Delegation to Town Council re Code of Conduct

The Town of Cochrane's **Council Code of Conduct Bylaw** 12/2018 (12 slash 2018) establishing a Code of Conduct for Members of Council and Council Committees received unanimous consent on June 25, 2018 and carries the signatures of Mayor Genung and the Manager, Legislative Services, Jaylene Knight.

According to clause 3.1 of this bylaw, "The purpose of this Bylaw to establish standards for the ethical conduct of Members relating to their roles and obligations as representatives of the Municipality and a procedure for the investigation and enforcement of those standards".

According to clause 7.1., under Section 7., Adherence to Policies, Procedures and Bylaws, "Members shall uphold the law established by the Parliament of Canada and the Legislature of Alberta and the bylaws, policies and procedures adopted by Council." I would emphasize "Members shall uphold…the bylaws…adopted by Council", and that the word "shall" in this case means "must"; not "may".

As far as providing a "procedure for the investigation and enforcement of those standards", should the Code of Conduct, especially Section 7., not be adhered to, the bylaw identifies two complaint processes, an Informal Process in Section 17, and a Formal Process in Section 18. However, in either case, in the event of a violation by a Member of Council, only Council members themselves are able to lodge such a complaint and not the general public. I am proposing that such self-regulation of enforcement of the Code of Conduct is unsatisfactory, and, therefore, that the bylaw should be amended to allow the public as well to lodge a complaint.

And I now want to give an argument, build my case, for why this is necessary.

On January 5th, 2023, I sent an email to Mayor Genung, "Violation of Section 4.2 (c) of procedural bylaw 19-2019" with a copy to the other Town Council members saying, "I recently watched the discussion at the October 24, 2022 Council meeting related to Councillor Fedeyko's motion to restore comments on the town's 'official' Facebook page. I noticed that you actively participated in the debate and have done so on other occasions". I pointed out that I had consulted the Town's Procedural Bylaw to better understand the process whereby Councillor Fedeyko was able to bring her notice of motion forward on the day of the Council Meeting instead of providing advance notice. Upon perusing the Procedural Bylaw, I happened to come across clause 4.2 (c) of a section dealing with the Conduct of Meetings, stating, "When the Presiding Officer wishes to participate in the debate on a question or motion properly before the Meeting, the Presiding Officer shall vacate the Chair and request the Deputy Mayor to assume the Chair".

I pointed out to the mayor that at the October 24, 2022 Council meeting and on many other occasions, he had not complied with Section 4.2 (c) of the Procedural Bylaw.

A week later on January 12th, I received the following astonishing explanation from Mayor Genung, saying, “That section of the bylaw is specific to the mayor making motions within the meeting, not the ability to provide comments on any item on the agenda. It is the mayor’s responsibility to be an active participant during Council meetings, which is not limited by the Procedural Bylaw.”

I thought I had a pretty good grasp of the English language, but not according to Mayor Genung. With respect to the procedural bylaw clearly stating, “When the Presiding Officer wishes **to participate in the debate** on a question or motion properly before the Meeting…, astonishingly, the mayor was now telling me ‘No, Ron you are not reading that correctly’, despite the clear reference to “participate in the debate” and no reference to the Presiding Officer “making motions”.

In the debate related to Councillor Fedeyko’s motion to restore comments at the Town’s Facebook page, the mayor with his “push back” against her motion, was quite exercised about misinformation. He indicated that his primary concern about public comments at the Town’s Facebook page was “misinformation”, declaring that it was “the entire issue why comments have been turned off”. I call out the mayor’s imaginative revisionistic rewrite of section 4.2 (c) of the Procedural Bylaw for what it is, **Misinformation**! Given that he normally acts as the Presiding Officer for the Council meetings, it would behoove him to be very familiar with a bylaw intended “to regulate the proceedings and conduct of Council…meetings”. I would also remind Council that the exact same Council members as today unanimously approved Procedural Bylaw 19/2019 at your Regular Council Meeting held four years ago on March 25, 2019, buzzing through all three readings of the bylaw in approximately 5 minutes.

As I was unable to do so, I called upon individual Council members one by one, in turn, to initiate a formal complaint against Mayor Genung in this matter, especially as the mayor, instead of acknowledging what the rule clearly stated, had attempted to escape his obligation to comply with 4.2 (c) of the Procedural Bylaw by presenting a totally-revised, unauthorized version of its content.

Pursuant to section 153 of the Municipal Government Act, Councillors have a duty to adhere to the Code of Conduct established by the Council. Noteworthy, according to clause 19.2. of the Council Code of Conduct Bylaw, “Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this Bylaw”.

Despite this obligation to co-operate in every way possible, disappointingly, not one council member agreed to proceed with my request to initiate a complaint against Mayor Genung, thereby permitting such flaunting of the procedural rules.

Some of the reasons offered by some of the Councillors for not doing so, were rather interesting. For example, one councillor suggested that Council was following the Procedural Bylaw pretty “closely” so the violation by Mayor Genung should be overlooked. Another’s suggestion for addressing the matter was particularly innovative, namely, that Council just take

steps to amend the bylaw so that the mayor would no longer be out of compliance! Two of the Councillors, namely, Susan Flowers and Alex Reed, didn't bother to respond to my request.

According to clause 7.3. of the Council Code of Conduct Bylaw, "A Member must not encourage disobedience of any bylaw, policy or procedure of the Municipality in responding to a member of the public, as this undermines public confidence in the Municipality and in the rule of law". Indeed.

With that background in mind, I now come back and reiterate my recommendation that the Council Code of Conduct Bylaw be amended to allow the public to lodge a complaint.