



## Local Governance Commission of New Brunswick

### Code of Conduct Complaint Decision:

#### A. MacGregor (Complainant) and Council of the Rural Community of Strait Shores (Respondent)

##### Parties:

**Complainant:** Andrew (Andy) MacGregor

**Respondent(s):** Strait Shores Council (Deputy Mayor/acting Mayor Annamarie Boyd and Councillor Tanya Haynes)\*

\*Former Councillor Stacey Jones took part in the decisions in this matter, but is no longer a councillor, as she subsequently resigned.

##### **Decision:**

This decision is rendered in accordance with section 43 of the *Local Governance Commission Act*.

The Local Governance Commission of New Brunswick (the Commission) finds that the Respondents (Deputy Mayor/acting Mayor Annamarie Boyd and Councillor Tanya Haynes) have violated sections 4 (complaints) and 5 (sanctions) of the Strait Shores By-Law 2022-02, a Code of Conduct By-Law for the Council of Strait Shores (the Code of Conduct By-Law).

Further, the Commission finds that the Respondents' breaches of the Code of Conduct By-Law were not malicious, but rather, the result of a lack of understanding of the principles of procedural fairness and the requirements set out in the Code of Conduct By-Law.

As the sanctions available to the Commission under section 43 of the *Local Governance Commission Act* are not appropriate in the present case, the Commission recommends that the entire Strait Shores council, including Complainant MacGregor, undertake code of conduct, governance, and procedural fairness training. As this is not a sanction available under section 43, this recommendation is not legally binding on the parties.

In addition, as no formal complaint was filed with the Respondents against Complainant MacGregor, the Commission recommends that Complainant MacGregor's suspension be lifted. Again, as this recommendation is not a remedy available under section 43 of the *Local Governance Commission Act*, this recommendation is not legally binding on the parties.

As both recommendations are not sanctions available under section 43 of the *Local Governance Commission Act*, the Commission cannot impose these recommendations by way of an order, which is why they are recommendations.

## Facts:

The Local Governance Commission of New Brunswick (the Commission) is not an appeal body and looks at all complaints from a *de novo* perspective. This means that the Commission looks at all complaints from a new perspective with fresh eyes.

The Complainant, Councillor Andrew MacGregor (Complainant MacGregor), alleges a violation of the Strait Shores By-Law 2022-02, a Code of Conduct By-Law for the Council of Strait Shores (the Code of Conduct By-Law) by the Respondents.

The Commission's staff review of this complaint revealed the following information:

- The Strait Shores Code of Conduct By-law provides under subsection 4(b):

### "4. Complaints

- b) The report or complaint shall be in writing outlining the nature and specifics, be dated, include a name of the complainant, signed, addressed to the Mayor (or in the case of a perceived wrongdoing of the Mayor, to the Deputy Mayor), and marked "confidential". The complaint may be mailed, emailed, or hand-delivered to the municipal office. All received complaints shall be included in the in-camera session of a regular Council meeting for Council's perusal upon receiving it."

Section 5 of the Strait Shores Code of Conduct By-law, provides that:

### "5. Sanctions

Council may impose sanctions on a Councillor who contravenes the Council Code of Conduct in the following forms:

- i. A letter of reprimand;
  - ii. Requesting a letter of apology;
  - iii. Requesting to attend training;
  - iv. Suspension or removal of the Mayor or Deputy Mayor as official spokesperson for the Council;
  - v. Suspension or removal from some or all Council committees and bodies to which Council has the right to appoint members;
  - vi. Restricting the privileges of attending conferences and workshops at Strait Shores' expense;
  - vii. Reduction or suspension of remuneration as Council may deem appropriate."
- Prior to Complainant MacGregor being elected to council of Strait Shores, he had many interactions with staff of Strait Shores while requesting various documentation and information related to the administration and the financial matters of Strait Shores.

Staff indicated in their response to the complaint that they found these interactions stressful.

- On February 10, 2025, Complainant MacGregor attended his first Council meeting as a newly elected councillor of Strait Shores and introduced 12 motions. The motion topics included:
  - posting previous years audited financial statements on the Strait Shores website;
  - that operating fund budgets for previous years be posted on the Strait Shores website;
  - that a policy be created for the sale of physical assets by the rural community;
  - that council create a by-law setting out the duties and powers of the CAO;
  - that council adopt a policy with respect to section 75 of the *Local Governance Act* that sets out what documents must be made available for public viewing during normal business hours;
  - that council adopt a policy for closed meetings with respect to subsection 68(1) of the *Local Governance Act*;
  - that council conduct a feasibility study with respect to the costs and procedures associated with video recording council meetings and posting them to the website;
  - that the rural community investigate installing a power source on a walking bridge;
  - that all meeting minutes and agendas be posted to the Strait Shores website within 96 hours of meetings;
  - that council adopt a policy with respect to giving notice pursuant to the notice provisions set out in the *Local Governance Act*;
  - that council support a specific individual (Sharon Allen) in establishing a Strait Shores Development Association and give her \$1,000 for the same; and
  - council pass a resolution that all motions for capital expenditures be listed in detail in agendas and be posted to the website.
- Complainant MacGregor included proposed timelines for implementing many of the above-noted motions.
- In addition, Complainant MacGregor read out a statement, concluding with the following:

*“Last week I emailed the New Brunswick Local Governance Act to all of council. Look it over. Read it. Know it. Reference it when your not sure. It is the voice of authority that is there to protect the public. Quite simply, it’s our rule book.*

*So tonight is just the start of what we must all be willing to accept and implement into our very own Strait Shores government. It will give us the guidance and structure that will ultimately unite us all. It’s our responsibility.*

*And, if you feel that for any reason, you can not work within this system, I would strongly encourage you to resign for the betterment of Strait Shores.”*

- Following the February 10, 2025 meeting, former Mayor Jason Stokes resigned.
- In his resignation letter, former Mayor Stokes specifically mentioned Complainant MacGregor and described the negative relationship between Complainant MacGregor and the Respondents and staff of Strait Shores. He posted his resignation letter on the Port Elgin Events Facebook page on February 13, 2025.
- On February 20, 2025, the Respondents called a closed meeting to discuss alleged code of conduct violations by Complainant McGregor. Minutes of the meeting are as follows:

**“RESOLUTION**

**Resolution regarding code of conduct violation**  
**Municipality of Strait Shores New Brunswick**  
**Sponsor: Councillor Jones**

**Whereas** the Municipality of Strait Shores New Brunswick has a b-law entitled By-law No. 2022-02 A Code of Conduct By-Law for the Council of Strait Shores;

**Whereas** during the most public session of Council on February 10, Councillor Andy MacGregor behaved in such a manner as to result in multiple instances of councillors writing emails of complaint regarding his conduct;

**Whereas** Councillor MacGregor’s conduct also led Mayor Jason Stokes to submit his letter of resignation which outlines numerous instances of infractions to the bylaw;

**Whereas** those affected by Councillor MacGregor’s behaviour, including current municipal councillors and the acting mayor may reasonably be seen as biased or partial were they to investigate the councillor’s conduct on their own;

**Be it therefore resolved** that the Municipality of Strait Shores hire an independent party to investigate the conduct of Councillor MacGregor to determine whether the Code of Conduct by-law has in fact been violated;

**Be it further resolved** that until such time as the investigation is complete, Councillor MacGregor is forbidden from contacting Municipal staff and Councillors or entering municipal offices until such time as the investigation into code of conduct violations and Human Resources issues are complete.”

- As set out above, following the closed meeting of council on February 20, 2025, Complainant MacGregor was effectively suspended, and substantively sanctioned prior to council fully processing and deciding the complaint(s) against him. No time limit was placed on Complainant MacGregor’s suspension other than it was to

remain in place until the conclusion of an investigation by a third-party investigator. It should be noted that pursuant to subsection 6(2) of the *Code of Conduct Regulation – Local Governance Act*, a sanction cannot be in place for more than 90 days, which is the time limit set in section 43 of the *Local Governance Commission Act*.

### **Reasons:**

It appears that the Respondents' decision to initiate the complaint process under the Strait Shores Code of Conduct By-Law was triggered by:

- Complainant MacGregor's interactions with fellow councillors during the February 10, 2025 meeting;
- Complainant MacGregor's 12 motions and presentation to council during the same meeting;
- Receipt of former Mayor Stokes's resignation letter; and
- Receipt of informal complaints (emails) from fellow councillors following the February 10, 2025 meeting.

The Respondents then held a closed meeting on February 20, 2025, and discussed whether Complainant MacGregor violated the Code of Conduct By-Law.

It must be noted that Complainant MacGregor's behaviour prior to being elected to council cannot be used/construed or included as a complaint under the Code of Conduct By-Law, as codes of conduct only apply to elected officials. As such, his interactions with staff and councillors prior to his election to council cannot be considered as part of a code of conduct complaint.

Emails from fellow councillors that do not set out the nature and specifics of the alleged breaches of the Code of Conduct By-Law, are not signed, and not marked confidential, do not constitute formal complaints under the Code of Conduct By-Law.

In addition, former Mayor Stokes's resignation letter also does not constitute a formal complaint even though it was in writing and signed. This is because it did not outline the nature and specifics of the alleged breach(s) of the Code of Conduct By-Law, except to say that Complainant MacGregor was trying to control staff with his motions, and that his statement was disrespectful, was an attack on, and accusatory, towards council. Further, the resignation letter was not addressed solely to the Deputy Mayor, and it was not marked confidential. In fact, it was addressed to "Council, Staff, Friends and Neighbours" and publicly posted on the Port Elgin Events Facebook page. In addition, former Mayor Stokes predominately refers to alleged issues with Complainant MacGregor that predate his time on council. Again, accusations related to Complainant MacGregor that come before his time on council cannot be considered as part of a code of conduct complaint.

After accepting these non-compliant complaints, the Respondents decided to refer the complaints, which were not formally submitted in accordance with the Code of Conduct By-Law, to a third-party investigator, and in the interim to suspend Complainant

MacGregor, sanctioning him before a decision was made as to whether he had in fact violated the Code of Conduct By-Law. As no formal complaint was filed, it seems the Respondents' decision/action to pre-emptively sanction Complainant MacGregor and to, indeed, refer the non-compliant complaints to a third-party investigator, was in reaction to the Respondents' history with Complainant MacGregor.

Staff of Strait Shores, in their emailed response to the complaint to the Commission staff, and former Mayor Stokes, in his resignation letter, allege that Complainant MacGregor's behaviour, before and after his election to council, had been bullying and intimidating. For his part, Complainant MacGregor maintains that he was doing his duty as an elected official, acting on behalf of his constituents, to ensure transparency, integrity, and honesty concerning the affairs of Strait Shores. Again, council (the Respondents) was/is prohibited from looking at any alleged issues that occurred between Complainant MacGregor and staff and council of Strait Shores prior to his election to council as part of a code of conduct complaint.

The Respondents did not follow the procedures for receiving/filing, investigating and deciding complaints under section 4 of the Code of Conduct By-Law, and did not complete any of the required steps before sanctioning Complainant MacGregor. This demonstrates a lack of understanding of Strait Shores's own Code of Conduct By-Law and process, and the principles of procedural fairness.

In addition, suspensions are not sanctions available under the Code of Conduct By-Law for Strait Shores. Further, even if the Respondents had been permitted to suspend Complainant MacGregor, no time limit was imposed on the suspension. Subsection 6(2) of the *Code of Conduct Regulation – Local Governance Act* provides that no sanction shall be imposed "for a period longer than the maximum period prescribed for a suspension under the *Local Governance Commission Act*", which is 90 days. It is also important to note that councillors are not employees of local governments and council meetings are not workplaces. Therefore, councillors should not be sent home/suspended during code of conduct complaint investigations.

The Respondents had not decided whether Complainant MacGregor violated the Code of Conduct By-Law before suspending him/sanctioning him. This omission constitutes the crux of his complaint. As the Respondents failed to comply with their own Code of Conduct By-Law and the time limits on sanctions, they have breached sections 4 (complaints) and 5 (sanctions) of the Code of Conduct By-Law. As such, the Commission finds that the Respondents violated the Code of Conduct By-Law. Sanctions available under the *Local Governance Commission Act* include:

"43...

- (a) that the member be reprimanded;
- (b) that the member deliver to the local government, regional service commission or rural district advisory committee, as the case may be,

- (i) any fees, gifts, gratuities or other benefit received or the value of any fees, gifts, gratuities or other benefit received within 30 days after the decision of the Commission, or
- (ii) any profit made in violation of the code of conduct as soon as possible after the decision of the Commission;
- (c) that the member reimburse an amount equal to the remuneration, allowances or other sums received as member while the violation of the code of conduct continued; and
- (d) that the member be suspended for a period of up to 90 days and not exceeding the expiry of the member's term of office."

In the present case, it appears that the Respondents were acting in good faith, but with a lack of procedural understanding, when they failed to apply the Code of Conduct By-Law correctly with respect to Complainant MacGregor.

As the Respondents were acting in good faith and their actions sprang from a lack of understanding of the processes and requirements set out in the Code of Conduct By-Law for Strait Shores, and not malice, it would not be in anyone's best interests to levy a harsh sanction on the Respondents (Deputy Mayor/acting Mayor Annamarie Boyd and Councillor Tanya Haynes).

The sanctions set out in section 43 of the *Local Governance Commission Act* are not appropriate in the current case as:

- the Respondents did not obtain any financial benefit or profit from their breach of the Code of Conduct By-Law;
- suspensions of up to 90 days should be reserved for the most severe breaches of code of conduct by-laws or conflict of interest provisions under the *Local Governance Act* and the *General Regulation - Regional Service Delivery Act*;
- repayment of remuneration received during the period of the breach is also inappropriately severe for a non-malicious breach of the Code of Conduct By-Law; and
- A formal reprimand is also inappropriate for an unintentional breach of the Code of Conduct By-Law.

As such, the Commission has decided to make non-legally binding recommendations that more appropriately address the specific circumstances of this matter. As the recommendations are not legally binding, the parties are not required to comply with them. However, the Commission would encourage the parties in this case to implement the recommendations as they will support and assist the rural community of Strait Shores moving forward.

*Giselle Goguen*

Giselle Goguen, Chair

*Donna Redmond Gates*

Donna Redmond Gates, Member

*Troy Stone*

Troy Stone, Member

Dated: April 23, 2025, in Fredericton, New Brunswick

