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CITY OF PETERBOROUGH INTEGRITY COMMISSIONER,  
GUY GIORNO

**Citation:** Therrien-Hale et al. v. Leal / Lachica v. Leal, 2025 ONMIC 4

**Date:** May 26, 2025

## JOINT INQUIRY REPORT

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## THE COMPLAINTS

1. Ms Diane Therrien-Hale, Mr. Zachary Hatton, Ms Laurie Breese, Ms Jill Staveley, Ms Sarah Byer, Ms Martha Jansenberger, Mr. James Anderson, Ms Allison Potts, Mr. Ryan Perks, Mr. Rob Hailman, Ms Courtney Seddon, Mr. John Gerelus and Mr. Robert Gibson (Collective Complainants) separately filed Complaints alleging that Mayor Jeff Leal contravened the City of Peterborough Council Code of Conduct, By-law Number 19-028, by making a threat to Councillor Alex Bierk during the April 2, 2024, General Committee meeting and/or by participating in decision-making on the Bonnerworth Park Redevelopment when he was not impartial. Eight Complaints were filed in the days following April 2. Another five Complaints were filed after the Mayor's public apology on April 8.<sup>1</sup> These Complaints were collectively numbered 2024-01-CC.

2. On April 27-28, Councillor Joy Lachica filed a Complaint alleging that the Mayor bullied and intimidated her, out of view of the public, following the April 2 General Committee meeting. Her Complaint was numbered 2024-02-CC.

3. The Collective Complaints and the Lachica Complaint were processed and investigated separately, but the essential background is common to both, and it is appropriate to submit a joint report to City Council.

## ATTEMPT TO RESOLVE

4. The timing of my report on the Lachica Complaint was affected by the parties' efforts to settle it. The parties mutually agreed to involve me to help facilitate resolution, without affecting my ability to complete the inquiry if no resolution was reached. As explained below, I cannot divulge what occurred during the process, except to say that only in 2025 was it confirmed that the matter would not be fully resolved, and this report was finalized afterward.

5. Section 223.5 of the *Municipal Act* prohibits an Integrity Commissioner from disclosing information about a complaint – even the names of the parties – until the Commissioner sends the inquiry report to Council, except as necessary to conduct the inquiry. This meant that I could not disclose that I was handling a complaint by Councillor Lachica about the Mayor, let alone disclose when processing of it had been paused to accommodate good-faith settlement attempts.

6. Meanwhile, the existence of some of the Collective Complaints was a matter of public record through news media reporting. While I cannot and did not share this information, it had entered the public domain. This created an admittedly awkward

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<sup>1</sup> A fourteenth individual submitted a complaint after April 2 and withdrew it following the Mayor's April 8 apology.

situation in which the public was awaiting an outcome but it was impossible, because of confidentiality, to disclose even to the Collective Complainants or City Council, that a parallel inquiry was causing the process to unfold as it did.

7. It is appropriate for me to add a brief, general explanation about settlement.

8. It is always open to parties to resolve a Code of Conduct complaint, between themselves, before an inquiry ends. If a matter is resolved and the complaint is withdrawn, then the inquiry is terminated and there is no report to Council, except for a subsequent report of an administrative nature, not naming the parties, indicating that the inquiry in file number such-and-such was terminated because the matter settled.

9. Any resolution must be a voluntary decision of both parties. Even entering a dialogue that might resolve the matter must be a voluntary action. A party cannot be forced to discuss a resolution.

10. If the parties have agreed to discuss a matter with a view to possibly resolving it, then it is always my practice to pause an inquiry to allow dialogue to proceed.<sup>2</sup> (Sometimes, as here, the pause necessarily affects a related inquiry.<sup>3</sup>) An inquiry will be paused only if both parties agree. Should either party no longer wish to participate in dialogue, then the pause will end, and the inquiry will resume.

11. If both parties agree that the Integrity Commissioner may act as a facilitator, then I am willing to fill that role. I play this role only if both parties agree that it would be useful, and only if both parties agree that, if the matter does not get resolved, then I will complete the inquiry and issue a report.

12. Resolution attempts occur “without prejudice.” If the matter does not get resolved, then nothing that occurred in relation to settlement – for example, neither an offer to resolve that is made nor the reason that resolution was not achieved – can be relied upon in the inquiry or be mentioned in the report.

13. In Canada, it is generally accepted that voluntary, mutually acceptable resolution outside a formal legal process is a good thing, benefits the parties, reduces public expense, and ought to be encouraged. Indeed, the Supreme Court of Canada has

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<sup>2</sup> *Burton v. Inch*, 2023 ONMIC 6 (CanLII), paras. 39-45; *Sinnott et al. v. McConkey*, 2021 ONMIC 4, paras. 139-143; *Campbell v. Schummer*, 2020 ONMIC 8 (CanLII), paras. 41-46; *Re McLean*, 2019 ONMIC 2 (CanLII), para. 27; *Jeffrey v. Sprovieri*, 2018 ONMIC 21 (CanLII), paras. 53-54; *Dhillon v. Moore*, 2018 ONMIC 15 (CanLII), paras. 44-48; *Re Murphy (No. 2)*, 2018 ONMIC 14 (CanLII), paras. 16-17; *Greatrix v. Williams*, 2018 ONMIC 6 (CanLII), para. 103; *Farr v. Murphy*, 2017 ONMIC 19 (CanLII), paras. 32-33.

<sup>3</sup> *Re Murphy (No. 1)*, 2017 ONMIC 20 (CanLII), para. 24.

repeatedly affirmed an overriding public interest in having parties resolve their own differences.<sup>4</sup>

14. Here, the Collective Complainants were not directly affected by the April 2 conduct of which they complained. While their desire to see a final report was understandable, it necessarily took a back seat to giving space for Mayor Leal and Councillor Lachica, parties who were directly affected by the parallel inquiry, to explore resolution.

15. In this case, the Lachica Complaint was not resolved, so in 2025 its inquiry resumed, and it has been completed. Nothing that occurred in relation to resolution efforts has been taken into consideration or is included in this report.

## SUMMARY

16. Mayor Leal did not contravene section 29 of the Council Code of Conduct. Specifically, in participating in decision-making on the Bonnerworth Park redevelopment, he did not use his office or position to influence or attempt to influence a decision for the private advantage of himself or his spouse.

17. Neither the Mayor, nor his wife, nor the Peterborough Pickleball Association, would receive a private advantage from new pickleball courts at Bonnerworth Park. Generally available municipal infrastructure does not give rise to a private advantage.

18. Some matters arising at a Council or committee meeting should be dealt with by the Chair under the Procedure By-law and should not be the subject of an Integrity Commissioner inquiry. These include procedural matters; an Integrity Commissioner has no jurisdiction to interfere with a procedural ruling made during a meeting.

19. The Mayor's comments to Councillor Bierk raise one issue that does not overlap the Procedure By-law and was not addressed by the Chair: Did he engage in intimidation contrary to section 10 of the Code?

20. The Mayor's words to Councillor Bierk were figurative. They cannot reasonably be interpreted as a threat of physical violence. If I had reasonable grounds to believe that a threat of bodily harm had been made, then I would have been required to refer the matter to the police and to suspend the inquiry. At no time did I feel there were reasonable grounds to believe bodily harm had been threatened.

21. At the same time, the comments were inappropriate. Mayor Leal acknowledges that he should not have spoken to Councillor Bierk in the manner he did. While the

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<sup>4</sup> *Sable Offshore Energy Inc. v. Ameron International Corp.*, 2013 SCC 37 (CanLII), para. 11; *Globe and Mail v. Canada (Attorney General)*, 2010 SCC 41 (CanLII), paras. 78, 80; *Kelvin Energy Ltd. v. Lee*, [1992] 3 S.C.R. 235, at 259.

Bonnerworth issue was contentious, and triggered strong feelings within the community, this context did not justify or excuse the statements. Further, Councillor Bierk said and did nothing that entitled the Mayor to react in that manner. Further still, the Mayor's inappropriate comments continued even after Councillor Bierk had apologized.

22. The Mayor's subsequent apology was insufficient. It failed to capture the gravity of what occurred, it attempted to justify the conduct, and it wrongly implied that Councillor Bierk was partly to blame.

23. That said, an insufficient apology does not create a Code of Conduct contravention if there was no contravention in the first place. In this case, the Mayor made threats to Councillor Bierk that constituted intimidation. In doing so, he breached section 10 of the Code.

24. Mayor Leal's interaction with Councillor Lachica, immediately following the April 2 General Committee meeting, contravened section 10 of the Code.

25. My conclusion does not relate to more recent allegations made by Councillor Lachica, which are sufficiently different that I reserve the right to address them in a separate report.

## BACKGROUND

26. Mr. Alex Bierk and Ms Joy Lachica are City Councillors for Town Ward (Ward 3). Councillor Lachica is also the Second Deputy Mayor. Elected in 2022, both are serving their first term on Council.

27. The Respondent, Mr. Jeff Leal, is an experienced elected official who served as an MPP and Ontario Cabinet Minister, and, before that, as a six-term City Councillor. In 2022, he was elected Mayor of Peterborough with more than 49 per cent of the vote. His campaign platform included an explicit promise to "expand Peterborough's recreational facilities, such as pickleball courts, gyms, and ice surfaces ..."

28. The population of Peterborough is older than the population of Ontario. In 2021, the median age of City residents was 43.2 years, and seniors (age 65+) made up 24.2 per cent of the population.<sup>5</sup> By comparison, the 2021 provincial figures were 41.6 years and 18.5 per cent, respectively.<sup>6</sup> (This is not to suggest that pickleball is anything but a sport for all ages, a fact confirmed by City statistics.)

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<sup>5</sup> Statistics Canada, Census Profile, 2021 Census of Population, Profile table, City of Peterborough, online: <https://shorturl.at/5sGTC>

<sup>6</sup> Statistics Canada, Census Profile, 2021 Census of Population, Profile table, Province of Ontario, online: <https://shorturl.at/TIkez>

29. *Vision 2025: A 10-Year Strategic Plan for Recreation, Parks, Arenas and Culture* was a 2016 report commissioned by the City and prepared by the RETHINK GROUP and C. Talbot & Associates. The report observed that demand for outdoor and indoor pickleball was trending strongly upward,<sup>7</sup> and it identified the following objective: “Continue to improve and expand opportunities to support the sport of pickleball.”<sup>8</sup>

30. The Vision 2025 Strategic Plan recommended four actions to meet its pickleball objective, including: encouraging the establishment of a local pickleball association; “increas[ing] the number of outdoor courts as demand warrants, including the option to repurpose under-utilized single tennis courts in appropriate parks”; and regularly monitoring demand and adjusting service level and supply.<sup>9</sup>

31. Vision 2025 did not recommend a target ratio of pickleball courts to population.

32. On November 14, 2016, City Council approved a November 7 Committee of the Whole recommendation to adopt the Vision 2025 Strategic Plan in principle and to approve the “Belief Statement and Guiding Principles” of the Plan for use as planning tools to shape policies and influence priorities. The Belief Statement and the Guiding Principles did not mention pickleball.

33. In 2019, Basterfield & Associates Inc. and the RETHINK GROUP completed *Assessment of Parks and Open Space*, its report of a City-commissioned study. The report recommended that park rejuvenation be prioritized on the basis of equity, determined according to the formula: **Park Equity = Access + Quality + Inclusivity**. Access means access to parkland, Quality is the quality of parks, and Inclusivity is the degree to which all residents can access parkland.<sup>10</sup>

34. The City’s Planning Areas were scored on the basis on park equity. Planning Area 11 (Bonnerworth), which was served by two Community parks (Bonnerworth and Hamilton) and two Neighbourhood parks (Hastings and Manor Heights), scored poorly in Neighbourhood park equity. Consequently, the report recommended upgrading its Neighbourhood parks, Hastings and Manor Heights.<sup>11</sup> The only recommendation affecting Bonnerworth Park was to convert a portion of adjacent City-owned property (site 143) to Community parkland.<sup>12</sup>

35. A companion document, *Park Development Standards*, was developed at the same time. While the document did not specifically mention Bonnerworth Park, it did set

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<sup>7</sup> Vision 2025 Strategic Plan (2016), p. 21.

<sup>8</sup> *Ibid.*, p. 56, Objective 3.27.

<sup>9</sup> *Ibid.*, p. 56.

<sup>10</sup> *Assessment of Parks and Open Space* (2019), pp. iii-iv.

<sup>11</sup> *Ibid.*, pp. 128-130.

<sup>12</sup> *Ibid.*, p. 78.



design and development standards for Community parks, of which Bonnerworth was one. According to the standards:

Tennis courts, basketball courts and other multi-purpose hard surface play areas will be provided in Regional and Community parks where sufficient space separation is available to minimize noise impacts from bouncing balls on adjacent residential neighbourhoods and where a reasonable space separation is possible from children's playground equipment.<sup>13</sup>

36. On February 18, 2020, City Council approved a February 3 General Committee recommendation to adopt *Assessment of Parks and Open Space* and *Park Development Standards* in principle and to use both documents “to develop policies and guide priorities related to the development of municipal parks and open space.”

37. In 2021, a staff report identified the need for a strategy and a process to manage requests from Council Members and the public for park improvements and new outdoor park facilities. The report also noted a shortage of medium and large size Regional and Community parks that would be able to accommodate the requirements for recreation and cultural facilities that accompany City growth.<sup>14</sup>

38. The City's staff conducted a Pickleball Survey that was open for two weeks in October 2022. 258 responses were received. Three-quarters of respondents stated that they accessed the outdoor pickleball courts at Bonnerworth Park at least a few times a season. More than four respondents in ten reported that they accessed Bonnerworth's pickleball courts weekly or more frequently.

39. In November 2023, the RETHINK GROUP and Basterfield & Associates Inc. finalized *Provision Strategy for Tennis and Pickleball Courts*. Their report recommended a 1:4000 ratio of lit pickleball courts to population.<sup>15</sup> By that standard, the City would need 21.5 lit courts to meet the current population's needs, and 34 lit pickleball courts to meet future needs.<sup>16</sup> Peterborough was 17.5 courts short of the stated target.

40. A month earlier, on October 10, 2023, the Commissioner, Community Services, had presented a report recommending the endorsement of Bonnerworth Park and Knights of Columbus Park redevelopment projects, as part of the first phase of an overall Parks and Outdoor Recreation Facilities master plan. Noting that pickleball is one of the fastest-growing sports in North America, the report proposed additional pickleball courts as part of the master plan, based on the 1:4000 ratio that would subsequently be published in the Provision Strategy.<sup>17</sup>

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<sup>13</sup> *Park Development Standards*, p. 37.

<sup>14</sup> Report APRAC21-013 (June 15, 2021).

<sup>15</sup> *Provision Strategy for Tennis and Pickleball Courts* (2023), p. 17.

<sup>16</sup> *Ibid.*, p. 3.

<sup>17</sup> Parks and Outdoor Recreation Facilities Study, Report CSRS23-002.

41. By an 11-0 vote, the General Committee approved the report's recommendations, including:

c) That Council endorse the Bonnerworth Park redevelopment project as part of the first phase of this overall Plan, which will support the following strategies:

...

iv. Pickleball (Appendix A-13)

42. On October 23, 2023, City Council approved the same recommendations, again unanimously.

43. The draft 2024 capital budget included \$2,035,000 toward the Bonnerworth Park redevelopment project and \$1,115,000 toward the Knights of Columbus Park redevelopment project. On December 11, 2023, City Council voted 10-0 (with Councillor Baldwin absent) to approve the 2024 budget. Council also voted that the 2025 funding portion (\$2.390 million) of phase 2 of the Bonnerworth Park project be pre-committed, and it passed By-law 23-135, *Being a By-law to authorize the 2024 portion of the Bonnerworth Park Redevelopment project at an estimated cost of \$2,035,000 and the issuing of Development Charge (DC) Recreation supported debentures to maximum of \$52,250 and of tax-supported debentures to a maximum of \$1,980,000 to finance the work.*

44. In early 2024, the City staff conducted consultations on the Bonnerworth Park and Knights of Columbus Park redevelopments. Information about the Bonnerworth project was posted on a special consultation page: <https://www.connectptbo.ca/bonnerworth-park>. According to the staff, the page had more than 5500 visitors.

45. A consultation survey was open from February 14 to March 29, 2024. It generated 844 responses. Just under one-third of respondents came from Ward 3, where Bonnerworth Park is located. Slightly more than one-third came from Wards 2 and 5, which are also close to the park. Nearly three-quarters of respondents stated that Bonnerworth Park was the park, or one of the parks, that they and their families visited most often.

46. The survey did not ask respondents whether they supported the current redevelopment plans. Instead, it asked which of three features of the new development (16 new pickleball courts, a bike pump track, and an expanded skatepark and associated lighting) "are you most interested in?" Of all respondents, 21 per cent skipped this question, 44 per cent were "most interested in" the pickleball courts, and the remainder was most interested in the other options.

47. The final question asked respondents to describe aspects of the existing park they wanted to maintain. 285 respondents, or 33.7 per cent, called for keeping all, some, or

at least one, of the baseball diamonds. 270 respondents, or 30.5 per cent, mentioned keeping trees, green space, or grass.

48. The City held a public drop-in session on the Bonnerworth Park redevelopment on March 21, 2024. The drop- session was well attended, and its discussion became heated. What happened at this event is considered in more detail starting at paragraph 158, below.

49. Based on community feedback received during the drop-in session, and for the reasons explained in the preamble to her motion, Councillor Lachica gave notice of the following motion, which was considered at the April 2 General Committee meeting:

Whereas, the Parks and Outdoor Recreation Facilities Study (Report CSR23-002) states regarding Pickleball Strategy, “it is recommended that courts be developed in clusters of 8, located at least 150 metres from residential areas”;

Whereas, the Bonnerworth site plan proposes 16 outdoor courts *under* 150 metres from residential areas;

Whereas, the noise impact, already proving to problematic to health and wellbeing widely, as well as in Peterborough’s current close-to-residential locations, would be doubly impactful to the immediate neighbours with a 16 outdoor court plan;

Whereas, Peterborough’s Mixed-Use Corridor Urban Design Guideline recommends that Urban Community parks support a balance of active and passive uses and a minimizing of hardscaping (balance of open-air green space);

Whereas, based on the above Urban Community Park Design Guideline that Bonnerworth should strive to be accessible, diverse, equitable and inclusive;

Whereas, based on the same Urban Community Park Design Guideline, urban community parks, should minimize safety risks for those with those accessibility needs and pedestrian park users;Whereas, Peterborough

Housing Corporation (ie. 555 McDonnell St., Hunt Terraces) includes tenants with accessibility and safety needs;

And whereas, the current proposal includes increased parking to accommodate an extraordinarily high volume of 16-court pickleball vehicle traffic, thus significantly increasing park-user safety risks;

THEREFORE, BE IT RESOLVED,

That the proposed plan for Bonnerworth Park presented at the March 21st Public Consultation at 577 McDonnell St, be brought before Council for discussion of alternative Pickleball/Tennis solutions, with a report back to council before any work on Bonnerworth proceeds.

50. As Councillor Lachica would later explain, the issue was not whether to accommodate the increased demand for pickleball, but how to do so. In her words:

This was never about whether pickleball needs to grow. Of course it does.  
... It's growing with the greatest exponential measure [of] any other sport.  
We need to provide for that.

51. All Council Members attended the April 2 General Committee meeting, which was chaired by Councillor Beamer.

52. A large number of residents attended the meeting. It was, as one Councillor described, "a full gallery ... reflective of how important this matter is to our community and our constituents."

53. Ultimately, a motion to amend Councillor Lachica's motion was defeated on a 4-7 vote, and her main motion was defeated on a 3-8 vote.

54. During debate on the motion, Councillor Bierk made a comment that triggered a reaction from Mayor Leal. The Councillor mentioned that the Mayor's wife was going to lend her pickleball paddle. As a result of this comment, Councillor Bierk was called to order by the Chair; he apologized and withdrew the reference. (This inquiry is not about Councillor Bierk or Councillor Bierk's comment, except as context for the Mayor's subsequent remarks. Further, the Integrity Commissioner has no jurisdiction to second-guess, or opine on, how Chair Beamer conducted the meeting, including his decisions to call people to order. These matters fell exclusively within his authority as the presiding officer.)

55. The Mayor was upset by mention of his wife, and made certain comments to Councillor Bierk, including the statements that Councillor Bierk would regret what he had said and that the Mayor would carve Councillor Bierk like a Thanksgiving turkey. Detailed findings of fact concerning the General Committee meeting, including findings about what precisely was said, are set out starting at paragraph 164, below.

56. After that meeting, in an internal corridor leading to the parking lot, the Mayor exchanged words with Councillor Lachica in the presence of three witnesses. That exchange became the subject of the Lachica Complaint.

57. The following day, *Arthur*, the independent student newspaper of the Trent University and Peterborough-Nogojiwanong community, published "[Mayor and Councillors Spar Over Bonnerworth Park Redevelopment During Rowdy General Committee Meeting](#)," an article by Editor-in-Chief Sebastian Johnston-Lindsay.

58. The news story quoted Mayor Leal as telling Councillor Bierk he "would carve him like a Thanksgiving turkey" and "you're going to regret you ever said that." Mr. Johnston-Lindsay was present during the meeting and observed the proceedings first-hand.

59. On Saturday, April 6, *The Examiner* published a story, ["Peterborough mayor to apologize for comments made 'in the heat of the moment' during pickleball debate."](#) The article referred to both the "regret" and "Thanksgiving turkey" comments but stated that the "turkey" comment had not been heard by the reporter and was confirmed by Councillor Bierk and a second, unnamed Councillor.

60. *The Examiner* article included the text of an apology that the Mayor would deliver at the upcoming Council meeting, saying it had been provided by the Mayor on Friday, April 5.

61. On April 8, in a General Committee closed session, Councillor Lachica and the Mayor engaged in a discussion related to the April 2 exchange in the corridor.

62. At the Monday, April 8, 2024, Council meeting, in open session, Mayor Leal read aloud the following apology:

On Tuesday, April 2, 2024, during a tense and heated debate on the redevelopment plan for Bonnerworth Park, I used intemperate language, and I want to apologize to my colleagues, particularly Councillor Bierk, and more importantly too, to the citizens of Peterborough. Husbands, wives, children, and partners, are off limits when it comes to public debate. In the heat of the situation, I thought that line was crossed last Tuesday, and I overreacted to Councillor Bierk. My words were ill chosen. I don't regret responding. However, I do regret the way in which I chose to respond. I look forward to working [productively] with Councillor Bierk and my colleagues on events in the agenda of the City of Peterborough.

## PROCESS

63. In operating under the Code, I follow a process that ensures fairness to both the individuals bringing the Complaints (the Complainants) and the Council Member responding to the Complaints (the Respondent). This fair and balanced process begins with me issuing a Notice of Inquiry that sets out the issues in the inquiry. The Complaints, including any complaint materials, are attached to the Notice. The Respondent is given the opportunity to respond, and then the Complainants receive the opportunity to reply to the Response. The Respondent is made aware of the Complainants' names. I do, however, redact personal information such as personal phone numbers and email addresses. I may accept supplementary communications and submissions from the parties, generally on the condition that each party gets to see the other's communications with me. I do this in the interest of transparency and fairness.

64. In the circumstances of this case, I modified my typical process to be fair while also efficient. The modified steps and reasons for adopting them are described starting at paragraph 86, below.

### *Collective Complaints (Comments During Meeting)*

65. In the days immediately following the April 2 General Committee meeting, I received several similar Code of Conduct Complaints arising from comments allegedly made by the Mayor. I assigned them the collective file number 2024-01-CC and lettered the individual Collective Complaints A through J.<sup>18</sup> Collective Complaint C was subsequently withdrawn.

66. Under section 223.4 of the *Municipal Act*, an inquiry into the Complaints is not automatic. Subsection (1) uses the words, “if the Commissioner conducts an inquiry ...” The Divisional Court has confirmed that whether to commence an inquiry lies within the Integrity Commissioner’s discretion.<sup>19</sup>

67. I became aware of news media reports that the Mayor intended to apologize at the April 8 Council meeting. It was appropriate to defer the decision on whether to conduct an inquiry until after that meeting. On April 7, I sent the Respondent and all the Collective Complainants as of that date a Notice of Pending Inquiry that invited them to provide input to me, following the April 8 meeting, on whether an inquiry should be conducted.

68. Subsequently, I received several additional Complaints, all similar to the earlier ones. I lettered them as Collective Complaints K through P of file no. 2024-01-CC. I also received various submissions on whether it would be appropriate for me to conduct an inquiry.

69. The Collective Complaints do not all cite the same Council Code of Conduct sections. Collectively, they allege contraventions of sections 4, 5, 7, 8, 9, 10, 11, 13, 29 and 39 of the Code, and of the *Municipal Act*, the *Occupational Health and Safety Act*, and the Workplace Violence Prevention Policy.

70. Based on the information in the Collective Complaints, I determined that most of these provisions do not apply. Taking into account the submissions on whether I should conduct an inquiry, the similarity of the Complaints, the fact that some (but not all) of the relevant factual issues were not in dispute, and the information in the Complaints, I determined that it was appropriate to conduct a narrow inquiry into two issues, namely, whether the Mayor had breached paragraph 29 a) of the Code and whether he had breached the opening words of section 10.

71. On April 20, I issued a Notice of Inquiry that set out the following issues, based on sections 10 and 29 of the Code, to be considered in the inquiry:

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<sup>18</sup> In lettering complaints, my practice is to skip the capital letters I and O, as they can be too easily confused with the digits 1 and 0 (zero).

<sup>19</sup> *Dhillon v. Brampton (City)*, 2021 ONSC 4165 (CanLII), paras. 34, 40.

- A. On April 2, did the Mayor breach section 10 by treating another Member with abuse or intimidation?
- B. Did the Mayor breach paragraph 29 a) by attempting to influence the General Committee's decisions on the April 2 Bonnerworth Park pickleball court votes, in particular, Councillor Lachica's motion and the motion to amend Councillor Lachica's motion? The issue arises in the following context:
  - The Mayor's alleged sponsorship of, and/or financial contribution to, the Peterborough Pickleball Association.
  - The Mayor's spouse's alleged membership in the Peterborough Pickleball Association.

72. The remaining provisions mentioned in the Collective Complaints were not considered in the inquiry. My reasons for not considering them follow.

73. Section 4 of the Code is merely a statement of principle. It does not contain a rule that can be contravened.<sup>20</sup>

74. Section 5 of the Code (including paragraphs 5 b) and 5 e) that were specifically raised in some Complaints) is also a statement of principle. It cannot be contravened.<sup>21</sup>

75. Section 7 of the Code refers to the [Declaration of Office](#) under section 232 of the *Municipal Act*. Nothing in the Complaints clearly relates to any of the promises made in the Declaration.

76. Section 8 of the Code states that a Member must comply with the Code and with "all other policies and procedures adopted or established by Council affecting the Member." Nothing in the Complaints alleges a breach of a policy, except the Workplace Violence Prevention Policy which I address below. As for the portion of section 8 that says a Member must comply with the Code, it does not add anything to the obligations imposed by the other, more specific, provisions of the Code.

77. Section 9 refers to civil conduct at Council, Committee and other meetings. It says Members must comply with the Code of Conduct at meetings; this does not constitute a separate rule, because the Code of Conduct already is binding on Members, inside and outside of meetings. It also says that Members must comply with the City's Procedure By-law. Application of the Procedure By-law and other procedural matters arising at a meeting should be dealt with by the Chair and should not be the subject of an Integrity Commissioner inquiry, and an Integrity Commissioner has no jurisdiction to interfere with a procedural ruling made during a meeting.<sup>22</sup>

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<sup>20</sup> See *Ayotte v. Akapo*, 2022 ONMIC 8 (CanLII), para. 77, and *Ayotte v. Therrien*, 2022 ONMIC 10 (CanLII), para. 35.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ayotte v. Akapo*.

78. The Notice of Inquiry reflects my belief that the issue arising from the words spoken by the Mayor is captured by the opening words of section 10. The inquiry considered whether his words breached the prohibition of abuse and intimidation. In my view, the opening words of section 10 are more relevant to what allegedly occurred than paragraphs 10 a),<sup>23</sup> 10 b)<sup>24</sup> and 10 c).<sup>25</sup>

79. Section 13 deals with respect for the staff. It does not apply to conduct toward another Member.

80. The facts alleged in the Collective Complaints do not raise issues under paragraph 29 b) (preferential treatment) or paragraph 29 c) (future advantage).

81. Section 39 of the Code merely acknowledges the Mayor's leadership role. This section creates no rule. It does not require the Mayor to do anything, or to refrain from doing anything, in the course of leadership.

82. I cannot inquire into a general allegation that the *Municipal Act* was contravened. I also doubt that contraventions of the *Municipal Act* fall under an Integrity Commissioner's jurisdiction.

83. I also decided that it was not appropriate to conduct an inquiry into whether the Mayor's April 2 comments constituted "workplace violence" under the *Occupational Health and Safety Act* or the Workplace Violence Prevention Policy. The definitions in the OHSA and the Policy are similar, and the relevant portions are:

[A] statement or behaviour that it is **reasonable** for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

[*Occupational Health and Safety Act*]

An action or statement (or series of actions or statements) **reasonably** believed to be a threat of physical harm or as a threat to safety or security in the Workplace.

[Workplace Violence Prevention Policy]

[emphasis added]

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<sup>23</sup> The allegations in the Collective Complaints are better covered by the prohibition of abuse and intimidation than by the prohibition of "indecent, abusive or insulting" words in paragraph 10 a).

<sup>24</sup> Paragraph 10 b), which covers discriminatory speech, does not apply to the subject matter of the complaints.

<sup>25</sup> Paragraph 10 c) deals with harassment. While the Code defines harassment to include, "any comment, conduct, action or gesture that is unwelcome or that ought reasonably known to be unwelcome that could affect a person's dignity or a person's psychological or physical health," I apply this definition in light of the established Canadian legal meaning of harassment, which uses the term to apply to a course of conduct or pattern of behaviour. See *Honda Canada Inc. v. Keays*, [2008] 2 S.C.R. 362, 2008 SCC 39, para. 73. A single utterance of the kind described in the Collective Complaints does not constitute harassment as that term is understood in Canadian law.



84. I found nothing in the allegations in the Collective Complaints to suggest that it was “**reasonable** ... to interpret” or was “**reasonably** believed” that the words were actually a threat of physical force or physical harm. Consequently, I exercised my discretion not to conduct an inquiry into this particular issue.

85. People also possess the right to allege a contravention of the *Municipal Conflict of Interest Act*. A separate provision of the *Municipal Act*, section 223.4.1, governs allegations that the MCIA was breached. I followed up specifically with the Collective Complainants who mentioned conflict of interest to inquire whether they were opting for the separate process to allege an MCIA contravention by the Mayor; none did.

86. Given the large number of Collective Complainants, each of whom came forward on what I would characterize as a *public-interest* basis and not a *personal-interest* basis (Councillor Bierk, the only individual who was directly affected by the comments, did not complain), I modified the usual inquiry process to be fair while also efficient.

87. I gave the Collective Complainants an additional opportunity to make submissions, which I then shared with the Mayor, and I gave the Mayor an opportunity to respond to me. I considered the Collective Complainants’ submissions and the Mayor’s response. I did not, however, invite the Collective Complainants to reply to the Mayor’s response; this was unnecessary and would have been unwieldy.

88. While I conducted a large number of interviews, I informed the parties that I would only interview any individual Collective Complainant who possessed relevant facts (evidence) beyond what was publicly recorded at the meeting and reported in the news media. I explained to them the difference between submissions (statements of position) and evidence (facts). Submissions from every Collective Complainant were welcome but would not lead to an interview. On the other hand, the Collective Complainants were notified that any of them with knowledge of particular facts relevant to the two issues in the inquiry should provide those facts to me and might subsequently be interviewed about that evidence. In the end, it was unnecessary for me to interview any Collective Complainant.

89. After the Mayor responded to the Collective Complaints, I reviewed the meeting recording multiple times, examined relevant records, obtained and reviewed corporate records of the PPA, considered the written evidence filed by the Collective Complainants, and conducted interviews of the Mayor, Councillor Bierk, other Members of the General Committee (namely, the six Members seated closest to the Mayor and Councillor Bierk), staff members, and individuals who possessed information about the PPA. I interviewed the Mayor and Councillor Bierk several times.

### *Lachica Complaint (Incident Following Meeting)*

90. On April 27, 2024, I received a Code of Conduct complaint form, filed by Councillor and Second Deputy Mayor Lachica. On April 28, I received a brief follow-up email. The form and the email together constitute her Complaint, which I numbered 2024-02-CC.

91. The Lachica Complaint alleges that the Mayor intimidated and bullied her immediately following the April 2 General Committee meeting.

92. Between May 6-7, I corresponded with Councillor Lachica by email, and she confirmed the intention to proceed. On May 8, I issued a Notice of Inquiry to both the Mayor and the Councillor. The Notice stated that I would conduct an inquiry into the allegation that the Mayor had attempted to intimidate and to bully Councillor Lachica.

93. The Lachica Complaint also contained allegations about the Mayor's treatment of Councillor Bierk and about the Mayor's ties to the Peterborough Pickleball Association. Because these issues were already the subject of the inquiry into the Collective Complaints, I exercised my discretion not to consider them as part of the Lachica Complaint inquiry. However, because Councillor Lachica appeared to possess evidence that might be relevant to the Collective Complaints, I interviewed her as a witness in the Collective Complaints inquiry.

94. The Lachica Complaint cited sections 7, 8, 9, 10 and 16 and paragraph 29 a) of the Code. As mentioned above, the inquiry considered only section 10. Section 7 (Declaration of Office), section 16 (gift or benefit) and section 29 a) (improper use of position to influence) were more relevant to the issue of the Mayor's connection to the PPA than to the allegations of bullying and intimidation of Councillor Lachica. Section 9 (conduct at meeting) was more relevant to the treatment of Councillor Bierk, which was the subject of the Collective Complaints inquiry. Finally, the inquiry did not need to consider section 8, which does not add additional rules or requirements and merely points to requirements that already exist.

95. Before inviting the Mayor to respond, I gave Councillor Lachica the opportunity to provide additional detail of the section 10 allegation. She provided it on May 9.

96. I have already mentioned that the parties, with my involvement, made efforts to resolve the matter. Resolution was not achieved. Everything that happened during this period is confidential and protected by what is called settlement privilege. I cannot discuss it in this report, and it has no bearing on my findings.

97. On February 28, 2025, Councillor Lachica supplemented her Complaint with additional information. On March 11, the Mayor responded to it.

98. During intervals when the inquiry was not paused for resolution attempts, I interviewed everyone who was present during the incident (the Mayor's interaction with Councillor Lachica) following the General Committee meeting.

### *Process Applicable to All Complaints*

99. I have considered all the evidence and carefully considered the submissions (statements of position) of the Collective Complainants, Councillor Lachica, and the Respondent.

100. This report refers to news media stories. I mention the stories because they form part of the chronology and provide context for what individuals, particularly, the Mayor and Councillor Bierk, said and did. (For example, the Mayor says he learned about the controversy over his comments from social media attention to a news article.) I have not based my findings of fact on news stories and am not using news stories as evidence.

101. Further, it is not my practice to request witness interviews from members of the news media.<sup>26</sup> Among other reasons, I am reluctant, out of respect for press freedom, to ask the news media to participate (even voluntarily) in a statutory investigation. Consequently, I did not ask any journalist to confirm what Mayor Leal said.

102. In making my findings and reaching my conclusions, I have taken into account all the submissions of the parties and all of the evidence obtained during the inquiry.

103. On April 21, before finalizing this report, I sent the Respondent a draft of it, including the findings, conclusions and recommendations, and I invited comment. The Mayor provided nine pages of detailed comments, on May 13.<sup>27</sup> In this final report, I have addressed all his feedback.

## **POSITIONS OF THE PARTIES**

### *Collective Complainants' Positions*

104. Seven Collective Complainants argue that the Mayor breached the Code of Conduct based on his alleged, close involvement with pickleball.<sup>28</sup>

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<sup>26</sup> *Re Brampton (Council Member) (No. 1)*, 2018 ONMIC 13 (CanLII).

<sup>27</sup> The nine pages of comments were accompanied by 12 pages of news articles.

<sup>28</sup> Complainants B, D, H, L, MN, P, Q.

105. They cite at least two connections between the Mayor and pickleball. Some allege that the Mayor's wife is a member of the Peterborough Pickleball Association.<sup>29</sup> Some state the Mayor and his wife have sponsored, or contributed financially to, pickleball.<sup>30</sup>

106. Several advance the argument that the PPA and its members will benefit financially from the Bonnerworth Park's redevelopment,<sup>31</sup> because their costs will be reduced and/or their revenues will increase from expanded programming and the hosting of tournaments.

107. According to the Collective Complainants, the Mayor's and his spouse's involvement with pickleball means that he is biased in his decision making on the topic,<sup>32</sup> and he should have recused himself from debating and voting.<sup>33</sup>

108. All Collective Complainants except one<sup>34</sup> submit that the Mayor's comments to Councillor Bierk were contrary to the Code. Ten of them specifically mention the alleged threat of carving like a Thanksgiving turkey.<sup>35</sup> Six mention the alleged threat that Councillor Bierk would "regret" what he said or would "pay."<sup>36</sup>

109. Several Collective Complainants take exception to the Mayor's demeanour and tone which they say was intimidating, angry, and/or involved shouting.<sup>37</sup> Two specifically mention finger-pointing or aggressive body language.<sup>38</sup>

110. Almost all Collective Complainants agree that the Mayor made a threat, and many feel that he specifically threatened violence.<sup>39</sup> Several feel that the threats were serious, severe or grave, or should be taken seriously.<sup>40</sup> Another points out that the same words would have been taken seriously if a member of the public had uttered them.<sup>41</sup>

111. Words used by the Collective Complainants to describe the Mayor's conduct are: violent, controlling, thuggish, aggressive, abusive, harassing, childish, bullying, gangster-like, relentless, out-of-control, scary, appalling, egregious, extremely detrimental, and concerning.

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<sup>29</sup> Complainants B, L.

<sup>30</sup> Complainants D, H, MN, Q.

<sup>31</sup> Complainants B, L, Q.

<sup>32</sup> Complainants D, MN, P.

<sup>33</sup> Complainants D, H, L, MN.

<sup>34</sup> Complainant L focused only on the Mayor's connections to pickleball.

<sup>35</sup> Complainants A, B, F, G, H, J, K, MN, P, Q.

<sup>36</sup> Complainants A, B, D, H, MN, P.

<sup>37</sup> Complainants D, E, P.

<sup>38</sup> Complainants H, P.

<sup>39</sup> Complainants A, E, F, G, Q.

<sup>40</sup> Complainants B, F, G, K.

<sup>41</sup> Complainant J.

112. One Collective Complainant points out that the Mayor's comments continued after Councillor Bierk had already apologized.<sup>42</sup>

113. Eight Collective Complainants specifically mention that they do not feel the Mayor's subsequent apology was sincere or sufficient.<sup>43</sup> Three of them state that it was flat, perfunctory, or unfeeling,<sup>44</sup> and two feel it was too brief and vague.<sup>45</sup> Three Collective Complainants note that the Mayor tried to deflect blame to Councillor Bierk for allegedly triggering the incident.<sup>46</sup> Four observe that the Mayor never apologized personally to Councillor Bierk,<sup>47</sup> and three take issue with the fact that the Mayor announced an apology to the news media before apologizing at the meeting.<sup>48</sup>

114. One Collective Complainant notes that the apology constituted an admission that the Code of Conduct had been breached. The same Complainant observes that an after-the-fact apology does not erase a breach that has already occurred.<sup>49</sup>

115. Another Collective Complainant<sup>50</sup> provides the following assessment of the Mayor's apology:

At last night's meeting, Mayor Leal took no real responsibility for his actions, and redefined a literal death threat as "intemperate language." By broadly redefining/generalizing the death threat he made, Mayor Leal employed a common manipulation tactic (gaslighting), which is often used by abusers to re-shape or misrepresent reality for their own benefit. Such conduct does not reflect actual contrition, nor any semblance of accountability for his actions.

In addition, Mayor Leal attempted to justify his actions by blaming Councillor Bierk for speaking about his wife, with absolute disregard for the context with which he did. This diversionary abuse tactic betrayed his unmitigated negative regard for Councillor Bierk, and was reminiscent of the "I hit you, because you made me angry," kind of argument which is typical in abuse dynamics.

Finally, Mayor Leal addressed the apology to his colleagues, Councillor Bierk, "and most importantly" the citizens of Peterborough (in that order); this framing minimized the harm to the actual victim of his conduct, while simultaneously pandering to voters.

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<sup>42</sup> Complainant P.

<sup>43</sup> Complainants A, B, D, F, G, H, K, P.

<sup>44</sup> Complainants H, K, P.

<sup>45</sup> Complainants F, K.

<sup>46</sup> Complainants G, H, P.

<sup>47</sup> Complainants A, G, K, P.

<sup>48</sup> Complainants A, G, K.

<sup>49</sup> Complainant A.

<sup>50</sup> Complainant G.

116. Still another Collective Complainant<sup>51</sup> states:

I attended the Peterborough council meeting tonight, April 8th and witnessed the pathetic, unfeeling, apology to the councillor, council and citizens. Those around us were very angry at the insincere, read apology that came across simply like something he “had to do so let’s get this out of the way.” This was not that of a person who was sorry at all. Mayor Leal’s “apology” was nothing of the sort. He first blamed Councillor Bierk; a true apology never does that. And you look at the person to whom you apologize. Also, the people in last week’s gallery were nowhere recognized for having to sit through his disgusting display. Why should he get away with this abusive and embarrassing behaviour? A half baked, insincere apology doesn’t cut it. His whole demeanour only went to inflame the issue.

117. Five Collective Complainants stress the need for the Mayor’s behaviour to result in sanctions or consequences.<sup>52</sup>

### *Respondent’s Position on Collective Complaints*

118. The Mayor explains that expanding recreational facilities including pickleball is a campaign promise that he has been working diligently to fulfill.

119. He states that the number of pickleball players as “has grown exponentially” since the Peterborough Pickleball Association was established. The City staff has reported that 16 pickleball courts would be insufficient to meet the demand, and “no Councillor has denied the need.” Indeed, he notes that Council unanimously supported the Bonnerworth Park project in four times in 2023: the General Committee and Council votes on the October staff report, and the General Committee and Council votes on the 2024 budget.

120. The Mayor observes that the Bonnerworth Park redevelopment was positively received by 602 of 844 survey respondents.

121. In response to allegations about using his position to advance a private interest, the Mayor states that he does not play pickleball and is not a member of the PPA. On the other hand, his wife has played for approximately four years (since before the 2022 election) and at the time of the General Committee meeting had been a PPA member for a couple of years.

122. The Mayor explains that to play in any session, league, ladder, or tournament arranged by the Peterborough Pickleball Association, one must be a PPA member. A combined membership fee includes membership in the PPA, Pickleball Ontario and Pickleball Canada, and includes insurance.

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<sup>51</sup> Complainant H.

<sup>52</sup> Complainants A, E, F, H, K.

123. The Mayor states that he and his wife have volunteered for the Peterborough Pickleball Association – for example, by helping with the barbecue at the Steve Mayhew Memorial Smash in 2023 – but have not financially sponsored the PPA. They do, however, purchase their own tickets to events, such as \$10 each to enter a euchre tournament, and purchasing their own food and drink at the Steve Mayhew Smash.

124. He explains that his volunteer help at the Steve Mayhew Smash was no different than what he has done during his entire public life, assisting at “countless barbeques for schools, municipal events, service groups, etc.” As a “very active and engaged leader” he attends “innumerable events to support a myriad of organizations in our community.” He enjoys “being on the front line” to interact with people and considers it a privilege to serve.

125. According to the Mayor, neither he nor his wife realizes any financial gain from the PPA. He argues that conflict of interest involves pecuniary interest (which is absent here) and that the Bonnerworth Park initiative was for the common good, a matter of general application.

126. The Mayor says that to find that his wife’s membership in the PPA prevents him from participating in decisions on pickleball courts would be an unsound precedent. He argues that Council Members and their families should be free to join clubs and use public facilities – such as ice pads and the Sport and Wellness Centre – without affecting Council Members’ ability to make decisions. He says it would be “absurd” to force Council Members to abstain from such “common-good” activities if they want “to have a say in how the community should move forward.”

127. Mayor Leal submits that the unanimity of Council’s 2023 votes on Bonnerworth disproves the allegation that he *influenced* decision making to *advance* his interest. This was not an initiative that he personally was driving; it was supported by everyone. Even after three Councillors changed their position, the plan retained the support of a large majority of Council Members. According to the Mayor, this establishes that he was not trying to influence anything, as he was comfortable with leaving in place the previous unanimous decisions.

128. Concerning his remarks to Councillor Bierk, the Mayor apologized at the very next meeting. He does, however, offer context for what occurred. He says the gallery was filled with residents opposed to the Bonnerworth Park redevelopment, the crowd was noisy, and “the room was full of emotion. ... I regret that I overreacted when my wife’s name was mentioned in this heightened setting.”

129. He says he originally believed his comments about Councillor Bierk were inaudible:

Had I known that Councillor Bierk had overheard my mumbling, I certainly would have apologized immediately after the meeting and explained what I was feeling in the moment.

130. The Mayor was unaware of an issue about this comments until April 4, when former Mayor Diane Therrien-Hale posted on X (formerly Twitter) a reference to the *Arthur* news story described, above, in paragraphs 57-58. (The Mayor says *Arthur* never asked him to verify or clarify the comments.)

131. Subsequently, the Mayor was telephoned by *The Examiner*. He did not deny making the “turkey” comment to Councillor Bierk; he told its reporter that he did not recall. He explains in this inquiry, “I could not remember exactly what was said in the heat of the moment.”

132. The Mayor says that, after the call from *The Examiner*, he promptly contacted Councillor Gary Baldwin to ask the latter’s recollection. Councillor Baldwin confirmed that the Mayor had indeed made a “turkey” comment: “If it comes to a war of words with Councillor Bierk, I will carve him like a Thanksgiving turkey.”<sup>53</sup> While the Mayor did not initially recall what he had said, “the moment Councillor Baldwin told me ... I clearly and confidently recalled saying the beginning of the statement.”<sup>54</sup>

133. The Mayor accepts that his comments were “intemperate,” an “error of judgment,” and “not ... professional.” This is why he apologized. He wanted to do so in a public forum and wanted to be accurate. He states:

I made an error of judgment in the public forum of General Committee and so I decided to apologize during the next available public forum, City Council. I read my apology to ensure accuracy. At that point in time, I knew that the article in *Arthur* had reported my words out of context. Still, I recognized that Councillor Bierk deserved an apology as I did not act in a professional manner. Since, I have worked conscientiously to regain my positive relationship with Councillor Bierk as we move forward.

134. Mayor Leal makes additional observations, which I include for completeness.

135. He observes that two of the Collective Complainants publicly supported another candidate in the 2022 mayoral election and suggests their Complaints are politically motivated.

136. He points that that Councillors have budgets for ward meetings, and suggests it was “unfortunate” that Councillors Lachica and Bierk did not host a neighbourhood meeting when Bonnerworth was chosen as site of the recreational hub in October 2023. He immediately adds, “To be fair, everyone was excited about the plan, [and] no one expected the heightened reaction from the neighbourhood.”

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<sup>53</sup> This is how the Mayor recalls what Councillor Baldwin told him. In his interview with me, Councillor Baldwin recalled essentially the same thing, though in slightly different words. The Councillor recollected the comment as, “If he wants to get into a war of words with me, I’ll carve him like a thanksgiving turkey.”

<sup>54</sup> The words in quotation marks are taken from the Mayor’s May 13 response to the draft of this report.



137. He states that, if their roles were reversed, he “would have had a face-to-face meeting with Councillor Bierk before speaking to the media.”

### *Councillor Lachica's Position*

138. Councillor Lachica says that, following the General Committee meeting, Mayor Leal berated her in a manner that left her feeling shaken, intimidated, bullied, afraid and uncomfortable.

139. With Councillor Bierk, she was walking down an interior corridor (not accessible to the public) toward the exit door nearest the parking lot. Their route took them toward a small group that included the Mayor. According to Councillor Lachica, Mayor Leal began yelling at her about the individual who had earlier been removed from the meeting, claiming that Councillor Lachica should have stopped the individual and that she was responsible because the person was a Town Ward constituent.

140. Councillor Lachica says the Mayor kept yelling at her, even after she explained that maintaining decorum was the responsibility of the Chair.

141. Councillor Lachica says that Mayor's conduct continued during a closed session on April 8. She told Councillors what had occurred in the corridor on April 2, that she had had “enough” of the Mayor's condescension and shouting, and that she should not have been directed to take responsibility for decorum in the gallery.

142. She states that the Mayor responded, “It was indeed the Councillor's duty to do so.” When she explained that she could not even hear what the individual in the gallery had said, the Mayor sarcastically replied that everyone else could. Councillor Lachica explained that she suffers a medical hearing impairment, to which the Mayor sarcastically asked, “Is that right?”

143. Councillor Lachica explains that she waited 25 days before submitting the Complaint because she feared reprisal.

144. According to Councillor Lachica, the anger and bullying continue. She cites recent examples that she says constitute disrespect, sidelining, and withholding information necessary to her job.

### *Respondent's Position on Lachica Complaint*

145. The Mayor acknowledges that his remarks to Councillor Lachica on April 2 were an overreaction. The public attacks on him and his wife over the Bonnerworth Park redevelopment were very difficult for him and his family, and he did not handle that stress properly. He acknowledges and has apologized for the occasions when this occurred.

146. He states that his comments during the closed meeting were not about Councillor Lachica but about the individual who had been removed from the gallery.

147. The Mayor refutes the allegations of sidelining and withholding information. He says the allegations relate largely to the exercise of so-called “strong mayor powers,” formally “Special Powers and Duties of the Head of Council,” under Part VI.1 of the *Municipal Act*. He says his exercise of strong mayor powers was communicated to all of Council well in advance.

### *Respondent’s Comments on Draft Report*

148. On May 13, the Mayor provided detailed feedback on a draft of this report. Throughout this final report, I address his comments. The following are portions of his May 13 feedback that are not addressed elsewhere in this document.

149. Making specific reference to certain published accounts, the Mayor points to what he believes is inaccurate coverage of what happened at the April 2 meeting – especially concerning the “turkey” line. As explained above (paragraph 100), I do not base any finding of fact on news media coverage, and I am not using news media stories as evidence, so any inaccuracy in coverage (should it exist) does not affect the conclusions in this report. However, the Mayor’s point is that, pending the outcome of this inquiry, he has been unable to correct inaccurate reporting, causing his reputation to suffer. The Mayor also refers to specific, substantiated threats that were part of the fallout from the April 2 meeting. I have noted his concern. Safety, in particular, is a grave matter. While I understand his position, as Integrity Commissioner I cannot directly remedy the concern. All that is in within my purview to do is to ensure that the conclusions in this report are objective and fair, and made carefully and on the basis of evidence. This I have done.

150. Further to this point, the Mayor makes specific suggestions, at page 4 of his response to the draft report, about additional evidence (both witness evidence and digital records) potentially bearing on the April 2 meeting, that he believes I should gather. Without identifying the specific evidence he describes, I confirm that I have carefully considered his suggestions. In my view, the witness evidence he describes might shed additional light on the context surrounding the April 2 meeting, but would not be germane to findings about what actually was said. The digital evidence might shed light on a narrow category of particular communications before and after the meeting, but would not affect findings, based on multiple witness accounts, about what was said. I decided not to act on his suggestions.

151. The Mayor saw, in the draft report, my conclusion on the section 29 issue. In his feedback, he mentions the harm that the allegation of private advantage has caused. I understand this point. However, having dismissed the complaints under section 29, I do not agree that the Mayor’s interactions with Councillor Bierk and Councillor Lachica should be reinterpreted on that basis. In other words, the fact that the section 29

allegations were not upheld should have no bearing on whether intimidation and bullying occurred.

152. The Mayor's feedback on the draft report describes his dealings with Councillor Lachica up to the present day. This is, partly, a response to allegations that are not covered in this report: see paragraph 287, below. This is also a response to the finding of bullying on April 2 and April 8. However, whether an instance of bullying occurred last April must be assessed in relation to last April's events, and subsequent events are not directly relevant.

153. Some of his feedback on the draft report refers to what happened during the resolution efforts described in paragraphs 4-15, above. As I have explained, what happens during settlement attempts remains confidential and is not considered in reaching an inquiry's conclusions. In any event, what may or may not have occurred during the resolution process is not relevant to the finding of bullying, because it post-dated the events.

## EVIDENCE AND FINDINGS OF FACT

154. Most findings of fact appear in this section and in the Background section which starts above at page 7. Some findings appear in the Issues and Analysis section that starts at page 42 below.

155. Findings of fact are made based on the standard of the balance of probabilities.

156. I find that all witnesses whom I interviewed were credible. They were also reliable,<sup>55</sup> as confirmed by the general consistency among recollections and – on matters captured by the recording – the correspondence between their recollections and what was recorded. Interviews took place while the events of April 2, 2024, were still fresh in their minds.

157. The slight variations in recall were mostly immaterial and were usually attributable to differences in vantage point and perspective. Where it was necessary for me reconcile slightly different recollections to make findings of fact, I took into account factors such as: physical distance from what was being observed (some Councillors sat closer to Mayor Leal than others); the presence of any distractions (for example, Councillor Beamer conceded that, as Chair, his priority was listening to the meeting as opposed to interruptions); corroboration by recorded and documented evidence (while the recording captured very few of the comments, it does help to establish the order in which comments

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<sup>55</sup> Credibility refers to a witness's truthfulness; reliability refers to the precision and accuracy of the witness's recall: *R. v. Sanichar*, 2012 ONCA 117 (CanLII), paras. 36, 45, 69.

were made); corroboration of other witnesses; precision of recall; precision of language; and coherence with the most plausible sequence of events.

### *March 21 Public Drop-In*

158. The March 21, 2024, public drop-in session was attended by, among others, Mayor Leal, Councillor Baldwin, Councillor Bierk, Councillor Lachica and Councillor Riel.

159. The Mayor's wife was also present. She had a pleasant conversation with Councillor Bierk, during which she offered to loan him her pickleball paddle should he wish to try the sport.

160. Many residents showed up. Attendees included both supporters and opponents of the redevelopment project. It was a heated and chaotic environment. Some attendees became upset when they reviewed presentation boards describing the detailed plans for Bonnerworth Park. Several shouted. At one point, the Recreation and Park Services Director had to stand on a chair to be heard. One Councillor commented that the crowd's heated reaction at the March 21 drop-in session "set the stage" for what happened on April 2.

161. In his response to the draft of this report, the Mayor echoes the comment in the last sentence of the previous paragraph: He says that the heated reaction on March 21 contributed to what he calls "the hostile environment" of April 2. I have taken into consideration the fact that heated community opposition on March 21 contributed to the Mayor's state of mind on April 2. However, I note that the principal driver of reaction at the drop-in session was the redevelopment itself, as opposed to the Mayor's role. While many attendees were opposed to the proposal and voiced their concerns, the Mayor's wife's involvement in pickleball and the allegation of conflict subsequently levelled against the Mayor were not among the criticisms expressed at the March 21 meeting.

162. Between the March 21 public drop-in and the April 2 General Committee meeting, a larger number of concerned residents reached out to the Mayor and Councillors. One Councillor recalled being "inundated" by emails.

163. During that interval, Councillors Bierk and Lachica changed their minds about the redevelopment proposal. They did so partly because the plans displayed at the public drop-in contained elements (such as significant loss of green space) that they could not support, and partly in response to the concerns expressed by their constituents.

### *April 2 Meeting*

164. The April 2 meeting was heavily attended by residents opposed to the Bonnerworth Park redevelopment, some of whom carried signs. The meeting was so well attended that

the gallery was filled and many people were directed to overflow seating in another room. Some attendees were unhappy that delegations were not part of the General Committee agenda. Most attendees were unhappy with the plans for Bonnerworth Park and supported Councillor Lachica's motion.

165. Residents came to the meeting of their own volition. I find no evidence that they had been mobilized by Councillor Lachica. (As I explain at paragraph 286, below, even if they had been, that would not alter my conclusions.)

166. Residents who attended were cautioned not to make noise or to disrupt. Chair Beamer thanked them for attending<sup>56</sup> but told them not to boo or heckle. He also asked them not to applaud but to wave their hands silently if they wished to convey approval. Nonetheless, the crowd frequently applauded, shouted, and directed comments toward the Committee. Repeatedly, including four times during Mayor Leal's remarks, Chair Beamer told attendees not to interrupt the meeting. At one point, the Chair had an individual removed from the gallery for standing up and shouting that Mayor Leal was in a conflict and a disgrace. Chair Beamer warned that he would clear the whole gallery "if that happens again." The Mayor was interrupted by shouting three times more.<sup>57</sup>

167. While a packed gallery during a General Committee meeting or City Council meeting on a controversial topic was not unique, removal of someone for shouting at a Council Member was exceptional.

168. In his feedback on the draft of this report, the Mayor drew attention to the tension both before and during the meeting. He observed, "In all of my years in public life, I have never been in a more hostile meeting environment, and I had been singled out as the target of their anger." I accept his observation and have taken it into consideration.

169. Councillor Bierk was the fourth speaker on Councillor Lachica's motion.<sup>58</sup> A partial transcript of his remarks, including some of the Mayor's interjections, based on the recording, appears in the Appendix. The transcript is supplemented by the evidence of witnesses who were present.

170. Early in his remarks, Councillor Bierk attempted to explain that his concerns about the Bonnerworth Park redevelopment were not directed to the sport of pickleball. He stated, "I'm not against pickleball. Karan Leal is going to lend me her racquet [paddle]. I love it. I see them play at the Y –"

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<sup>56</sup> On multiple occasions, including at the start and at the end of debate on Councillor Lachica's motion, Chair Beamer thanked residents for attending.

<sup>57</sup> Chair Beamer called the gallery to order twice during the Mayor's initial remarks on the motion, and twice later during the Mayor's questioning (through the Chair) of the Recreation and Park Services Director.

<sup>58</sup> The earlier speakers were Councillor Lachica, Councillor Keith Riel, and Councillor Lesley Parnell.

171. Mayor Leal stood up. “Don’t mention my wife’s name,” he interjected.

172. “I meant that in a positive way. I’m sorry,” explained Councillor Bierk.

173. “You’ve crossed the line,” said the Mayor.

174. Meanwhile, Chair Beamer attempted to retake control by interrupting both the Mayor and the Councillor. He specifically addressed the Mayor by name, before cautioning the Councillor: “Councillor Bierk, so, we don’t want to mention spouses, partners, family members, anything like that.”

175. While Chair Beamer was saying this, Councillor Bierk apologized a second time. “Yeah, I’m sorry. I crossed – I didn’t mean to cross the line.”

176. After the Mayor sat down, Councillor Haacke, who was sitting beside the Mayor, urged him to temper his words. Councillor Riel, who sat on the other side of Councillor Haacke, went over to the Mayor and urged him to cool down.

177. Prior to Councillor Bierk’s mention of her pickleball paddle, the Mayor’s wife’s involvement in pickleball had not been a secret. For example, six months earlier, former five-term Mayor Sylvia Sutherland had published an opinion column in *The Examiner*, where she described the Mayor’s wife as a “local enthusiast” who had been “clearly a highly effective lobbyist” for bringing pickleball courts to Bonnerworth Park.<sup>59</sup>

178. Councillor Bierk resumed discussion of the motion. Near the end of his remarks, he apologized a third time: “I apologize to Mayor Leal. I did not mean anything personal by that.”

179. Between the moment when Councillor Bierk resumed debate on the motion after apologizing twice, and this third apology, 95 seconds had elapsed.

180. The Mayor gave a response that the recording did not capture, to which Councillor Bierk replied, “Well, you did address it, thank you. I meant it in a positive way.”

181. Once Councillor Bierk had concluded, the Mayor made additional comments, not captured by the recording. The recording does include Chair Beamer’s attempts to call the Mayor and Councillor to order. He addressed the Mayor by name twice (“All right, Mayor Leal,” and “Mayor Leal, we’ll just leave it at that”) and addressed the Councillor by name once (“So, Councillor Bierk, we’ve addressed it.”)

182. Based on the totality of the witnesses’ evidence, I find that the Mayor’s unrecorded comments were addressed to Councillor Bierk. That is, he spoke to the Councillor using

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<sup>59</sup> Sylvia Sutherland, “Sutherland: Your worship, what about feather bowling?” Peterborough *Examiner* (October 23, 2024).

the second person (“you”) and did not, as has been suggested, refer to the Councillor in the third person (“he,” “him”). Almost all witnesses recalled the Mayor using the second person. Also, the video recording shows that the Mayor and the Councillor were looking at each other while the Mayor was speaking. Even the Mayor and Councillor Bierk recall comments directed to Councillor Bierk.<sup>60</sup>

183. He said, “You’re going to regret you ever said that,”<sup>61</sup> and “I’ll carve you like a Thanksgiving turkey.”

184. The Mayor’s feedback on the draft of this report argues out that I did not take into account the full context of the “turkey” comment, namely, the introductory, conditional mention of a “war of words” (see paragraph 132). In fact, I did consider that this was the recollection of one Councillor, and the recollection of the Mayor after he was reminded. I also considered the different recollections of other witnesses, several of whom were seated closer to the Mayor. My consideration also included the assessment of whether the Mayor was addressing Councillor Bierk in the second person or the third person; as explained in paragraph 182, I find that the Mayor used the second person. More generally, paragraphs 155 to 157 explain the basis on which I have made findings of fact, including my conclusion that everyone whom I interviewed was credible (that is, telling the truth as each recalled it). I believe that the Mayor and the one Councillor sincerely recall a conditional reference to a “war of words,” but I find, on the balance of probabilities, that the “turkey” comment was not prefaced by such a conditional statement.<sup>62</sup>

185. Between Councillor Bierk’s resumption of debate (after the first two apologies) and the Mayor’s “regret” comment, 117 seconds had elapsed.

186. Councillor Bierk’s reaction was audible and recorded. (At this point, his microphone was back on.) He said, “I just heard, he said, I’m going to regret I ever said that.”

187. Chair Beamer started to caution the Committee about the naming of family members, and Councillor Bierk stated, “I said a few times that I take it back. ... I meant it in a positive way.”

188. The Chair reminded everyone, “We don’t want to make comments about people’s families, kids, children, anything like that. That does cross the line.”

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<sup>60</sup> The Mayor did not (until later, see paragraph 132) recall the “turkey” comment but did recall saying to Councillor Bierk that he was going to regret it. Councillor Bierk’s contemporaneous notes, typed to himself on his mobile phone the night of April 2, state, “I’ll carve you like a turkey.”

<sup>61</sup> The Mayor agreed that this comment was made. See note 60.

<sup>62</sup> In addition to the relative locations of the witnesses, and corroboration of recollections and consistency with other evidence, I have considered that the introduction “if he wants [or, you want] to get into a war of words with me” does not seem particularly responsive to Councillor Bierk, who appeared to be trying to avoid antagonizing the Mayor on this issue and who had already apologized several times. Reference to a “war of words” would not have suited the context.

189. The Mayor's remarks to Councillor Bierk were not shouted. They were delivered at ordinary volume. However, particularly at the time of his first interjection, Mayor Leal was visibly angry. One witness had "never seen him [the Mayor] like this."

190. Though it used violent imagery, nobody interpreted the Mayor's "turkey" simile as an actual threat to cause physical harm to Councillor Bierk. It was understood to be a figure of speech. At least one Councillor had heard him use the expression before.

191. However, the combination of the "regret" message and the "turkey" message was reasonably interpreted – and, in addition, was certainly understood by Councillor Bierk – to be a threat of repercussion. Mayor Leal's words indicated that the Councillor would face consequences for mentioning the Mayor's wife. Councillor Bierk interpreted the messages as a threat to his career.

192. As a first-term Councillor who had been guided by the political-veteran Mayor in learning the ropes, Councillor Bierk felt intimidated by the messages, and fearful of what they boded. He also found the Mayor's words toxic, aggressive, and inappropriately intense.

193. A few people recall that the Mayor also threatened, "I'll make you pay for that," and "I'll skin you alive." There is insufficient corroboration<sup>63</sup> for me to make a finding that these statements were made.

### *April 2, Following the Meeting*

194. The meeting adjourned at 9:37 p.m. At approximately 9:50 p.m., Councillor Lachica and Councillor Bierk were walking to the parking lot by way of an internal corridor. Their route took them toward the office of the Chief Administrative Officer. Mayor Leal, CAO Jasbir Raina and Councillor Baldwin were standing near the office, engaged in conversation.

195. When Councillor Lachica and Councillor Bierk came closer, Mayor Leal confronted them about the individual who had been ejected from the gallery for shouting that the Mayor was in conflict and was a disgrace. The Mayor told Councillor Lachica that she should have stopped the individual and should have stood up for the staff. When she stated that a Councillor could not call out someone in the gallery (for breaching decorum),

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<sup>63</sup> Even witnesses who were thought to have overheard the "skin alive" comment did not recall it. Further, while I do not use news media reports as evidence of what occurred, they do place in context what individuals whom I interviewed said and did. Councillor Bierk was contacted by *Arthur* newspaper to confirm what was said at the meeting, Councillor Bierk specially confirms being texted by *Arthur* about "skin alive," he confirms speaking to *Arthur* and, following his discussion, *Arthur* published a story that mentioned the "turkey" comment and not "skin alive." I infer that, at the time, Councillor Bierk was unable to confirm the latter comment.



the Mayor said that a Councillor could do that by raising a point of order. While this discussion was happening, the CAO withdrew from the hallway into his office.

196. Councillor Lachica asked the Mayor, “why are you yelling at me?” She and Councillor Bierk recall that the Mayor was yelling. Councillor Baldwin recalls that the Mayor was “projecting his voice,” but not yelling, as it was unnecessary to do so given that he and Councillor Lachica were “a couple of car lengths apart.” (While Councillor Baldwin’s recollection is that the Mayor did not yell, he also recalls Councillor Lachica *saying* that the Mayor was yelling.<sup>64</sup>) While I do not characterize the volume as yelling, it is clear that the Mayor’s voice was raised.

197. In his feedback on the draft report, the Mayor invites me to ensure that I interviewed everyone who was present in the hallway that evening. Because the City staff must deal with everyone on Council on an ongoing basis, and this inquiry involves the personal interaction among Council Members, I am reluctant in this report to detail the evidence of a specific staff member. It suffices to state that I interviewed everyone who was present that evening and have made findings on that basis.

198. It was evident to those present that the Mayor was angry at the individual and at Councillor Lachica for allegedly failing to control the individual. I find one reason for the Mayor’s anger was that the individual’s conflict of interest accusation had been based on the Mayor’s wife’s involvement in pickleball. I find one reason the Mayor blamed Councillor Lachica was that the individual was a constituent in Town Ward who was supporting Councillor Lachica’s motion. The implication was that Councillor Lachica had something to do with the individual’s protest.

199. Councillors Lachica and Bierk then exited the building. They were both unsettled by the incident, and Councillor Lachica was visibly upset. At 11:02 p.m. that evening, Councillor Bierk texted the CAO and Councillor Lachica. He typed:

I’ve just arrived home and feel the need to message you about the incident tonight involving Jeff Leal’s aggressive behaviour towards me and Joy. His actions were threatening creating a deeply uncomfortable situation for both of us.

Also, just now I got a message by the press that they heard at the meeting the Mayor explicitly threaten me with the phrase, “I’ll skin you alive.”

Joy was visibly shaken by the encounter by your office after the meeting. This behaviour is not ok.

200. The CAO replied, “We will talk about it.” Councillor Lachica replied, “I feel really upset that Jeff yelled at me for no reason.”

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<sup>64</sup> Councillor Baldwin recalls Councillor Lachica asking the Mayor, “Why are you yelling at me?”

201. Councillor Lachica subsequently recalled: “I felt utterly shaken, intimidated and bullied. I felt afraid and uncomfortable to exit through the doors to the parking lot.”

### *April 8*

202. On April 8, the General Committee met in closed session. Recapitulation of the April 2 incidents was not on the closed session agenda, and the findings that follow do not disclose any of the actual closed-session deliberations.

203. During closed session, the Mayor, in an angry tone, expressed frustration that, in his view, some Councillors had aggressively questioned the staff during the April 2 meeting. He made clear this was not to happen again.

204. Councillor Lachica understood Councillor Bierk to be a particular subject of the Mayor’s comments. On a point of order, she objected to what she called the Mayor’s patriarchal and condescending remarks, and said they were similar to what had occurred on April 2, when was told she was responsible for the conduct of someone in the gallery.

205. She repeated her position of April 2, namely, that only the Chair was responsible for maintaining decorum. Mayor Leal repeated his position, that the Councillor could and should have done something. Councillor Lachica responded that she did not even hear the individual’s comments, and the Mayor claimed that everyone else could. Councillor Lachica then explained that she suffers from a medical hearing impairment.

206. Mayor Leal was unaware of Councillor Lachica’s medical hearing impairment, but that is beside the point. Councillor Lachica was not required to share her personal information at all, but she was pressured into it by the persistent claim that she was responsible for addressing what the individual had said.

207. More generally, I find that Mayor Leal was holding to, and defending, what had occurred in the corridor on April 2.

208. Later that evening, City Council held its regular meeting. Mayor Leal delivered the apology reproduced above, at paragraph 62.

209. While I understand the perspective of the individual Collective Complainants who felt that the Mayor’s apology was flat and emotionless, I am not prepared to draw conclusions based on his tone. I also accept the reason why, in such a circumstance, an official might choose to read a formal statement instead of speaking extemporaneously.

210. On the other hand, I do draw conclusions from the content of the Mayor’s apology.

211. First, I find the apology downplayed the gravity of what had occurred. It described the comments as intemperate and ill-chosen, which they were, but did not mention that

two of the comments were threats and that one of the threats used a figurative expression of metaphorical violence. More significantly, by stating that the Mayor did not regret responding, just the manner of responding, this statement omitted the important fact that the threats were made in response to something for which Councillor Bierk had already apologized three times.

212. Second, I find the formal statement wrongly implied that Councillor Bierk was partly to blame. Chair Beamer's determination that Councillor Bierk was out of order is binding on me, but Councillor Bierk's comment was made innocently, and being out of order is no reason to be threatened. Further, Councillor Bierk's innocent mention was related to a matter of public knowledge (see paragraph 177, above); this is an additional reason why the Councillor is not to blame for getting threatened.

213. Third, I find the prepared apology attempted to justify the Mayor's conduct. This is patently obvious from the content. "I thought that line was crossed ... I don't regret responding." By the time the "regret" and "turkey" threats were made, the Councillor had already retracted his words, and three times said he was sorry. Any justification had by then disappeared.

### *Peterborough Pickleball Association*

214. At the time of General Committee meeting, the Peterborough Pickleball Association was not a legal entity. "Peterborough Pickleball Association" was a registered business name belonging to an individual Peterborough resident.

215. Since 2023, the Peterborough Pickleball Association had a constitution and by-laws. The by-laws stated that the PPA was a not-for-profit corporation. It was not. At the time of the General Committee meeting and as recently as April 2025, the PPA remained an unincorporated entity and the registered name "Peterborough Pickleball Association" belonged to an individual operating as a sole proprietorship. Interestingly, the individual to whom the registered business name "Peterborough Pickleball Association" belongs has no involvement in the PPA or its operation.

216. These facts are not presented to denigrate the PPA or the manner in which it was organized. They are mentioned because they ground an important conclusion about the Mayor's wife financial interest, discussed at paragraph 223, below.

217. While the Peterborough Pickleball Association is not a legal entity (except as an individual's registered business name), it is an affiliated club of Pickleball Ontario<sup>65</sup> and

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<sup>65</sup> Pickleball Ontario is a not-for-profit corporation, incorporated in 2011 as Pickleball Association of Ontario and renamed in 2022.

Pickleball Canada.<sup>66</sup> Clubs re-affiliate with Pickleball Ontario and Pickleball Canada on an annual basis. It is required that all a club's members belong to Pickleball Ontario and Pickleball Canada.

218. To become a member of the PPA, one was required to join (or already belong to) Pickleball Ontario and Pickleball Canada and to pay a fee that was split among Pickleball Ontario, Pickleball Canada and the PPA. Registration and payment were processed through the Pickleball Canada website. At the time of the General Meeting giving rise to this inquiry, a combined adult fee of \$41.12 was allocated as follows: Pickleball Canada, \$10; Pickleball Ontario, \$10; PPA, \$20; processing, \$1.12.

219. The Bonnerworth Park redevelopment would not result in the PPA being the sole user of the pickleball courts. Like any other organization in the City, the PPA would be eligible to apply for permits (bookings) that would give it exclusive use of particular courts at particular times but, otherwise, the courts would be for the general use of all residents. It was expected that most of the time the new courts would be available for general community use. Further, exclusive-use bookings would not be free. Anyone, including the PPA, who books a City court or other City facility for exclusive use must pay for it.

220. The PPA was not going to contribute to the capital costs of construction. This was not unusual. Residents (except through their taxes) and community groups typically do not pay for municipal infrastructure that they subsequently will use.

221. At no time was it proposed or planned that someone would need to belong to the PPA to use the new Bonnerworth courts. As explained above, the courts would be available for general community use. When exclusive use would be booked, the PPA (or anyone who books the court) would pay for it.

222. For these reasons, I find that the PPA did not have a financial interest in the Bonnerworth Park redevelopment; the project would not benefit or affect the PPA financially. As for a non-financial interest, I find that the PPA's interest in Bonnerworth Park was no different than the interest that any community group has in municipal infrastructure the group might utilize in future. Access to the courts would not be a benefit for the PPA; it would be available to the entire community. For exclusive use, the PPA (and anyone else) would need to pay.

223. Unless the association's constating documents provide otherwise, the members of an unincorporated association share in its assets.<sup>67</sup> The PPA's constating documents do provide otherwise, stating that, on dissolution of the PPA, the Board will decide how to

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<sup>66</sup> The legal name of Pickleball Canada is Pickleball Canada Organization. It is a not-for-profit corporation, established in 2011.

<sup>67</sup> *Organization of Veterans of the Polish Second Corps of the Eighth Army v. Army, Navy & Air Force Veterans in Canada* (1978), 20 O.R. (2d) 321 (C.A.), at 338-9, per Blair J.A.; *TDSB and SCDSB v. OSBIE*, 2024 ONSC 2772 (CanLII), para. 58.

dispose of the assets.<sup>68</sup> Consequently, I find that, under the Code of Conduct, the Mayor's spouse would not share personally in any financial benefit to the PPA.<sup>69</sup> In any event, I have found that the PPA would obtain no financial benefit from the redevelopment. As for a non-financial benefit, I find that the Mayor's wife's interest in Bonnerworth Park was no different than any resident's interest in municipal infrastructure that the resident might utilize in future. Access to the pickleball courts would not be a benefit to the Mayor's spouse as it would be available to all residents on the same basis. If the Mayor's spouse ever partakes in the PPA's exclusive booking of a court, then it would be an exclusive booking for which the PPA has paid.

224. Finally, I find that the Mayor's occasional volunteering for the PPA, such as his service at the barbecue during the Steve Mayhew Memorial Smash, gave him neither a financial nor a non-financial interest in the PPA. He would enjoy neither a financial nor a non-financial benefit from the Bonnerworth Park redevelopment.

## PRELIMINARY ISSUES

### *Criminal Referral to the Police*

225. I took time to consider whether the evidence gave me a reasonable belief that a threat of bodily harm had been made. This was necessary because section 223.8 of the *Municipal Act* requires an Integrity Commissioner who determines there are reasonable grounds to believe that there has been a contravention of the *Criminal Code* or of a provincial Act, other than the *Municipal Conflict of Interest Act*, immediately to refer the matter to the appropriate authorities, to suspend the inquiry until the disposition of any resulting police investigation and charge, and to report the suspension to Council.

226. As explained in paragraph 84, above, when the Complaints were first reviewed, I found nothing in them to suggest that it was "reasonable ... to interpret" or was "reasonably believed" that the Mayor's words were actually a threat of physical force or physical harm under the *Occupational Health and Safety Act* and the Workplace Violence Prevention Policy. However, section 223.8 of the *Municipal Act* imposes an ongoing duty, as evidence is gathered in an inquiry, to assess whether there are reasonable grounds to believe that the *Criminal Code* or a provincial Act had been breached.

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<sup>68</sup> Peterborough Pickleball Association, By-Law Number 4, s. 7.

<sup>69</sup> This is not an inquiry into compliance with the *Municipal Conflict of Interest Act*, so the MCIA's deeming of the pecuniary interests of a body to be also the pecuniary interests of members of the body is not relevant. In any event, I have found that the PPA did not have a pecuniary interest in the Bonnerworth Park redevelopment.

227. Uttering a threat of serious bodily harm is an offence under section 264.1 of the *Criminal Code*. It is not necessary that the recipient of the threat taken it seriously or feel intimidated; it is sufficient that the maker of the threat intended that effect.<sup>70</sup>

228. The literal meaning of “carve you like a Thanksgiving turkey” is to do serious bodily harm, but that is not the end of the analysis.

229. According to the Supreme Court of Canada, “the nature of the threat must be looked at objectively; that is, as it would be by the ordinary reasonable person.”<sup>71</sup> This means someone, “who is objective, fully-informed, right-minded, dispassionate, practical and realistic.”<sup>72</sup>

230. Words do not constitute a threat if they were spoken in jest or were not meant to be taken seriously.<sup>73</sup>

231. Further, figurative expressions, not meant to be taken literally, do not constitute threats of bodily harm. Examples include, “throw under the bus,”<sup>74</sup> “I want to kill X,” “I’m going to kill X,”<sup>75</sup> and “blow X’s balls off.”<sup>76</sup>

232. Context is relevant. “[T]o determine if the threat was intended to be taken seriously or simply meant in jest or as a poor figure of speech,” all the circumstances must be considered.<sup>77</sup>

233. I weighed the evidence and whether I was required to suspend the investigation and to refer to the police. I concluded that there was no reason for me to believe a crime had been committed. I do not have a reasonable ground to believe that an offence under the *Criminal Code* or a provincial statute occurred.

234. At the same time, any Complainant (or any other person) who believes a crime was committed may take the matter directly to the police. Indeed, anyone who believes a crime occurred should report it to the police.

### *Deference to Presiding Officer (Chair)*

235. City Council has enacted two overlapping requirements:

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<sup>70</sup> *R. v. O'Brien*, 2013 SCC 2, [2013] 1 S.C.R. 7, para 13.

<sup>71</sup> *R. v. McCraw*, 1991 CanLII 29 (SCC), [1991] 3 S.C.R. 72, at 82.

<sup>72</sup> *R. v. McRae*, 2013 SCC 68 (CanLII), [2013] 3 S.C.R. 931, para. 14, quoting *R. v. Batista*, 2008 ONCA 804, 62 C.R. (6th) 376, paras. 23-24.

<sup>73</sup> *R. v. Clemente*, 1994 CanLII 49 (SCC), [1994] 2 S.C.R. 758, at 762, 763.

<sup>74</sup> *R. c. Simpson*, 2014 QCCQ 8973 (CanLII), paras. 138-149.

<sup>75</sup> *R. v. Pickton*, 2007 BCSC 799 (CanLII), para 47.

<sup>76</sup> *R. v. Walker*, 2001 CanLII 4590 (NL PC), paras. 9, 24.

<sup>77</sup> *R. v. Keating*, 1992 CanLII 2511 (NS CA).

- a. The Code of Conduct (section 9) says Members must comply with the Procedure By-law.
- b. The Procedure By-law (section 7.6) says members must comply with the Code of Conduct.

236. How are these requirements to be enforced? In my view, City Council could not possibly have intended duplication. Council could not have intended that the same matter would be dealt with twice, in separate processes, one during a meeting and one afterward. Consequences of duplication can include inefficiency, cost, and conflicting results.

237. This is why procedural matters arising at a meeting should be dealt with by the Chair and should not be the subject of an Integrity Commissioner inquiry, and why an Integrity Commissioner has no jurisdiction to interfere with a procedural ruling made during a meeting.<sup>78</sup>

238. Chair Beamer ruled that Councillor Bierk's mention of the Mayor's wife was out of order. He also ejected an individual from the gallery. These were solely the Chair's decisions to make<sup>79</sup> and I must express no opinion on them. "An Integrity Commissioner should not assume procedural powers that belong to committee chairs."<sup>80</sup> (A few municipal Integrity Commissioners try to insert themselves into how meetings are conducted<sup>81</sup> but, for obvious, common-sense reasons, interfering in the determinations of presiding officers is outside our jurisdiction.<sup>82</sup>) I am not the only one bound by Chair Beamer's determinations; the other Council Members were also. As I discuss below, at paragraphs 271 and 281, responding to Councillor Bierk and dealing with the disturbance in the gallery were the responsibilities of the Chair and not of anyone else at the table.

239. More generally, this case raises the question of the extent to which the Code of Conduct should govern, and an Integrity Commissioner should be able to police, comments made during a meeting. There are sound reasons to limit Integrity Commissioner inquiries and the Code of Conduct to matters that are not already covered by the Procedure By-law and the role of the presiding officer (*i.e.*, Head of Council or Committee Chair).

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<sup>78</sup> *Ayotte v. Akapo*.

<sup>79</sup> A ruling of the Chair is subject to appeal under section 18 of the Procedure By-Law, By-Law Number 21-104. In this case, no appeal was made.

<sup>80</sup> *Stewart v. Meadows*, 2021 ONMIC 17 (CanLII), para. 68.

<sup>81</sup> For example, City of Burlington, *Re Leblovic* (April 6, 2023), in which the Integrity Commissioner claimed jurisdiction over a committee of adjustment on issues of hearsay evidence, the introduction of evidence, and irrelevant considerations.

<sup>82</sup> *Ayotte v. Akapo et al.*, 2022 ONMIC 8 (CanLII), paras. 66-72; City of Toronto, *Report from the Integrity Commissioner on Violation of Code of Conduct: then-Mayor Rob Ford* (September 22, 2015), Integrity Commissioner Valerie Jepson, at 10.

240. The *Municipal Act* and municipalities' procedure by-laws give presiding officers the authority to handle breaches of decorum and improper behaviour as and when they occur. For example, the City of Peterborough Procedure By-law provides the following:

- a. The Chair's duties include enforcing the observance of order and decorum (section 5.5) and restraining Members within the rules of procedure (section 5.4).
- b. In the event of grave disorder, the Chair may suspend or recess a sitting (section 5.8).
- c. The Chair has the power to expel, for the duration of the meeting, a Member who persists in disobedience (section 7.5).
- d. An apology for disobedience must be acceptable to the Chair (section 7.5).
- e. No Member may use offensive or unparliamentary language against another (section 7.2), focus on personalities instead of issues (section 7.3), or question motives (section 7.3).
- f. No Member may interrupt another (section 15.4).
- g. Any Member may rise on a point of order to bring attention to the use of abusive language (section 28.2), or any breach of the procedural rules (section 28.1).
- h. No other business shall be conducted until the Chair has decided the point of order (section 28.5). The Chair's decision is final except in the case of an appeal to Council, in which case the decision of Council is final (sections 28.7, 28.8).

241. After-the-fact complaints to Integrity Commissioners are less helpful than having misconduct handled immediately, that is, during the meeting when it occurs. Council is well placed to address something that it has just experienced – better positioned, it can be argued, than following an investigation and report. Further, *ex post facto* involvement of Integrity Commissioners is inconsistent with the finality of chairs' rulings and the authority of municipal councils to control and to regulate their own proceedings.

242. As I observed in *Ayotte v. Akapo* (2022), Integrity Commissioners in the City of Toronto have consistently taken the position that they do not have jurisdiction over what occurs during Council and committee meetings. Professor David Mullan, the first municipal Integrity Commissioner ever appointed in Canada, noted that each procedure by-law provides a clear mechanism for enforcing order and conduct rules during meetings. Integrity Commissioner Mullan concluded:

In general, the Integrity Commissioner does not have authority under the Code of Conduct to review complaints about the behaviour of Councillors at Council and Committee meetings. The behaviour of Councillors at Council, while regulated by the Code of Conduct, is the responsibility of



Council (acting primarily through the Mayor or his deputy). Absent a resolution of Council requesting the Integrity Commissioner to become involved, this self-policing is part of the statutory rights and privileges of Council.<sup>83</sup>

243. Subsequently, Toronto's Interim Integrity Commissioner Lorne Sossin<sup>84</sup> (now Justice Sossin), Integrity Commissioner Janet Leiper<sup>85</sup> (now Justice Leiper), and Integrity Commissioner Valerie Jepson<sup>86</sup> all declined to exercise jurisdiction over Council Members' conduct during meetings. As Integrity Commissioner Jepson explained:

The strong policy principle behind this approach is that the Integrity Commissioner ought not to interfere with the conduct and management of any particular meeting. This makes good sense. The Speaker, or any Chair of a meeting, requires a certain degree of autonomy to ensure that a meeting is conducted in accordance with the procedural bylaw and as specifically stated therein, to oversee order and behaviour of members (s. 27-43(C)). ... There would be little gained by a subsequent referral to the Integrity Commissioner to review the actions.<sup>87</sup>

244. The Toronto line of cases has been followed in Peterborough and in many other municipalities, where it has been held that an Integrity Commissioner lacks jurisdiction over conduct at a meeting, unless a Council, in the clearest of language, confers that authority.<sup>88</sup>

245. Peterborough has not experienced many, indeed, any, Code of Conduct complaints about language used during meetings. On the other hand, in some other municipalities, such complaints are extremely common, and they tie up resources. The experiences of these communities show that it is important to avoid setting a precedent that would undermine or displace the primary responsibility of Chairs to maintain order and decorum.

246. In my view, the appropriate interpretation that reconciles section 9 of the Code of Conduct and section 7.6 of the Procedure By-law is as follows. First, procedural matters arising at a meeting should be dealt with by the Chair and should not be the subject of an Integrity Commissioner inquiry under the Code of Conduct. Second, a procedural ruling made during a meeting is final, and an Integrity Commissioner has no jurisdiction to

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<sup>83</sup> City of Toronto, Report on Complaint (April 6, 2005), Integrity Commissioner David Mullan, at 4.

<sup>84</sup> City of Toronto, Integrity Commissioner Annual Report-2009 (July 29, 2009), Interim Integrity Commissioner Lorne Sossin, at 12.

<sup>85</sup> City of Toronto, Integrity Commissioner Annual Report-2010 (June 28, 2010), Integrity Commissioner Janet Leiper, at 4.

<sup>86</sup> Integrity Commissioner Valerie Jepson, note 82.

<sup>87</sup> *Ibid.* Note that in Toronto a Speaker chairs meetings of Council.

<sup>88</sup> *Miller v. Bath-Hadden*, 2020 ONMIC 12 (CanLII), para. 61; *Dhillon v. Moore*, 2018 ONMIC 15 (CanLII), paras. 73-82; *Moore v. Maika*, 2018 ONMIC 7 (CanLII), paras. 64-73; *Re Kett (No. 2)*, 2017 ONMIC 14 (CanLII), para. 18.

interfere with it or to entertain a complaint about it. Third, meeting issues that are explicitly covered in the Procedure By-law (for example, offensive words, unparliamentary language, personal attacks, questioning motives) should not be the subject of Integrity Commissioner inquiries because they should be addressed by Chairs. Fourth, a meeting issue not covered by the Procedure By-law can be the subject of a Code of Conduct complaint to the Integrity Commissioner. Fifth, despite the foregoing, the Integrity Commissioner may consider any question that Council specifically refers to the Commissioner.

247. In this case, much of what the Mayor said to Councillor Bierk fell squarely within the scope of the Procedure By-law and the Chair's authority, and Chair Beamer exercised that authority when he repeatedly called the Mayor to order. The Chair did not consider it necessary to employ the maximum extent of his power (removing a Council Member from the meeting), but he possessed that power, and his choices in maintaining order fell within his discretion.

248. The original issue stated in the Notice of Inquiry (Collective Complaints) was whether the Mayor treated Councillor Bierk with **abuse** or **intimidation**. This inquiry has established that abusive language is covered by the Procedure By-law and the Mayor's use of abusive language was covered by Chair Beamer's handling of the situation to maintain order. For the reasons set out above, I am not going to make a duplicative, redundant finding on abusive language.

249. Threats are a different matter. Threats are not mentioned in the Procedure By-law. The Committee Chair maintained order and decorum, but the alleged threats were not the subject of any ruling. Consequently, an inquiry into the specific issue of the alleged threats would be consistent with Council's intention not to duplicate the roles of the Integrity Commissioner and the Chair. Even though the alleged threats were made at a meeting, it is appropriate to consider them under section 10 of the Code of Conduct.

250. A similar analysis applies to section 29 of the Code. Allegedly using one's office for private advantage is not covered by the Procedure By-law and is a matter outside the responsibility of the Chair. It falls within the purview of an Integrity Commissioner.

## ISSUES AND ANALYSIS

251. I have considered the following issues:

- A. Did the Mayor breach paragraph 29 a) of the Code by attempting to influence the General Committee's decisions on the April 2 Bonnerworth Park pickleball court votes, in particular, on Councillor Lachica's motion and on the amendment to Councillor Lachica's motion, for private advantage? The issue arises in the following context: The Mayor's

alleged sponsorship of, and/or financial contribution to, the Peterborough Pickleball Association; the Mayor's spouse's alleged membership in the Peterborough Pickleball Association.

- B. On April 2, did the Mayor breach section 10 of the Code by treating Councillor Bierk with abuse or intimidation?
- C. On April 2, did the Mayor breach section 10 of the Code by bullying or intimidating Councillor Lachica?

**A. DID MAYOR BREACH PARA. 29 A) BY ATTEMPTING TO INFLUENCE GENERAL COMMITTEE'S APRIL 2 PICKLEBALL COURT DECISION FOR PRIVATE ADVANTAGE?**

252. No.

253. The relevant portions of section 29 of the Code (as well as section 30, which helps to interpret section 29) are as follows:

29. No Member may use the influence of her or his office for any purpose other than for the lawful exercise of her or his official duties and for City purposes. Without limitation, no Member may:

- a) use her or his office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage or that of the Member's parent, child, spouse, staff member, friend or associate, business or otherwise ...

...

30. For the purposes of section 29, "private advantage" does not include:

- a) a matter that is of general application;
- b) a matter that affects a Member, her or his parents/children or spouse, staff members, friends or associates, business or otherwise as one of a broad class of persons ...

254. What constitutes private advantage in section 29 is not defined, though section 30 identifies what does not constitute private advantage.

255. I do not agree that "private advantage" is limited to pecuniary (financial) matters. Private advantage certainly includes pecuniary interest, but it is a more expansive term that might also encompass non-financial interests.<sup>89</sup> The ordinary meaning of the word

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<sup>89</sup> *Re Voyageur Days Festival Committee*, 2024 ONMIC 3 (CanLII), para. 137.

“advantage” is not limited to finances.<sup>90</sup> Furthermore, section 28 of the Code refers to “personal financial gain,” suggesting that, when a pecuniary interest is meant, the Code explicitly refers to finances.

256. Even under a broad interpretation of private advantage, one not limited to pecuniary matters, I find that the Mayor was not acting for the private advantage of himself or his wife.

257. The Mayor’s occasional volunteer service to the PPA did not give rise to a financial or non-financial interest in the PPA or a financial or a non-financial benefit from the Bonnerworth Park redevelopment. Simply put, decision making on Bonnerworth did not involve his private advantage.

258. Decision making on Bonnerworth also did not involve a private advantage of the Mayor’s wife. She would be affected no differently than any other resident, and the PPA would be affected no differently than any other community group. The new pickleball courts would be accessible to the entire community, regardless of membership or lack of membership in the PPA. If the PPA ever booked exclusive use of a particular court, then it would do so on the same basis as anyone else, and it would pay. (See paragraphs 219-223.)

259. In my view, the argument that the Mayor could not take part in the decision on Bonnerworth Park is as flawed as an argument that swimmers cannot participate in decisions on pools and hockey players cannot vote on ice pads. Section 30 of the Code excludes from “private advantage” a) a matter of general application and b) a matter affecting a broad class of persons. Municipal infrastructure falls under a). It is of general application because it is available to the entire community. Sidewalks and paths are available to everyone, not just those who travel them; public transit is available to everyone, not just today’s riders; parking lots are for the benefit of everyone, not just people who happen to drive. Generally available municipal infrastructure must be seen as a matter of general application.

260. Usage numbers do not alter this conclusion. Perhaps swimmers or skaters are currently more numerous than pickleball players. Perhaps not. It does not matter, because pools, ice pads and pickleball courts are all generally available infrastructure that anyone can use.

261. The alternative would be to assess whether a Council Member possesses a “private advantage” based on number and degrees of usage: *e.g.*, how many people use baseball diamonds and is their use regular, frequent, occasional, seldom or never? This

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<sup>90</sup> Definitions include “benefit or gain” (Britannica Dictionary), “benefit, gain” (Merriam-Webster), “a condition that helps you or gives you a greater chance of success” (Cambridge Dictionary), “the state of being in a better position than others who are competing against you” (Collins), and “the opportunity to gain something; benefit or profit” (Oxford Languages).

would be both unworkable and unrealistically inflexible. Unworkable, because every individual usage pattern will be different, making it impossible to group people into “broad classes.” Unrealistically inflexible, because residents’ uses of infrastructure are not static. Today’s driver may ride transit tomorrow, while a regular transit user might sometimes, or in future, park a vehicle in a municipal lot. The non-user of a pool or an ice pad could at some point take up (or resume) swimming or skating or might start to attend the facility with children or grandchildren. The Peterborough pickleball community in April 2024 was not the same as it is now in 2025, nor what it will be in 2026 and beyond. People can change their minds, change their practices, start using, and stop using. The only appropriate classification of municipal infrastructure is as a resource of general benefit, generally available to the general community, regardless of who happens to be using it the most at a particular moment in time.

**B. DID MAYOR BREACH S. 10 BY TREATING COUNCILLOR BIERK WITH ABUSE OR INTIMIDATION?**

262. In relation to intimidation, yes. The Mayor’s threats were intimidation, and they contravened section 10.

263. The relevant portion of section 10 is as follows:

10. Each Member has the duty and responsibility to treat members of the public, each other Member and staff appropriately and without abuse, bullying or intimidation ...

264. The Code of Conduct does not define **intimidation**, but the ordinary meaning of the word is often linked to threatening and/or fear:

- a. “the action of frightening or threatening someone, usually in order to persuade them to do something that you want them to do” (Cambridge Dictionary)
- b. intimidate: “to make timid or fearful; especially: to compel or deter by or as if by threats” (Merriam-Webster)
- c. “the act of making someone timid or frightened; the act of discouraging, restraining, or silencing someone illegally or unscrupulously, as by threats or blackmail” (Collins Dictionary)
- d. “the act of frightening or threatening somebody so that they will do what you want” (Oxford Learner’s Dictionaries)
- e. “the act or process of attempting to force or deter an action by inducing fear” (Dictionary.com)

265. The Mayor’s “turkey” comment was a figurative expression that was not meant or reasonably interpreted as a threat of violence or physical harm.

266. Nonetheless, intimidation is not confined to physical threats.

267. The “regret” and “turkey” comments, taken together, were reasonably understood to threaten consequences for having angered the Mayor by mentioning the Mayor’s wife. Certainly, Councillor Bierk took the comments that way, and he was intimidated.

268. Consequently, the Mayor’s “regret” and “turkey” together constituted intimidation according to the ordinary meaning of the word (see paragraph 264) and as used in section 10 of the Code.

269. In his response to the draft report, the Mayor states his belief that Councillor Bierk was not intimidated. In a physical sense, that observation is correct, but intimidation is not necessarily physical (see paragraph 266). I appreciate that the Mayor did not then, and does not now, feel that his conduct was intimidating, but the evidence indicates that it was.

270. I accept that Mayor Leal felt great stress and that this contributed to his overreaction. (His comments to Councillor Bierk were made before people in the gallery started to heckle the Mayor and to interrupt him, but he notes that protesters outside were criticizing him even before the meeting started.) However, the impact of stress must be considered in the context of my conclusion: I have not made findings on the Mayor’s choice of words, which was handled by Chair Beamer under the Procedure By-law when he called the Mayor to order. I have made a finding of intimidation, which falls outside the rules of procedure and the duties of the Chair. Stress might or might not help to explain the use of intemperate language, but it is less helpful in explaining intimidation and the making of threats.

271. The same applies to the argument that Councillor Bierk was partly to blame. Councillor Bierk was called to order for mentioning the Mayor’s wife, but he did not invite, nor was he deserving of, being intimated and threatened. See paragraphs 211-213 above. Further, it was up to the Committee Chair to call Councillor Bierk to order, which Chair Beamer did. As responding to the Councillor’s use of the Mayor’s wife’s name was the Chair’s sole responsibility, further intervention (especially threatening) on the same point was unjustified.

272. Finally, I note that the first threat was made after Councillor Bierk had already apologized three times.

### **C. DID MAYOR BREACH S. 10 BY BULLYING OR INTIMIDATING COUNCILLOR LACHICA?**

273. Yes. What happened following the General Committee meeting was bullying.

274. The relevant portion of section 10 has been reproduced at paragraph 263.

275. The Code of Conduct does not define either bullying or intimidation. In my view, bullying better describes what occurred.

276. The ordinary meaning of intimidation is set out at paragraph 264, above. Generally, intimidation is threatening or frightening people to make them act or to deter them from acting in certain ways. In other words, intimidation has a purpose. The Mayor's treatment of Councillor Lachica certainly was frightening, but it did not seem to be directly toward a particular outcome. It seemed to be based more on things than had already occurred, than on trying to coerce the Councillor's future action.

277. Bullying, on the other hand, is not necessarily purposive. In 2012, the Supreme Court of Canada approved of the following definition of bullying (drawn from a Nova Scotia provincial report):

behaviour that is intended to cause, or should be known to cause, fear, intimidation, humiliation, distress or other forms of harm to another person's body, feelings, self-esteem, reputation or property. Bullying can be direct or indirect, and can take place by written, verbal, physical or electronic means, or any other form of expression.<sup>91</sup>

278. The above definition has subsequently been used in other court cases.<sup>92</sup> In the absence of a definition in the City's Code of Conduct, it is the appropriate meaning to apply here.

279. In his May 13 reply to my draft, the Mayor observes that the Supreme Court of Canada, in applying the definition of bullying, omitted the first line of the source report's definition: "Bullying is typically a repeated behaviour ...". The Mayor is correct. The source report does define bullying to consist *typically* of repeated behaviour.<sup>93</sup> However, "typically" does not mean always. For example, the case in which the Supreme Court of Canada applied the definition involved a single instance.<sup>94</sup> Having reviewed the case law, I am satisfied that an "instance" or "incident" of bullying is a recognized concept.<sup>95</sup> Further, considering the context in which the Code of Conduct uses the word "bullying," I

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<sup>91</sup> *A.B. v. Bragg Communications Inc.*, 2012 SCC 46 (CanLII), para. 21, adopting the definition in *Respectful and Responsible Relationships: There's No App for That: The Report of the Nova Scotia Task Force on Bullying and Cyberbullying* (2012), at 42-43.

<sup>92</sup> *R. v. A., B., and C.*, 2019 ONCJ 949 (CanLII), para. 60; See also: *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43 (CanLII), at para. 195, per Abella and Kasirer JJ., dissenting.

<sup>93</sup> *Respectful and Responsible Relationships*, note 91, at 42, online: <https://digitalcommons.schulichlaw.dal.ca/cgi/viewcontent.cgi?article=1016&context=reports>

<sup>94</sup> The case involved one fake Facebook profile: *A.B. v. Bragg Communications Inc.*, 2010 NSSC 215 (CanLII), para. 5.

<sup>95</sup> *Peterborough Regional Health Centre v. O.N.A.* (2012), 219 L.A.C. (4th) 285 (Starkman), para. 115; *Re City of Edmonton and Amalgamated Transit Union, Local 569* (1985), 23 L.A.C. (3d) 76 (D.R.G. Thomas, Chair), at 78; *Esco A Weir Group Company v. United Steelworkers Local 7175-03*, 2024 CanLII 131956 (ON LA), para. 142; *Re WCAT-2015-00535*, 2015 CanLII 42627 (BC WCAT), para 66; *Re A1902144*, 2020 CanLII 46422 (BC WCAT), para. 65.

believe the better interpretation is that, at least sometimes, section 10 covers an instance of bullying.<sup>96</sup>

280. I find that Mayor Leal's angry, raised-voice confrontation with Councillor Lachica following the General Committee constituted bullying according to this definition. What happened should have been known to cause fear, humiliation and distress to Councillor Lachica. The confrontation should have been expected to leave the Councillor shaken and upset. In fact, the Mayor's confrontation had these effects.

281. Chair Beamer had been responsible for maintaining order and decorum at the General Committee meeting, and he did so. How he handled the meeting, and the choices he made, lay within his authority, were final (subject to an appeal, which was not taken), and cannot be disturbed in this inquiry. Consequently, placing Councillor Lachica in the difficult position of defending something for which she was not responsible should have been known to cause her distress.

282. The Supreme Court of Canada has also acknowledged that bullying traditionally involves a power imbalance between bully and victim. (Cyberbullying and other anonymous forms of bullying are exceptions.)<sup>97</sup> Several courts and tribunals agree that bullying exploits a power dynamic.<sup>98</sup>

283. The incident in the corridor occurred in the context of a power imbalance that is a hallmark of bullying. The Mayor is more powerful than a Councillor. In a strictly legal sense, this has been the case since October 31, 2023, when Ontario Regulation 331/23 added Peterborough to the list of municipalities subject to "strong mayor powers." The Mayor's powers include the direct appointment of the chairs and vice-chairs of committees.<sup>99</sup> (Even before that date, a Mayor possessed the practical ability to make decisions affecting Councillors, such as the assignment of portfolio responsibilities and committee and board memberships, albeit always subject to Council's approval.)

284. Compounding the corridor incident was the Mayor's upholding of the same position six days later. If the Mayor was unaware of the impact of the April 2 incident on Councillor

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<sup>96</sup> Section 10 of the Code begins: "Each Member has the duty and responsibility to treat members of the public, each other Member and staff appropriately and without abuse, bullying or intimidation ..." First, it makes sense to interpret "abuse," "bullying" and "intimidation" consistently: *Piekut v. Canada (National Revenue)*, 2025 SCC 13 (CanLII), para. 98. Repetition or pattern is implicit either in each of these words, or in none of them. Given that the context is a rule to treat people "appropriately," it could not have been City Council's intention to proscribe abuse, bullying and intimidation only when present in multiple instances.

<sup>97</sup> *A.B. v. Bragg Communications Inc.*, note 91, para. 22, again adopting *The Report of the Nova Scotia Task Force on Bullying and Cyberbullying*, at 11-12.

<sup>98</sup> *R. v. A., B., and C.*, note 92, para. 61; *Ontario Public Service Employees Union (Fortin) v. Ontario*, 2017 CanLII 16719 (ON GSB), para. 163; Decision No. 2157/09, 2014 ONWSIAT 938 (CanLII), para. 254; *X v. Canada Employment Insurance Commission*, 2019 SST 1431 (CanLII), para. 35.

<sup>99</sup> *Municipal Act*, s. 284.8.



Lachica, then she made him aware on April 8. By doubling down on his earlier comments, he reinforced the bullying.

285. I accept that the Mayor was unaware that Councillor Lachica had not heard what was said from the gallery, but that does not alter my conclusion. The pressure on Councillor Lachica to explain that she had not heard, and in so doing to disclose medical information that was personal to her, was humiliation that fits the Supreme Court of Canada definition of bullying.

286. I also accept that the Mayor may have believed Councillor Lachica to be responsible for the presence of people in the gallery. I have found that the Councillor did not solicit or recruit people's attendance; on this topic, residents were already motivated to show up. However, I need to stress that even if Councillor Lachica *had* mobilized attendance at the meeting, then my conclusions would remain the same: she would not under any circumstances have been responsible for what constituents did. Peterborough is a democracy. Constituents are not accountable to Councillors or subject to their control. On the contrary, Councillors represent and are accountable to their constituents. The suggestion that a Councillor is responsible for the actions of constituents inverts how democracy works.

287. Councillor Lachica has raised additional examples of contraventions of section 10, extending into this year. Both she and the Mayor have addressed these alleged contraventions. (I have summarized their positions on these points very generally, in paragraphs 144 and 147, above.) The Mayor's feedback on the draft of this report also refers to recent events. Because of how I have interpreted bullying in section 10 of the Code, I have been able to reach a conclusion based on the events of April 2 and April 8, without dealing with allegations that extend into 2025. These recent examples are sufficiently different from what happened in April last year that I have not addressed them in this report but reserve the right to do so in a subsequent report.

288. In his feedback on the draft report, the Mayor suggests witnesses and an investigative approach that would enable me to make broad findings on these issues up to the present day. I will consider his suggestion should a broad inquiry be appropriate.

## CONCLUSIONS AND IMPLICATIONS

289. The Mayor did not contravene section 29 of the Code. Decision making on Bonnerworth Park did not involve a private advantage of him or his wife.

290. The Mayor contravened section 10 the Code of Conduct in relation to Councillor Bierk and, separately, in relation to Councillor Lachica.

## RECOMMENDATIONS

291. Under section 223.4 of the *Municipal Act*, the role of the Integrity Commissioner is to determine whether, in the Commissioner's opinion, a Member has contravened the Code of Conduct. If the Code has been contravened, then the role of the Council is to determine the penalty, if any.

292. The decision on penalty belongs entirely to the Council. The Integrity Commissioner does not determine the penalty.

293. In the event of a contravention, the Council may choose to do nothing, or it may impose one of two penalties (but not both): reprimand, or pay suspension (up to 90 days).

294. The complete range of penalty options (for each contravention) is:

- a. No penalty
- b. Reprimand
- c. Pay suspension (up to 90 days)

295. In addition to imposing a penalty, the Council may also adopt one or more remedial measures.

296. Additional steps taken by Council are limited to remedial measures and cannot include penalties. The Divisional Court has made clear that under the *Municipal Act* a Council lacks the power to impose penalties not listed in subsection 223.4 (5) (those listed in paragraph 293, above).<sup>100</sup>

297. A Council may take non-punitive and remedial action, such as requesting an apology or asking someone to return City property being used improperly, but if the objective is to penalize, then the only options are a reprimand and a suspension of pay.

298. The Divisional Court has also stressed that a measure cannot be justified as remedial when it is actually used for a punitive purpose. For example, if the purpose of a measure is to send a message denouncing the contravention that occurred, or to deter future contravention, then the measure is punitive and (unless it is a reprimand or a suspension of up to 90 days' compensation) it lies outside of a Council's authority.<sup>101</sup>

299. In *Dhillon v. Brampton*, the Court described appropriate remedial measures as follows: "They were responsive to the misconduct in question, have remedial rather than

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<sup>100</sup> *Magder v. Ford*, 2013 ONSC 263 (CanLII), paras. 66-70; *Altmann v. Whitchurch-Stouffville (Town)*, 2018 ONSC 5306 (CanLII), paras. 45-46; *Dhillon v. Brampton (City)*, 2021 ONSC 4165 (CanLII), para. 86-99.

<sup>101</sup> *Magder v. Ford*, para. 68.

punitive characteristics, strive to redress the harm caused by [the Member's] misconduct, and seek provide a way to prevent a recurrence of [the Member's] conduct."<sup>102</sup>

300. In *Altmann v. Whitchurch-Stouffville*, the Court suggested that the following might be characteristics of appropriate remedial measures: The measures possess remedial characteristics; they remedy the contravention; they remedy the relationship between the Member and the aggrieved individuals (this was a harassment case); they provide a remedial path to find a solution to end the Member's inappropriate conduct.<sup>103</sup>

301. The Code of Conduct does not provide for me to recommend a penalty but does provide that I may recommend remedial measures.

302. One remedial measure that Council might wish to consider would be the following: Asking Mr. Ewart, the Integrity Commissioner responsible for Advice, to provide focused training related to harassment, abuse, bullying and intimidation and other issues arising from this report.

303. Council might also consider amendments to the Code of Conduct.

304. First, it might be useful to add a definition of **bullying**.

305. Second, it might be useful to reconcile section 9 of the Code of Conduct and section 7.6 of the Procedure By-law by formally distinguishing what meeting conduct is the responsibility of a Chair and what meeting conduct is the responsibility of the Integrity Commissioner, perhaps as set out in paragraph 246, above.

306. Third, in the course of this inquiry, I have noted that the language of section 29 and related provisions is unclear and somewhat inconsistent. The Code uses at least seven different terms to refer to related concepts: **private advantage** (used only in sections 29 and 30, already discussed), **private interest** (used once), **private gain or benefit** (used twice), **future advantage** (used once), **personal benefit** (used once), **personal or private gain or benefit** (used twice), and **personal financial gain** (used once). None of these terms is defined, though section 30 lists what private advantage is not. The adjectives **private** and **personal** appear to be used sometimes interchangeably and sometimes to mean different concepts. Inconsistent use of different terms with similar meanings can result in ambiguity and potential gaps. I suggest that the Code use fewer terms consistently and more precisely.

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<sup>102</sup> *Dhillon v. Brampton*, para. 95.

<sup>103</sup> *Altmann v. Whitchurch-Stouffville*, para. 44.

## CONTENT

307. Subsection 223.6 (2) of the *Municipal Act* states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Guy Giorno', with a stylized, flowing script.

Guy Giorno  
Integrity Commissioner  
City of Peterborough

May 26, 2025

# APPENDIX

## Transcript of Portion of General Committee Meeting (April 2, 2024)

Prepared by Integrity Commissioner based on audio-video recording.<sup>104</sup>

Start: 2:08:09

**Coun. Bierk:** Over 50 per cent of the park is going to be kept to a very niche group of people that are going to use it. And let's not get it twisted. No one. I'm not against pickleball. Karan Leal is going to lend me her racquet. I love it. I see them play at the Y –

**Mayor Leal:** [inaudible]

**Coun. Bierk:** Uh, I.

**Chair Beamer:** OK, Coun –

**Mayor Leal:** – my wife's name –

**Coun. Bierk:** I meant that in a positive way.

**Chair Beamer:** OK.

**Coun. Bierk:** I'm sorry.

**Chair Beamer:** So, so, so, Mayor Leal. Councillor Bierk, so, we don't want to mention –

**Coun. Bierk:** Yeah, I'm –

**Chair Beamer:** – spouses, partners, family members, anything like that.

**Coun. Bierk:** – sorry.

**Chair Beamer:** OK? So it's, it's –

**Coun. Bierk:** I crossed –

**Chair Beamer:** Councillor Bierk.

**Coun. Bierk:** I didn't mean to cross the line. I was trying to acknowledge the fact that I personally am very excited about pickleball. I go to the YMCA, and I see them playing, and I'd be, I'd be interested in getting into it, and I've

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<sup>104</sup> Even when the audio was enhanced, many of the comments made when microphones were not active remained inaudible. The source of inaudible comments was determined based partly on video review (of moments when the camera captured the whole Committee) and partly on use of an audio visualizer that visually represents audio data. This tool provided information about the source of inaudible comments but not the words spoken.

talked to people that play about getting into it. But, but this is not what's being proposed. And we covered a lot of ground at that October Council meeting where no one ever – that, that we didn't see implemented in the site fit, right? And the thing about Councillor Lachica's motion is that it's not anti-pickleball. It's not anti-redevelopment at Bonnerworth, right? What it is, is saying that, "oh, wow, we've seen the actual project tangibly and now we need to rethink it, because it's way different than most of us expected what it would look like, right?" And so instead of us as Council people making that decision for staff or for the subject matter experts, Councillor Lachica's motion is just asking staff to come back.

Those baseball diamonds have been there for 70 years. The tennis courts have been there as long as I've been alive, and, I – as, as long as I've been alive – and I'm not going to be rushed into making a decision because of some imposed urgency, right? And I do take to heart the feedback from the neighbourhood. We had to have a staff member stand up on a chair to control the crowd, you know? And again, I apologize because I was defending the project, because I was one of those people that was very excited about it, and, and I still continue to be excited about it. And I was defending it to people who had seen the site fit. And I had to spend a couple days afterward taking back my words and calling people and tracking them down because by the end of the night, I got around to the charrette, and I saw what you all were so upset about, right?

And so, I do support this motion. I support it because I believe that there is a better option out there that's going to work for everybody.

I apologize to Mayor Leal. I did not mean anything personal by that. I meant it in – meant it in a positive –

**Mayor Leal:** [inaudible]

**Coun. Bierk:** Well, you did address it, thank you. I meant it in a positive way. And I do believe that given the scope of building a site for pickleball people that is going to support national tournaments, I think there's a better spot for this than Bonnerworth. Thank you.

**Chair Beamer:** All right thank you, Councillor Bierk. And, again, colleagues –

**Coun. Bierk:** [inaudible] – shouldn't have said anything.

**Chair Beamer:** All right, Mayor Leal. So, Councillor Bierk, we've addressed it.

**Coun. Bierk:** [inaudible]

**Chair Beamer:** OK, folks.

**Mayor Leal:** [inaudible]

**Chair Beamer:** We're just going leave it at that. Mayor Leal, we'll just leave it at that.

**Coun. Bierk:** What do you mean by that?

**Chair Beamer:** No, we'll just leave it at that.

**Coun. Bierk:** I just heard, he said, I'm going to regret I ever said that.

**Chair Beamer:** I'm just going to make a few comments. We need –

**Coun. Bierk:** I've said a few times that I take it back. I am learning how to work here. I meant it in a positive way. Is there something I need to know?

**Chair:** No. No. So, just, friendly reminder to everyone: We don't want to make comments about people's families, kids, children, anything like that. That does cross the line. OK?

End: 2:11:15