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Mayor Maire

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December 7, 2020

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay St.
Toronto, ON M7A 2J3
steve.clark@pc.ola.org

By e-mail

Re: Revisions to the *Municipal Act, 2001* – Vacating of the Seat of a Member of Council

Further to recent findings of the City of Ottawa's Integrity Commissioner that a Member of Council engaged in "incomprehensible incidents of harassment" involving job candidates and staff, I am writing on behalf of Council to initiate a dialogue with you, as well as all municipalities and external organizations such as the Association of Municipalities of Ontario (AMO) and the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), regarding the ways and means to have a Councillor's seat vacated for serious misconduct.

This letter is issued further to Ottawa City Council's direction of November 25, 2020 (as attached), which provided, in part, as follows:

"BE IT FURTHER RESOLVED that Council direct the Mayor in consultation with the City Clerk and the City Solicitor write to the Honourable Steve Clark, Minister of Municipal Affairs and Housing, seeking revisions to the *Municipal Act, 2001* that would provide for the vacating of the seat of a member of council who has been found on clear and convincing evidence to have committed serious misconduct, including any definitions necessary for the implementation of such a provision"

As described below in more detail, such revisions could be undertaken via an arm's length, non-political third party with powers to address inappropriate behaviour through greater penalties, including the dismissal of a Member of Council for certain acts. Another option would be to provide that a Council or a municipal Integrity Commissioner may refer a Code of Conduct violation (and violator) to the court for a judicial hearing and potential removal from office, similar to the current process with respect to matters relating to the *Municipal Conflict of Interest Act*.

By way of background, as you are aware, the City of Ottawa's Integrity Commissioner, Mr. Robert Marleau, issued reports in July 2020 and November 2020, that determined Councillor Rick Chiarelli (the "Respondent") breached sections of the City of Ottawa's Code of Conduct for Members of Council in relation to allegations set out by five complainants who included three job candidates and two office staff.



In his report to Council on July 15, 2020, regarding the three job candidates, the Integrity Commissioner found that “the complainants met with the Respondent on the understanding they were interviewing for a position in the Respondent’s office. The Respondent exploited the power dynamic of the situation, in which the Respondent held out the possibility of employment, to sexualize the discussion and questions in a manner that was upsetting and unacceptable,” and “that such a comportment by an elected public office holder deeply harms the public interest and seriously damages the trust covenant with the citizens who elect them.”

In his report to Council on November 25, 2020, which related to two of the Councillor’s former employees, the Integrity Commissioner determined that, “The conduct of the Respondent acting as a public service employer did not honourably serve the interest of his constituents,” and that Councillor Chiarelli “manipulated the two complainants by pressuring them to use their sexuality for the questionable purpose of recruiting male volunteers and spying or gathering information on his Council colleagues,” and “repeatedly told sexualized stories about former office staff, colleagues and members of the public that were offensive and disrespectful.” The Integrity Commissioner further concluded that the Councillor’s conduct:

“... is a shocking and astounding failure to treat the complainants with the respect they were due and required of him by the Code of Conduct. These are incomprehensible incidents of harassment that fall squarely within the definitions set out in the above City policies. The Respondent has deliberately engaged in a course of vexatious and troublesome comments against several individuals; he was absorbed in planning and executing volunteer subterfuge recruitment campaigns by objectifying the sexuality of his female employees; he abused his staff by tasking them with improper duties and functions; he employed intimidation and divisive ploys, including threats of dismissal and retaliation to coerce individuals to submit to his demands. With forethought, he conducted himself with total disregard for any of the principles and values outlined in the Code of Conduct and the workplace policies proclaimed by Council.”

For each complaint, the Integrity Commissioner recommended, and Council approved, the most severe sanctions available under existing legislation in relation to a breach of the code of conduct, being suspension of the remuneration paid to the Member in respect of his or her services as a member of council for a period of up to 90 days. Most recently, with respect to the November 2020 report, the Integrity Commissioner further recommended, and Council approved:

- Directing that the effective starting date for the above recommendations for suspension of remuneration follow the end of the suspensions of remuneration of Councillor Chiarelli approved by Council on July 15, 2020, and be applied consecutively;



- Removing Councillor Chiarelli from the membership of all committees of Council and any other boards, local boards, agencies or commissions he has been appointed to by Council for the remainder of the 2018-2022 term of office; and
- Suspending all delegated authorities of Councillor Chiarelli to hire staff and to order and approve any budgetary expenditures for the remainder of the 2018-2022 term of office and that the said delegated authorities shall be vested as recommended by the City Clerk in a separate report to Council.

Further to consideration of the November 2020 report, on November 25, 2020, Council also approved motions that provided additional remedial measures. Those measures included my issuance of this letter to seek revisions to the *Municipal Act, 2001*, as well as:

- Directing that the Mayor issue a formal apology on behalf of City Council;
- Calling on Councillor Chiarelli to recognize that his conduct in these matters has been contrary to the Code of Conduct for Members of Council and that, in the interest of preserving public confidence and respect for the City of Ottawa and the effective representation of residents living in Ward 8, he tender his resignation as a member of City Council, effective immediately;
- Directing staff to review and report back to Council on options for introducing further restrictions on Councillor Chiarelli's access to City staff in City of Ottawa municipal buildings; and
- That Councillor Chiarelli may only participate in Council Meetings via electronic methods or, when in-person Council meetings resume in Council Chambers, in alternative seating to be reserved for the Member of Council by the City Clerk and which is not physically near other Members of Council.

The Integrity Commissioner's reports, and relevant Council meeting minutes are attached to this letter for your ease of reference.

It is clear that existing statutory provisions and authorities do not adequately address cases in which there is clear evidence of the most egregious breaches of a Council Code of Conduct. Therefore, I am requesting on behalf of Ottawa City Council that the *Municipal Act, 2001*, be revised to provide for the vacating of the seat of a Member who has been found on clear and convincing evidence to have committed serious misconduct, including any definitions necessary for the implementation of such a provision.



While politicians should not have the ability to fire another politician, I believe there are other options that should be considered. One such option may be to amend the Act to provide an arm's length, non-political third party – such as the provincial Integrity Commissioner or Ombudsman, or the municipal Integrity Commissioner – with greater powers to address inappropriate behaviour through greater penalties, including the dismissal of a Member of Council for certain acts.

Another potential option would be amend the Act to provide that a Council or a municipal Integrity Commissioner may refer a Code of Conduct violation (and violator) to the court for a judicial hearing and potential removal from office, in a manner similar to the current process with respect to matters relating to the *Municipal Conflict of Interest Act*. This would provide for the courts to conduct an independent assessment of the matter, further to the legislative precedent set with conflict of interest matters.

Should you have any questions in this regard, or wish to discuss these matters further, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jim Watson'.

Jim Watson

Mayor

City of Ottawa

c.c. The Honourable Lisa MacLeod, MPP Nepean
The Honourable Merrilee Fullerton, MPP Kanata-Carleton
Stephen Blais, MPP Orléans
Lucille Collard, MPP Ottawa-Vanier
John Fraser, MPP Ottawa South
Goldie Ghamari, MPP Carleton
Joel Harden, MPP Ottawa Centre
Jeremy Roberts, MPP Ottawa West-Nepean