! "but it's just not the same”

“3 per weekend and one midweek”

171 **On sexual harassment in politics:**

- In Appendix 27:

“And another way our business is probably like yours (only yours may even be more extreme) is people somewhat sexually harassing women. (Not by me! ☺) But most here say there is no point in making a big issue out of it for many of the same reasons your (sic) in business?”

“When someone comes in off the street and makes comments etc they say there is just no reason to drag it out”

“Well if it is significant, and if the woman wants me to, I can handle it in some unconventional ways ☺”

- In Appendix 51:

“At the BIA last night [name redacted] was doing his best to try to poach [name redacted] from us. I witnessed a few technical sexual harassment [sic] by him on her.

“Like "I wouldn't mind being seen around town with her on my armS (sic)”

“Not really harassment. Just piggy”

“Also [name redacted] is not really all that. But she does carry herself very well and is super friendly so I think that creates the illusion of attractiveness? Or is attractiveness but in a different way”

172 On sexually objectifying female employees

- In Appendix 27:

“And in many cases, a female can manipulate males that way. Because guys are often stupid or at least temporarily stunned”

“And because they like to brag to women”

“Sometimes pretending to be drunk does it too 😊”

173 On pitting employees against each other and creating a toxic workplace:

- In Appendix 39(c):

“Yeah well I don't know whether I can even get this thing finished. And if I don't, we could have scandal. Btw Keep certain things secret from [name redacted] though. She has a lot of strengths but her "street smarts" are not up to your level.”

174 The statements made in the text exchanges with the complainants and other witnesses and the explicit vocabulary used by the Respondent himself serve as clear evidence to validate some of the allegations.

FINDINGS

175 As I did in my report to Council on July 15, 2020, I make these findings without the direct participation or any specific response from the Respondent. As I pointed out then, there is precedent for municipal Integrity Commissioners to report findings and make recommendations when respondents chose not to participate in investigations ([Toronto Parking Authority and Emery Village BIA \(Re\), 2019 ONMIC 12 \(CanLII\)](#); [Ford \(Re\), 2016 ONMIC 11 \(CanLII\)](#)).

Standard of Proof: Balance of Probabilities

176 In making findings of fact, Integrity Commissioners in the Province of Ontario adhere to the standard of proof for fact-finders in civil cases known as the

'Balance of Probabilities'. That standard is clearly explained in *F.H. v. McDougall*, [2008 SCC 53 \(CanLII\)](#), [2008] 3 SCR 41, 61; 2008 SCC 53 (SCC):

“In civil cases in which there is conflicting testimony, the judge must decide whether a fact occurred on a balance of probabilities, and provided the judge has not ignored evidence, finding the evidence of one party credible may well be conclusive of the result on an important issue because that evidence is inconsistent with that of the other party. In such cases, believing one party will mean explicitly or implicitly that the other party was not believed on an important issue. That may be especially true where a plaintiff makes allegations that are altogether denied by the defendant...”

177 The balance of probabilities standard of proof requires a finding that it is more likely than not that an alleged event has occurred and requires that this finding is based on evidence that is clear, convincing and cogent.²¹

178 The criminal standard of “proof beyond a reasonable doubt” does not apply.

179 To come to a decision without the Respondent’s written response or testimony, what I have before me is his public and categorical denial versus the sworn testimony and supporting documentation provided by the complainants and witnesses.

Each Allegation Must be Proved Separately

180 The Investigator has reported that the evidence gathered has established the allegations respecting the conduct of the Respondent.

181 After my own review of the testimony and the documentary evidence as well as public denials of the Respondent over the course of the inquiry, I have prepared the following findings with respect to the complaints against Councillor Chiarelli.

182 In making my findings I have considered each allegation separately, on its own merit, against the language and the terms of relevant sections of the Code of Conduct.

On Section 4 (General Integrity) of the Code of Conduct

183 The first element of Section 4 that is pertinent is:

²¹ *F.H. v. McDougall*, [2008 SCC 53](#) at paragraphs 49 and 46.

(4.1) Members of Council are committed to performing their functions with integrity, accountability and transparency.

184 The Merriam-Webster dictionary defines “integrity” as follows:

“firm adherence to a code of especially moral or artistic values.”²²

185 The second element of Section 4 that is pertinent is:

(4.4) Members of Council shall at all times serve and be seen to serve the interests of their constituents and the City in a conscientious and diligent manner and shall approach decision-making with an open mind.

186 I have concluded on a balance of probabilities that:

- 1) The conduct of the Respondent acting as a public service employer did not honourably serve the interest of his constituents;
- 2) The Respondent manipulated the two complainants by pressuring them to use their sexuality for the questionable purpose of recruiting male volunteers and spying or gathering information on his Council colleagues; and
- 3) The Respondent repeatedly told sexualized stories about former office staff, colleagues and members of the public that were offensive and disrespectful.

187 None of this represents a “conscientious and diligent” conduct, nor does it reflect any adherence to a code of “especially moral values”. None of this serves the public good. None of this meets the terms of the definition of the word “integrity”. It has brought harm to the trust citizens invest in elected public office holders. It has brought harm to individuals victimized by such a dishonourable behaviour.

188 Therefore, I find that the allegations are founded and find **that the Respondent has breached Sections (4.1) and (4.4) of the Code of Conduct in respect of each of the two complainants.**

On Section 7 (Discrimination and Harassment) of the Code of Conduct

189 The Code of Conduct for Members of Council states:

²² “Integrity.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/integrity> (19 June 2020).

“7. All members of Council have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies and, where applicable, the City’s Violence and Harassment in the Workplace Policy.”

190 The *Ontario Human Rights Code* (“OHRC”) s. 10 (1) defines harassment as:

“harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;

191 The City of Ottawa’s *Violence and Harassment in the Workplace Policy* defines harassment as:

“as an incident or course of conduct of behaviour, gestures or comments that is:

- a) vexatious*
- b) unwelcome or ought known to be unwelcome.”*

192 The Policy also includes examples of the types of behaviour defined as harassment, including:

- a) unwelcome remarks, jokes, innuendoes about a person's body, mannerisms, attire, sex, race, ethnicity or religion, sexual orientation or disability;
- b) leering (lewd staring) or other explicit sexual gestures;
- c) unwelcome physical contact such as touching, kissing, patting or pinching;
- d) unwelcome sexual flirtation, advance or proposition with promise of reward for complying;
- e) refusing to work or co-operate with a worker because of his/her ethnic, racial or religious background;
- f) persistent unwanted contact or attention after the end of a consenting relationship;
- g) behaviour that undermines or sabotages the worker's job performance; and
- h) behaviour that threatens the livelihood of the worker.

193 Section 1(1) of the *Occupational Health and Safety Act* lists the following definitions:

“workplace harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or

(b) workplace sexual harassment; (“harcèlement au travail”)

“workplace sexual harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome...”

194 The Council Staff Relations Policy states:

“The City of Ottawa will promote a respectful, tolerant and harassment-free relationship and workplace between Members of Council and the officers and employees of the corporation, guided by the Code of Conduct for Members of Council, the Employee Code of the Conduct, the Violence in the Workplace Policy, the Harassment in the Workplace Policy and the Procedure By-law.”

195 While harassment often refers to a course of conduct against a specific individual, it also encompasses a single incident as set out in the City of Ottawa’s *Violence and Harassment in the Workplace Policy*.

196 Section 7 of the Code of Conduct specifically imposes on Members of Council the duty to treat *“staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.”*

197 I have again evaluated each allegation on its own merits relating to the above ethical tenets.

198 In their formal complaints and again in their sworn testimony, the two complainants allege that the Respondent shared sex stories, showed pictures and made comments that were inappropriate and sexual in nature. They testified that the Respondent told them on multiple occasions that dressing provocatively and going bra-less was an effective volunteer recruitment strategy at events and bars. These allegations are expressly supported by text messages provided by

Complainant 1. Other witnesses also provided documentary evidence in which the Respondent makes similar comments respecting how employees should dress and “what works”.

- 199 The stories and comments started when both complainants interviewed with the Respondent, as members of the public, and continued on throughout their employment with the Respondent. One witness (Witness 7) testified she did not believe the Respondent had any sexual interest in staffers and no evidence of sexual touching or assault was uncovered. However several witnesses confirmed that the Respondent regularly told sexualized stories, to the degree that sexual discourse was normalized in the office. These stories were not only sexual in nature, but they most often focused on alleged sexual activity of the Respondent’s colleagues on Council, and former and current employees in the course of their duties.
- 200 Both complainants state that the Respondent’s conduct made them uncomfortable, fearful and troubled and that it affected their mental health.
- 201 The Respondent repeatedly used threats of possible dismissal and post-employment reprisals to gain compliance for questionable assignments, creating a culture of fear. The Respondent took advantage of these employees in the power he held over them.
- 202 In a 2017 case in the City Vaughan, the Integrity commissioner aptly described the power relationship:

“There is a substantial power imbalance between the Complainant and the Respondent which must be considered. Courts and tribunals now recognize that a substantial power imbalance can erode, if not impede, a Complainant’s belief that they can refuse unwanted advances. The victim fears unforeseen consequences which could be either personal or work-related. In these cases, it is not uncommon for victims of harassment to tolerate unwanted behaviour longer than expected. The Ontario Human Right’s Commission notes that a person does not have to object to the harassment at the time it happens for there to be a violation, or for the person to claim their rights under the Code. Even

*though a person being harassed may take part in sexual activity or other related behaviour, this does not mean they consent.*²³

- 203 In the case now before me, there is no evidence that points to unwanted advances or touching, but the Respondent deliberately and systematically exploited the power dynamic of the employer/employee relationship. His actions represent the classic scenario: the male perpetrator occupies a more powerful or dominant position in relation to the female victim and abuses that authority in using progressive manipulative strategies to outright control the behaviour and performance of a subordinate.
- 204 In his public statement, the Respondent firmly stated that he has “never treated a member of [his] staff (including job candidates) in a sexually harassing, discriminatory, or inappropriate “gender-based” fashion.”
- 205 In the face of the detailed, convincing testimony of the two complainants along with the documentary and evidence of several witnesses, I cannot accept his public and flat denial as a credible answer to the allegations.
- 206 I conclude that Respondent’s conduct is a shocking and astounding failure to treat the complainants with the respect they were due and required of him by the Code of Conduct. These are incomprehensible incidents of harassment that fall squarely within the definitions set out in the above City policies. The Respondent has deliberately engaged in a course of vexatious and troublesome comments against several individuals; he was absorbed in planning and executing volunteer subterfuge recruitment campaigns by objectifying the sexuality of his female employees; he abused his staff by tasking them with improper duties and functions; he employed intimidation and divisive ploys, including threats of dismissal and retaliation to coerce individuals to submit to his demands. With forethought, he conducted himself with total disregard for any of the principles and values outlined in the Code of Conduct and the workplace policies proclaimed by Council.
- 207 In summary, based on the principles stated in *F.H. v. McDougall*, 2008 SCC 53, I believe the complainants and find on a balance of probabilities that the Respondent breached s. 7 of the Code in respect of Complaint 1 and Complaint 2.

²³ Di Biase (Re), 2017 ONMIC 22 (CanLII), <<http://canlii.ca/t/j9sfh>>.

208 I find that the Respondent has breached the *Violence and Harassment in the Workplace Policy* and Section 7 of the Code of Conduct.

On Section 10 (Conduct Respecting Staff) of the Code of Conduct

209 Section 10 reads as follows:

Conduct Respecting Staff

10.

1. *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, Auditor General and the Integrity Commissioner.*
2. *Members of Council are expected to:*
 - a. *represent the public and to consider the well-being and interests of the municipality;*
 - b. *develop and evaluate the policies and programs of the municipality;*
 - c. *determine which services the municipality provides;*
 - d. *ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;*
 - i. *ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;*
 - e. *maintain the financial integrity of the municipality; and*
 - f. *carry out the duties of council under the Municipal Act, 2001 or any other Act.*
3. *Municipal staff is expected to:*
 - a. *implement council's decisions and establish administrative practices and procedures to carry out council's decisions;*

- b. undertake research and provide advice to council on the policies and programs of the municipality; and*
 - c. carry out other duties required under the Municipal Act, 2001 or any Act and other duties assigned by the municipality.*
- 4. City Council as a whole has the authority to approve budget, policy, governance and other such matters. Under the direction of the City Manager, city staff, and the staff of the Offices of the Auditor General and the Integrity Commissioner, serves Council as a whole and the combined interests of all members as evidenced through the decisions of Council.*
- 5. 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.*
- 6. Members of Council should not:*
 - a. Maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff;*
 - b. Compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or*
 - c. 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.*

210 On review of the language in Section 10 and in particular the use of the word "staff" throughout the clauses, I have determined that it does not apply.

211 While one could plausibly interpret the word staff to include Councillors' assistants, it seems to me that this section was drafted to more specifically address the relationship between Members of Council and the professional permanent city employees and the independent officers of Council.

212 As I have decided that the said section does not apply, I find that the Respondent has not breached Section 10 of the Code of Conduct.

213 I intend to raise this interpretation anomaly in my next annual report to City Council to clarify the meaning of this section.

RECOMMENDATIONS

214 As provided for in both s. 223.4(5) of *Municipal Act, 2001* and Section 15 the Code of Conduct for Members of Council, the Integrity Commissioner may make recommendations to City Council with respect to sanctions and other corrective actions when I am of the opinion that a contravention of the Code of Conduct has occurred.

215 Section 15 of the Code of Conduct reads as follows:

1. *Members of Council are expected to adhere to the provisions of the Code of Conduct. The Municipal Act, 2001 authorizes Council, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the Code of Conduct, to impose one of the following sanctions:*
 1. *A reprimand; and*
 2. *Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.*
2. *The Integrity Commissioner may also recommend that Council impose one of the following sanctions:*
 1. *Written or verbal public apology;*
 2. *Return of property or reimbursement of its value or of monies spent;*
 3. *Removal from membership of a committee; and*
 4. *Removal as chair of a committee.*
3. *The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial action at his or her discretion.*

216 As Integrity Commissioner, it is my responsibility to recommend sanctions when findings, following proper investigation, determine that provisions of the Code of Conduct have been breached.

217 The most serious sanction is the suspension of up to 90 days of the Councillor's remuneration. As I said in an earlier report to Council (July 15, 2020), this sanction should normally be used in a progressive way, such as 30/60/and 90 days, depending on the experience of the Councillor, how flagrant the behaviour and whether acknowledgment of misbehaviour, remorse or regret are expressed.

It should be reserved for some of the most egregious violations of Code of Conduct. It should also only apply when there are no acceptable avenues for reparation or no mitigating circumstances that could in part explain the offending behaviour.

218 It should be noted that pursuant to s. 5(2.1) of the *Municipal Conflict of Interest Act, 1990*, the Respondent will have an opportunity to respond to this report by participating in the debate when Council considers my recommendations:

(2.1) The following rules apply if the matter under consideration at a meeting or a part of a meeting is to consider whether to suspend the remuneration paid to the member under subsection 223.4 (5) or (6) of the Municipal Act, 2001 or under subsection 160 (5) or (6) of the City of Toronto Act, 2006:

- 1. Despite clauses (1) (b) and (c), the member may take part in the discussion of the matter, including making submissions to council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting. However, the member is not permitted to vote on any question in respect of the matter.*

219 The two complaints apposite are similar in nature and were grouped for purposes of this report. However, each complaint stands alone when making a finding and in considering an appropriate sanction recommendation.

220 Having considered the above mentioned principles, because the Councillor is the most senior elected public office holder on Council and that his disreputable management style as an employer and his offensive personal behaviour has been going on at least since the adoption of the Code of Conduct in May 2013, I have decided once more that the most severe of sanctions are warranted in this case.

221 Therefore, I recommend that City Council:

1. Receive this report, including the finding that Councillor Chiarelli has contravened Sections 4 and 7 of the Code of Conduct; and
2. Impose the following sanctions for each individual contravention of the Code of Conduct:

Complaint #1 – Suspension of the remuneration paid to the Respondent in respect of his service as a Member of Council for 90 days;

Complaint #2 – Suspension of the remuneration paid to the Respondent in respect of his service as a Member of Council for 90 days; and

3. That the effective starting date for the above recommendations for suspension of remuneration follow the end of the suspensions of remuneration of the Respondent approved by Council on July 15, 2020 and be applied consecutively.
4. That Council remove the Respondent from the membership of all committees of Council and any other boards, local boards, agencies or commissions he has been appointed to by Council for the remainder of the 2018-2022 term of office.
5. That Council suspend all delegated authorities of the Respondent to hire staff and to order and approve any budgetary expenditures for the remainder of the 2018-2022 term of office and that the said delegated authorities shall be vested as recommended by the Clerk in a separate report to Council.

222 This report is made pursuant to Part II, Section 11 of the Complaint Protocol.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert Marleau". The signature is fluid and cursive, with the first letter of each name being significantly larger and more stylized.

Robert Marleau, C.M.
Integrity Commissioner