

Report on Councillor Josh Matlow's Tweets Criticizing City Staff

**Jonathan Batty
Integrity Commissioner**

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ICT

OFFICE OF THE
**INTEGRITY
COMMISSIONER**
TORONTO

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A. INTRODUCTION

1. This inquiry report results from my investigation of two complaints about Councillor Josh Matlow made by City staff under the *Code of Conduct for Members of Council* (the “Code of Conduct”).
2. The first complaint was made by former City Manager Chris Murray about a Tweet from Councillor Matlow on June 16, 2022 that said the General Manager of Parks, Forestry and Recreation (“PFR”) had lied to him and the people of Toronto.
3. The second complaint was made by then Interim City Manager Tracey Cook after a Tweet from Councillor Matlow on July 19, 2022 that said she was the “very wrong person” to be appointed to that position.
4. The inquiries were required to be terminated on August 19, 2022 because of the municipal election. As permitted, I recommenced them when I received requests to do so after voting day.
5. As the complaints involved two situations within a few weeks of each other concerning the public treatment of City staff, I joined the complaints for purposes of reporting my findings and recommendations to Council.
6. In reporting to Council, I have considered whether Councillor Matlow violated¹:
 - a. Article XI (Conduct at Council and Committee Meetings)
 - b. Article XII (Conduct Respecting Staff)
 - c. Article XIV (Discreditable Conduct)
 - d. Article 17 (Reprisals and Obstruction)
7. When I report to Council about whether a member of Council has contravened the Code of Conduct, section 162 of the *City of Toronto Act, 2006* entrusts me the discretion to decide to

¹ The Code of Conduct was updated by Council effective August 1, 2022. As the conduct at issue (with the exception of the allegation of reprisal) took place before that date, the previous text of the first three Articles was applied in the inquiry and is referenced in this report.

disclose to Council the evidence I believe necessary to show how I arrived at my findings.

Based on the evidence referenced in my report I have found:

- a. Councillor Matlow's conduct did not violate Article XI (Conduct at Council and Committee Meetings).
 - b. Councillor Matlow's conduct towards Ms. Romoff violated Article XII (Conduct Respecting Staff) and Article XIV (Discreditable Conduct).
 - c. Councillor Matlow's conduct towards Ms. Cook did not violate Article XII (Conduct Respecting Staff) but did violate Article XIV (Discreditable Conduct) and Article 17 (Reprisals and Obstruction).
8. In recommending to Council that it impose both a reprimand and a 10-day suspension of remuneration for Councillor Matlow, I note:
- a. Two previous Integrity Commissioner reports have found Councillor Matlow breached Article XII (Conduct Respecting Staff) for similar conduct, and in the second instance Council imposed a reprimand.
 - b. Councillor Matlow has escalated his criticism of specific City staff to social media and, in the case of Ms. Cook, has engaged in subsequent reprisal.

B. COUNCILLOR MATLOW'S SUBMISSIONS

9. In accordance with my Office's Complaint and Application Procedures, I advise a member of Council if I have decided to investigate a complaint under the Code of Conduct. At that point, I invite a response and advise the member I have made no finding of misconduct and the subsequent investigation may conclude there has been no violation of the Code of Conduct.
10. When submitting a response, members can refute or accept the allegations and grounds for the complaint. They receive a copy of the complaint and are provided the opportunity to tell their side of the story and provide relevant information for me to consider. I may also note matters for which I would like more information.
11. When notified of Mr. Murray's and Ms. Cook's complaints, I received the following responses from Councillor Matlow:
- a. I received written submissions from Councillor Matlow on Mr. Murray's complaint on July 5, 2022 and August 8, 2022;
 - b. I received written submissions from Councillor Matlow on Ms. Cook's complaint on November 25, 2022;

- c. I received combined written submissions from Councillor Matlow on both complaints on January 20, 2023;
 - d. I interviewed Councillor Matlow in connection with both complaints on January 20, 2023;
 - e. following my interview, I received combined written submissions from Councillor Matlow on these complaints on January 25, 2023.
12. At the conclusion of an investigation, if I believe on a balance of probabilities that the evidence I have obtained shows that the Code of Conduct has been violated, I am required to provide members an opportunity to comment on the proposed findings and any recommended penalty or remedial action. They are provided a Statement of Proposed Findings and Recommendations. Members are provided the opportunity to make responding submissions about the sufficiency of the evidence, its application to the Code of Conduct, whether the standard of proof has been met in order for me to make a finding of misconduct and whether a recommended penalty is appropriate. I consider those submissions in drafting any report to Council.
13. Ms. Cook's complaint initially submitted that Councillor Matlow's conduct violated Article XII (Conduct Respecting Staff) of the Code of Conduct. In light of the evidence obtained in investigating her complaint, I believed there were sufficient grounds to consider whether Councillor Matlow's conduct also violated Article XIV (Discreditable Conduct). Councillor Matlow was provided notice of this and invited to respond. The response I received did not object to adding this ground but did object to my proposed finding under this Article.
14. I provided Councillor Matlow a Statement of Proposed Findings and Recommendations on March 1, 2023 (my "March 1, 2023 Statement") and provided him until March 15, 2023 to respond.
15. After Councillor Matlow received that statement, Ms. Cook contacted me and alleged that Councillor Matlow had engaged in a reprisal against her at the General Government Committee on March 3, 2023. I reviewed the allegation and notified Councillor Matlow of it on March 7, 2023, at which time I advised him there were sufficient grounds to consider whether there had been a reprisal against Ms. Cook under Article 17 and that this could be considered an additional ground of misconduct in my inquiry.

16. Councillor Matlow responded to the allegation of reprisal on March 10, 2023. Having reviewed that submission, I sent Councillor Matlow a supplementary Statement of Proposed Findings and Recommendations on March 13, 2023 (my “Supplementary Statement”).
17. Councillor Matlow responded that his conduct at committee on March 3, 2023 “was rooted in justified skepticism over a past incident.” The past incident to which he referred was addressed in my March 1, 2023 Statement. As his conduct was tied to the subject matter addressed in my March 1, 2023 Statement, I decided to add Article 17 (Reprisals and Obstruction) of the Code of Conduct as a ground of misconduct to be considered in my inquiry and reported Council.
18. Councillor Matlow responded to my March 1, 2023 Statement and my Supplementary Statement on March 17, 2023. I have considered that response and his previous responses in completing and submitting my report to Council.

C. COMPLAINT PARTICULARS AND RESPONSE

Particulars of Mr. Murray’s Complaint

19. Mr. Murray alleged that Councillor Matlow breached the following provisions in the Code of Conduct:
 - Article XI (Conduct at Council and Committee Meetings)
 - Article XII (Conduct Respecting Staff)
 - Article XIV (Discreditable Conduct)
20. I reviewed the complaint in accordance with my Office’s Complaint and Application Procedures and found that the allegations were within my jurisdiction and raised sufficient grounds for me to investigate the complaint.
21. Mr. Murray submitted that Councillor Matlow’s alleged breaches of the Code of Conduct arose from a June 16, 2022 Tweet. The Tweet referred to an email that Janie Romoff, General Manager of PFR, sent Councillor Matlow to respond to questions raised in a Members Motion, MM45.10 “Providing Access to Public Water Fountains and Bathrooms,” which was moved by

Councillor Matlow. The motion asked for information on the seasonal opening of park washrooms and water fountains.

22. Ms. Romoff's email answered the questions in the member's motion and included this statement:

We aim to meet the standard, or better, when operationally feasible. For this summer, all of our washrooms were open by May 24 and all water fountains have now all been activated, a few washrooms are down for repairs and approximately 5% of our total water fountains are currently inoperable due to mechanical issues which have been identified for repair.

23. Councillor Matlow published a screen-shot of that email in a Tweet and wrote:

I don't appreciate being lied to. Nor should you. All park bathrooms were not opened by May 24 this year. That's unquestionably untrue.

24. Mr. Murray's complaint alleged that Councillor Matlow's Tweet stating that he was "lied to" damaged Ms. Romoff's reputation. Mr. Murray complained that Councillor Matlow had unfairly questioned the integrity and professionalism of staff which had lead to an "onslaught of harassing and bullying behaviour occurring by the public - spurred on by the comments of the Councillor."

Councillor Matlow's Response to Mr. Murray's Complaint

25. On June 20, 2022 my Office wrote to Councillor Matlow to provide a copy of the complaint and to advise him of my decision to investigate the three alleged breaches of the Code of Conduct.
26. As Councillor Matlow said Ms. Romoff had lied to him on June 16, 2022, I asked Councillor Matlow to provide any factual information he had to support this statement.
27. He provided no information about park washrooms being closed between May 24, 2022 and June 16, 2022 in terms of any public complaints to his office or investigation by his office. He provided no evidence that his office had reported any washrooms closed to PFR or 311.
28. Councillor Matlow's August 8, 2022 response referred to news coverage and Tweets from members of the public about washrooms/fountains not being open/working at various times. In

particular he referenced a number of Tweets from columnist Shawn Micallef dated May 1, 2022 calling for Ms. Romoff to be fired, and for no councillor to be re-elected, for making excuses about closed washrooms.

29. I also asked for copies of all communications exchanged between Councillor Matlow/his office and City staff in connection with Agenda Item MM45.10. Councillor Matlow provided no response to this question.
30. Councillor Matlow requested I produce documents that were not in my possession. He requested documents which included “all dates, times, and reasons for all washroom closures in City of Toronto parks from May 24, 2022 to June 16, 2022” and all emails between Ms. Romoff, nine other members of City staff and any person in the Mayor’s Office “related to washroom closures and openings” in that same time period.
31. Finally, Councillor Matlow also noted that on June 17, 2022, a member of his staff had found the washroom at Perth Square Park was closed, with no sign to indicate a temporary closure.

Particulars of Ms. Cook’s Complaint

32. Ms. Cook alleged that Councillor Matlow breached Article XII (Conduct Respecting Staff) of the Code of Conduct.
33. I reviewed the complaint in accordance with my Office’s Complaint and Application Procedures and found that the allegations were within my jurisdiction and raised sufficient grounds for me to investigate the complaint.
34. Ms. Cook alleged that Councillor Matlow made injurious public statements that impugned her professional integrity and personal reputation and defamed her. She alleged this was a pattern of misconduct found in comments he made to the Toronto Star in February 2022, his Councillor newsletter that same month, and finally on July 19, 2022 when he tweeted about Ms. Cook’s appointment as Interim City Manager:

I believe the mayor & council chose the very wrong person to serve our city as Acting City Manager. I refuse to ignore Tracey Cook’s decisions to omit facts regarding SmartTrack,

and her approach to the violent encampment clearings. I can't support this choice in good conscience.

35. Ms. Cook's complaint initially submitted that Councillor Matlow's conduct violated Article XII (Conduct Respecting Staff) of the Code of Conduct. In light of the evidence obtained in investigating her complaint, I determined there were sufficient grounds to consider whether Councillor Matlow's conduct violated Article XIV (Discreditable Conduct). Councillor Matlow was advised of this and provided the opportunity to respond.

Councillor Matlow's Response to Ms. Cook's Complaint

36. On August 17, 2022 my Office wrote to Councillor Matlow to provide a copy of the complaint. However, as August 19, 2022 was the day on which all integrity commissioner inquiries were required to terminate, I did not invite him to respond at that point. When I advised Councillor Matlow on October 28, 2022 that I would be recommending my inquiry, I invited him to respond at that time.
37. Councillor Matlow responded on November 25, 2022 and defended the statements he had made on the basis that:
- a. Ms. Cook continued to justify not correcting errors in a report made to Council;
 - b. Ms. Cook's actions were part of a long pattern of other City staff providing misleading and incorrect information to Council on transit matters;
 - c. Ms. Cook took issue with his statement the encampment clearings were violent and inhumane;
 - d. Ms. Cook wrongly believed he had an obligation to submit an administrative inquiry regarding SmartTrack;
 - e. Ms. Cook responded in a threatening way to him and was trying to silence him; and,
 - f. Ms. Cook has the power to ensure that agenda items at Council "pass or die" based on "a nod of her head."
38. Councillor Matlow submitted that, if Ms. Cook took issue with his statements, she should have pursued the matter with Council directly rather than reporting the matter to my Office.

D. EVIDENCE

Mr. Murray's Complaint

39. I interviewed Councillor Josh Matlow, Councillor Mike Layton, Chris Murray, then Deputy City Manager Paul Johnson, Janie Romoff and other PFR staff.

The June 15 and 16, 2022 Council meeting

40. As Councillor Matlow noted in his response, in May and early June 2022 the ability of people to access park washrooms and water fountains was a matter of public debate and media attention that included questions being asked of Mayor Tory. This debate and attention raised questions about operational decisions to open these facilities, their state of repair and the quality of the infrastructure to withstand freezing temperatures.
41. Prior to the June 15, 2022 Council meeting, Mayor Tory brought a motion entitled MM45.26 "Modernizing Service in City Parks," for consideration at the meeting. Councillor Matlow said the Mayor's motion, which was seconded by Councillor McKelvie, required City staff to "speed up the opening of park washrooms without any additional funding or resources."
42. Councillor Matlow wished to address this issue at the upcoming June 2022 Council meeting. To do so, Councillor Matlow introduced a motion to request the "Parks, Forestry, and Recreation Department ("Parks") to produce a report outlining service standards, timelines, costs and metrics to weigh the needs of Parks in an effort to avoid the delay in services for 2023 and beyond."
43. Motions of this sort are typically "subject to referral" to a committee before being considered by Council, unless referral is waived by a two-thirds vote of Council. Motions must also be seconded by another member of Council. To have effect, Council must adopt the motion.
44. Rather than move a motion to obtain information from City staff, members of Council may also file with the Clerk what is known as an "administrative inquiry." City officials are then obligated to answer the administrative inquiry in writing and deliver that answer to the Clerk at least one hour before the Council meeting so it can be distributed to members. If City officials believe

they cannot answer the inquiry within that timeframe, they must notify the Clerk in writing. Council then decides whether or not the inquiry should be answered. An administrative inquiry can be the fastest way for a member of Council (and Council as a whole) to obtain basic information. This process also affords members the ability to ask for information without having to obtain the support of a “seconding” member.

45. Councillor Mike Layton seconded Councillor Matlow’s motion. At the time this motion was debated at Council on the evening of June 16, 2022, Councillor Layton said this: “It wasn’t first going to come as a motion. It was going to come as an administrative inquiry which would have made more sense.” When I asked Councillor Layton about this, he explained it was not submitted as an administrative inquiry because the filing deadline was missed, but he supported this matter being raised in Council, so he seconded Councillor Matlow’s motion when asked.
46. Council was scheduled to meet on Wednesday June 15 and Thursday June 16, 2022. Neither Mayor Tory’s motion nor Councillor Matlow’s motion were considered on the first day. When the Order Paper was reviewed at the start of the second day of Council, Councillor Thompson moved that the two matters be considered together. Council voted in favour of doing so.
47. It is clear from the material I have reviewed that the Mayor’s Office, in managing the legislative agenda for the June Council meeting, requested City staff to quickly respond to the motion brought by Councillor Matlow. This is reflected in the texts that were exchanged and that I obtained in the course of my investigation².
48. On Friday, June 10, 2022, the Clerk posted the agenda for the June 15 and 16, 2022 Council meeting. With motions from both the Mayor and Councillor Matlow, Tasnia Khan, who at the time held the position Advisor, Legislative Affairs in the Mayor’s Office, texted Ms. Romoff, asking whether PFR staff could obtain the information requested in Councillor Matlow’s motion in the hopes they could share the information in advance and “kill the prolonged conversation about service with another report back.”

² See Appendix.

49. Over the next four business days, Ms. Khan sought updates while Ms. Romoff had her staff collect data on the City's park washrooms and fountains, including the cost data that Councillor Matlow had requested in his motion.
50. On the day that Council would consider the motions, Thursday June 16, 2022, Ms. Khan texted Ms. Romoff at 8:21 a.m. stating, "Instead of sharing a memo with council, let's share the water fountain data with only matlow via email. It will be seen as an olive branch." While Councillor Matlow does not agree with the political intent mentioned in this text, the significant point to draw from this exchange is that Ms. Romoff was not being asked to provide misleading data to him.

PFR's Response to Councillor Matlow's Motion

51. Although Councillor Matlow had not brought an administrative inquiry, it is clear from what is described above that the Mayor's Office wanted City staff to respond just as fast as if it had been one in order to meet the Mayor's legislative objectives. As Councillor Matlow noted in his submissions, this was a political exercise.
52. This posed challenges for Ms. Romoff and her staff. Some key staff were out of the country. The financial breakdown sought by Councillor Matlow was not easy to produce.
53. On Monday, June 13, 2022, after reviewing the data her staff had provided Ms. Romoff directed them to provide more specific cost estimates including staffing, and what the cost would be to start the season earlier. She explained this was urgent.
54. Staff pulled the requested information together and Ms. Romoff shared it with Ms. Khan before the Mayor's briefing. Ms. Khan told her the Mayor's Office had not yet decided when and to whom the information PFR had put together should be distributed.
55. The morning of the day Councillor Matlow's motion was going to be debated, Ms. Khan texted Ms. Romoff. Ms. Khan asked Ms. Romoff to share PFR's information with Councillor Matlow before the debate. Ms. Romoff agreed and then asked her staff to check the data was accurate. Ms. Romoff told her staff that all the information shared with the Mayor's Office could

be used to answer questions in the debate and in the report to IEC [Infrastructure and Environment Committee] Councillor Matlow's motion requested.

56. PFR staff then sent Ms. Romoff a draft six-point response. It summarized PFR's objective: that seasonal park washrooms would be opened by the May long weekend, drinking fountains attached to washrooms would be turned on when those washrooms were opened and the remaining fountains would be turned on by the end of June. The response noted that reaching that objective was subject to the risk of frost. The draft response noted this was an objective, rather than a guarantee, because of potential operational issues. The staff's draft response included a stand-alone bullet point that read: "We aim to meet this standard, or better, when operationally feasible."
57. Ms. Romoff made one change to the draft email she was sent. Before sending the email to Councillor Matlow and Councillor Layton, she changed the stand-alone bullet point from her staff. Drawing from the operational estimates she was provided, Ms. Romoff added a sentence that is underlined in the following passage:
- We aim to meet the standard, or better, when operationally feasible. For this summer, all of our washrooms were open by May 24 and all water fountains have now all been activated, a few washrooms are down for repairs and approximately 5% of our total water fountains are currently inoperable due to mechanical issues which have been identified for repair
58. Ms. Romoff did not consult anyone or receive direction on making this addition. She explained to me she had hoped it would clarify what PFR was doing. She sent this email response to Councillor Matlow and Councillor Layton, blind copying Ms. Khan, at 9:36 a.m. on Thursday, June 16, 2022.
59. In reply, at 10:39 a.m. on Thursday, June 16, 2022, Ms. Romoff received the following email message from Councillor Matlow's office:
- We acknowledge you providing us these responses. We look forward to focusing on improving service standards and the ability to meet target dates if this motion is approved to be considered at committee.
60. A half hour later, at 11:11 a.m., Councillor Matlow Tweeted a screenshot of Ms. Romoff's email to him and wrote "I don't appreciate being lied to. Nor should you. All park bathrooms were not opened by May 24 this year. That's unquestionably untrue."

61. I asked Councillor Layton if he believed Ms. Romoff had lied to him in the email that was jointly addressed to him. He said the response was not very clear, may not have answered the questions as he would have liked, but did not characterize the response as a lie.

Senior Management's Response to Councillor Matlow's Tweet

62. When Councillor Matlow's Tweet came to his attention, Mr. Johnson was in his office. He advised Mr. Murray of the Tweet and Mr. Murray left the Council floor to speak with him about it.
63. Mr. Murray advised Mr. Johnson that he would contact Councillor Matlow as Mr. Murray thought he had a relationship with the councillor and would get a quick response. Mr. Johnson turned his focus to supporting Ms. Romoff.
64. Mr. Murray says he called Councillor Matlow's cell number twice and left a message on his first call to express concerns about his accusation that staff lying to him and they needed to talk about it. Having received no reply, Mr. Murray says he texted Councillor Matlow the following message at 12:54 p.m.:
- Councillor it's Chris Murray. Can we chat about you're [sic] recent Twitter comment regarding being lied to by staff. Thx.
65. Councillor Matlow said he does not recall being contacted by Mr. Murray.
66. Mr. Johnson spoke with Ms. Romoff who was extremely upset. She told Mr. Johnson that in her 30 years of public service she had never felt so undermined. She felt the Tweet had called her entire credibility into question.
67. Ms. Romoff told Mr. Johnson she did not feel comfortable answering questions in public on Councillor Matlow's motion. She and her staff were very upset and afraid to attend Council to answer questions. Ms. Romoff said she was afraid she would break down and/or say something to Councillor Matlow that was not becoming.
68. In light of this situation, Mr. Murray and Mr. Johnson agreed that they should not place PFR staff in a position where they could be subjected to similar accusations from Councillor Matlow

in Council that day. They decided Mr. Johnson would take the operational questions and Mr. Murray would take the lead if questions were raised about Councillor Matlow's Tweet.

69. Both in her interview and before I issued my report, I confirmed the serious impact this had on Ms. Romoff and her staff, and that she was comfortable with me publicly noting this. She explained that the impact on both her and her staff continues.

The Debate at Council

70. Debate on Councillor Matlow's motion began towards the end of the meeting day on Thursday, June 16, 2022. As noted, it was debated together with the Mayor's motion. To permit this, referral to the IEC was waived by a two-thirds majority of Council. However, Councillor Matlow's motion was ultimately defeated by a majority of Council so no report from PFR was requested.
71. In the course of Council's consideration, Councillor Matlow asked PFR staff to explain if the individual statement "This summer all of our washrooms were open by May 24th and all water fountains have now been activated" was true or not.
72. Mr. Johnson, answering for the reasons explained above, replied:
- [M]y understanding from staff is that about 5% remain inoperable because of repairs so the way it was stated the answer is no, there are still some that aren't operational they are not operational because we haven't got to them yet, they're not operational because they are broken and they require repair.
73. In short, Mr. Johnson provided the same substantive answer as Ms. Romoff's email to Councillor Matlow had earlier that day. Councillor Matlow asked this same question twice and received the same response.
74. In the course of answering Councillor Matlow's questions on this topic, Mr. Johnson also noted PFR were doing the best they could with the resources Council had approved. He noted that the service standards at issue had been in place for many years and that if the sort of guaranteed service Councillor Malow was asking about was desired, the City would need to make an investment.

75. In his questions of Mr. Johnson, Councillor Matlow challenged the accuracy of the material he had been sent but did not accuse anyone of lying to him. Councillor Matlow asked probing questions and held the City administration to account without questioning the personal integrity of the person answering his questions.
76. While his statement outside the chamber about Ms. Romoff attracted comment, it did not disrupt the debate or require Councillor Matlow to be called to order. Councillor Matlow likely knew that if he said in debate that City staff had lied to him that he would have been sanctioned by the Speaker. Before she called the vote on Councillor Matlow's motion, Speaker Nunziata noted this:
- [T]o use Twitter and to make negative comments about our staff or to call them liars, I think, is inappropriate. The member of Council should retract those comments. I'm just appalled.
77. Councillor Matlow has not retracted his comments or offered to do so.

Park Washrooms and Water Fountains

78. To defend his Tweet, as noted above, Councillor Matlow requested my Office produce extensive details about PFR's opening of park washrooms and water fountains. Such requests are not normally within the capacity of my Office as the Auditor General and Ombudsman are the accountability officers typically charged with investigating allegations of systemic maladministration and unfairness. However, I did think it relevant to understand the basis of Councillor Matlow's belief that the City's park washrooms and water fountains were not open as they should have been in the spring and early summer of 2022.
79. For that reason, I did ask what direct information and data Councillor Matlow and Councillor Layton had about inoperable facilities in this time frame and what they had reported. Councillor Layton provided me information he had reported to PFR, which that division confirmed they had received. With one exception, Councillor Matlow's response described that the information he had was largely based on news stories and social media from others across the City. I did not dismiss the statements but did need to understand what information Councillor Matlow had raised with the City or verified himself.

80. However, the one example of a closed park washroom that had sufficient particulars to investigate was found in Councillor Matlow's Tweet from June 17, 2022, the day after his Tweet about Ms. Romoff:
- I asked my Chief of Staff, @aathanasiu to visit some parks and see if the bathrooms are open today. This is what Andrew found at Perth Square Park, the very first one he tried. No signs indicating repair work under way. Just a closed bathroom with locked doors.
81. When interviewed, Councillor Matlow did not have further information. He had not raised the matter with 311 or PFR. He had only tweeted about it.
82. My investigation into the Perth Square Park closure provided useful and relevant information and verified many aspects of Councillor's Matlow's operational concerns. In brief, my investigation of PFR operations found:
- As Councillor Matlow noted, the Perth Square Park washroom was not open for use on June 17, 2022. There were no signs indicating the washroom was closed for temporary repairs. This washroom was not undergoing capital repairs.
 - Using this precise time and date, I requested an explanation from PFR as to why this washroom was not open for use. PFR found that this washroom and others in the immediate area were not open for use that day as staff who were assigned to open them had failed to do so before attending a training activity. The Perth Square Park washrooms had been open for the season on time. The June 17, 2022 closure was due to human error.
 - Staff who are assigned to open washrooms are assigned a number of locations, and a number of other duties, over the course of their shifts.
 - The monitoring, reporting and investigation of instances where park washrooms and water fountains are not available for use may not be well-coordinated as the systems in place to do so appear to be out-of-date and may be inadequately supported and resourced. There appears to be no effective centralized resource in place to support a "real time" public notification process about which washrooms may be temporarily unavailable for public use.
 - The times of operation policy apparently causes confusion. The policy that some park washrooms close at "dusk" is an imprecise and subjective standard to apply, which is not publicly transparent/understandable and likely leads to inconsistent service delivery.
83. The Auditor General and/or Ombudsman may wish to examine this subject in greater detail as the causes and remedies for these issues are more appropriately studied by those offices.

84. In speaking with PFR staff they noted that some of these facilities are very old and many were only designed and built to operate in summer months.
85. From what I learned, keeping the City's park washrooms and water fountains working, or converting them to operate for longer periods of time, requires Council to dedicate the necessary resources. The operation of park washrooms and water fountains is one component of the many challenges Council faces in maintaining a state of good repair for the City's infrastructure.

Ms. Cook's Complaint

86. I interviewed Councillor Josh Matlow and Tracey Cook.

Incorrect Information Provided to Council

87. "SmartTrack" was a public transit plan proposed by Mayor Tory to build subway lines and stops that would align with GO Transit rail lines. On February 2, 2021 Council considered a report on SmartTrack entitled EX20.2 "Advancing the SmartTrack Stations Program." Tracey Cook, as Deputy City Manager, Infrastructure and Development Services, submitted the report to Council.
88. One year later, as a result of a freedom of information request, Ben Spurr of the Toronto Star reported on February 2, 2022 that this report had included incorrect information. Prior to Council considering this report, City staff discovered some errors and had raised them with Ms. Cook. Her staff raised the question of correcting the information in the report to Council but Ms. Cook decided not to correct these errors.
89. Two members of Council were quoted in Mr. Spurr's article.
90. Councillor Gord Perks was quoted as saying SmartTrack "is a very controversial multibillion-dollar project, and staff revise reports to correct errors all the time ... It is a breach of the most fundamental relationships when City staff knowingly misinform council. It's unacceptable." In essence, Councillor Perks described this to be a breach of trust.

91. Councillor Matlow was quoted as agreeing with Councillor Perks and as further saying “[i]t’s not for city staff to unilaterally decide if factual information would be material to the outcome of the vote. Their job is to provide city council with factual, relevant information.”
92. The article also said Councillor Matlow said he would request an administrative inquiry into the incident ahead of the scheduled Council meeting in March 2022 because “[t]he public deserves answers, accountability, and an honest transit plan that they can rely on.”
93. In his February 11, 2022 City Hall and Community Update, his constituency newsletter, Councillor Matlow referenced Mr. Spurr’s article. He said:
- This incident represents a significant breach of trust. It is vitally important for the proper functioning of our municipal system that elected officials receive accurate information before making decisions on the public’s behalf. In this case, Council voted to approve a transit plan worth over \$1 billion based on incorrect information. That’s unacceptable and not the first time questions have been raised about the accuracy of staff reports regarding large transit project (sic).
- I will take further action to determine how this breach of trust could occur and put measures in place so that it never happens again. I will be sure to update you as this issue progresses.
94. When I interviewed Councillor Matlow about Ms. Cook’s complaint, he did not challenge the veracity of the statement in Mr. Spurr’s article that he said he would request an administrative inquiry. He did not recall this and explained, that while it was certainly an option that he and his staff might have discussed, he did not pursue this issue further.
95. Ms. Cook was aware of Mr. Spurr’s article and Councillor Matlow’s newsletter. Based on what Councillor Matlow had said in both, she reasonably believed Councillor Matlow intended to pursue this matter as an administrative inquiry at Council in March 2022.
96. For that reason, Ms. Cook wrote to Councillor Matlow on February 25, 2022. She explained that, at the time, she thought the incorrect information was inconsequential to the decision before City Council, so she did not have the report corrected. She then apologized and took responsibility for her mistake. Ms. Cook wrote:
- In hindsight, of course, I would have preferred that I had directed staff to make the change. I have always prided myself on presenting City Council with complete, factual and accurate information, and despite my opinion that the error was immaterial to the decision before Council, I should have had the change made. ... Staff deal with a multitude of

issues at any given time and the decision to not make the amendment to the appendix in question was the wrong one, which I accept. I assure you that decisions of this nature going forward will be handled differently.

97. Ms. Cook's letter also explained that Councillor Matlow's accusation that she and Derrick Toigo, the Executive Director of the Transit Expansion Office, had breached the public trust was hurtful, damaging to their professional reputations, and that she would have preferred to have had an opportunity to respond to Councillor Matlow's questions and concerns directly. Ms. Cook concluded her letter by noting the following:

I would very much like us to work in an environment of courtesy and respect, and one in which, when questions arise, staff are afforded an opportunity to respond before challenges to our integrity are made in public forums without basis. On behalf of myself and Mr. Toigo, I will appreciate that you do not continue to make future comments in this regard.

As always, I look forward to continuing to work with you, and all members of City Council, in a collaborative and professional manner.

98. I asked Ms. Cook why she wrote to Councillor Matlow and not Councillor Perks, who expressed similar concerns to the Toronto Star. She explained that she was concerned, based on what Councillor Matlow said in his newsletter, he was continuing to pursue this issue, while Councillor Perks was not. Ms. Cook said she would not have written to Councillor Matlow had it not been for his February newsletter.

The July 19, 2022 Council meeting

99. On June 9, 2022, Chris Murray announced his resignation as City Manager, effective August 19, 2022. While a recruitment process began to fill that vacancy, Council needed to appoint an Interim City Manager. Mayor Tory brought forward his recommendation for that appointment to Council on July 19, 2022 as agenda item CC47.1 "Appointment of Interim City Manager."
100. As such appointments by Council are human resources matters, recommendations are reported to Council in a confidential attachment, which is given to members of Council in advance of the meeting but not publicly released. Debate on such agenda items is held in camera. Any member of Council can hold the agenda item for debate. This affords the members of Council the opportunity to question and debate whether an appointment is

advisable, in a confidential forum. Following that in camera debate, or if the matter is not held for debate, Council votes on whether to make the confidentially recommended appointment. After the vote, the name of the successful appointee is made public.

101. Ms. Cook was the person recommended to become Interim City Manager. Councillor Matlow would have been advised of this before the Council meeting. If Councillor Matlow had misgivings about Ms. Cook’s appointment, he could have held the item for debate. He did not. He did, however, ask for a recorded vote, as was his right, which formally requires each member of Council who is present in the meeting to vote “yes” or “no” to the proposed measure. The result of a recorded vote, as well as how each member present voted, is made public and recorded in minutes of the meeting. Councillor Matlow was the only member present who voted against Ms. Cook’s appointment.
102. Approximately an hour later, Kwame Addo, the Ombudsman for the City of Toronto, appeared before Council to present CC47.2 “Ombudsman Toronto Interim Report: Investigation into the City’s Processes for Clearing Encampments in 2021.”. The report made a number of systemic recommendations but did not make any individual findings of wrongdoing or misconduct by any City official.
103. In the course of Council’s consideration of the interim report, Councillor Matlow asked the following question in Council:
- Would the City Manager, Deputy City manager and the Mayor take this opportunity to finally apologize to those who are subject to that violence and to the Toronto public for not only the mismanagement of the encampment clearings but also the inhumane approach that was taken?
104. Ms. Cook responded:
- We always put people first and the public safety, the safety of staff, the safety of the most vulnerable people that we have occupying these encampments, and the safety of advocates who choose to support them, is always front and foremost. When you have a lot of people in a small space there can be some unfortunate circumstances. But I can assure you that the first primary responsibility and guiding principle behind everything that we have done and continue to do is public personal safety.
- So for that I won’t apologize for making sure that we keep people safe.

Councillor Matlow's Tweet

105. Some time after that exchange in Council, Councillor Matlow Tweeted this on July 19, 2022:

I believe the mayor & council chose the very wrong person to serve our city as Acting City Manager. I refuse to ignore Tracey Cook's decisions to omit facts regarding SmartTrack, and her approach to the violent encampment clearings. I can't support this choice in good conscience.

And:

...the violent approach proved not only to be inhumane but costly and ineffective. Many homeless people who were in the parks, simply ended up in other parks, in ravines, under bridges, in laneways and on street corners. There were consequences.

106. Included with Ms. Cook's complaint was a sampling from social media of a number of comments either endorsing Councillor Matlow and his statement about Ms. Cook or making critical statements about Ms. Cook. As Councillor Matlow noted, some of this material predated his Tweet.

107. Ms. Cook was upset at the time, and was upset when I interviewed her, about Councillor Matlow's public critique of her and her staff. She felt she had had a good professional relationship with him and believed that Councillor Matlow's public statements about her, culminating in his Tweet, have contributed to her being publicly humiliated.

E. JURISDICTION

Canadian Charter of Rights and Freedoms

108. Councillor Matlow submitted that by virtue of s. 2(b) of the *Canadian Charter of Rights and Freedoms* ("the *Charter*"), which protects the freedom of expression, his statements are immune from review under the Code of Conduct and my Office is barred from investigating these complaints and reporting my findings and recommendations to Council. Otherwise, he submitted, his freedom of political expression would be "chilled." I do not agree.

109. Councillor Matlow is free to ask probing and difficult questions of City staff so long as he observes the requirements in Article XII (Conduct Respecting Staff) and Article XIV (Discreditable Conduct). Accusations of lying, deceit, suppression of information and political

bias should not be made indiscriminately. These limits respect the *Charter* and, as my investigation shows, are not difficult to apply in practice.

110. As demonstrated by the balanced analysis in section F. Findings, below, I found that:
- a. Councillor Matlow violated Article XII (Conduct Respecting Staff) when he unfairly parsed down Ms. Romoff's email and publicly accused her of lying before even affording her any chance to offer a clarification.
 - b. Councillor Matlow did not violate Article XII (Conduct Respecting Staff) when he stated the fact that Ms. Cook had provided Council inaccurate information to Council or when he voiced an opinion that Ms. Cook should not have been appointed Interim City Manager.
 - c. Councillor Matlow violated Article XIV (Discreditable Conduct) (Discreditable Conduct) when, rather than pursuing his concerns about their performance in an appropriate manner, he chose to personally deliver a "strong rebuke" to them using social media.
111. As the Supreme Court of Canada has noted, false and injurious statements are very tenuously related to the core values which underlie the freedom of speech protected by s. 2(b) of the *Charter*.³ They are inimical to the search for truth. They do not enhance participation in public service or lead to healthy democratic debate.
112. My Office's Interpretation Bulletin on the Use of Social Media by Members of Council recognizes members have the right to post content that "ranges from information about events in their community to their opinions about political issues of the day in Toronto and around the world." At the same time, it cautions that "like any activity or mode of communication in connection with their official role, the Code of Conduct applies to a member's use of social media."
113. In issuing this interpretation bulletin and investigating these complaints against Councillor Matlow, my Office has carefully considered how to strike the appropriate balance in interpreting the Code of Conduct in a manner that recognizes the freedom of expression of elected officials at the same time as upholding the ethical requirements Council has adopted for its Code of Conduct.

³ *Hill v. Church of Scientology of Toronto*, 1995 CanLII 59 (SCC), [1995] 2 SCR 1130

The City of Toronto's Integrity Framework

114. Councillor Matlow submitted that it is not the role of the Integrity Commissioner to “dictate how City Councillors should perform their roles and responsibilities.”
115. Section 131(e) of the *City of Toronto Act, 2006* states (emphasis added): “It is the role of city council... to ensure the accountability and transparency of the operations of the City, including the activities of the senior management of the City.” Holding the activities of senior City staff to account is something that Council is supposed to do collectively in accordance with the legislative requirements described below.
116. Part V of the *City of Toronto Act, 2006* is entitled “Accountability and Transparency.” This Part includes section 157 that requires Council to establish a code of conduct for its members. Council is required by section 158 to appoint the Integrity Commissioner, who pursuant to section 159, is “responsible for performing in an independent manner” the functions assigned by Council.
117. Article 4.3 of the Toronto Municipal Code, Chapter 3 assigns the Integrity Commissioner specific responsibility to:
- Provide advice on the application of the *Municipal Conflict of Interest Act*, a code of conduct and other City by-laws, policies, and protocols to a member's conduct.
 - Conduct inquiries under the *City of Toronto Act, 2006* on whether a member of Council has contravened a code of conduct.
 - Provide opinions on policy matters and make other reports to Council on issues of ethics and integrity.
 - Provide educational programs to members of Council and their staff on issues of ethics and integrity, including a code of conduct and the *Municipal Conflict of Interest Act*.
118. Section 1 of O.Reg. 55/18 made under the *City of Toronto Act, 2006*, requires that Council's Code of Conduct must include provisions about: “[r]espectful conduct, including conduct toward officers and employees of the municipality or the local board, as the case may be.”

119. This framework also requires the respectful treatment of staff. In giving effect to that requirement, Council has established the following principle in Article XII (Conduct Respecting Staff) of the Code of Conduct:
- Under the direction of the City Manager, staff serve the Council as a whole, and the combined interests of all members as evidenced through the decisions of Council.
120. This principle establishes that it is the City Manager who supervises the individual members of City staff in the day-to-day performance of their duties. City staff serve Council as a whole. Where the performance or adequacy of service on the part of a City employee is questioned in Council or committee, that is a matter that is appropriately decided by Council as a whole. When there is debate on such matters, the City's procedural by-law requires that it be held in camera. Members of Council are not entrusted individual authority to supervise or sanction City staff.
121. My Office does not create the standards of how members of Council should perform their roles and responsibilities as those standards are established by provincial legislation and Council. I am mandated to educate, advise and investigate members of Council and am required to report to Council when the investigation of a complaint shows a member has failed to observe those standards.

Tweets

122. Councillor Matlow submitted that these complaints should be dismissed as they involved Tweets and my Office has dismissed two such cases in the past. One complaint is mentioned in my Office's 2016 annual report and the other is from the 2018 annual report.
123. The dismissed complaint from 2016 concerned a member of Council's Tweet that "tagged" two private citizens engaged in a political debate on Twitter.
124. The dismissed complaint from 2018 concerned a member of Council's Tweet which showed the member making a rude gesture.
125. In neither complaint did the member's Tweets make an allegation about City staff or the work they do. In the first Tweet people were debating an issue and in the second the gesture was

not aimed at any one person. The decisions to dismiss these complaints are not relevant with respect to the matters addressed in this report.

126. Councillor Matlow has also submitted that his Tweets cannot be the subject of investigation because they occurred during a City Council meeting.
127. While Councillor Matlow may have Tweeted while he was sitting in the Council Chamber, or while he was participating remotely, he was not speaking, asking a question or moving a motion in the meeting.
128. Councillor Matlow's Tweets do not form part of the record of the proceeding, they are not minuted as part of the proceeding and could not be subject to scrutiny by the Speaker at the time they were being made.

Conduct at Committee

129. As Councillor Matlow noted, there a number of decisions from previous Toronto Integrity Commissioners with respect to the jurisdiction of my Office over conduct at Council and committee meetings. The general approach has been that the conduct of members of Council while engaged in a meeting is the domain of the Speaker not the Integrity Commissioner. The basis for this jurisdictional limit is that the *City of Toronto Act, 2006* and the City's procedural by-law, which make plain that keeping order over Council meetings is the responsibility of the Speaker, who has seen and understood what happened and can usually resolve the issue.
130. However, there are exceptions. Where the conduct at issue relates to matters outside the meeting, or has effect and implications beyond the meeting, my predecessor found this Office has jurisdiction. In such cases, there is no other place that a person can turn other than the Integrity Commissioner.⁴ Councillor Matlow's statements at committee pursued a matter that was not before the committee. The Chair, Councillor Pasternak, would not have known Councillor Matlow was pursuing a matter that was the subject of a complaint made by Ms. Cook. Councillor Matlow's remarks also singled out Ms. Cook, who was not present. In such

⁴ Report Regarding the Conduct of Then-Mayor Rob Ford, September 22, 2015.

exceptional circumstances, like reprisals against someone who has complained to my Office, it is appropriate for me to take jurisdiction.

F. FINDINGS

Standard of Proof

131. In the findings noted below, I have applied the test that integrity commissioners use to decide if someone has breached the Code of Conduct. The test is the “balance of probabilities.” Proving something on a balance of probabilities means proving that something is more likely than not to have occurred. In applying this standard, I have also considered the evidence from the perspective of an objective observer, apprised of the circumstances, and the reasonable conclusions that they would make.

Article XI (Conduct at Council and Committee Meetings)

132. Article XI (Conduct at Council and Committee Meetings) states:

Members shall conduct themselves with decorum at Council and committee meetings in accordance with the provisions of Chapter 27, Council Procedures, of the Municipal Code (the Council Procedures By-law).

133. Mr. Murray’s complaint alleged that Councillor Matlow breached this provision of the Code of Conduct. However, there is no evidence that Councillor Matlow said or did anything in the Council chamber that violated the Code of Conduct. The fact that Councillor Matlow Tweeted what he did about Ms. Romoff while a meeting was going on is not sufficient to engage this provision.

134. The June 16, 2022 Tweet did not disrupt the Council meeting. While Speaker Nunziata stated that Councillor Matlow’s comment about Ms. Romoff was inappropriate and should be retracted, his comment was not made during debate on the relevant item and did not disrupt the meeting. Speaker Nunziata’s call for a retraction did not result from a call to order. Her comment addressed Councillor Matlow’s Tweet, specifically something he said on social media (i.e. outside the Council chamber) earlier in the day.

135. For the reasons noted above, I have dismissed Mr. Murray’s allegation that Councillor Matlow violated Article XI (Conduct at Council and Committee Meetings).

136. Ms. Cook's complaint did not allege that Councillor Matlow breached this provision of the Code of Conduct. Had she done so, I would have dismissed the allegation for similar reasons.

Article XII (Conduct Respecting Staff)

137. Article XII (Conduct Respecting Staff) states:

Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff.

138. Ms. Cook's complaint stated that Councillor Matlow has injured her professional reputation and also defamed her. My interview with Ms. Romoff confirmed that she believes Councillor Matlow has injured her professional reputation and was worried that he may have defamed her.
139. My investigation has focussed on the question whether Councillor Matlow has maliciously or falsely injured the professional or ethical reputations of Ms. Romoff and Ms. Cook. An inquiry whether Article XII (Conduct Respecting Staff) has been contravened is a regulatory matter. It does not deal with the allegations and issues of defamation, which are heard in legal proceedings, governed by different rules and afforded different remedies.

Mr. Murray's Complaint

140. Councillor Matlow's Tweet accused Ms. Romoff of lying to him in an email on June 16, 2022. For the reasons set out below, I find that Councillor Matlow falsely injured Ms. Romoff's professional and ethical reputation.
141. A lie is an intentionally false statement. Accusing a public servant of intentionally misleading a member of Council and, through that member, Council and the public is an accusation that should not be made casually.
142. According to his Tweet, the specific basis for Councillor's Matlow's accusation that Ms. Romoff lied to him was the phrase:
- "all of our washrooms were open by May 24 and all water fountains have now all been activated"

143. In fairness to Ms. Romoff, her full statement was:

We aim to meet the standard, or better, when operationally feasible. For this summer, all of our washrooms were open by May 24 and all water fountains have now all been activated, a few washrooms are down for repairs and approximately 5% of our total water fountains are currently inoperable due to mechanical issues which have been identified for repair.

144. In essence, Ms. Romoff's full statement described something and then offered a qualification about that description. Councillor Matlow's public assertion that Ms. Romoff lied to him focused on a single phrase and ignored the larger context of the answer he was provided.

145. When Councillor Matlow made the same assertion in Council later that day, Mr. Johnson acknowledged the phrase that Councillor Matlow was concerned about was not correct when read alone but required the qualification that came with the rest of the sentence. Councillor Matlow did not afford Ms. Romoff the same courtesy he showed Mr. Johnson.

146. Ms. Romoff's email was sent a number of hours before Councillor Matlow's motion came up for debate. If Councillor Matlow had concerns about the information he received, he could have contacted Ms. Romoff to note those concerns and obtain clarification. He did not do so.

147. In seeing the exchange at Council, it appears to me that Councillor Matlow and PFR staff were speaking at cross-purposes.

148. While Councillor Matlow's motion referred to a service standard, or target date, in connection with the opening of park washrooms and water fountains, it appeared in debate that he wanted a guarantee that (apart from capital and other repairs) no park washroom or water fountain would ever be closed during operating hours. The wording in his motion did not clearly express that he was looking for such a guarantee. Without this being clear, Councillor Matlow's motion was also subject to interpretation.

149. In contrast, when PFR staff referred to the "opening of park washrooms and water fountains," they expressed it as an "aim." They were describing a start date for an operational program, which is why Ms. Romoff used the word "activated," but was not promising a 100% service guarantee that all assets would always be open for public use.

150. Operational programs may use target dates and service standards as planned objectives rather than mandatory compliance rates. PFR was discussing the former while Councillor Matlow was seeking the latter.
151. This is why it would have been helpful for Councillor Matlow to seek clarification from Ms. Romoff when she was trying to assist him rather than publicly accusing her of intentionally misleading him.
152. Councillor Matlow's response to the complaint stated that PFR "did not support Councillor Matlow's motion and the internal review required to comply with the motion if it passed." In other words, Councillor Matlow asserted Ms. Romoff was trying to avoid answering his questions. This assertion is not supported by the evidence as described above.
153. In fact, Ms. Romoff was trying to conduct the "internal review" on an expedited basis as the Mayor's Office had requested Ms. Romoff answer these questions in a memo to all members of Council and then, as a change of plan, as an email "olive branch" to Councillor Matlow. When the request from the Mayor's Office narrowed, Ms. Romoff directed her staff to compile and save the more detailed information for the report to IEC that Councillor Matlow's motion requested.

Ms. Cook's Complaint

154. Councillor Matlow's Tweet said Ms. Cook should not have been appointed as Interim City Manager because she had omitted facts in a report that went to Council in February 2021 and because of how the City had recently managed the clearing of encampments. For the reasons set out below, I do not find that Councillor Matlow falsely injured Ms. Cook's professional reputation.
155. I agree with Councillor Matlow that members of Council must receive full and accurate staff reports. Even though Ms. Cook initially explained the errors in the SmartTrack report simply contained "outdated information" that, if corrected, would not have changed the staff recommendation, that is beside the point. Council is entitled to – and must – receive full and accurate information in order to understand how policies are being formulated and services are being delivered. This is how Council keeps the City government accountable.

156. To her credit, Ms. Cook's February 25, 2022 letter to Councillor Matlow acknowledged and apologized for her error.
157. The City of Toronto's approach to the clearing of encampments in 2021 was a matter of debate and disagreement and warranted review by the Ombudsman.
158. Councillor Matlow disagreed with how the City's political and public service leadership managed this issue and asked them to account for their actions in Council. His question was in order. Ms. Cook responded to his question in Council.
159. As Ms. Cook's complaint notes, Councillor Matlow opposed Ms. Cook's appointment. He did not hold the matter for debate but he did vote against it which was wholly his right to do and was the appropriate venue for him to express his opinion. That opinion, according to Councillor Matlow's Tweet, was based on an error in the previous year and because Ms. Cook was in a senior position tasked with the responsibility of addressing the issue of encampments.
160. Both of these things are a matter of public record. The statement that Ms. Cook omitted facts from the SmartTrack report may be a harsh opinion in light of her acknowledged error but was not a false statement.
161. I do not agree with Ms. Cook that a reasonable person seeing the reference to encampments in Councillor Matlow's statement would have believed that her preferred policy outcome was a violent confrontation. No one who heard her response in Council would objectively believe that either. Nevertheless, some encampment clearings resulted in violent clashes and this served as a catalyst for updating Toronto's policies on these matters. Councillor Matlow's view of Ms. Cook's accountability for what happened at these encampments was his opinion. While some may disagree, he was entitled to that opinion and to make that statement.

Article XIV (Discreditable Conduct)

162. Article XIV (Discreditable Conduct) states:

All members of Council have a duty to treat members of the public, one another, and staff appropriately 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 if applicable, the City's *Human Rights and Anti-harassment Policy*, and *Hate Activity Policy*.

163. This provision incorporates the City of Toronto’s Human Rights and Anti-harassment/Discrimination Policy (“HRAP”) into the Code of Conduct. Section 4.10 of HRAP also states the policy applies to interactions between members of Council and City staff.
164. HRAP addresses two types of harassment:
- a. Harassment contrary to the Ontario *Human Rights Code*; and,
 - b. Workplace Harassment (harassment not related to a prohibited ground in the Ontario *Human Rights Code*).
165. There is no allegation in either complaint that Councillor Matlow’s conduct was related to any ground in the *Human Rights Code*. While HRAP analyses these two types of harassment somewhat differently, they do share the criterion that harassment may result from a single significant incident.
166. HRAP defines Workplace Harassment as 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. The policy notes that while Workplace Harassment often involves a course or grouping of behaviours, a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute Workplace Harassment.
167. HRAP is not intended to interfere with constructive feedback regarding performance or operational directives provided to employees by their supervisors, managers or directors. It specifically notes that Workplace Harassment does not include:
- legitimate performance/probation management
 - appropriate exercise and delegation of managerial authority
 - other reasonable action(s) taken by management
 - appropriate discipline
168. HRAP cites the following behaviors as examples of Workplace Harassment:
- verbal or e-mail threats (not including threats to exercise physical force which are covered by the workplace violence policy)
 - negative blogging, cyber-bullying
 - retaliation
 - unsubstantiated criticism

- public humiliation
- communication that is demeaning, insulting, humiliating, mocking

169. Applying these criteria, the key consideration is whether Councillor Matlow treated Ms. Romoff and Ms. Cook in a manner contrary to HRAP.

170. Councillor Matlow submitted that because Ms. Romoff and Ms. Cook each allowed “inaccurate information” to go to Council they have each “warranted strong rebuke” by him.

Mr. Murray’s Complaint

171. In the case of Ms. Romoff, I find that Councillor Matlow’s conduct was contrary to HRAP.

172. Councillor Matlow did not allege Ms. Romoff had inadvertently supplied him “inaccurate information,” he alleged she had intentionally provided him false information. He additionally alleged that she had lied to the public and put her on blast on social media for having done so. This held up Ms. Romoff for public ridicule. Doing so was a public attack on her professional and ethical reputation.

173. These actions were contrary to the requirements of HRAP. Councillor Matlow is a person in authority and he treated someone who is accountable to him unfairly. He did not seek any clarification from Ms. Romoff before launching his public criticism of her on Twitter. Ms. Romoff was offered no opportunity to clarify what she said or address Councillor Matlow’s concerns. The impact on her, and her staff, was immediate. They feared appearing at Council. No public servant should be put in that position when they are simply doing their job. Being singled out on Twitter like this was contrary to HRAP.

174. Councillor Matlow defended his Tweet on the basis that Shawn Micallef had called for Ms. Romoff’s firing at the beginning of May 2022 because of problems with the operation of park washrooms and water fountains.

175. As described above, the problems with the operations of park washrooms and water fountains appears to be one of the City of Toronto’s state of good repair challenges. Members of Council should not publicly shame individual public servants for operational problems arising from

previous Council decisions. Doing so wrongly shifts accountability from elected decision-makers to City staff.

Ms. Cook's Complaint

176. In the case of Ms. Cook, I also find that Councillor Matlow's conduct was contrary to the requirements of HRAP.
177. Ms. Cook has served in senior leadership positions at the City of Toronto for over a decade and received successive promotions. Council had such confidence in her that she was appointed Interim City Manager, the most senior position in the Toronto Public Service.
178. Councillor Matlow may not have breached the Code of Conduct by maliciously or falsely injuring her professional or ethical reputation, but the means he chose to communicate his opposition to her appointment was contrary to HRAP.
179. Councillor Matlow submitted that he opposed Ms. Cook's appointment and he was warranted in making a public example of her because he believed:
- a. There was "a long pattern" of City staff (but not Ms. Cook), providing misleading, incorrect information to Council about transit projects;
 - b. her February 25, 2022 letter to Councillor Matlow was "threatening" and an "attempt to silence" him (as was the filing of her complaint with my Office);
 - c. the assertion that there is no power imbalance between Councillor Matlow and Ms. Cook because she and other senior City staff "can ensure that an item passes or dies based on a nod of their head in Council"; and,
 - d. she is regularly quoted in the media, more often than many Councillors.
180. These assertions do not justify behaviour contrary to the requirements in HRAP.
181. If there is an issue with City staff providing "misleading, incorrect information to Council about transit projects," that is an issue for a member of Council to raise with the City Manager, as a performance or disciplinary issue, and in camera with Council, as appropriate. Members of Council are expected to follow the procedures in place to voice such concerns. They are not permitted to take it upon themselves to publicly and individually discipline City staff.

182. Ms. Cook's letter, which is quoted above, is not threatening. She acknowledged her error, offered an apology, asked Councillor Matlow not to continue to complain about the matter as she found it hurtful and looked forward to working with him.
183. Councillor Matlow's political opinion that senior City staff dictate how members of Council vote does not afford him licence to disregard the rules that are in place to ensure staff are treated with respect in the workplace. As the courts have noted, there is a fundamental power imbalance between members of Council and City staff in which it is members of Council who hold greater power, which is why the Code of Conduct includes ethical requirements that members must observe in their dealings with staff⁵.
184. Ms. Cook complained that Councillor Matlow engaged in a pattern of inappropriate conduct. I do not agree with the description there was a pattern of misconduct. Councillor Matlow's comments about the error in the SmartTrack report in the Toronto Star and his subsequent newsletter do not amount to misconduct. However, while Councillor Matlow was evidently concerned about Ms. Cook's appointment, the Council minutes demonstrate the only formal action he took was voting against it on a recorded vote. Following that he took to Twitter to complain about the Mayor and Council's selection of Ms. Cook; he publicly labelled her "the very wrong person."
185. Even if he was opposing Ms. Cook's appointment on a principled basis, the vehicle he used to convey his political opposition and the label he assigned Ms. Cook subjected her to trial by social media. Councillor Matlow is adept at using social media and what followed was entirely foreseeable. Regardless of whether there had been previous public criticism of Ms. Cook, Councillor Matlow was in a uniquely powerful position to raise the temperature of that criticism, and he did. A member of Council who Tweets critically about a specific City employee subjects that employee to attack in a forum in which they cannot respond. Councillor Matlow's Tweet incited public attack on Ms. Cook, which is contrary to HRAP.

⁵ *Villeneuve v. North Stormont (Township)*, 2022 ONSC 6551

G. REPRISAL

Response to Allegation of Reprisal from Councillor Matlow

186. After being notified there were sufficient grounds to consider whether he had engaged in reprisal against Ms. Cook and her staff, Councillor Matlow responded on March 10, 2023 that:
- a. He attended the March 3, 2023 General Government Committee meeting and simply “posed a question regarding the disclosure of information on the transit project at issue.”
 - b. Section 131 of the *City of Toronto Act, 2006* is authority for members of Council to ensure accountability and transparency of the operations of the City of Toronto.

The March 3, 2023 Meeting of the General Government Committee

187. While Councillor Matlow is not a member of the General Government Committee, he was entitled to attend and participate in its proceedings in accordance with Article 17.12 of the Toronto Municipal Code, Chapter 27, Council Procedures. This afforded him the right to ask questions of City staff attending the meeting. A recording of the meeting is found [here](#).
188. One of the meeting’s agenda items was GG2.16 “Non-competitive Contract with Midome Construction Services Limited for the New Streetcar Tracks on Adelaide Street.” It sought approval for the non-competitive purchase of construction services to install streetcar tracks on Adelaide Street between York Street and Victoria Street. The staff report being considered by the committee was submitted jointly by:
- a. Judy Tse, Interim Chief Engineer and Executive Director, Engineering and Construction Services.
 - b. Barbara Gray, General Manager, Transportation Services.
 - c. Genevieve Sharkey, Chief Procurement Officer, Purchasing and Materials Management.
189. The first question that Councillor Matlow asked was directed to Mr. Toigo (not any of the City staff responsible for submitting the report at issue):
- To Mr. Toigo, through Mr. Chair, are there – regarding discussions with Metrolinx that’s affecting people---residents’ ability to navigate through the core, is there any information that you believe would be relevant to the decisions that Council makes, that you or other staff self-selected to not share through any reports that we should be aware now and that we wouldn’t have otherwise known unless I asked you this question now.

190. Despite what Councillor Matlow submitted, this was not a fair or straightforward question that could be answered with a simple “yes” or “no.” It was beyond the scope of the agenda item and the supporting staff report. It made a general accusation about the honesty of Mr. Toigo and other City staff. Mr. Toigo asked for clarification through the Chair of the committee, Councillor Pasternak. Councillor Matlow then asked:

Councillor Matlow:

Is there any information that you think would be potentially material to decisions that we are making that I just wouldn't know about unless I asked you to share it now that perhaps you and your colleagues just decided on your own wouldn't be material but might reasonably you know – councillors might want to know what that information is.

Chair Pasternak:

Councillor Matlow this is going--

Councillor Matlow:

Anything material to these decisions that I couldn't know unless I asked you whether or not you withheld any information.

191. The Chair of the committee asked Councillor Matlow why this question was relevant for this agenda item and Councillor Matlow stated as follows:

Well the reason Mr. Chair that I'm asking this is that there was an episode several weeks ago when there was relevant information impacting a decision regarding Smart Track that Mr. Toigo and Ms. Cook and others just decided that some information that would have been relevant wasn't shared with Council and after the fact, it was suggested by staff that we should have asked questions to know the answers but of course if we didn't know to ask we couldn't have received those answers. So I'm going to make a practice, sadly, to have to ask is there any information that was just deliberately withheld or not shared.

192. The Chair ruled the question out of order. He said this was an inappropriate line of questioning to pursue with Mr. Toigo and that if Councillor Matlow wished to pursue the subject it should be with Council.
193. Councillor Matlow debated this point with the Chair. The Chair stated it was inappropriate for a member of Council in committee to generally accuse City staff of being intentionally misleading. The Chair advised concerns like this about a report should first be raised with staff.

Councillor Matlow did not agree but noted he did not wish to take up more committee time and that his concerns should be addressed in a public discussion.

194. The Chair also cautioned Councillor Matlow that he should not be questioning the integrity of City staff in meetings. Councillor Matlow countered this was not about the integrity of staff but he was just trying to ensure he received full information. As this was the last question of staff on this agenda item, the Chair invited members of Council to speak to it before voting.
195. When it was his turn, Councillor Matlow spoke to the item. After expressing his concerns about Metrolinx, Councillor Matlow returned to the issue of the distrust he felt towards some City staff. Despite the Chair's caution, Councillor Matlow expressed his concerns about the debate on the "Scarborough Subway" some years before. The Chair noted this was not a related item. Councillor Matlow said he was pursuing this to ensure staff were not being politicized or directed by the Mayor's Office. The Chair, in asking Councillor Matlow to conclude his remarks as his time had expired, noted it was inappropriate for Councillor Matlow to be "going after" City staff and questioning their integrity. Councillor Matlow rejected this assertion and defended his manner of questioning on the basis there was a "politicization" of Metrolinx and the City's transit expansion staff.
196. After Councillor Matlow spoke, the Chair invited other members to speak. No other members spoke and the Chair called the vote on the item. It was adopted and referred to the March 29, 2023 meeting of Council. Councillor Matlow did not vote on the item as he is not a member of the committee and therefore was not permitted to do so.
197. Ms. Cook, who was updated about the status of my inquiry on March 2, 2023, expressed concern the next day that Councillor Matlow's conduct in the General Government Committee meeting was a reprisal against her for having submitted a complaint to my Office. Mr. Toigo also contacted me. They both noted how upsetting this was for them.

Findings

Article 17 (Reprisals and Obstruction)

198. Article 17 (Reprisals and Obstruction) of the Code of Conduct states:

17.0 A member must not take reprisal, or threaten reprisal, against anyone:

- a) who has complained to the Integrity Commissioner; or,
- b) who has provided relevant information to the Integrity Commissioner.

17.1 A member must not obstruct an investigation by the Integrity Commissioner.

City Staff's Protection Against Reprisal

199. The City of Toronto's Public Service By-law protects City employees from reprisals by members of Council. Article 1 of the Toronto Public Service By-Law, Chapter 192, Public Service, of the Toronto Municipal Code includes this definition of reprisal (emphasis added):

Reprisal

Reprisal against an employee is any measure taken or threatened as a direct result of disclosing or being suspected of disclosing an allegation of wrongdoing, initiating or cooperating in an investigation into an alleged wrongdoing.

Reprisal includes but is not limited to:

- Disciplinary measures;
- Demotion of the employee;
- Suspension of the employee;
- Termination of the employee;
- Intimidation or harassment of the employee;
- Any punitive measure that adversely affects the employment or working conditions of the employee; and
- Directing or counselling someone to commit a reprisal.

200. Article 48 of the Toronto Public Service By-law provides the following about reporting and investigating reprisals (emphasis added):

A City employee who believes that they are the subject of a reprisal following a disclosure of wrongdoing shall notify the Executive Director of Human Resources, City Manager or the Auditor General immediately. If the reprisal involves a Member of City Council or a Member of a Local Board, the employee shall notify the Integrity Commissioner immediately.

A City employee informed of, or who becomes aware of a reprisal against an employee, has a duty to notify the Executive Director of Human Resources, City Manager, the Auditor General or the Integrity Commissioner.

201. The purpose of having a prohibition against reprisal is to ensure that an individual can make a complaint under the Code of Conduct without fear or intimidation. This protects the integrity of the Code of Conduct and my Office’s Complaint and Application Procedures.

The Test for Reprisal

202. City staff are afforded similar protections as complainants under the *Ontario Human Rights Code*, where allegations of reprisal are assessed using the following three-part test⁶:
- a. was there an action taken against, or threat made to, the complainant;
 - b. was the alleged action or threat related to the complainant having claimed, or attempted to enforce their rights; and,
 - c. was there an intention on the part of the respondent to retaliate for the claim or attempt to enforce the right?
203. In applying this test to the evidence in a particular matter, even if there is no direct evidence of a respondent’s intention to reprise, intention may be proved by inference, drawn from the whole of the evidence.

Analysis

204. Applying this test to Councillor Matlow’s conduct at the General Government Committee on March 3, 2023, I observe the following. Councillor Matlow’s question was not “relevant and integral, requiring a simple yes or no answer” as he claimed in his submissions.
205. As noted in my March 1, 2023 Statement, Ms. Cook complained to my Office on August 8, 2022 and she had previously raised the issue directly with Councillor Matlow about statements he directed towards herself and Mr. Toigo.

⁶ *Noble v. York University*, 2010 HRTO 878 (CanLII), paragraphs 29 to 41.

206. As is clear from what was said in committee (which is described above), Councillor Matlow did not pose a question to Mr. Toigo about the information in the staff report about replacing the streetcar tracks on Adelaide Street. Rather he asked Mr. Toigo if he had deliberately provided misleading information in any report to Council on anything Council had ever made a decision about. This was not a question, it was an accusation. Quite understandably, Mr. Toigo had no idea how to respond.
207. When the Chair asked about the relevance of the question, Councillor Matlow said it was because of the past incident involving Ms. Cook and Mr. Toigo considered in my March 1, 2023 Statement. Apart from this being unfair to Ms. Cook as the report at issue was not submitted by her and she was not present to respond, the Chair noted on several occasions this was not an appropriate line of questioning to pursue with Mr. Toigo. It is clear Councillor Matlow's question pursued Ms. Cook and her staff and was related to her complaint to my Office.
208. Councillor Matlow received my March 1, 2023 Statement two days before the General Government Committee Meeting. In it, I proposed he had acted in a discreditable manner towards Ms. Cook and proposed to recommend to Council that a penalty be imposed. Before then, he had let his issues with Ms. Cook's actions in submitting her 2021 SmartTrack report sit for months. My March 1, 2023 Statement advised Councillor Matlow that he had previously pursued the matter in an inappropriate way.
209. To hold City staff to account, members of Council are entitled to ask probing questions and to have them fully answered. However, accusations of lying, deceit, suppression of information and political bias should not be made indiscriminately. Such comments attack the professional and ethical reputations of staff and are prohibited by Article 12 of the Code of Conduct.

210. Where a member of Council does have a basis to believe staff have intentionally misled Council, the member must address this in an appropriate way. Councillor Matlow is not entitled to impose a censure of City staff on his own initiative. This was explained in my March 1, 2023 Statement. Continuing to pursue Ms. Cook and her staff in this manner, when cautioned otherwise, is the sort of retaliation HRAP prohibits. This amounts to reprisal as defined by the Toronto Public Service By-law and is prohibited by Article 17 (Reprisals and Obstruction) of the Code of Conduct.

Conclusion

211. Councillor Matlow was called to order in committee on March 3, 2023 for pursuing an irrelevant and inappropriate line of questioning. While he defended his approach as necessary to counter the power of the Mayor's Office and the alleged politicization of the City's transit expansion staff, he has failed to adhere to the principle that members of Council should not treat public servants as political adversaries. He continued to censure Ms. Cook without following the proper route for raising such concerns.
212. Councillor Matlow said to the Chair on March 3, 2023 that he intends to continue to publicly censure Ms. Cook and her staff. He rejected the idea that his course of action was inappropriate and stated he will make it a practice, moving forward, to question Ms. Cook and her staff as to whether they are being deliberately misleading whenever they appear at Council and committee meetings.
213. Councillor Matlow submitted that Mr. Murray and Ms. Cook's complaints were attempts by City staff to silence him. As shown at committee on March 3, 2023, rather than wait for Council's consideration of the report into his conduct, he escalated his critique of Ms. Cook and her staff. Councillor Matlow's conduct towards Ms. Cook and her staff was intentional.
214. In considering this evidence from the perspective of an objective observer, I find on the balance of probabilities that Councillor Matlow's conduct on March 3, 2023 amounts to reprisal against Ms. Cook and is contrary to Article 17 (Reprisals and Obstruction) of the Code of Conduct.

H. PENALTY

Recommendation

215. Pursuant to its authority under s. 160(5) of the *City of Toronto Act, 2006*, if Council adopts a report from my Office with a finding that a member of Council has violated the Code of Conduct, it may:
- a. impose no penalty; or,
 - b. impose a reprimand and/or the suspension of remuneration paid to the member in respect of their services for a period of up to 90 days.
216. Given my findings, I recommend to Council that it impose a reprimand and a 10 day suspension of Councillor Matlow's remuneration. I recommend this having considered Councillor Matlow's submissions on penalty and the previous decisions of Council regarding Councillor Matlow's misconduct towards City staff.
217. Councillor Matlow publicly and personally criticized Ms. Romoff and Ms. Cook on his Twitter account, where they have no ability to respond to or allay his criticisms. That is unfair.
218. Councillor Matlow's reprisal was serious and upsetting for Ms. Cook and Mr. Toigo. Reprisals during the course of an investigation by my Office are unacceptable. It impedes the work of my Office, is contrary to the ethical standards Council has adopted and is contrary to the fundamental principle in the Code of Conduct that members should act with integrity. For this reason, while my March 1, 2023 Statement notified Councillor Matlow I proposed to recommend a 5 day suspension of his remuneration based on my finding on the initial two complaints, I now recommend that Council impose an additional 5 day suspension of his remuneration because of the reprisals against City staff. I notified Councillor Matlow of this in my Supplementary Statement sent to him on March 13, 2023.
219. In total, therefore, I recommend that Council impose a 10 day suspension of Councillor Matlow's remuneration, effective May 1, 2023. My rationale for doubling the recommended penalty is that engaging in reprisal is serious and intentional misconduct. Without a strict prohibition against reprisal, the purposes and effectiveness of the Code of Conduct will be significantly undermined.

Councillor Matlow's Submissions on Penalty

220. Councillor Matlow initially submitted that, if I found he contravened the Code of Conduct, no penalty should be imposed as his contraventions were “trivial or committed through inadvertence or an error of judgement made in good faith.” In addition to his reprisal on March 3, 2023 undermining this assertion, these exceptions do not apply for the following reasons.
221. The contraventions are not trivial:
- a. Councillor Matlow accused Ms. Romoff of lying to him and the public. He was not justified in doing so and falsely injured Ms. Romoff’s professional and ethical reputation. He publicly humiliated Ms. Romoff. She and her staff were afraid to appear to answer questions at Council.
 - b. Councillor Matlow, who was critical of Ms. Cook’s appointment as Interim City Manager, contributed to attacks on her in social media.
222. The contraventions were not committed through inadvertence. In fact, the opposite is true. Councillor Matlow communicated what he did as he believed both Ms. Romoff and Ms. Cook “warranted strong rebuke.”
223. The contraventions were not errors of judgement made in good faith. Councillor Matlow did not act in good faith towards either Ms. Romoff or Ms. Cook. Councillor Matlow did not give Ms. Romoff an opportunity to clarify her email or to clarify to her what he wanted. That was unfair. Councillor Matlow publicly criticized both Ms. Romoff or Ms. Cook in a forum where they had no ability to substantively answer his allegations. That was also unfair.

Previous Decisions of Council

224. Council has considered Councillor Matlow’s treatment of staff on two prior occasions.

April 20, 2017: Report Regarding the Conduct of Councillor Josh Matlow

225. Integrity Commissioner Valerie Jepson investigated a complaint from the public that Councillor Matlow breached the Code of Conduct by stating in a radio interview that the City’s Executive

Director of Strategic and Corporate Policy had made “factually untrue statements” or “misleading suggestions [that] misled City Council.”

226. Commissioner Jepson found Councillor Matlow violated Article XII (Conduct Respecting Staff) of the Code of Conduct. She noted that alleging a public servant has intentionally misled Council is one of the most serious accusations a member of Council can make about a public servant because it calls into question their integrity and professional reputation.
227. Commissioner Jepson noted members of Council should follow these criteria when publicly commenting about City staff:
- The comments have to be fair and focused on the substance of the report.
 - When commenting in the media, members should not take advantage of the fact staff do not have the same ability to respond.
 - Members of Council should not single out or impugn the motives of specific public servants.
 - If they have concerns about the conduct of City staff, they should be raised with the City Manager and should not be aired publicly.
228. Before he was even advised of the complaint, Councillor Matlow apologized in Council about what he said. His apology noted:
- I may have had my beliefs, but I can't demonstrate or prove this gentleman's intention or motivation. In fact it's wrong to say anything that would imply anything other than what he said was what he truly believed. So I say this simply just to put on the record that I was wrong to mention his name and that I do want to offer my sincere, most genuine apology.
229. In recognition of the Councillor's apology, Commissioner Jepson did not recommend a penalty or any remedial action. Council adopted her report.

June 18, 2018: Report regarding the Conduct of Councillor Josh Matlow

230. Commissioner Jepson investigated a complaint from Toronto Transit Commission (TTC) Chief Executive Officer Andy Byford that Councillor Matlow breached the Code of Conduct due to comments he made in a radio interview, at Council and an Audit Committee meeting.

231. Commenting on the radio about a briefing note from TTC staff on the Scarborough LRT, Councillor Matlow said there were a “handful of staff” about whom there were “questions about the objectivity of their advice.” He said their advice was “tainted or politically motivated” and their report contained “factually untrue” statements or “misleading suggestions.”
232. Despite the fact the Auditor General reviewed the report and found no political interference and that the estimates staff provided to Council were reasonable, Councillor Matlow disagreed and said staff had failed to correct “a crucial error even after it was brought to their attention.”
233. Commissioner Jepson found Councillor Matlow’s media statements violated Article XII (Conduct Respecting Staff) of the Code of Conduct. He continued to maintain the information staff provided was a product of improper political intervention.
234. As Councillor Matlow’s comments were unfair and falsely injured the professional and ethical reputations of staff, and he did not apologize, Commissioner Jepson recommended to Council that it reprimand Councillor Matlow. Council adopted this recommendation and reprimanded Councillor Matlow.
235. In her report, Commissioner Jepson cautioned:
- [T]he health of the relationship between Council and staff is a matter of public interest. Members of Council and staff each have separate and important roles to play. It is for this reason why I have repeatedly advised members of Council that they should not treat public servants as political adversaries or political allies when debating matters of public policy.

Considerations

236. Mr. Murray’s complaint and Ms. Cook’s complaint engage the very same conduct as this Office brought before Council in 2017 and 2018. The substantive allegations are basically identical. Councillor Matlow has failed to heed Commissioner Jepson’s advice.
237. Councillor Matlow has also failed to heed Council’s admonition of his past behavior about impugning the professional and ethical reputations of staff. What is different from the past, however, is that Councillor Matlow has used social media for making these allegations. This represents an escalation in his approach. Social media is noted for its “no holds barred” discourse. Tweets like Councillor Matlow’s invite attacks on public servants.

238. After being put on notice that his conduct towards staff was a violation of the Code of Conduct through my March 1, 2023 Statement, he continued the behaviour and did so deliberately as a reprisal against the staff who had complained to my Office.
239. For these reasons, if Council accepts my findings, I recommend it is proportionate and appropriate to impose both a reprimand and a suspension of remuneration for Councillor Matlow. As Council's earlier reprimand has failed to deter Councillor Matlow from engaging in such misconduct in social media, and he engaged in a reprisal against City staff, I recommend that in addition to a reprimand that Council impose a 10 day suspension of remuneration.

APPENDIX

Texts between:

Tasnia Khan, Advisor, Legislative Affairs, Mayor's Office
Janie Romoff, General Manager of Parks, Forestry and Recreation

Friday, June 10, 2022

Ms. Khan at 1:48 p.m.:

Is there any way you can pull the information from Matlow motion. If [it's] good data that paints PFR positively we can share with councillors ahead of council.

Monday, June 13, 2022

Ms. Khan at 11:10 a.m.:

Hi Janie, wanted to check and see if staff were able to compile the data matlow is looking for in his motion, and if you're able to share with councillor's in advance of council. hoping to kill the prolonged conversation about service with another report back

Ms. Romoff at 11:38 a.m.:

Hi, staff are working on this info, will have something to you latest tomorrow morning.

Tuesday, June 14, 2022

Ms. Romoff at 8:26 a.m.:

Hi Tasnia, will have something to you by 10, it's complicated budget info, not all in one place we will accelerate but can't break it down by asset ie \$/water-fountain/ washroom.

Ms. Khan at 8:27 a.m.:

That's no problem. I also wonder If we may even omit anything around the budget in the end, just to not spark that conversation but I'll let don [Don Peat, Executive Director of communications and strategic issues management, Mayor's Office] provide his input

Thank you for the update. It would also be helpful to include what % we are at with water fountains, looks like we're making progress

Ms. Romoff at 8:32 a.m.:

Very close on water fountains, the reality Tasnia is that if we really want to open everything faster we need to start more staff earlier, getting a few extra seasonal plumbers isn't going to change it much. I'll give you the info and then you can decide what else is needed for what you want to use, it's complicated info

Ms. Khan at 8:34 a.m.:

I understand, there's definitely a need for funding to ensure we have staff on hand to get started earlier/more frequent service for certain tasks.

Ms. Romoff at 8:35 a.m.:

Matlow's motion is specifically asking for the costs of the existing program, so we will have that.

Ms. Romoff at 10:59 a.m.:

Hi. Just sent you the info, left out the \$\$ impact of an enhanced service level but have that if needed

Let me know if you would like it circulated, if it's to all cllrs it needs to be a memo

And, if so thinking we do it tomorrow or Thursday

Ms. Khan at 12:06 and 12:07 p.m.:

Thanks Janie just reviewing now

And getting a sense of whether this will help or be an issue. I think Thursday is a good time if we send to all councillors but I will let Luke [Luke Robertson, Chief of Staff, Mayor's Office]/don [Don Peat] chime in

Thanks for putting this together so quickly.

Ms. Romoff at 12:20 p.m.:

Ok, let me know after you connect with them

Thursday, June 16, 2022

Ms. Khan at 8:21 a.m.:

Hi Janie, last minute game time decision

Instead of sharing a memo with council, let's share the water fountain data with only matlow via email. It will be seen as an olive branch.

Ms. Romoff at 8:25 a.m.:

Great idea, Layton too as he is the seconder

It's fountains and washrooms

Ms. Khan at 8:30 a.m.:

just confirming with luke [Luke Robertson]

Ms. Romoff at 8:31 a.m.:

Ok and I have asked staff to have a last review of the info for accuracy, it was out together very quickly

Ms. Khan at 8:31 and 8:36 a.m.:

that's great thank you

also we're good to share with Layton as well

Ms. Romoff at 8:41 a.m.:

Ok will send shortly and blind copy you