

# **CITY OF GREATER SUDBURY INTEGRITY COMMISSIONER, DAVID G. BOGHOSIAN**

**Citation:** Complaint re: Councillors Labbee and Parent re Open Letter and Social Media Posts Concerning CAO delegated authority and non-union senior staff pay increases – DGB-Greater Sudbury ICI-2024-03

**Short Citation:** Labbee, Natalie and Parent, Mike (Re)

**Date:** August 20, 2024

## **REPORT ON COMPLAINT**

### **Introduction**

[1] On May 23, 2024, I received a Complaint from Cllr. Bill Leduc concerning comments Cllr. Natalie Labbee is alleged to have made about the delegation of City authority to Chief Administrative Officer of the City, Ed Archer, during and after the time when his delegated authority was withdrawn (“the Labbee Complaint”). The conduct identified in the Labbee Complaint includes a comment made at the May 14 Council meeting and an open-letter she posted to the Facebook on May 20, 2024,<sup>1</sup> which was subsequently published in full by Sudbury.com on May 21, 2024. Cllr. Leduc alleged that the Cllr. Labbee’s comments at the May 14 meeting, and her Facebook post and open-letter, constitute breaches of a number of sections the Greater Sudbury Code of Conduct for Members of Council and Local Boards (“COC”, “Code of Conduct” or “Code”).

[2] Also on May 23, 2024, Cllr. Leduc submitted a second complaint concerning a social media post made by Cllr. Mike Parent on May 22, 2024 which Cllr. Leduc alleged confirms Cllr. Parent’s support for Cllr. Labbee’s social media posts and the statements made in her open-letter (“the Parent Complaint”).

[3] On June 2, 2024, I received a second complaint from a Sudbury resident who wishes to remain anonymous against both Cllrs. Labbee and Parent regarding substantially the same subject-matter as the complaints filed by Cllr. Leduc. This second complaint, in relation to Cllr. Labbee, focused on statements she made as quoted in articles published in the Sudbury Star, which will be documented below. The further complaint regarding Cllr. Parent concerned statements attributed to him in a CTV News article published on May 15, 2024 and Sudbury Star articles dated May 24 and 25, 2024.

[4] On June 3, 2024, I received two supplementary complaints from Councillor Leduc relating two statements made by Cllr. Labbee in subsequent Sudbury.com and Sudbury Star articles, and in social media postings, including a Facebook Sudbury municipal provincial federal politics group, on the basis that these violated the Code of Conduct requirement to defend/uphold decisions

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<sup>1</sup> The screenshot provided by Councillor Leduc does not include the date of Councillor Labbee’s post, but he includes a date in his written complaint.

of Council and not to make statements disparaging another member of Council contrary to section 14(3), COC.

[5] As all of the Complaints essentially concern the same or inter-related subject-matter, I am dealing with all of them together in this Report.

## **Labbee Complaints**

### **Particulars of the Complaints**

[6] Both Complaint concerns comments and statements made by Cllr. Labbee about the delegation of council authority to the Chief Administrative Officer, Ed Archer and what Council knew about the proposed wage hikes for senior management employees prior to those hikes becoming public knowledge through a leak of documents by certain “Honest City Employees.”

#### 1. Statements at May 14, 2024 Council Meeting

[7] The Complaint notes that at the May 14 meeting of City Council, Cllr. Labbee stated “This is definitely one of those situations where asking for forgiveness is a lot better than asking for permission. If you don’t have trust, then you have nothing.”<sup>2</sup> Cllr. Leduc alleged that this comment suggests that CAO Archer is untrustworthy and that it constitutes a breach of section 14 of the Code, relating to conduct respecting City employees because the statement is alleged to undermine the trust and respect owed to staff members, especially the CAO. The statement is also alleged to demonstrate a lack of respect for the CAO’s authority and decision-making. Cllr. Leduc adds that the statement is inaccurate because the CAO received delegated authority from the City before he made any of the subject wage increases.

#### 2. Facebook Post and Open Letter Authored by Cllr. Labbee Published in Sudbury.com on May 21, 2024

[8] The Labbee Complaint attached a link to a Subury.com and screenshots of an open-letter authored by Cllr. Labbee. The Complaint states that Cllr. Labbee shared the open-letter as a Facebook post on May 20, 2024. The open-letter was then published by Sudbury.com on May 21, 2024. The contents of those posts (which are materially identical) will be reviewed in full below.

[9] The Complainants allege that the Facebook post and the Open Letter breached:

- Section 5: Respect for other Members, Staff and the Public, as it is alleged that Cllr. Labbe’s language includes personal attacks against the CAO, the General Manager of Corporate Services and other members of Council;<sup>3</sup>

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<sup>2</sup> No additional context is provided for this quote.

<sup>3</sup> After a through review of the City’s Code of Conduct, I cannot find this section referred to.

- Section 6: Confidential Information, as it is alleged that the post references information shared during closed-sessions of council and that Cllr. Labbee did not receive consent from Council before posting the information;
- Section 8: Support for Decisions of Council, as it is alleged that that Cllr. Labbee claims to have been uncertain about supporting the decision to delegate authority to the CAO, but did so anyway;<sup>4</sup> and
- Section 10: Accuracy of Information: for stating that Council would not approve a six per cent increase in salary as suggested by the CAO in 2023 and then questioning, based on Council's rejection of a six per cent increase, why the CAO would think it reasonable to implement nine and 11 per cent salary increases. Cllr. Leduc suggests that the six per cent increase was recommended in 2022, not 2023 and that Council at that time deferred any decision on salary increases until 2023. The Labbee Complaint goes on to state that the wage gap grew to be over 15 percent and that this information was shared with Council. It is alleged that Cllr. Labbee's statements inaccurate;
- Section 14: Concerning Conduct Respecting City Employees, because a public call for the CAO to resign is alleged to not be in-line with the respect and appropriate conduct required towards staff. Such conduct is alleged to undermine the CAO's position and authority, and is likely to damage the CAO's personal reputation;
- Sections 15: Discreditable Conduct, as it is alleged that Cllr. Labbee's use of sarcasm when addressing other Councilors in her letter and rhetorically questioning whether Council should have been "clairvoyant" to foresee that the CAO had decided on nine and 11 per cent salary increase; and
- Section 6: Confidential Information, and Section 14: Conduct Respecting City Employees, for stating that Council would not approve a six per cent increase in salary as suggested by the CAO in 2023 and then questioning, based on Council's rejection of a six percent increase, why the CAO would think it reasonable to implement nine and 11 per cent salary increases. Cllr. Leduc suggests that the six per cent increase was recommended in 2022, not 2023, and that Council at that time deferred any decision on salary increases until 2023. The Labbee Complaint goes on to state that the wage gap grew to be over 15 percent and that this information was shared with Council. It is alleged that Cllr. Labbee's statements inaccurate;
- Section 16: Concerning Respect for Decision Making, because it is alleged that the figure for the cost of the non-union salary increases - \$520,000.00 – was in

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<sup>4</sup> After a through review of the City's Code of Conduct, I cannot find this section referred to.

fact disclosed before Council voted on the budget, contrary to what Cllr. Labbee states in her letter;

- Section 17: Social Media Policy: no particulars provided.
- 3. Sudbury Star Article, “Secret pay hikes for senior city staff 'a lapse in judgement,' Labbee says,” dated May 25, 2024 (Mary Katherine Keown)

[10] The article is alleged by Cllr. Leduc to further constitute violations of Sections 5, 8, 10, 14, 15 and 16 of the Code of Conduct.

- 4. Facebook Sudbury municipal provincial federal politics group post

[11] Cllr. Leduc did not provide me with a copy of this post, nor was he able to when we asked him to, and my office was unable to locate it despite reviewing posts on the referenced site for all of May and the first half of June 2024. This post will therefore not be considered in my Findings.

### **Impugned Communications**

- 1. Statements at May 14, 2024 Council Meeting

[12] During the May 14<sup>th</sup> Council meeting, Cllr. Labbee states: “This is definitely one of those situations where asking for forgiveness is a lot better than asking for permission. If you don’t have trust, then you have nothing.”

- 2. Guest Column by Councillor Labbee entitled “If I were CAO, I would resign over the wage hike issue,” Sudbury.com, May 21, 2024

[13] The content of Cllr. Labbee’s open-letter as published by Sudbury.com (which is substantially the same as her Facebook post the previous day) is as follows:

- Cllr. Labbee states that the May 14, 2024 Council meeting has been on her mind and that the press summary of the meeting questions the competency and comprehension of Cllrs. Parent, Fortin, Signoretti and herself who spoke up about the wage hike issue, noting that the article indicated that it was unfortunate that said councillors were not able to understand obvious details about the issue;
- Cllr. Labbee notes that most municipalities have a Delegated Authority Bylaw for their respective CAO and Directors and that Council did not suddenly think of delegating authority;
- Cllr. Labbee refutes the contention that the wage hike issue is “all Council’s fault”, citing the length of the City’s Delegated Authority Bylaw, which she notes is 38 pages long, including amendments, as compared with other municipalities, where the average length for such a Bylaw is 6 pages. Cllr. Labbee argues that the length of the Bylaw alone deserves its own audit;

- The letter then summarizes what Cllr. Labbee considers to be the two conclusions of commenters on the wage hike issue:

“A) [We] didn't read the notes/report or B) We read it, but we obviously and sadly just didn't have the capacity to grasp that information that was (NOT!) provided to us.”

- The letter states that Cllr. Leduc appeared on CTV following the May meeting to suggest that some Council members with jobs may not have time to do “homework” like retired councillors do. Cllr. Labbee acknowledges that she is paraphrasing what Cllr. Leduc said but states that “she is not far off”. Cllr. Labbee goes on to write that his comments are “indignant and insulting” but “that doesn’t surprise me in the slightest”;
- Cllr. Labbee states that Cllr. Leduc’s recollection of what information was made available to Council during closed-sessions is “also way off in left field”. She adds that the comments made by Cllr. Leduc suggest that Cllrs, Parent, Fortin, Signoretti and herself are “lying and incompetent” and that she believes this is how Cllr. Leduc intended to portray them;
- The letter states that the \$520,000.00 salary increase was never disclosed to Council prior to or during budget discussions, nor was it disclosed in any “closed documents”. Cllr. Labbee adds that “I will die on my sword over this fact!!!!”;
- Cllr. Labbee maintains that the closed-meeting in September 2023 included a graph of the salaries for specific non-unionized positions and that at the time, the CAO explained that the City was below the 50<sup>th</sup> percentile for the salaries of such positions. Cllr. Labbee states that no costs or budget impacts were shared and no percentage increase in salary was suggested by the CAO at the time. Instead, that meeting was only for informational purposes and to grant authority to the CAO to “make a good judgment call moving forward based on that information”;
- Cllr. Labbee asserts that previous councillors [during the previous term of Council] did not want to “commit political suicide” during an election year and “took the easy way out”;
- The letter notes that prior to the above-noted meeting in 2023 [sic: this should read “2022”], Council declined to approve a six percent salary increase as suggested by the CAO. Cllr. Labbee then questioned “[so] what made the CAO ever think that nine and 11 per cent would be reasonable or palatable to council?”. Cllr Labbee added “Like I said, It's [sic] easier to ask for forgiveness than permission”;
- The letter then states that “We now realize too late that “power is good, but control is better’ in this case” and acknowledges that “Council did delegate

authority to the CAO, in good faith, to exercise good judgment and not just to benefit a few employees”;

- Cllr. Labbee states that the CAO should have been able to appreciate that a wage hike would have broader implications for the City and that those implications should have been on his list of importance. The letter states that Council voted to take away delegated authority from the CAO because he did not exercise proper judgment. Cllr. Labbee speculates that certain colleagues may have voted to take away delegated authority because not doing so would be “political suicide” and goes on to state that she has “lost so much respect for some of” her colleagues;
- The letter advises that a conversation took place amongst councillors and the CAO “that would suggest that” the latter would return to Council if the raises were outside the reasonable range. It was a “spit and a handshake” moment that Cllr. Labbee states never should have been agreed to because, asking rhetorically, “shouldn’t council trust their only employee with this everyday responsibility?”;
- Cllr. Labbee states that some councillors voted in favour of delegated authority as the “right thing to do” and states that she believes there is an unspoken expectation to please the mayor and to show solidarity on public decisions due to a previously “fractured council”;
- The letter states that Cllr. Fortin was being truthful in noting that the actual cost of the salary increases was not part of the closed Finance Report brought to Council in February 2024 and that Council did not discuss that report because the meeting was cancelled.<sup>5</sup> The report only noted the increases in percentage terms at six and eight percent and did not indicate that there was a three percent increase to be applied as well;
- Cllr. Labbee rhetorically questions whether the time for the CAO to be “fully transparent” with Council was at the time of the report and that it is not unreasonable to expect the report to have all salient details not just those “the CAO feels [Council] needs to know”;
- Cllr. Labbee states that City employees leaked information about the raises to the press and that Council was not privy to this information and that Council was blindsided;
- The letter states that what matters is that the CAO did not consider how granting such raises to a small number of employees would have an adverse effect on thousands of other employees and questions how the CAO could “miss the mark”;

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<sup>5</sup> This was due to the late Cllr. Montpellier’s passing that day.

- Cllr. Labbee disagrees with the argument that she attributes to the CAO that unless raises are given, skilled workers will quit or leave town. Instead, she contends that employees leave jobs due to toxic environments and bad management. She further argues that proper succession planning will ensure enough workers who Council is “ABLE to afford to pay without bankrupting us or creating more undue strain on the municipal levy”;
- The letter takes offence at Cllr. Leduc’s statement that Council is “backpedaling” because it was caught. Cllr Labbee writes that she challenged Cllr. Leduc over that statement during the May 14 meeting, resulting in Cllr. Leduc raising his voice at her. She writes that she is not backing down, but will “die on [her] sword that what he was saying was muddy details at best”;
- At the May 14 meeting, Cllrs. MacIntosh, Sizer and Leduc, and Mr. Fowke, insisted that the raises were in the budget. Cllr. Labbee states that she was so upset that she neglected to ask them to prove it to her at the time. She then asks where the \$520,000 figure was included in the budget, which she describes as a “massive binder with thousands of pages, that has no drop-down menus of individual employees and their salaries by department” and is adamant that, despite looking, one will not find the increase because it is “BAKED INTO THE PIE”;
- Cllr. Labbee writes that her understanding from comments made by Cllrs. MacIntosh, Sizer and Leduc, and Mr. Fowke, is that she should have been “clairvoyant” to know about the salary increase as she did not know about it and was never advised of it. Cllr. Labbee writes that “many emails” support her contention that Council was never advised of the increase. She writes that the CAO should have disclosed the increases shortly after assuming delegated authority and it was a “reasonable expectation” for him to do so and that doing so would have been indicative of “a healthy and respectful relationship between a CAO and the council”;
- She then muses that maybe she should spend more time in the CAO’s office to get more information that others are not getting, but that she should not need to. Cllr Labbee write that neither the CAO nor Mr. Fowke ever alluded to the wage increases. She again asks for proof that this information, including costs, was disclosed before the budget meeting.
- Cllr. Labbee writes that “The level of trust is broken” because the CAO had a duty to disclose this information and that Council should not have been made aware of it through a leak. She stated that if she was in CAO Ed Archer’s position, she would have resigned. In response to her rhetorical question “Why does the CAO still have a job?” Labbee wrote in her letter, “If my board of directors went public and said they didn't trust me with making important decisions on my own, clearly demonstrating their lack of faith in me, I would probably resign, because it would be the right thing to do as clearly we are going in different directions.” The letter then states “I am only one seat on council,

but if I had Strong Mayor powers, I know what I would have done a long time ago.”

3. Sudbury Star Article, “Secret pay hikes for senior city staff 'a lapse in judgement,' Labbee says,” dated May 25, 2024 (Mary Katherine Keown)

[14] The material content of this article is as follows:

Ward 7 Coun. Natalie Labbee is angry. She said Archer had a responsibility to inform council of his intention. She feels like he took advantage of his authority.

“I am certainly not comfortable with this increase for any staff member. I feel this is an unconscionable example of what it looks like to ‘give an inch and take a mile.’ I feel the CAO had the onus and absolute responsibility to make council aware of his decision to grant such a disproportionate increase back in November when he made the decision and certainly before budget discussions,” she said.

“I am beyond dizzy trying to comprehend how the CAO could believe this decision was made in alignment with the goals and direction of council, when we have certainly made it very clear our focus is on maintaining levels of service and not increasing the tax levy unnecessarily. In fact, council passed a resolution stating just that, prior to this increase and prior to approving the delegation authority to the CAO, but it was ignored.”

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Labbee said knowledge of the pay increases would have influenced budget discussions, especially since some business cases were dropped due to lack of funds.

“I feel strongly it would have had an impact on budget discussions and the availability of funds for certain business cases that were deferred or shut down because there ‘simply wasn’t any wiggle room,’ which is the constant message we receive from senior staff. We ask and the answer is always ‘sorry councillor, there’s just no room in the budget for that and we’ll have to take it out of reserves,’ so it gets voted down,” she commented.

“This goes beyond a lapse in judgment by our CAO. I feel it hits a whole new level of disrespect to council; taxpayers; and those who show up for work every day for much less and who put in hard work, much of it very laborious work — and they only received a three per cent increase.

“I am beyond baffled the CAO did not have the capacity, awareness and common sense to even consider how such an increase for a select few at the



top of the ladder would naturally, negatively impact the morale of the thousands of other employees down the ladder. The domino effect of this decision is obvious as a result of those who stepped forward with leaking this information prematurely, before council could even deal with it.”

Labbee said Archer’s decision to grant pay hikes is a slap in the face to many taxpayers, especially since an increasing number are struggling to make ends meet. She said for example, some of the city’s most marginalized people rely on transit and now have to pay more per ride or for a pass.

“We can’t afford to let seniors use the bus for free more than four days in June because we just can’t afford that either. I just raised funds and jumped into freezing cold water to help raise money to keep a youth centre open more than three days a week, because it’s a much needed service to help the young people of our community stay engaged and occupied, but people making six figures just received an 11 per cent increase in pay,” she pointed out. “Someone please make it make sense to me.”

Labbee said she trusted Archer, but her reputation and integrity, as well as those of council, are too important to stay silent. She plans to support a motion (or an amendment) to rescind some of his powers.

“What I can tell you is that it doesn’t feel good to be put in this position. I don’t appreciate being blindsided and I won’t allow it to happen again. I let my guard down in good faith and now we, as a council, are wearing that decision,” she said. “After being blindsided with this information, I am not comfortable with leaving this discretion to the CAO. I will definitely support an amendment to reel in the powers assigned to the CAO. I am embarrassed and feel that we as a council have been completely disrespected by the CAO through this decision.”

### **Response of Councillor Labbee**

[15] I passed on the particulars of the Labbee Complaints, but not the identity of the second complainant, to Cllr. Labbee by email on July 17, 2024. She responded with a detailed memorandum on July 29, 2024.

### May 14, 2024 Meeting Allegations

[16] The CAO was given Delegated Authority unanimously by Council in September 2023. The CAO was also removed of the Delegated Authority UNANIMOUSLY by Council on May 14, 2024. Unanimous votes supported that for a reason. As a City Councillor, we are elected to serve the public. We are elected to be accountable to the public and address, and not ignore their questions and there were many. It certainly hasn’t fizzled out like some hoped it would either. The Media keeps pressing for more details to get to the bottom of it even months later.

[17] After the “honest employees” leaked the confidential information about the 9&11% pay increases in March 2024, many taxpayers had questions, and rightfully so. I am guessing that the leak was intended to open up some transparency and to demonstrate that there were a lot of employees angry about this once they found out. It is incumbent upon Council to be accountable to the public and their questions, but it’s difficult to do when we didn’t even know those details of the raises ourselves.

[18] The role of a City Councillor is to also be a Representative, Steward (to guard the taxpayers purse) and as Policy Maker.

[19] The Municipal Act 224 d)1 states that City Council is also tasked: “to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;

[20] Disagreements among council members are common, but it is important to remember that we are, or should be, working towards a common goal.

[21] Cllr. Labbee set out a number of reasons for asserting that Cllr. Leduc’s Complaint against her was a personal attack and a retaliation for positions she has taken on principle that adversely affected Cllr. Leduc, such as condemning his statements at the August 2023 meeting where the Crupi Paving Kingsway contract was the topic of discussion.

Open Letter Authored by Cllr. Labbee Published in Sudbury.com on May 21, 2024

[22] Cllr. Labbee indicated that she was uncertain whether she was going to vote in favor of supporting the decision to grant more Delegated Authority to the CAO when it was presented to Council at the September 2023 closed meeting. Her Open Letter was in part intended to explain her reasoning for voting that way to the public who she is accountable to. She supported the decision to delegate authority to the CAO and then, like all of her Colleagues, including Councillor Leduc, they all rescinded the Delegated Authority in an open Council meeting. She asserted that several of her colleagues also expressed concern about voting to delegate authority in the first place and expressed these sentiments at the May 14, 2024 open meeting as well as in the media on several occasions following that meeting, yet Cllr. Leduc only filed a complaint against her, again revealing the retaliatory nature of Cllr. Leduc’s Complaint in her opinion.

[23] Her Open Letter also clarified that Council was well within its right to approve the use of Delegated Authority and is commonplace in all other municipalities, although not to the extent that Greater Sudbury does so she felt obligated to explain in the Open Letter why the Delegated Authority bylaw was passed. This realization only came about because of the leaked documents and the Sudbury.com article. Nowhere does the Open Letter go against the decision to approve Delegated Authority in the first place, in her opinion.

[24] She also included a media article in which several other councillors commented and echoed similar statements, yet Councillor Leduc did not file a complaint against them.<sup>6</sup>

[25] She wrote “I am willing to admit that I could have taken a bit of a gentler approach to the Open Letter. I concur that the comments made by Coun. Leduc in an Open Council meeting, as well as his comments in the media following that meeting triggered a response from me to clarify and counter his untrue and inaccurate statements. I did not misrepresent anything Councillor Leduc stated in an open meeting on May 14 or otherwise.”

[26] As far as my comments that I have lost respect for some of my colleagues, that is also accurate. Only a few chose to speak up on the matter that wouldn't have been necessary if;

1) Council would have been provided with all information and details regarding the 9&11% raises (which the CAO was technically permitted to do under the terms of the Delegated Authority; which I have never disputed). Several of my colleagues support what I am saying to be true. Several of my colleagues agree that the decision to grant 9&11% raises to that pay group was outside of what Council felt would have been exercised.

And 2)

The fact that “honest employees” leaked this information demonstrates clearly that there are a lot of employees who are angry about these exorbitant raises in comparison to the raises they received thru collective bargaining in good faith. This was also echoed in Sudbury.com by the CUPE union as well shortly following this leak.

#### Allegation of Breach of S. 10 – Accuracy of Information

[27] Her response was as follows:

- At no point did she ever say the raises were 15%. Not even once. I have consistently stated 9 & 11 % so there is no inaccuracy on my part. Coun. Leduc is wrong is accusing me of this;<sup>7</sup>

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<sup>6</sup> Cllr. Labbee attached the following media clip to her Response in support of this assertion: [CTV News Northern Ontario at Five for Wednesday, May 15, 2024](#), from the 5:35 to 7:30 mark. Three councillors made statements, 2 of which objected to the increases and one supported it. One of the two who opposed the increases indicated that councillors had voiced support for 8% increases in closed sessions prior to the increase but did not expect the 3% COL increase to be tacked on to that while another councillor opposed to the increases indicated that he would have expected the increases to be spread out over 2 or 3 years, not implemented in full in one year, to relieve the burden on the taxpayers. I find that these councillors' statements do not go nearly as far as Cllr. Labbee's comments in her Open Letter.

<sup>7</sup> It seems clear to me that the Complaint is not that Cllr. Labbee indicated that the increases were 15% but that Council had rejected 6% increases so the CAO ought to have known that 9 and 11% increases would not fly.

- I was not elected in the summer of 2022 when Council deferred the decision. When pressed by Councillor Parent at the May 14, 2024 meeting, Councillor Leduc offered up that making a decision at that time would have been “Political Suicide”. Those are HIS words, not mine;
- My statement about the 2023 timeline was when the issue about the raises for Pay grades 15-18 were first introduced to those of us who were newly elected to Council, namely myself, Councillors Parent, Fortin and Mayor Lefebvre. The CAO brought forward the deferral at that time to revisit the issue from 2022 and that another report would be forthcoming after that for a decision in September 2023. This is fact;
- There were several open budget meetings, as well as closed meetings, where the consensus of Council was to be prudent and tighten the apron strings with raises for all staff, and to keep the levy % increase as low as possible going into Budget time. The Council of 2022 had deferred the 6% raise. This is fact.

Alleged Breach of Section 14: Concerning Conduct Respecting City Employees

[28] Her position on her alleged breach of Section 14 of the COC was as follows:

- I feel that the decision to remove the Delegated Authority of the CAO should have NEVER been allowed to be added to the Open Agenda in the first place. It was setting Council up to be put in a very precarious and difficult position;
- If the Chair read the Motion and nobody said anything, then the optics of that to the Public and our Staff is that we must have talked about it behind closed doors to all be unanimous in our decision. Having the Motion on the Agenda and voting with no discussion was not in line with transparency or accountability for the decision of changing the Bylaw;
- Secondly, if we chose to speak about it, for open government and transparency, then we are taking a risk that what we said could be held against us. I chose to make very limited statements at that time so that the public would better understand my decision, as did several of my Colleagues;
- What made this whole situation get out of hand for me, was when Councillor Leduc spoke up aggressively and said that council was “Caught”. This statement makes it seem like Council was guilty of doing something wrong, which we weren’t. It seems that Coun. Leduc was the one who created questionable decision making of Council for giving the Delegated Authority in the first place with his very damaging comment. This could also be seen as going against the same Code of Conduct he is accusing me;
- I will give more context to this again in another section of this response;

- I also never said that the CAO SHOULD resign. I said IF I was him, I would probably consider it, because if my employers took away part of my responsibilities in a public manner like that, I would be thinking that we are going in different directions. The fact that this was being made very public at all would be seen to undermine the CAO's position and authority, and could be likely to damage the CAO's personal reputation. Again, that decision had nothing to do with me and was inevitable because it was allowed on the open Agenda for discussion in the first place;
- The decision to approve Delegated Authority was given in a Closed meeting, and it should have been dealt with in a Closed meeting, but it wasn't. It was put out there for everyone to watch and read about in the newspaper the next day, again, which had nothing to do with me;
- It should have never been allowed on the Open agenda in the first place, but someone (perhaps the Clerk, the Mayor? I am not sure, but someone thought it would be ok to have it on the open agenda and it shouldn't have been). None of this would be happening if those discussions would have happened behind closed doors, in a safe space, and without scrutiny. Councillor Leduc wouldn't have accused Council of being "caught", and I wouldn't have felt compelled to defend us as a Council in my open letter following that meeting.

Allegation of Breach of Sections 15: Discreditable Conduct, as it is alleged that Cllr. Labbee's use of sarcasm when addressing other Councilors in her letter and rhetorically questioning whether Council should have been "clairvoyant" to foresee that the CAO had decided on nine and 11 per cent salary increase

[29] The Councillor's response to the Section 15 allegations were as follows:

- What is wrong with the word "Clairvoyant"? Several of Council openly expressed the fact that they we, as an entire Council were never informed of the 9&11% raises before it was leaked to Sudbury.com, so unless someone went in to the CAO's office to ask him specifically about it;
- The CAO is a very professional person. I would never think he would have these kind of conversations with any Councillor out in the open. Because it is a confidential topic, I would expect that the CAO in his professional capacity, would NOT have those conversations out in the open staff areas at City Hall, but rather, would most certainly have those one on one discussions in the privacy of his office), how would anyone know about the 9&11% increases?
- I do not spend a significant amount of time in the CAO's office. I can count on one hand how often I have gone to see the CAO for any reason since I was elected. So if others claimed they "knew", and others say we didn't know and it was not disclosed to us, then HOW did the others "KNOW"?

- It's not sarcasm, it's a legitimate question because none of us who spoke up to say we didn't know ahead of time are lying about that. THAT IS FACT.

Section 6: Confidential Information, and Section 14: Conduct Respecting City Employees, for stating that Council would not approve a six per cent increase in salary as suggested by the CAO in 2023 and then questioning, based on Council's rejection of a six per cent increase, why the CAO would think it reasonable to implement nine and 11 per cent salary increases. Cllr. Leduc suggests that the six per cent increase was recommended in 2022, not 2023, and that Council at that time deferred any decision on salary increases until 2023. The Labbee Complaint goes on to state that the wage gap grew to be over 15 percent and that this information was shared with Council. It is alleged that Cllr. Labbee's statements inaccurate

[30] This is a repetitive section and was answered above.

Section 16: Concerning Respect for Decision Making, because it is alleged that the figure for the cost of the non-union salary increases - \$520,000.00 – was in fact disclosed before Council voted on the budget, contrary to what Cllr. Labbee states in her letter;

[31] This is an accurate statement. This amount was “in the budget”, there is no disputing that, but it was NOT disclosed to Council as a result of the Delegated Authority. It was never explained to Council nor was it quantified until after the “Honest Employees” leaked the information to Sudbury.com

Section 17: Social Media Policy: no particulars provided.

[32] If there are no particulars shared, then I am not sure what to respond to. I have not shared any inaccurate statements on Social Media. Everything I share is accurate and true. I sent the letter to the Editor to Sudbury.com & Sudbury Star on the same day that I published my letter on my own Facebook page, for full transparency and because links to media pages is no longer permitted on Facebook. The media published it the day after it was published to Facebook, but it was sent on the same day. I subsequently deleted the post.

Sudbury Star Article, “Secret pay hikes for senior city staff 'a lapse in judgement,' Labbee says,” dated May 25, 2024 (Mary Katherine Keown)

[33] Cllr. Labbee's comments regarding the Complaints about this article were as follows:

I would like to bring your attention to the Council meeting of May 14, 2024.

To make it easier for you, I have indicated time stamps of poignant conversations related to the Delegated Authority of the CAO

Fast forward to the 2Hour50 min mark on the video of that meeting.

Note that it is a UNANIMOUS vote to allow for the reconsideration of that Bylaw for discussion.

It's also important to understand that the Bylaw to approve the added Delegated Authority to the CAO was discussed in a CLOSED meeting in September 2023.

It is therefore incumbent to understand and expect that if there was a reconsideration for the Bylaw to remove the Delegated Authority, perhaps the Chair (or any of us on Council) should have then requested to go into Closed so that Council could have a discussion in private, since discussing the issues of why we felt it necessary to reconsider it would put Council in a position to censor our comments to not breach the code of conduct against speaking about an HR matter related to the CAO and his position and the decision regarding the pay increases.

Perhaps that was not done because the "Honest Employees" leaked the information to the press, and therefore, Clerks or the Deputy Mayor didn't think that the vote and discussion needed to be done in Closed, since it was out there for the public to know about?

I have no clue, but it did put all of us in a situation where we would vote with no discussion, perhaps resulting in an Ombudsman complaint accusing us of having unsanctioned meetings behind closed doors, or put us in a position where we would have to tread lightly and try to exercise as much caution in the words we used so it wouldn't be held against us or be deemed in breach of the code of conduct towards the CAO. There is no winner in this situation and none of it should have been done in an open format to begin with, but it was.

2:50

Councillor Signoretti comments (and you can easily see that he is struggling with his words. He is normally more fluid in his approach to topics, but this was a very delicate matter). He comments to preface the spirit of the motion and the need for it. He uses the words "Council/we were blindsided"

Councillor Parent also adds his comments to support what Coun. Signoretti states.

Councillor Fortin also adds her comments admitting that she hesitated in granting the authority and that she regrets granting that authority. She comments that it was her belief (thru conversations had in the closed session in September 2023), that the CAO would come back to Council if the amount he was going with would be a "big ask".

(This is important, because the Council of 2022 was presented with a 6% increase for pay groups 15-18 back then and deferred it. When it was brought forward to us by the CAO in closed in early 2023, there was similar conversations about keeping increases reasonable and on par with what the other employees received (3% for Union & Non-Union), for fairness, regardless of what the chart presented to us indicated of how the city is behind and those employees in the 15 to 18 pay groups

were beneath the 50<sup>th</sup> percentile compared to other cities. That has been a consistent message by Council to all staff and Council has never wavered on this)

2:56 Councillor Labbee – the tail wagging the dog comment is not my own. Rather, it is in response to a comment made by a member of the public on the Sudbury.com article as a result of the leak by the “Honest Employees”. This comment is NOT my comment.

I do mention about “asking for forgiveness being better than asking for forgiveness”. Given the many conversations between Council and the CAO leading up to and including the September 2023 where Council approved the terms of the Delegated Authority, as well as open Budget discussions, this decision to grant 9&11% increases was far out of the realm of following that direction.

I admit that I could have omitted that statement.

3:00

Councillor Leduc claims the “numbers were there” it was “in the budget” and we “should have known” and then says the only reason we are even discussing this is because “it went public and we got CAUGHT!” (\*\*THIS STATEMENT BY COUN. LEDUC IS NOT ACCURATE! COUNCIL DID NOTHING WRONG in granting the Delegated Authority to the CAO in September 2023. We were not caught in anything). This comment alone was the catalyst to my open letter. I felt strongly that I needed to explain the truth of the matter and not be painted as doing something “wrong” as Coun. Leduc’s comments suggested against all of us on Council.

Councillor MacIntosh alludes to information provided to Council in a CLOSED meeting regarding the pay grades being below the 50<sup>th</sup> percentile. \*\*

\*\*Again, it’s ok for another Councillor to openly speak about Closed meeting topics, without Council approval, according to Coun. Leduc’s complaint, but not me. I am not allowed to do that. BIAS. Plain and simple)

3:02 Councillor Labbee calls a point of order. This information was NOT disclosed to us and there was no disclosure by the CAO to Council about the costs of the raises or the accurate percentages of raises he approved.

\*\*This is true by all accounts. Sudbury. Com has subsequently asked under FOI for these documents and it was denied, but Coun. Fortin also states this very true statement that Coun. Leduc denies. Yet, there is an email (Snippets Attached below) that suggests that Council didn’t know these details of the 9&11% increases back in December 2023, otherwise why is there questions by Coun. Lapierre, Fortin & Leduc asking “how many employees it affected and how much it cost us”. IF COUNCIL HAD THE INFORMATION, WHY WOULD THESE QUESTIONS IN MARCH 2024 BE NECESSARY? It’s because we only found out thru the “Honest Employees” leaking that information to the public thru Sudbury.com.



When Sudbury.com released the story, many of us reacted in complete surprise, not just me. This is FACT.

COUNCILLOR LEDUC then YELLS across the table at Councillor Labbee. He quickly apologizes for his behavior realizing he was out of line.

3:04 Councillor Leduc uses the word “CAUGHT” again.

3:06 Councillor Parent says information was lacking. The information in the report by the CAO to Council (which we didn’t get to discuss because that is the night that Councillor Montpellier passed away) was INCOMPLETE.

\*\*Again, this is ACCURATE information.

3:08 Councillor MacIntosh again makes comments about Closed meeting details

\*I don’t think Coun. MacIntosh received “permission” from Council to allude or make any comments about what happened in Closed, but she’s not part of the complaint from Coun. Leduc.

3:09 Mr. Fowke says the information from the Dec 5 or 12 meeting was “not clear to some” He says the \$520,000 was in the slide deck he presented to Council.

\*This is where some of the discrepancy comes from. The \$520,000 was on a line in a chart at that meeting, but there was no disclosure that the amount was a result of the CAO granting pay increases of 9&11% to 36 employees. There was no conversation around it because it didn’t stand out. I believed it was just a general increase, as did many of my colleagues. If there was anything to the contrary, that would have been the time to discuss it and explain that the CAO did in fact, use his Delegated Authority, but it was NOT explained that way at all at the December 2023 closed meeting.

3:11 Mr. Fowke mentions the raises needing to be implemented to be able to attract and retain staff.

\*\*I explained this in my open letter. If we don’t give the raises and get people up to the pay levels desired according to the chart, then we will certainly have a hard time retaining and attracting people for vacant positions. This is FACT. I didn’t make this up.

3:12 Councillor Fortin talks vaguely about details from the CLOSED meetings. There was discrepancies in the report. She confirms she did not know about the 9&11% raises until she read about it in the paper (Sudbury.com article) in March 2024.

3:13 Councillor Leduc mentions details from the CLOSED report (\*\*I guess it’s ok if he alludes to it?)

3:14 Councillor Leduc says “to answer my colleague (Councillor Parent’s earlier question) “why I postponed the decision back in 2022 was because it would have been Political Suicide”

**COUNCIL UNANIMOUSLY VOTES TO REMOVE THE DELEGATED AUTHORITY OF THE CAO.**

\*\*Not one person on Council was uncertain about that decision. A decision like that doesn’t happen unless there is a good reason for it. Nothing that myself, Coun. Signoretti, Fortin or Parent said is untrue.

In that same meeting after the Vote to rescind the Delegated Authority of the CAO,

3:19 Councillor Leduc makes comments suggesting that the reason one of our Directors left the organization recently is because Council meetings are held in the evenings. He goes on to say that Staff would be MORE PRODUCTIVE and energetic (suggesting they aren’t productive now?) if the meetings would be held in the daytime.

3:23 Coun. Labbee ask Councillor Leduc to be transparent about the true reason he brought forward the motion to change the Council meeting times.

3:24 Councillor Leduc YELLS at Councillor Labbee again and says “IT DOESN’T MATTER WHAT AGENDA IT WAS ON”

### Concluding Comments

[34] Cllr. Labbee attached an email string amongst members of Council in which the senior staff salary increases were discussed. I note that this exchange likely constitutes a breach of the Open Meeting Principle in that councillors are debating a municipal governance issue over email in the absence of the public contrary to s. 239 of the *Municipal Act, 2001*. Cllr. Labbee concludes from these email exchanges that it was apparent, even to Cllr, Leduc, that members of Council were unaware that the salary increases for senior staff would be 9 and 11%. The screenshots attached reveal questions from only 3 of the 13 Members of Council, one of which is Cllr. Leduc. The two other councillors’ questions to staff do not indicate any misunderstanding with the overall cost of the increase for senior staff, only what percentage increases that total reflected.

## **Parent Complaint**

### **Particulars of the Complaint**

[35] Cllr. Leduc states that Councillor Mike Parent made a social media post on the Our Valley East Communities website on May 22, 2024 which “confirms” and “supports” statements made by Cllr. Labbee and attached screenshots of said post. Upon review, it appears as though the post was made to a Facebook group called “Our Valley East Communities”, but due to the cropping of the screenshot, the full post is not visible.

[36] The Parent Complaint alleges that Cllr. Parent's Facebook post and its alleged support of Cllr. Labbee's statements that the CAO should resign, reference to three other Cllrs., and Mr. Fowke (the City's General Manager of Corporate Services), is in breach of:

- Section 14: Conduct Respecting City Employees;
- Section 8: Support for decisions of council;
- Section 17: Social media; and
- Any other applicable sections of the Code of Conduct.

[37] The Second Complainant also raised the issue of statements attributed to Cllr. Parent in a CTV News article entitled "Sudbury councillors pull back CAO's powers" published on May 15, 2024.

### **Impugned Statements**

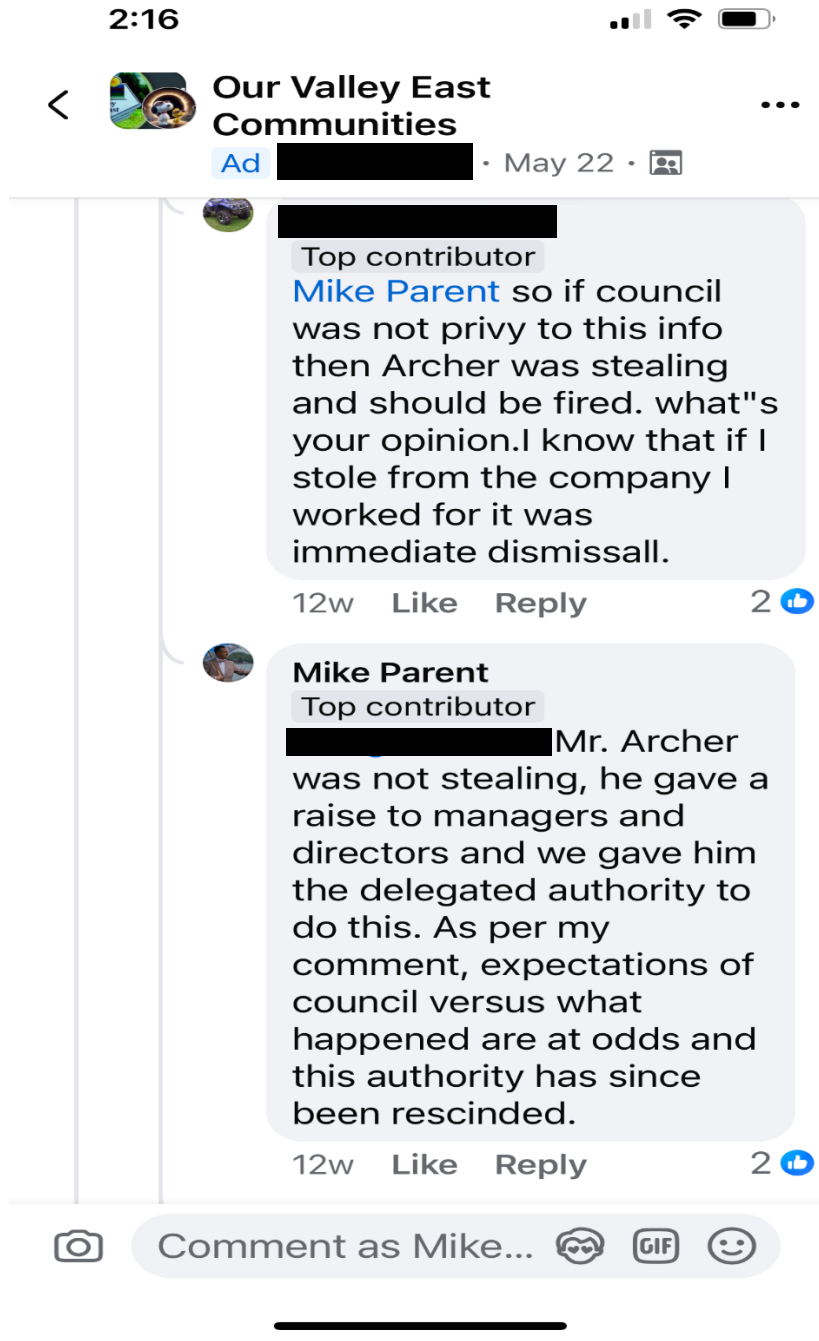
1. Posts on Our Valley East Communities Website, various dates

[38] Cllr. Leduc did not provide us with legible screenshots of any posts on this website. We asked Cllr. Parent if he made any such posts to which he responded that he did not but he did comment on a couple of posts made by others about the subject-matter of this Complaint. He provided us with screenshots of those comments. His comments were as follows:

- On May 22, 2024, in response to a post that republished the May 22<sup>nd</sup> Sudbury.com article summarized below, Cllr. Parent wrote the following:



- On the same date, the following exchange ensued:



2. "Sudbury councillors pull back CAO's powers," May 15, 2024, CTV Northern Ontario News (Amanda Hicks)

[39] The Complaint concerned the following statement by Cllr. Parent:

Some councillors said they were aware of a five to eight per cent increase, but were not informed of an additional three per cent increase given in April.

"The report in January [2024] suggested slightly higher numbers than what had been discussed, which would have led to questions, but at no time was it shared with members of council that there was going to be an additional three per cent to meet the market readjustments," said Parent.

3. "Mayor works to fix damage caused by Greater Sudbury salary scandal," May 24, 2024, Sudbury Star (Mary Katherine Keown)

[40] The impugned comment of Cllr. Parent in this article is as follows:

Ward 5 Coun. Mike Parent told The Star he was unhappy with the pay hikes. He said he would not have supported such increases.

"I believe we have great individuals that work hard, but if this would have been a decision of council, I would not have supported an eight per cent increase in addition to the three per cent cost-of-living increase," he commented in March.

4. "Secret pay hikes for senior city staff 'a lapse in judgement,' Labbee says," dated May 25, 2024, Sudbury Star (Mary Katherine Keown)

[41] The following statements are attributed to Cllr. Parent in this article:

Like Labbee, Parent said Monday he is unhappy with the pay hikes. He plans to "revisit this delegation of authority" and he said he would not have supported such increases.

"I believe we have great individuals that work hard, but if this would have been a decision of council, I would not have supported an eight per cent increase in addition to the three per cent cost-of-living increase," he commented to The Star.

Parent said he believes council and staff are bound by the four pillars outlined in the Code of Conduct — accountability, integrity, respect and transparency — and should behave accordingly.

"As municipal civil servants our conduct must be beyond reproach and satisfy the most stringent tests of public accountability and trustworthiness. We are trustees of public funds and responsible for delivering a wide range of important public services, which are supported by our citizens through their taxes," Parent offered. "We owe it to the public to play a supportive and impartial role when providing opportunities and options for the delivery of such services and always acting in the best interest of our community.

"It is the city's expectation that employees will always use their best judgement in the performance of their duties and every employee is accountable for his/her actions."

Parent said since the Sunshine List exposes public servants who earn more than \$100,000, “there is opportunity for the city to be more transparent regarding wage increases of the most senior staff.”

### **Response of Councillor Parent**

[42] I passed on the particulars of the Parent Complaints, but not the identity of the second complainant, to Cllr. Parent by email on July 17, 2024. He responded by email on July 21<sup>st</sup>.

[43] Cllr. Parent pointed out that in the Sudbury Star article dated May 25, 2024, in addition to the statements raised in the Second Complaint (which he did not deny making), he stated that the City had “great staff” and that, like members of Council, they were bound by the four pillars of the code of conduct - accountability, integrity, respect and transparency. He also noted that following the leak of the information to the press about the senior staff salary increases, Council unanimously voted to rescind the delegation of authority to the CAO with respect to staff salaries, suggesting that all Members were in agreement that its prior use had not been in accordance with Council’s expectations. He further pointed out that while Councillor Leduc is now saying that Council was aware of the salary increase given to senior staff, in an email sent on March 25, 2024 to City staff which was copied to all councillors, he asked “how many employees in group [sic] 15-18 and what was the actual dollars in total spent.” He indicated that this suggested that Cllr. Leduc did not appreciate the size of the increase to be given at that point in time because members of Council had never been told.

[44] With respect to the specific Code provisions he is alleged to have breached, his submissions were as follows:

- Section 14: Conduct Respecting City Employees; I have a high respect for staff and this is routinely communicated routinely by me in media and social posts (he provided a Sudbury Star article quoting him in congratulating staff work I relation to flooding during the Spring of 2024 as an example of this);
- Section 8: Support for decisions of council; I do show support for decisions of council. In this situation some things said in closed set expectations which led to council giving the CAO the delegated authority to give certain non-union staff salary increases. The consequences of how this was conducted and communicated to council led to council unanimously supporting a motion I co-presented to rescind this delegation of authority. Having entire council’s support to rescind this delegation of authority is an indicator that council did not support how the salary increases were given.

[45] At Cllr. Parent’s request, we spoke on August 1, 2024. Regarding the discussion at the December 2023 meeting, he agreed that Council was told by Mr. Fowke that the ~\$520,000 line item under “Contract Cost Changes/”Approved Salary Adjustments” in Mr. Fowke’s slide presentation reflected increases in salaries for Group 15-18 employees but no % increases were discussed (nor did any Councillor ask what this number represented in terms of % increases). He noted that this was part of an exhaustive budget process where little time was provided to consider each item presented with any care. Regarding his statement on a number of occasions regarding

councillors and staff being bound by the four pillars of the Code – accountability, integrity, respect, transparency – he said he was not insinuating the CAO lacked these qualities; rather, he was criticizing the “secretive process” of delegating authority to the CAO so he could make the political difficult decision of deciding senior staff salary increases rather than Council so Council would not be hit with any backlash if those increases were not taken well by the public. In hindsight, he feels that Council should have bitten the bullet and not delegated the decision regarding salary increases to the CAO.

## **Investigation**

### **Background**

[46] The context of the Complaints are that an April 26, 2022 confidential staff report asserted that 10 out of 13 of the City’s non-unionized pay groups were below the 50<sup>th</sup> percentile in relation to a list of municipal comparators and recommended a 6% wage increase for non-unionized staff to bring the salaries into greater parity with their counterparts. At the May 2022 closed meeting of Council at which this report was considered, Council deferred this increase until after the Fall 2022 municipal elections, no doubt for reasons of political expediency.

[47] On Sept. 26, 2023, the matter of the adjustment of non-unionized staff salaries was revisited and at that Council meeting, a unanimous city council passed Bylaw 2023-150, which amended Bylaw 2015-87 and gave the CAO the authority "to adjust the pay structure of all or some categories of non-union employees" when he believes "it is appropriate to do so" based on existing compensation philosophies and the salary administration plan approved by city council.<sup>8</sup>

[48] Acting upon that delegated authority, CAO Archer increased the salaries of 23 staff in pay groups 16-18 by 8 percent and eight people in pay group 15 by 6 percent, in addition to the regular three-per cent cost of living increase, retroactive to April 1, 2023. Reports have indicated that the additional increase over cost of living amounted to \$520,000.00/yr. in the first year of the increase and a slightly lower amount in the following year.

[49] At a December 12, 2023 Council meeting, during a closed session dealing with budget issues, Corporate Services General Manager Kevin Fowke delivered a powerpoint presentation outlining various aspects of the budget. The heart of the controversy underlying the subject Complaints is whether and to what extent the senior staff wage increases were disclosed in the course of Mr. Fowke’s presentation. At least two councillors, Cllrs. Leduc and McIntosh, asserted that the senior management salary increases were identified during this closed session. At least four councillors, Cllrs. Labbee, Parent, Fortin and Signoretti, assert that this issue was not addressed.

[50] In March 2024, certain “Honest City Employees” leaked details of the salary increase information as well as confidential information originally disclosed only to councillors to a local media outlet. Publication of this information lead to the subsequent expression of in both news and social media fora about not only the size of the increase but its unfairness compared to unionized

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<sup>8</sup> A cynic might argue that Council voted to grant this discretion to the CAO for reasons of political expediency, so that if there was a backlash, it would be visited on the CAO rather than members of Council themselves.



staff increases and the dangerous precedent this created for future wage increases, and how Council were essentially acting as lackeys of the CAO, lead to the circus that this Report is concerned about.

[51] At its May 14, 2024 meeting, Council unanimously voted to revoke the CAO's delegated authority provided in Bylaw 2023-150.

**Sudbury.com Article “Leaked documents: CAO approved 8% wage hike for top management” dated March 22, 2024 (authored by Tyler Clarke)**

[52] The article states in its material aspects as follows:

- According to documents leaked to Sudbury.com, City CAO Ed Archer approved the wage hike within pay groups 16-18 (city directors and other senior managers), alongside a six-per-cent boost for pay group 15 in November 2023. This was in addition to their regular 3% cost of living increase;
- There were 23 people whose wages were boosted in pay groups 16-18, and eight people whose wages were increased in pay group 15;
- Archer's decision comes more than a year after city council members considered a resolution calling for a six-per-cent pay boost within pay groups 16-18 during a closed session on April 26, 2022, which the city's elected officials did not approve;
- This, according to a package of documents delivered to the Sudbury.com office in a brown envelope on Thursday. Submitted anonymously, a letter in the package is signed, “Honest City Employees;”
- “We have a lot of senior staff who have reached the point in their career where the option to retire exists, and we were going back out to the market to find people,” the CAO said. “The salary levels that we were providing did not meet the market expectations;”
- By increasing pay levels, Archer said he used his delegated authority to follow city council's direction.

**Sudbury.com Article “Leaked emails show councillors were told cost of wage hikes” dated May 21, 2024 (authored by Tyler Clarke)**

[53] A review of Mr. Clarke's article indicates the following:

- Despite Cllr. Labbee's assertion in her open letter that she and her colleagues were blindsided by the cost of wage hikes for non-union employees approved by CAO Ed Archer, leaked emails obtained by Sudbury.com show Labbée and her fellow councillors were informed, and should've been aware, of how much the raises would cost.

- All available facts point to Archer having followed city council's direction.
- Sudbury.com received a brown envelope from an anonymous tipster(s) signed "Honest City Employees" enclosing documents that included a closed-session report from April 26, 2022, and internal city correspondence from November 2023 revealing that pay groups 15-18 (non-union managers) were to receive salary increases of between six and eight per cent, in addition to their regularly scheduled three-per-cent annual salary boost.
- The April 26, 2022, closed-session report was in relation to the previous city council considering a pay boost of six-per-cent (also in addition to regular wage hikes) within pay groups 16-18, a decision Archer said the city's elected officials deferred to the new city council (Cllr. Bill Leduc later said they deferred it to the new city council because it would have been "political suicide" to approve the wage hikes just prior to an election).
- In September 2023, all 13 members of city council voted in favour of granting Archer delegated authority "to adjust the pay structure of all or some categories of non-union employees" when he believes "it is appropriate to do so" in accordance with existing city policies. Last year's pay hikes made use of this delegated authority.
- After Sudbury.com broke the wage hike story in March 2024, city council seemed divided over what they knew and what they should have known, with some members of city council lashing out against Archer, punting blame in his direction. Cllr. Pauline Fortin said it's "always of great concern" when she finds out something as important as salary hikes at the same time as the public, "and it is made even more alarming when we all find out from the proverbial brown envelope." Cllr. Labbé echoed this sentiment both at the time, and in her open letter in which she wrote that if she were in Archer's position, she "would probably resign because it would be the right thing to do."
- Others on city council have contended that their colleagues should have known what was going on, with Cllr. Bill Leduc asserting that, "We all knew exactly what we were doing moving forward. It wasn't like we were blindsided, where there was no disclosure."
- During this same May 14 city council meeting, Corporate Services General Manager Kevin Fowke clarified that Archer's delegated authority "was carried out in its full spirit and intent."
- Although it's rare that closed-session meetings are discussed publicly, Fowke clarified that the wage-change information was provided to city council during a closed-session meeting in December 2023, in the midst of

2024-25 budget deliberations. This assertion contradicts Labbé's assertion that she didn't know until Sudbury.com broke the story in March.

- Although Sudbury.com has been unable to obtain copies of the closed-session reports and presentations in question, we did receive leaked internal city emails that shed a light on what city council was told, including at the Dec. 12, 2023 closed session Fowke referenced. In this correspondence, City Solicitor and Clerk Eric Labelle wrote that Fowke presented a slide presentation during the meeting regarding contract cost changes and approved salary adjustments "with an amount of \$520,067 for 2024 and \$481,098 for 2025," and that Fowke had clarified that the amounts were attributable to an increase for pay groups 15-18.
- The leaked emails also indicate that city council discussed a report on proposed wage increases during a May 16, 2023, closed session, which concluded with a successful resolution for staff to draft the bylaw amendment that resulted in delegated authority being afforded to Archer to change non-union salaries (which city council unanimously approved in open session on Sept. 26, 2023).

[54] We asked Mr. Clarke to provide copies of the leaked emails referenced in his article on June 2, 2024. By email dated June 3rd, we were advised by Mr. Clarke's editor that as the leaked documents were provided to Sudbury.com confidentially, they would not be releasing them to my office.

**Slide Presentation Delivered by Kevin Fowke at December 12, 2023 Closed Session of Council entitled Budget 2024-2025 Information**

[55] This is a confidential document and it is important that it stay substantially confidential as it contains sensitive cost-benefit analyses of programs and personnel that might be affected depending on what budget decisions were made. It would be highly detrimental if these aspects of the presentation were disclosed to the public. I must stress that this and other documents were provided to me by the City under compulsion from me on threat of exercising my powers of summons under the *Municipal Act, 2001* and *Public Inquiries Act, 2009* and are not to be taken as having been provided to me voluntarily. I have considered long and hard about how to deal with it given its seeming importance to the resolution of the Complaint. After consulting with several other municipal experts, I have determined that I will disclose only so much of the document as is necessary to address the issue in this case, being whether and to what extent senior management staff increases were disclosed to the councillors prior to March 2024.

[56] The following redacted chart, found on slide 4 of the 5 slide presentation, sets out the only written information provided to councillors at the December 12, 2023 meeting relating to the senior management salary increases:

## Contract Cost Changes

Contractual Changes	2024	2025
Approved salary adjustments	520,067	481,098

**Sudbury** Greater Grand



### **Email From Eric Labelle (Clerk and City Solicitor) to Kevin Fowke (and the CAO and all members of Council) dated March 22, 2024**

[57] This email was previously leaked by some City employee(s) to Sudbury.com and its contents subsequently reported by that outlet so any confidentiality of the document has been lost. The email confirms that Mr. Fowke explained to Council during the closed session budget information session on December 12, 2023 that the item “Approved Salary Adjustments” related to salary increases for senior management staff in pay group categories 15-18.

### **Interview with Eric Labelle, City Clerk and City Solicitor**

[58] Mr. Labelle confirmed that at the December 12, 2023 in camera Council meeting, when Mr. Fowke dealt with the slide with the heading “Contract Cost Adjustments”, he indicated that the numbers set out in the line titled “Approved Salary Adjustments” for 2024 (~\$520,000.00) and 2025 related to senior management salary increases. There was no discussion of the percentage increases leading to this total cost increase (Mr. Fowke did not provide that information and no councillor asked about it).

[59] Mr. Labelle further pointed out that in the report to Council entitled “2023 CAO Performance Objectives and Fourth Quarter Performance” dated February 21, 2024, the following was stated on p.7 of the 8 page document:

### Use of Delegated Authority to Manage Non-union Compensation

Councillors will recall the delegated authority assigned to the CAO in 2023 for managing non-union compensation. For the past several years the corporation's compensation levels have been falling behind the market, leading to staff

resignations, dissatisfaction and recruiting challenges. For example, in 2023 Director-level salaries were approximately 15% below market. To address this, Council delegated responsibility to the CAO to adjust non-union compensation such that they remained within the approved guidelines established in the City's compensation policy, with the requirement to inform Council about the use of this authority at the next closed CAO performance meeting. The compensation policy continues to remain subject to Council review and approval.

*Your CAO used this delegated authority in 2023 to adjust salaries by 8% for Director-level positions, and by 6% for senior manager-level positions. This adjustment brought salaries within approved guidelines and created a positive effect on the level of candidate interest in vacant positions. [emphasis added]*

[60] Although the February Council meeting at which the report was to be considered was cancelled due to the passing of the late Cllr. Montpellier, the agenda package that included this report of the CAO was distributed to all councillors two weeks in advance of that meeting date. All members of Council therefore had this report prior to the leak of the salary increases to the media by the “Honest City Employees” in March 2024 and presumably (not knowing the meeting was going to be cancelled at the last minute) would have read it prior to the scheduled February Council meeting.

[61] Mr. Labelle acknowledged that it was not disclosed in the CAO's February 2024 Report that these salary adjustments were in addition to the general wage increase (“GWI”) that all non-unionized employees (including members of Council) automatically get every April, however, in his view, that should have been assumed; otherwise, the intended objective of catching up the salaries of staff in those senior pay groups would have been undermined if a portion of the increase was clawed back by the effects of inflation (or alternatively, some of the gains would be lost because the salaries of cohorts in other jurisdictions would have increased by the rate of inflation).

#### **Interview with Kevin Fowke, General Manager, Corporate Services**

[62] Mr. Fowke, the City's General Manager of Corporate Services, essentially confirmed the information provided to me by Mr. Labelle with respect to the disclosure he provided at the December 12, 2023 in camera Council meeting. He indicated that his slide presentation dealt with particularly sensitive items that were not included in the main budget package. He specifically advised those present when he got to the line item “Approved Salary Adjustments” that this reflected the cost of the salary increases for pay groups 15-18 that had been previously discussed by Council to be implemented by the CAO through the delegated authority. He noted that the presentation consisted of only 5 slides which took perhaps 10 minutes for him to go through.

[63] With respect to the report to Council entitled “2023 CAO Performance Objectives and Fourth Quarter Performance”, he indicated that he receives all agenda items for both open and closed Council sessions and that he received this report as part of the package sent to all councillors well prior to the February 2024 Council meeting that was later cancelled.

### **Email Exchange with Ed Archer**

[64] I sent an email to the CAO with one question: “did you at any time apologize to Council for your exercise of the delegated authority?” His response was “No, because I had permission. I did express regret for any role I played in the communication about this matter. But I did not apologize for using the delegated authority Council gave me for the purpose it was intended.”

### **Relevant Legislation and Council Policies and Procedures**

#### **COC**

[65] The relevant provisions of the Code are as follows:

#### Confidential Information

6. (1) No Member shall, contrary to any applicable privacy law, disclose, release by any means or in any way divulge to any person or to the public, any Confidential Information,<sup>9</sup> including without limitation any personal information as that term is used in the Municipal Freedom of Information and Protection of Privacy Act, acquired by virtue of their office, except when required by law or authorized by Council or the Local Board to do so.

(2) No Member shall misuse Confidential Information or other information that they have knowledge of by virtue of their position that is not in the public domain, including e-mails and correspondence, consultant's reports, draft documents, such that the use thereof may lead to financial or other gain of the Member or of any person related to the Member or cause detriment to the City, Council, a Local Board, the public or others.

#### Conduct Respecting City Employees

14. (3) No Member shall maliciously, falsely, negligently, recklessly, or otherwise improperly, injure the professional or ethical reputation, or the prospects or practice, of any one or more City employees.

#### Discreditable Conduct

15. (1) Every Member shall: (a) treat other Members, City officers and employees, and members of the public, appropriately, and without abuse, intimidation, harassment or violence.

#### Respect for Decision Making Process

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<sup>9</sup> “Confidential Information” is defined in s. 1. (f) of the Code to include but is not limited to information: (ii) identifying a matter or pertaining to the substance of a matter discussed or considered, or pertaining to advice received, presented, reviewed or discussed in an In-camera meeting under section 239 of the Municipal Act, 2001.

16. (2) Every Member should refrain from making statements known to be false or with the intent to mislead Council or the Local Board as the case may be, or the public.

## **Findings**

### **Complaint Against Cllr. Labbee**

#### **Providing Inaccurate Information to the Public**

[66] I am satisfied based on the evidence I have received that while the percentage increases to the staff in pay groups 15-18 was not disclosed in December 2023, members of Council were advised in closed session at the December 12, 2023 in camera Council meeting that the increases in salaries to staff in those pay groups would cost ~\$520,000 in 2024. Cllr. Labbee's claim in her media posts that the \$520,000.00 salary increase costs was never disclosed to Council prior to or during budget discussions, nor was it disclosed in any "closed documents" and that "I will die on my sword over this fact!!!!," was false and misleading. I further find that the percentage increases above the GWI was disclosed in the CAO's Report to Council dated February 21, 2024 that was distributed to all councillors – before the leak of the numbers to the media. I further find that although it was not stipulated that the percentage increases were in addition to, and not inclusive of, the GWI percentage increase, it would have been reasonable for councillors to have assumed the increase was in addition to the 3% GWI increase. I say this because, given that the very purpose of the increase was to catch senior staff salaries up to the median salaries for comparable positions in other municipalities, that purpose would have been undermined or clawed back if the new salaries were not also adjusted upward for inflation.

[67] I also find that her statement at the May 14, 2024 Council meeting that "This is definitely one of those situations where asking for forgiveness is a lot better than asking for permission. If you don't have trust, then you have nothing" to be false and misleading in two respects. This statement was made in the context of the debate over revoking the delegated authority previously given to the CAO to determine salary increases to pay groups 15-18. Her statement suggests that the CAO acted without authority and/or contrary to Council's direction, when in fact Council had passed a bylaw granting him *unfettered* delegated authority ie. without imposing any express conditions or parameters on the exercise of that authority. Furthermore, it suggests the CAO asked for "forgiveness" for granting the pay increases when he did no such thing.<sup>10</sup>

[68] In order to constitute a breach of s. 16. (2) of the Code of Conduct, a Member must have "known" the impugned statement was false. With respect to the statement set out in para. 66 above, I am satisfied based on Cllr. Labbee's Response and the content of her statements themselves that she had an honest but mistaken belief that the statements she made were true, and I find that she did not intend to mislead the public regarding those statements.

[69] With respect to the statements set out in para. 67 above, on the other hand, there ought to have been no doubt in her mind that the Delegated Authority Bylaw gave the CAO unfettered

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<sup>10</sup> I accept Mr. Archer's statement that while he apologized to Council for any issues with communication of the salary increases, he did not apologize for directing those increases.

discretion to determine the level of salary increases he deemed fit such that there was no “permission” to be sought. She was further aware that the CAO had not asked Council for forgiveness for granting the increases. In making these statements, I find that she knowingly made a false statement and did so intending to mislead the public into believing that the CAO had some sort of obligation to come back to Council if he was “clairvoyant” enough to appreciate that Council had some “reasonable range” of increases above which he could not impose without further Council direction, and that the CAO had acknowledged his error in not doing so by asking the forgiveness of Council. I therefore find that Cllr. Labbee breached s. 16. (2) of the COC.

### Breach of Confidentiality

[70] It is clear from s. 6. (1) of the COC that Confidential Information which Members are prohibited from disclosing includes identifying a matter or disclosing discussions pertaining to the substance of a matter discussed or considered, or pertaining to advice received, presented, reviewed or discussed in an in-camera meeting under section 239 of the *Municipal Act, 2001*. In my opinion, this duty of confidentiality extends to both the substance of what was discussed as well as what was not discussed in connection with a matter. The only recourse for a councillor who wishes to reveal what was discussed (or not discussed) during a closed session is if Council first passes a resolution waiving confidentiality over those discussions. No such motion was ever passed in this case.

[71] In purporting to report on what Council members were advised, or not advised, in closed session about the impact of the salary increases to staff in pay groups 15 -18 at the December 2023 in camera session, I find that Cllr. Labbee breached s. 6. (1) of the Code of Conduct.

[72] What Cllr. Labbee learned, or did not learn, about Council’s views on appropriate pay increases for senior staff prior to or at the time of the passing of the Delegated Authority Bylaw was all learned during closed sessions, such that this information should not have been publicly disclosed by any councillor. In doing so, Cllr. Labbee breached s. 6. (1) of the Code of Conduct.

[73] Cllr. Labbee further breached confidentiality by revealing the purported “spit and a handshake” deal she claimed took place between the CAO and a number of councillors whereby the CAO would come back to Council for further direction if his contemplated increase was outside of some “reasonable range.” Given that authority was delegated unconditionally, this purported agreement makes no sense and I reject that there was any such agreement. In any event, this would have also been the product of a discussion in closed session such that it was a breach of confidentiality to reveal it. I find this constitutes another breach of s. 6. (1) of the Code of Conduct.

[74] Although Cllr. Labbee was not even on Council in the Spring of 2022, that did not stop her from claiming that Council at the time rejected a 6% wage increase for senior staff (this is in fact not true - Council did not reject the increase; rather, Council deferred the decision until after the Fall 2022 election). She goes on to suggest that this ought to have informed the CAO’s impression of what an acceptable wage hike for these senior staff should be. This is in spite of the fact that she herself notes that given that 2022 was an election year, the public backlash that was anticipated to follow a wage hike of that degree for municipal staff would have been political suicide,



rendering it of little use as a benchmark for what the post-election Council might find acceptable.<sup>11</sup> Putting aside the misleading nature of her statement, assuming the basic claim was true, this once again constitutes a breach of confidentiality as the discussion of the wage increase at that time was held in closed session, a fact which Cllr. Labbee was aware of. This is yet another breach of s. 6. (1) of the Code of Conduct.

[75] I further find that Cllr. Labbee breached s. 6. (2) of the Code. in misusing Confidential Information in a manner that may cause detriment to the City, Council, a Local Board, the public or others. The information disclosed by Cllr. Labbee was certainly detrimental to the CAO and anyone in Cllr. Labbee’s position could not come to any other objective conclusion but that it would. It also caused detriment to the City as a whole in lowering the reputation of senior staff members in the eyes of the public, who she claimed never disclosed to Council the extent of the senior staff salary increases until after the information had been published in the media thanks to the “Honest City Employees.”

#### Criticism of the CAO

[76] The Code provides in s. 14. (3) that “No Member shall maliciously, falsely, negligently, recklessly, or otherwise improperly, injure the professional or ethical reputation, or the prospects or practice, of any one or more City employees.”

[77] This issue is challenging because the ability of councillors to publicly comment on important issues should not be chilled, but at the same time, respect for the decision making of staff, particularly senior staff, must be maintained.

[78] I have reviewed cases decided by other Ontario ICs where staff have been subjected to criticism by members of Council.<sup>12</sup> What I cull from those decisions, which accords with my own first principles views on the issue, is that where councillors have a disagreement with a decision made by staff, they should consult the CAO rather than air their grievances publicly. A paper entitled “The Evolving Role of City Managers and Chief Administrative Officers”,<sup>13</sup> cited in the *Byford v Matlow* decision referenced in footnote 3 is helpful in providing a history of the CAO position and in providing suggestions concerning how criticism of senior employees can properly be levelled. Starting on page 20 of the paper, the authors provide suggestions to maintain positive council-staff relations. One of the recommendations is not to “air dirty laundry in public”. The authors advise that when a councillor has an issue with the CAO, it should be raised with the head of council in private, not publicly.

[79] Obviously, because the subject decision was made by the CAO, councillors have no recourse to that individual; however, in such cases, concerns should be voiced to the Mayor or Council as a whole in closed session.

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<sup>11</sup> A cynic might conclude that the very delegation of authority to the CAO to set the senior staff salary increases post-election was a conscious attempt on the part of its Members to avoid having to make this unpopular decision themselves.

<sup>12</sup> See *McNeil v Bifolchi*, 2017 ONMIC 3 (CanLII), <<https://canlii.ca/t/hqdh5>>; *Sinnott et al. v McConkey*, 2021 ONMIC 4 (CanLII), <<https://canlii.ca/t/jg64t>>; *Byford v Matlow*, 2018 ONMIC 5 (CanLII), <<https://canlii.ca/t/hv1ts>>; *Clancy v Therrien*, 2021 ONMIC 12 (CanLII), <<https://canlii.ca/t/jjj6b>>.

<sup>13</sup> Michael Fenn and David Siegel, IMFG Papers on Municipal Finance and Governance No. 31 • 2017

[80] The decisions cited in footnote 3 are also careful not to unnecessarily silence councillors from respectfully criticizing decisions made by staff. Previous ICs have also sought to isolate councillor conduct from whether the impugned decision or action on the part of staff was correct or whether the criticism levelled had any merit. However, ICs have found Code violations where councillor comments veer into inappropriate questioning of the motives, competence or professionalism of staff.

[81] In my opinion, in light of the foregoing principles, Cllr. Labbée can rightly criticize the salary increases determined by the CAO pursuant to the delegated authority, but once her comments veered into impugning the CAO's ability to make reasoned decisions,<sup>14</sup> asserting that his conduct amounted to an abuse of trust,<sup>15</sup> asserting that he breached an oral agreement with councillors<sup>16</sup> and that she would fire the CAO if she were capable of doing so,<sup>17</sup> she crossed a line into disrespectful and inappropriate comments which denigrated the professionalism and ethics of the CAO, in contravention of s. 14 of the Code of Conduct.

### Inappropriate Language

[82] Cllr. Leduc complains about the "sarcastic" language employed by Cllr. Labbee. I will not undermine respect for the Code of Conduct by finding that it empowers me to micro-manage the discourse of councillors. If any of them feel that resort to sarcasm or rhetoric will best serve to get their point across, they are free to do so as long as they do not otherwise breach the tenets of the Code, such as those reviewed above.<sup>18</sup>

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<sup>14</sup> "How does someone who holds such a high position of authority and trust miss the mark like this?"

<sup>15</sup> "After all, shouldn't council trust their only employee with this everyday responsibility?"

"I surely can't be the only one who has that expectation? Maybe I should spend more time in the CAO's office so I can get information that others aren't getting, but I shouldn't have to."

"The level of trust is broken. There is an absolute onus on the CAO to have disclosed this to us and not by a leak."

<sup>16</sup> There was a "spit and a handshake" moment between councillors and the CAO "that would suggest that the latter would return to Council if the raises were outside the reasonable range."

<sup>17</sup> "And for all of those people who are saying "too little, too late", or "why does the CAO still have a job?" or "Good, they took the Delegated Authority but they aren't going far enough", all I can say is that if my board of directors went public and said they didn't trust me with making important decisions on my own, clearly demonstrating their lack of faith in me, I would probably resign, because it would be the right thing to do and clearly we are going in "different directions".

"I am only one seat on council, but if I had Strong Mayor powers, I know what I would have done a long time ago."

<sup>18</sup> To the extent other alleged breaches of the Code have not been dealt with under Findings, it is because I find that they are either repetitive of breaches already addressed, have not been made out on the facts I have found or are too trivial to warrant addressing.

### **Complaint Against Cllr. Parent**

[83] I find that Cllr. Parent was entitled to criticize the salary increases and to comment on what he would have supported had Council voted on the matter. This does not violate the Code of Conduct.

[84] I do not find any evidence that Cllr. Parent disclosed any confidential information arising out of closed sessions of Council. Although he did refer to an “expectation” on the part of members of Council of a 5-8% salary increase for the senior staff pay groups and that the 6 and 8% increases but not the COLA increase on top of that had been “discussed”, he was careful not to indicate that any such expectation was discussed during an in camera session or communicated to the CAO by Council.

[85] Although he stated in his comments on the Our Valley East Communities website state that Council was not aware of the amounts of the increases, it is clear from his comments as a whole that he meant before they were implemented by the CAO, not after the fact (he acknowledges these were disclosed to Council in January 2024 in advance of the March 22, 2024 Sudbury.com article revealing the extent of the increases based on information leaked by the so-called “Honest City Employees”). This is in contrast to Cllr. Labbee, who claimed to have no knowledge of the increases until after the Sudbury.com article.

[86] I was concerned by the following comments that appeared in the May 25<sup>th</sup> Sudbury Star article from the standpoint of improper criticisms of staff:

Parent said he believes council and staff are bound by the four pillars outlined in the Code of Conduct — accountability, integrity, respect and transparency — and should behave accordingly.

“As municipal civil servants our conduct must be beyond reproach and satisfy the most stringent tests of public accountability and trustworthiness.”

[87] My concern with the foregoing quote, which Cllr. confirmed was an accurate transcription of what he said, was that, taken at face value, it implies that the CAO did not meet the “stringent tests of public accountability and trustworthiness” that staff as well as councillors are held to. I was reassured by his Response as well as our discussion that he did not intend to imply this and was merely pointing out that Council ought to take accountability for delegating authority to make the decision about senior management salary increases to the CAO and that its decision to pass off this political hot potato to the CAO rather than addressing the issue itself was a matter of trustworthiness of Council in the eyes of the public. I therefore find that he did not violate s. 14. (3) of the Code of Conduct.

[88] While in his May 22<sup>nd</sup> comments on the Our Valley East Communities website started off with “I have to agree with Cllr. Labbee on this one,” (referencing the op. ed. in Sudbury.com from the day before), reading his comments as a whole satisfies me that he was not agreeing with Cllr. Labbee’s critical remarks about the CAO.

[89] I also note that in his comments on the Our Valley East Communities website, Cllr. Parent defended the CAO against serious allegations and re-asserted that his only concern was that the increases were not in keeping with councillors' "expectations."

[90] I find that Cllr. Parent did not breach the Code of Conduct in relation to this matter.

### **S. 21. (9) Notice Submissions from Cllr. Labbee**

[91] On August 14, 2024, pursuant to s. 21. (9) of the Code of Conduct,<sup>19</sup> I provided Cllr. Labbee with my intended findings (as set out in paras. 66 - 81 above) and provisional thoughts on penalty with a request that she provide any comments she had. I received her response on August 17, 2024. I thank her for her very prompt response. I will deal with her comments on my Findings in this section and her position regarding my recommendations for penalty in the next section of this Report.

[92] Cllr. Labbee's responses to my Findings, and my comments on those responses, are as follows:

- Cllr Labbee response: the \$520,000 was a line item with no explanation or discussion. In the December 2023 closed meeting, we did not even know that the CAO had used the Delegated Authority. It was not specifically addressed. As indicated above, I accept the evidence of the City Clerk and Solicitor and General Manager, Corporate Services that the fact the \$520,00 represented the overall cost of pay groups 15-18 salary increases for 2024 resulting from the CAO's exercise of the authority Council delegated to him was discussed at the December 2023 closed session. I therefore reject this defence.
- **Council shouldn't have to ASSUME anything [with respect to the fact that the 3% GWI increase was not indicated to be in addition to the 6% and 8%**

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<sup>19</sup> S. 21.(9) reads as follows: "Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions." The only other Ontario municipality with a similar provision that I am aware of is the City of Toronto (TORONTO MUNICIPAL CODE CHAPTER 3, ACCOUNTABILITY OFFICERS, s. 3-4.4F). I completely disagree with this requirement. It duplicates the COC provisions that give the Member the opportunity to provide a response to the original complaint, in the request for which I (and I would assume other Integrity Commissioners) already ask the member to focus on the IC's concerns and I re-engage with the Member if the scope of my investigation or the issues raised changes. In other words, the Member has already been given the opportunity to address the subject-matter of the complaint and the Code provisions in play. It is awkward and in my view unseemly for an IC to come to conclusions regarding breach of the Code only to then ask the Member for their position on those findings. It creates an appearance of lack of objectivity on the part of the IC as she/he has already come to conclusions and there is obviously a perception of bias (entrenchment) in terms of reconsidering them. Furthermore, the Findings of the IC are quasi-judicial findings and should not be a matter for debate once they have been reached. In terms of contesting the recommended penalty, I believe s. 21. (9) puts the IC in the same awkward position as requesting feedback on the Findings. Since the IC only recommends penalty and Council is the only body with the power to impose sanctions, in my view, the Member should have the right to make submissions regarding sanctions at the Council meeting at which the Complaint against the Member is considered, rather than debating the matter with the IC. I also note that s. 21. (9) represents another source of unnecessary delay and expense in the process.

**increases for the pay group 15-18 employees]. A report should include all information.**

Simply put, I disagree. I believe it ought to have been apparent that these were the net increases, before inflation, otherwise, they would not achieve the objective of bridging the *15% gap* between the remuneration of the City employees in pay groups 15-18 and the median salaries of employees in cohort Ontario municipalities that was reported to all members of Council in the Spring of 2023 and September 2023. In any event, I do not understand why the Councillor is quibbling about this when she is on the record in her impugned communications that she did not even know about the non-GWI increases, which I find, based on the February 2024 CAO report that she received, is not true.<sup>20</sup>

- **While the CAO was granted Delegated Authority for the overall decision, there were definite generalized discussions around what would be a palatable range and although it wasn't specified in the Resolution of Council, it was definitely the general perception of Council in entrusting the decision to the CAO.**

This is irrelevant. Even as a first term councillor, Cllr. Labbee must surely appreciate that once authority is delegated in an unfettered fashion, as was the pay groups 15-18 salary increases, it was no longer in Council's hands and any such "discussions" were of no consequence.

- **My statement ["This is definitely one of those situations where asking for forgiveness is a lot better than asking for permission. If you don't have trust, then you have nothing"] does NOT at all suggest that the CAO asked for forgiveness. The comment about forgiveness/permission was merely facetious in nature because of several prior in-camera conversations about the raises.**

Once again, there was no permission needed to be sought by the CAO as he was conferred unfettered delegated authority to impose increases and Council did not see fit to fetter that discretion. As far as I am concerned, he did what all members of Council expected him to do, namely, bridge the 15% pay gap for senior management salaries that the authority was intended to address. Implying he needed permission and then, after the fact, asked for forgiveness for the decision he made, is quite frankly false and gravely insulting to the CAO.

- **I never once said he asked for forgiveness.**

I cannot fathom any other reasonable inference from the phrase "This is definitely one of those situations where asking for forgiveness is a lot better than asking for permission" than that the CAO asked for forgiveness for the increases he approved. I reiterate my finding that he did not.

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<sup>20</sup> I note that the February 2024 CAO report was only 8 pages long, not hundreds of pages like the budget materials.

**I never once said the CAO should be clairvoyant. Please go back and re-read that part of my Letter to the Editor. It clearly states in my open letter “ What I am hearing from Councillors MacIntosh, Sizer, Leduc and Mr. Fowke from that meeting is that WE should have been clairvoyant to know that the CAO had decided on a 9&11% increase”. (because it WASN’T told to us)**

My attempt at humour by turning Cllr. Labbee’s comment back on her obviously failed.

- **[with respect to para. 72 of my Report dealing with not publicly airing “dirty laundry”]: The head of Council is the Mayor and I did go to him privately about this, as did several of my colleagues. I agree that we should try to not “air dirty laundry” but Council has a responsibility to the taxpayers because of the leak by the “honest employees”. None of that would have been necessary except it was made public. Dealing with this topic was never done in malice. It was in an attempt to provide full transparency to the public and to all city employees who were upset and questioned the raises given to this pay group. Again, if Councillor Leduc wouldn’t have accused Council of being “Caught” (saying it twice + on the news), then the entire situation could have been avoided. My colleagues and I were compelled to provide accurate accounts of what went on so that taxpayers could trust us on what transpired with this situation. Again, I was not alone in my statements. Several other Councillors spoke to this.**

This does not excuse sharply and repeatedly denigrating the CAO in a public forum, plain and simple.

- **The “spit and a handshake” was also commented on by Councillor Fortin at the open meeting of May 14. I am not the only one who alluded to vague conversations had in previous closed meetings regarding expectations around the wage increases. I even referenced that in the time stamps from the meeting recording. It happened. It was not an agreement on paper but it was a real conversation.**

Vague conversations do not amount to an agreement and certainly not a basis for criticizing the CAO about breaching any such agreement. The Delegated Authority was unfettered. I stand by my findings. If Council desired to limit the CAO’s discretion with respect to the salary increases, it should have done so explicitly. The only people who are to blame for the public backlash are members of Council who felt a limit should be placed on the extent of the salary increases but failed to do so. Taking that failure out on the CAO was wrong.

### **Recommended Sanction**

[93] Cllr. Labbee’s comments in the various fora reviewed above were not at all measured and discreet; quite the contrary, they represented needless piling on of criticisms of the CAO and wholly improper imputations of his lack of trustworthiness and capacity to fulfill the role of CAO.

I further find that while Cllr. Labbee heaped criticism on her fellow councillors for looking out to cover their respective political behinds in delegating authority to the CAO to determine senior staff salary increases rather than handling it themselves (which, I note, she herself had voted for), her various statements in the media and at Council, especially the Open Letter and Sudbury.com op ed., were motivated by a desire to distance herself from the decision in order to salvage her own political fortunes. I also must take into account the repeated breaches of confidentiality and misleading statements in the name of defending herself. On the other hand, Cllr. Labbee is a first term councillor who has not been warned or censured about public comments regarding staff up until now.

[94] In my opinion, Cllr. Labbee's conduct warrants sanction. In all the circumstances, I find that the appropriate penalty in this case is a 20 day suspension of her remuneration as a councillor. I also recommend that Council direct Cllr. Labbee to publicly apologize to the CAO for the impertinent comments she made about him.

[95] Councillor Labbee's comments with respect to my proposed penalties are as follows:

- **Being honest comes with consequences sometimes and I will own that, but I was not the only person on Council that spoke up and was honest at the meeting of May 14, so I don't feel it's fair for me to be the only one who has consequences. Collectively, it was our own lack of judgement as a Council to not go into Closed to have those honest discussions. Only myself and Councillor Parent were mentioned in the complaints by Councillor Leduc and I can only explain that as a retaliation and personal vendetta. A tit for tat over other issues and that is for certain and can easily be substantiated.**

No other Councillor went to the extent of maligning the CAO that Cllr. Labbee did. I had originally felt that a 30 day penalty was in order but after reading her s. 21. (9) submissions, I reduced it to 20 days.

- **I believe that an apology to the CAO is warranted on behalf of myself and all of us on Council for not insisting that this conversation could be had in a Closed Session. None of us should have allowed it to happen out in the open for it to get out of hand the way it did. It was a very unfair process.**

No-one else went to the extent of criticizing the CAO as Cllr. Labbee did. Based on everything I have reviewed, I believe she is the only one that needs to apologize to the CAO.

### **Concluding Comments**

[96] I have found that Cllr. Labbee's comments about the CAO and the circumstances surrounding the salary increases for senior management personnel breached several provisions of the Code of Conduct. I find that a 20 day suspension of pay and an apology to the CAO is an appropriate penalty, and I so recommend that Council confirm these sanctions.

[97] For the reasons set out in footnote 19 above, I recommend that Council pass an amendment to Schedule "A" of By-law 2019-16, being A By-law of the City of Greater Sudbury to Adopt a Code of Conduct for Members of Council and Local Boards and Complaint Protocol, removing the current wording of s. 21. (9) of the COC and substituting the following in its place:

The Member shall not have a right to dispute findings made by the Integrity Commissioner's in her/his Report either to the Integrity Commissioner (other than contemplated in s. 21. (7) of this By-law) or before Council at the meeting where the Report is considered, and shall only have the right to dispute the Integrity Commissioner's recommended sanctions/penalties at the Council meeting at which the Integrity Commissioner's Report about the matter is considered.

[98] This concludes my investigation.

Respectfully Submitted,



David G. Boghosian,  
Integrity Commissioner,  
City of Greater Sudbury