

Expertise for Municipalities (E4m)
Non-Profit Association
1894 LASALLE BLVD. SUDBURY, ON, P3A 2A4

Integrity Commissioner for the
Town of Smooth Rock Falls



INQUIRY

REPORT/DECISION

ALLEGATIONS: CONTRAVENTION OF THE
TOWN OF SMOOTH ROCK FALLS
CODE OF CONDUCT AND
MUNICIPAL CONFLICT OF INTEREST ACT
BY: **MAYOR PATRICK ROBERTS**

I. REQUEST FOR INQUIRY

- [1] Expertise for Municipalities (“E4m”) as Integrity Commissioner (“IC”) received three (3) requests for inquiry (hereinafter the “Request”) that alleged Patrick Roberts (“Mayor Roberts”), a member of Council for the Town of Smooth Rock Falls (“Town”), contravened the Town’s Code of Conduct (“Code of Conduct”) and two (2) applications (“Application”) alleging Mayor Roberts breached the Municipal Conflict of Interest Act (“MCIA”).
- [2] The alleged behaviour that triggered all five (5) complaints occurred during a Mid-Year Activity Report presentation from the Smooth Rock Falls Economic Development Corporation (“SRFEDC”) during the July 15, 2024, Regular Council meeting.

II. FINDINGS/CONCLUSION

With Respect to the Code of Conduct

- [3] To ensure accountability and transparency, the *Municipal Act* provides that elected municipal officials, and members of local boards must act in a manner that is compliant with the expected behaviours set out in the Code of Conduct adopted by Council. The purpose of a Code of Conduct is to set out expectations related to the conduct of members.
- [4] We find based on the evidence before us that Mayor Roberts did not conduct himself in a manner that is consistent with the expectations set out in the Code of Conduct and his behaviour at an open meeting of Council contravened Sections 6.1, 7.1, 7.2 and 13.2 of the Town’s Code of Conduct as well as Section 2.15 a) and c) of the Council Procedural By-law.
- [5] During the July 15, 2024 Regular Council meeting Mayor Roberts severely criticized the presenter from the SRFEDC, a not-for-profit public body, that functions at arms length from the Town. To be clear, the SRFEDC is governed by a Board of Directors and is not a department of the Town. Mayor Roberts attempted to use his position as Mayor at the Council table to influence the operations of this organization.
- [6] We find that Mayor Robert’s treatment of the presenter was both uncalled for and highly inappropriate. It is not the role of Council as a body, an individual Councillor and/or the Mayor, to attempt to performance manage an employee of another organization. Nor is it their role to publicly criticize/humiliate an individual.
- [7] We further find that the matter of concern addressed by Mayor Roberts was not a matter properly before Council for several reasons. In essence, the Mayor erred in addressing the matter at a Council meeting for the following reasons:
 - i. The matter was not related to municipal policy, it was related to his experience as a volunteer with the SRFEDC.
 - ii. The matter was not properly before Council for discussion, it did not appear on the agenda, it was not added by resolution to the agenda, nor was it a part of the item set out on the agenda that Council was considering.

- [8] The proper action for Mayor Roberts in wanting to address his concerns, was to only communicate directly with the SRFEDC in his role as a volunteer, as long as he indicated he was **not acting in his capacity as Mayor**.
- [9] Mayor Roberts' actions adversely reflected on Council as a whole and had the potential to impact the relationship between the Town and the SRFEDC. Further they have caused psychological harm to an employee of the SRFEDC. And caused Council to direct Mayor Roberts to formally apologize by letter for his behaviour.
- [10] Mayor Roberts acted without considering the impact of his behaviour on others. However, Mayor Roberts did as Council directed by resolution when he sent a letter of apology to David Niquet and when he indicated in that letter that his July 15th statements were a reflection of his personal opinions and not those of Council as a whole.
- [11] Regardless, the additional wording in his apology letter to Mr. Niquet ventured outside the basic requirements of a sincere apology by making it partly about himself. This came across to Mr. Niquet as not a genuine apology.
- [12] When confronted with these findings, Mayor Roberts responded in writing saying, "I now understand that the Apology Letter should only address the issues regarding Mr. Niquet, not mine." He felt he was being genuinely sincere with his apology by stating, "I'd like to ask you for your forgiveness from you and your family and confirm this will never happen again."
- [13] All of the above were taken into account with this decision and its recommendation to the rest of Council regarding a penalty.

With Respect to the MCIA

- [14] We find Mayor Roberts did not contravene Sections 5, 5.1 or 5.2 of the MCIA because he did not have a pecuniary interest in the matter before Council. Therefore, we will not be applying to a judge for a decision.

Recommendations

- [15] Therefore, we recommend the following:
- i. A suspension of remuneration of 30 days be imposed on Mayor Roberts due to the numerous breaches of the Code of Conduct in one single incident; and,
 - ii. That Council and Staff are further trained on their obligations under the Code of Conduct, the Council/Staff Relations Policy, the MCIA and the Integrity Commissioner Protocol.

III. INQUIRY PROCESS

- [16] Upon receipt of the complaints, we conducted a preliminary review of the allegations.
- [17] We found there were sufficient grounds to conduct a full inquiry into the allegations set out in the three (3) Requests which were similar enough to be treated as one (1) and the two (2) Applications under the MCIA, which are also treated as one complaint in this investigation.

[18] Interviews were then assigned to Daniel Gagnon (the “Interviewer”), an independent bilingual contractor acting as an agent of E4m. He interviewed the three (3) Requestors, three (3) additional Witnesses and the Respondent, Mayor Roberts. Mr. Gagnon’s sole responsibility was to interview the parties, translate French interviews into English and provide insight into the credibility of those he interviewed.

[19] We reviewed Council minutes and other relevant documentation.

[20] The following pertinent sections of local bylaws and policies and Provincial legislation were considered:

1) Town of Smooth Rock Falls “Code of Conduct” (6.1, 7.1, 7.2, 13.2)

6.1 Every member shall conduct himself or herself properly and in a civil and respectful manner at meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.

7.1 Every member had the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. The Member shall be familiar with, and comply with, the Municipality’s Workplace Anti-Violence, Harassment and Sexual Harassment Policy

7.2 A Member shall not use indecent, abusive or insulting words, tone or expressions toward any other Member, any municipal staff or any member of the public.

13.2 No member shall use his or her office or position to influence or attempt to influence the decision of any other person, for the Member’s private advantage, etc...

2) Town of Smooth Rock Falls Council Procedural By-law – By-law 023-06

2.13 Declarations of Conflicts of Interest

Where a Member has a pecuniary interest and discloses that interest in accordance with Section 5 of the MCI, the Member will:

1. Provide a written statement of the interest and its general nature to the Clerk either physically or electronically;
2. Will take no steps to influence the decision in any way, either prior to, during or after the Meeting, even if the Member did not attend the Meeting where the matter was discussed.

2.15 Conduct

No member shall:

- a. Speak disrespectfully of the Mayor, Deputy Mayor, Member, Staff or any Member of the Public;
- c. Speak on any subject other than the subject in debate;

3) The MCI – (Sections 5 and 5.1 state what a Member with either a direct, indirect or deemed pecuniary interest must do)

MCI Definition - “interest in common with electors generally” means a pecuniary interest in common with the electors within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part;

2 For the purposes of this Act, a **member has an indirect pecuniary interest** in any matter in which the council or local board, as the case may be, is concerned, if,

- (a) **the member or his or her nominee,**
 - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,
 - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or
 - (iii) **is a member of a body, that has a pecuniary interest in the matter;** or
- (b) the member is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter. R.S.O. 1990, c. M.50, s. 2.

Interest of certain persons deemed that of member

3 For the purposes of this Act, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member.

The MCIA prohibits Councillors from influencing matters where they have a pecuniary interest “before, during or after” the meeting.

“Pecuniary Interest” is not defined in the MCIA however, the Courts have interpreted it to mean a financial interest, or an interest related to or involving money. It does not matter whether the financial interest is positive or negative and when considering the existence of a “Pecuniary Interest”, it also does not matter the quantum of the interest.

For instance, in *Mondoux v Touchenhagen*, the Divisional Court explained:¹

“Pecuniary Interest” is not defined in the [Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50], but it has been held to be a financial, monetary or economic interest; and is not to be narrowly defined.

Further, in *Campbell v Dowdall*,² Justice Rutherford stated:

A pecuniary Interest [as used in s. 5(1) of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50] is a particular kind of interest. In *Edmonton (City) v. Purves* (1982), 18 M.P.L.R. 221... (Q.B.), at p. 232 [M.P.L.R.] Moshansky J. turns to the Shorter Oxford English Dictionary definition of “pecuniary” as “of, belonging to, or having relation to money.”

In essence, we look at whether a financial interest exists and whether it is direct (personal to the Member), deemed or indirect pursuant to the MCIA.

- a) A Member may have a Direct Pecuniary Interest where the matter being considered by Council affects the Member’s own finances.
- b) A Member may have a Deemed Pecuniary Interest [see s.3 MCIA] where a matter being considered affects the finances of a Member’s parent, spouse or child [as defined by the MCIA].

¹ *Mondoux v. Tuchenhagen* (2011), 284 O.A.C. 324, [2011] O.J. No. 4801, 88 M.P.L.R. (4th) 234, 2011 CarswellOnt 11438, 2011 ONSC 5398, 107 O.R. (3d) 675 (Ont. Div. Ct) at para. 31, Lederer J. (Gordon J. concurring).

² (1992), 12 MPLR (2d) 27 (Ont Gen Div).

Exceptions - Where ss. 5 and 5.2 do not apply

4 Sections 5 and 5.2 do not apply to a pecuniary interest in any matter that a member may have,

- (h) by reason only of the member being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or **by reason only of the member being a member of a board, commission, or other body as an appointee of a council** or local board;
- (j) by reason of the member having a **pecuniary interest which is an interest in common with electors generally**; or
- (k) by reason only of an interest of the member which is **so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.**

When present at meeting at which matter considered

5 (1) *Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,*

- (a) *shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;*
- (b) *shall not take part in the discussion of, or vote on any question in respect of the matter; and*
- (c) *shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).*

Written statement re disclosure

5.1 *At a meeting at which a member discloses an interest under section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the municipality or the secretary of the committee or local board, as the case may be. 2017, c. 10, Sched. 3, s. 4.*

Influence

5.2 (1) *Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.*

8 (1) *An elector, an Integrity Commissioner of a municipality or a person demonstrably acting in the public interest may apply to a judge for a determination of the question of whether,*

- (a) *a member has contravened section 5, 5.1 or 5.2;*

4) Municipal Act - Role of members of Council

a) **Section 225** of the Municipal Act outlines the role of the Mayor as head of Council

b) **Section 223.4 – Inquiry by Commissioner - Penalties**

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or his opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or his services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006, c. 32, Sched. A, s. 98.

Standard of Proof

- [21] The test for making factual findings is whether the alleged conduct occurred on a “balance of probabilities”. This means determining whether it is more likely true than not that the alleged conduct occurred. This is a lower threshold than the criminal standard of proof of beyond a reasonable doubt.
- [22] A requestor may genuinely believe the allegations are a contravention of law or the Code of Conduct, but that perspective may not be substantiated by the evidence.
- [23] Below are our factual findings based on the standard of balance of probabilities.

Credibility and Reliability

- [24] To make findings, we had to assess the credibility and reliability of the parties. The credibility of a person’s evidence differs from its reliability. *Credibility* relates to the sincerity and truthfulness of the witness. *Reliability* relates to the factual accuracy of the witness’s testimony and the party’s ability to accurately observe, recall and recount the events.
- [25] Someone can be credible (i.e., honest), but provide unreliable evidence. A person may be credible in certain respects but not others. But if they are not credible, their evidence cannot be reliable.
- [26] To assess credibility, we consider:
- Whether or not the individual has firsthand knowledge of the situation
 - Whether or not the individual had an opportunity to observe the events
 - Whether or not the individual may have bias or other motive
 - The individual’s ability to clearly describe events
 - Consistency within the story
 - The attitude of the individual as they are participating
 - Any admission of dishonesty³

Credibility and Reliability of Witnesses

- [27] We find that those interviewed were credible and that their evidence was reliable.

Credibility and Reliability of Mayor Roberts

- [28] We find Mayor Roberts mostly credible. He fully participated in the inquiry but insisted on continuing to defend his actions by trying to shift the focus of the interview onto what he considered valid reasons for his actions. This has hindered his credibility somewhat.

³ *Faryna v. Chorny* (1951), [1952] 2 D.L.R. 354 (B.C.C.A.), at Para 10, 11.

Alberta (Department of Children and Youth Services) v. A.U.P.A. (2009), 185 LAC (4th) 176 (Alta.Arb.)

IV. FINDINGS OF FACT

- [29] This is Mayor Roberts second term on Town Council and his first as Mayor. The mayoral position was won based on a draw after a tied electoral vote.
- [30] Mayor Roberts is an avid volunteer for many different community events and organizations. [Respondent's interview]
- [31] Last December 2023, Mayor Roberts volunteered as Santa for a SRFEDC organized event. He was not acting in his official capacity as Mayor and his name has not been connected to that role (for obvious reasons) in the media pictures of the event provided to the IC. [Witness statements]
- [32] The SRFEDC's main mandate is to organize community events in Smooth Rock Falls that attract visitors and possibly new residents to the community as well as to provide an organizing body for community events such as the Santa visits before Christmas. They currently receive an annual funding amount from the Town which had already been approved during budget deliberations prior to the incident on July 15, 2024. In Smooth Rock Falls, the President of the SRFEDC is also the President of the local Chamber of Commerce.
- [33] There are two (2) Council representatives on the SRFEDC Board. Mayor Roberts does not sit at that table and is not involved in making budget or management decisions for that organization other than when their annual request comes before Council for consideration. [Witness statement]
- [34] The SRFEDC does not have a "Membership" body outside of the Board of Directors who generally have a term of two (2) years. [Witness statement]
- [35] Mayor Roberts took offense to how the volunteer Santa event was managed last December and took the opportunity to bring his concerns forward at the Council meeting on July 15, 2024 following a Mid-Year Activity Report summarizing the SRFEDC's activities. [Respondent statement]
- [36] David Niquet, the organization's Administrative Assistant, had been asked to accompany the SRFEDC President Robert Blanchette to the July 15th meeting to summarize the report and assist in answering questions Council may have on the different activities the organization organizes in Smooth Rock Falls. The report was an obligation of the SRFEDC related to the funds received from the Town. [Witness statement]
- [37] To be clear, the Administrative Assistant was not the Operations Manager. His job, which he had been doing for approximately two (2) months at the time of the Santa event, was to assist the Operations Manager. However, that position being vacant, Mr. Niquet had been trying to fulfill both roles. [Witness statement]
- [38] After some questions from other members of Council, Mayor Roberts proceeded to give a highly negative public "performance review" which more than one witness described as "an attack", directed at Mr. Niquet. [Witness statements]

- [39] Mr. Niquet was outwardly upset and became “visibly distressed” enough that he passed out while trying to answer a Council member’s question put forward once the Mayor had finished. [Witness statements]
- [40] An ambulance was called, and Council recessed until Mr. Niquet was taken care of and out of the Council Chambers. [Witness statements]
- [41] The SRFEDC President, then confronted the Mayor, stating his “public criticism was inappropriate and unprofessional” emphasizing that such matters should be handled privately. [Witness statements]
- [42] Mayor Roberts defended his actions to the SRFEDC President. [Witness and Respondent statements]
- [43] Council then resumed their meeting. [July 15, 2024, Council minutes]
- [44] The Minutes of the July 15th meeting state that, at that point, “the Mayor publicly apologizes for his statements towards David Niquet.” The exact wording of the apology was not recorded. [July 15, 2024, Council minutes]
- [45] In addition, at this point of the meeting, Mr. Niquet was not present to receive the apology in person. [Witness statements]
- [46] Following the meeting, two (2) Council members were concerned and wanted a formal apology letter to be crafted and to let it be known that the Mayor’s views were his own and did not reflect those of the entire Council. They requested the matter be added to the Special Council Meeting scheduled for July 22, 2024. [Witness statements]
- [47] In addition, two (2) letters of concern were addressed to Council, dated July 17th and 18th but missed the Agenda deadline for the 22nd Special Council meeting. They were placed on the August 6th Regular Council Meeting Agenda under Correspondence, one from Mr. Niquet and the other from the President of the SRFEDC. The Mayor did recuse himself from the meeting for this item. [August 6, 2024, Council minutes]
- [48] At the July 22nd meeting, the following Resolution #2024-241 was Carried.
*BE IT RESOLVED THAT the Mayor be directed to send a letter of apology to David Niquet;
AND BE IT FURTHER RESOLVED THAT the letter indicate that the Mayor’s comments and statements made during the July 15th meeting are a reflection of his personal opinions and not those of Council as a whole.* [July 22, 2024, Council minutes]
- [49] The Mayor prepared the letter of apology as directed by Council. It was dated July 22nd. It read as follows:
*“Hi David Niquet,
I was quite upset with how the Santa visits went last year. I apologize for how I acted with the remarks I made and how you reacted during the Council Meeting July 15, 2024, and wish to do better.
I should not have brought this up in front of everyone the way I did, and I would like to hold a meeting with yourself, EDC administration and SRF CAO where we can address the situation and find a way to make future activities more structured and beneficial to all SRF Residents.*

I'd like to ask forgiveness from you and your family and confirm that this mistake will never happen again.

*Smooth Rock Falls Councillors had nothing to do with this misunderstanding. I should have used my words more effectively, and I will remember the next time I address an issue. Sincerely,
Mayor Patrick Roberts"*

- [50] The letter was mailed, as is (not on Town letterhead), to Mr. Niquet and emailed to the rest of Council on July 23rd. [Witness statement]
- [51] The August 6, 2024, Regular Council meeting included the following Agenda item and associated resolution, which was DEFEATED. Mayor Roberts declared a conflict for this item and left the Council Chambers.
4.2 Request from Councillor D. Pelletier - Request for the Mayor to step-down with no remuneration Resolution #2024-244
BE IT RESOLVED THAT as a result of the incident that occurred during the July 15th Council Meeting, Members of Council are hereby requesting that Mayor Patrick Roberts voluntarily step-down from his duties as Mayor for the Town of Smooth Rock Falls, and that being with no remuneration, until such a time as the Integrity Commissioner has delivered their final report. [August 6, 2024 Council minutes]
- [52] As mentioned previously, Agenda Item 10.1 under Correspondence included the two Letters of Concern from the SRFEDC Administrative Assistant, David Niquet and the SRFEDC President. Mayor Roberts again recused himself from the meeting for this item. [August 6, 2024, Council minutes]
- [53] In his letter to Council, Mr. Niquet expressed his concern that Mayor Roberts had made *"unfounded accusations"* and it had caused him *"significant emotional distress"* and *"intense stress induced by the confrontation"*. He went on to say, *"The abrupt and public nature of these accusations left me feeling shocked and humiliated. The stress from this unexpected and unjust attack on my professional integrity was overwhelming."* [August 6,2024 Council Agenda package]
- [54] Mr. Niquet also let Council know he would be filing a complaint with the Integrity Commissioner, making it *"clear that I do not blame the other council members or the town for this incident, as I understand that Mayor Roberts acted alone."* [August 6,2024 Council Agenda package]
- [55] Draft findings of this investigation were provided to Mayor Roberts wherein he responded in writing saying, "I now understand that the Apology Letter should only address the issues regarding Mr. Niquet, not mine." He felt he was being genuinely sincere with his apology by stating, "I'd like to ask you for your forgiveness from you and your family and confirm this will never happen again."

V. ANALYSIS

Respecting the Code of Conduct

- [56] The complaints received by our office were because of the one incident on July 15, 2024, when Mayor Roberts openly criticized, humiliated and caused emotional stress to Mr. Niquet after Mr. Niquet had delivered the Mid-Year Activity Report on behalf of the SRFEDC. The sole purpose of the mid-year

presentation was to communicate SRFEDC accomplishments/activities to Council. It is never an opportunity for Council members to criticize the organization's internal operations.

- [57] Mayor Roberts' personal experiences as a volunteer and not as a Town official, at an event organized by the SRFEDC, does not belong at the Council table, period. This was a clear breach of **Section 6.1 of the Code of Conduct and Section 2.15c. of the Procedural By-law** which read,

6.1 Every member shall conduct himself or herself properly and in a civil and respectful manner at meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.

and,

Section 2.15c. of the Town's Procedural By-law 023-06 which states,

"No Member shall:

c. Speak on any subject other than the subject in debate."

which in this case was to ask questions that would assist Council in understanding the organization's activities in their community and make informed decisions about funding.

- [58] It is evident from Mayor Roberts' numerous volunteer efforts in the community that he is interested in serving the community as a volunteer. However, it appears Mayor Roberts did not make the distinction between what is in and out of the scope of decision making at the Council table particularly regarding members' volunteer efforts that are not related to being a member of Council.

- [59] Mayor Roberts' comments were clearly directed at a member of the public during an open Council meeting. His comments were described by more than one witness as "an attack" on Mr. Niquet. Additionally, Mr. Niquet reported that he personally did feel attacked, disrespected, humiliated and overwhelmed. As a result of the actions of Mayor Roberts we find he contravened **Sections 6.1, 7.1, and 7.2, of the Code of Conduct which includes Section 2.15a. of the Town's Procedural By-law.**

6.1 Every member shall conduct himself or herself properly and in a civil and respectful manner at meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.

7.1 Every member had the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. The Member shall be familiar with, and comply with, the Municipality's Workplace Anti-Violence, Harassment and Sexual Harassment Policy

7.2 A Member shall not use indecent, abusive or insulting words, tone or expressions toward any other Member, any municipal staff or any member of the public.

and,

2.15a. of the Town's Procedural By-law 023-06

No member shall:

a. Speak disrespectfully of the Mayor, Deputy Mayor, Member, Staff or any Member of the Public;

- [60] It is clear that Council has taken this matter very seriously as evidenced by their resolution regarding an apology letter.

[61] Mayor Roberts did comply with Council’s request for an apology letter.

The “Apology letter”

[62] Letters of apology can be straightforward if you follow some best guidelines. A strong apology can be divided into the “4Rs”:

- a. Recognition
- b. Responsibility
- c. Remorse and
- d. Restitution

Following are our comments on the content of the Council-directed “apology letter” sent to Mr. Niquet by Mayor Roberts.

[63] Mayor Roberts did not accept responsibility, show true remorse or acknowledge how his actions impacted Mr. Niquet. We find his letter to appear insincere.

[64] While Mayor Roberts did achieve the literal wording of the Council resolution which was to apologize and to *“indicate that the Mayor’s comments and statements made during the July 15th meeting are a reflection of his personal opinions and not those of Council as a whole”*, due to making it partly about himself and partly out of scope of his mayoral responsibilities, he failed to achieve a sincere apology.

[65] To be clear, Mayor Roberts starts his letter by saying, *“I was quite upset with how the Santa visits went last year.”* While it may be factual Mayor Roberts was upset with the Santa visits, we find it inappropriate for him to begin his letter of apology in such a fashion. Additionally, we find it somewhat disingenuous when he is only bringing the matter up seven (7) months after the event. Mayor Roberts should have, and claims he did, provide his feedback to the SRFEDC following the event. It is unclear whether he was clear this was coming as a volunteer, not as the mayor, and left it at that. He acknowledges this in the letter when he stated: *“I should not have brought this up in front of everyone the way I did, and I would like to hold a meeting with yourself, EDC administration and SRF CAO where we can address the situation and find a way to make future activities more structured and beneficial to all SRF Residents.”* Mayor Roberts should not have brought his comments up at all let alone in “front of everyone”. Secondly, he has no jurisdiction or Council direction to request a meeting with the SRFEDC administration and the Town’s CAO. There are already two members of Council who sit on the Board.

Respecting the MCIA

[66] The Municipal Conflict of Interest Act (MCIA) prohibits Councillors from acting, even from influencing matters, where they have a pecuniary interest “before, during or after” the meeting.

[67] “Pecuniary Interest” is not defined in the MCIA however, the Courts have interpreted it to mean a financial interest, or an interest related to or involving money. It does not matter whether the financial interest is positive or negative and when considering the existence of a “Pecuniary Interest”, it also does not matter the quantum of the interest.

- i. “Pecuniary Interest” is not defined in the [*Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50], but it has been held to be a financial, monetary or economic interest; and is not to be narrowly defined⁴.

[68] To make a determination that a member has contravened the MCI Act we first need to consider whether or not the matter before Council constituted a “pecuniary interest” for the Member.

[69] A member may have an indirect pecuniary interest if they are a member of a body who has a pecuniary interest.

[70] In this circumstance, Council was receiving a report from the SRFEDC, an organization Council annually budgets to provide funds to. At the meeting on July 15, 2024, Council was not considering a financial request from the SRFEDC or approving an annual allocation. Council had already approved a 2024 allocation of funds.

[71] However, the SRFEDC (the “body”) has a pecuniary interest in providing a report to Council because it will directly impact the amount of money provided to the body by Council going forward.

[72] We now need to determine if Mayor Roberts had a pecuniary interest because of his role as a volunteer with the SRFEDC.

[73] The questions we considered are:

- a. Was Mayor Roberts a “Member” of the SRFEDC?
- b. Did volunteering for the Santa event automatically make Mayor Roberts a Member of the SRFEDC?
- c. Does Mayor Roberts have a spouse or child who are Members of the SRFEDC?

[74] The SRFEDC does not have a membership beyond the Board of Directors. Mayor Roberts does not sit on the Board of Directors. Had volunteers been considered “members” of the SRFEDC Mayor Roberts would have a pecuniary interest when the SRFEDC has a financial interest in the matter before Council.

[75] We find that Mayor Roberts does not have a direct or indirect pecuniary interest in the matter.

[76] A Member may also have a pecuniary interest when their spouse or child has a pecuniary interest. In this circumstance, Mayor Roberts’ does not have a spouse or child who are members of the SRFEDC.

[77] We further find that Mayor Roberts does not have a deemed interest in the matter.

Dated, November 18, 2024

⁴ *Mondoux v. Tuchenhagen* (2011), 284 O.A.C. 324, [2001] O.J. No. 4801, 88 M.P.L.R. (4th) 234, 2011 Carswell Ont 11438, 2011 ONSC 5398, 107 O.R. (3d) 675 (Ont. Div. Ct) at para. 31, Lederer J. (Gordon J. concurring).