

Report on Complaint under Town of Birch Hills Code
of Ethics Bylaw No. 14-2022 Relating to Mayor
Stewart Adams

Murray W. Douglas Legal Services Prof. Corp.
PO Box 37037 Regina South
Regina SK S4S 7K3
Attn: Murray W. Douglas
Email: mdouglas@myaccess.ca
Ph: (306) 596-9827

Contents

Procedural Provisions of Bylaw No. 14-2022.....	2
The Complaint.....	4
The Municipalities Act and Bylaws	4
The Project	6
The Loan Agreement	7
Discussion.....	9
Financial Interest	10
November 8, 2024-VDQ Committee Meeting.....	11
November 20, 2024 Regular Council Meeting.....	12
December 5, 2024-Special Meeting of Council	13
December 18, 2024 and January 22, 2025-Regular Council Meetings.....	13
Conclusion	15

1. This report summarizes the findings and conclusions of my investigation, as the Integrity Commissioner, following a complaint relating to Mayor Stewart Adams (the “Mayor”) filed with the town of Birch Hills (the “Town”) pursuant to the Town’s Code of Ethics Bylaw No. 14-2022.

Procedural Provisions of Bylaw No. 14-2022 (the “Bylaw”)

2. The Bylaw sets out the process the investigation followed. It also sets out certain standards and values that are required of Town Council and the Mayor. The ethical obligations of Town Council and the Mayor are not limited to the criteria set out in the Bylaw.
3. Sections 7 to 12 of the Bylaw provide a formal complaint process when there has been an alleged contravention of the Bylaw. Those sections state:
 7. To report an alleged contravention of the bylaw, the complainant shall submit the Complaint Form found in Schedule A, personally or by sending the form directly to the designated officer by mail, email, fax or courier.
 8. As soon as possible after receiving the complaint, the designated officer will issue the Receipt of Complaint form, found in Schedule B, to the complainant, personally or by sending the form by mail, email, fax or courier.
 9. Within 5 business days of issuing the Receipt of Complaint, the designated officer will review the complaint to ensure the following:
 - a) The complaint meets the scope of the code of ethics bylaw; and
 - b) The complaint form is filled out completely and in detail.
 10. After review of the complaint, the designated officer shall within 45 business days notify:
 - a) The complainant in writing that the complaint does not meet the scope of this bylaw or that the complaint form is not filled out completely. If applicable, the designated officer will direct the complainant to another process for addressing the complaint; or
 - b) The complainant in writing that the complaint meets the requirements of this bylaw; and
 - c) The alleged council member(s) in writing that a complaint has been filed pursuant to this bylaw.
 11. The designated officer shall inform all parties of the following:
 - a) Who will be investigating the complaint;
 - b) The investigation process;
 - c) When the investigation will be initiated; and

- d) How the investigation's findings will be communicated.

12. At the next council meeting, upon being informed by the designated officer, council will acknowledge by resolution that a code of ethics complaint has been filed and will initiate the investigation process.

4. Under this process the Town's "designated officer" (the Chief Administrative Officer) received several complaints, including one alleging a conflict of interest by the Mayor in connection with his role as mayor in dealing with a proposed project initiated by VDQ-NRG Systems Inc. ("VDQ"). The project involved the possible development of a waste processing facility to process municipal solid waste and waste biomass to create fuels and industrial products in Birch Hills, Saskatchewan.
5. More specifically, in December, 2024 the complainant filed four separate complaints with the Town that can be summarized as follows:
 - a. The Mayor being in an alleged conflict of interest as it relates to the management and oversight of the Chief Administrative Officer ("CAO") of the Town;
 - b. Alleged conflicts of interest of the Mayor as it relates to the VDQ project;
 - c. An alleged conflict of interest by Councillor Melvin Rosteski; and,
 - d. A complaint relating to certain decisions made by the CAO.
6. Under the Bylaw, Council has two alternatives on the manner in which a complaint is investigated. The first option set out in sections 13 to 30 is to establish a committee to investigate and report on the findings. The second option under sections 30 to 39 is to have the investigation conducted by a third party.
7. The CAO reviewed the complaints and determined that only the complaint relating to the alleged conflict of interest of the Mayor with respect to the VDQ project fell within the Bylaw (hereinafter the "Complaint").
8. The second alternative was selected by Town Council to investigate the Complaint. On December 18, 2024 Resolution #24-528 was passed to appoint an Integrity Commissioner to investigate the Complaint. I was formally appointed as the Integrity Commissioner for that purpose on January 22, 2025.
9. On January 31, 2025 the Town advised the complainant that the Complaint relating to the VDQ project had been reviewed, it was complete and sufficiently detailed, and that the matter had been referred to the Integrity Commissioner to conduct an investigation. It also advised the complainant that the other "complaints" filed did not fall within the Bylaw as code of ethics matters.

The Complaint

10. The complainant raised several issues with the Town before and after the December 18, 2024 Council Meeting. The complainant's concerns and allegations with respect to a possible conflict of interest by the Mayor, and others, are numerous and lengthy. As stated previously, only the complaint relating to the Mayor was considered to fall within the Bylaw. Specifically, the allegation subject to this investigation can be distilled to the following:

Was the Mayor in a conflict of interest in failing to recuse himself from Council meetings and/or committee meetings when the VDQ project was being discussed or considered after he had entered into a loan agreement with VDQ?

11. The Mayor was elected to that position in the fall of 2021, re-elected in 2024, and currently remains in that role. He previously served on the Town's council from 2007 to 2012.
12. The Mayor was a member of the Town's VDQ Committee in November, 2024. That committee oversaw the discussions with VDQ and made various decisions and recommendations to Town Council in moving the VDQ project forward.

The Municipalities Act and Bylaws

13. [*The Municipalities Act*](#) applies to towns incorporated or continued under that Act (s. 2(1)(w) and (zz)). Part VII of that Act sets out various requirements as it relates to conflicts of interest. As a "member of council", those obligations apply to a mayor (s. 2(1(u)). A mayor is a member of all council committees and bodies established by council unless the council provides otherwise (s. 93(2)).

14. Subsections 141.1(1) and (2) of *The Municipalities Act* states:

141.1(1) A member of council has a conflict of interest if the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows or ought reasonably to know that in the making of the decision there is the opportunity to further his or her private interests or to improperly further another person's private interests.

(2) A financial interest as described in subsection 143(1) always constitutes a conflict of interest. [Emphasis added]

15. Subsection 143(1) describes what is considered to be a "financial interest":

143(1) Subject to subsection (2), a member of council has a financial interest in a matter if:

(a) the member or someone in the member's family has a controlling interest in, or is a director or senior officer of, a corporation that could make a financial profit from or be adversely affected financially by a decision of council, a council committee, a controlled corporation, or other body established by the council; or

(b) the member of council or a closely connected person could make a financial profit from or be adversely affected financially by a decision of council, a council committee, a controlled corporation, or other body established by the council.
[Emphasis added]

16. Subsection 143(2) goes on to set out certain scenarios that do not, on their own, represent a financial interest. In particular, subsections 143(2)(j) and (k) state:

143(2) A member of council does not have a financial interest by reason only of any interest:

(j) that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member of council;

(k) that the member may have by discussing or voting on a bylaw that applies to businesses or business activities when the member or a closely connected person has an interest in a business, unless the only business affected by the bylaw is the business of the member or closely connected person...

17. [The Municipalities Regulations](#) set out further detail on what is meant “to improperly further another person’s private interests”:

4.1 For the purposes of sections 141.1 and 144.2 of the Act, “to improperly further another person’s private interests” includes, but is not limited to, a member of council doing any of the following:

(a) using that member’s office or position to execute or influence a decision of the council, council committee, controlled corporation or other body, or another person, regarding the private interest;

(b) releasing or communicating information obtained by that member’s office or position that is not available to the public that the member knew or ought to have known may be used to further the private interest;

(c) receiving any payment or reward, or promise of payment or reward, for the use of that member’s office or position to execute or influence a decision regarding the private interest;

(d) using that member's office or position to give preferential treatment or to show partiality or other bias in decision making that does not benefit residents or the public regarding a municipal matter;

(e) directing or influencing a municipal employee to give preferential treatment, take action or make a recommendation regarding the private interest or a matter related to the private interest that the employee would not otherwise have given, taken or made.

18. The Bylaw also speaks to the responsibility of members of council to avoid and disclose conflicts of interest:

5(q) Responsibility

i. Members of council shall act responsibly and in accordance with the Acts of Parliament of Canada and the Legislature of Saskatchewan, including *The Municipalities Act*;

ii. Members of council shall disclose actual or potential conflicts of interest, either financial or otherwise, related to their responsibilities as members of council, following the policies and procedure of the Town of Birch Hills, and exercising all conferred powers strictly for the purpose for which the powers have been conferred; and

iii. Members of council are individually responsible for preventing potential and actual conflicts of interest. [Emphasis added]

The Project

19. The VDQ project was first brought forward to the Town by VDQ in late 2021 or early 2022. A Memorandum of Understanding ("MOU") between the Town and VDQ was contemplated in 2022 but never signed. Rather, the parties moved forward with the preparation and eventual signing of a Development Agreement.

20. The unsigned MOU spoke to a commitment by the Town to review potential sites to locate the facility and to negotiate in good faith.

21. As discussions relating to the project progressed, the Town passed Bylaw 01-23 on April 26, 2023 amending the Official Community Plan and changing the designation of the lands legally described as Parcel G, Plan 101832937 from Future Industrial to Existing Industrial. That Bylaw did not include Parcel F which was the parcel where the VDQ facilities were planning on being located.

22. On June 12, 2024 Town Council approved the Development Agreement that was being considered with VDQ. That Development Agreement was also signed on that date.
23. The preamble of the Development Agreement set out some of the background and intentions of the parties. Those provisions included the following:

WHEREAS

- B. VDQ wishes to develop a waste-processing facility (the "Facility") in or near the Town of Birch Hills using the Technology on a portion of the land (the "Facility Land" [sic] as more specifically referenced in Schedule "A") to be subdivided from the land legally described as Parcel F Plan 101832937 Town of Birch Hills (the "Land");
- D. The Town has, in consultation with VDQ, passed bylaws to amend its Official Community Plan and its Zoning Bylaw for the purposes of facilitating development of the Facility, which bylaws have been submitted for the purposes of and are awaiting Ministerial Approval;
- E. A process has begun for the subdivision of the Facility Land from the Land that will require subdivision approval and will require the Parties to set out each of their responsibilities to ensure that the Facility Land is appropriately serviced for the purposes of the Facility and the cost allocations related thereto as more particularly described in Schedule "B" attached hereto; and
- F. The Parties desire to formalize the process of completing the subdivision and servicing the land, and to further formalize the arrangements respecting operation of the Facility.
24. Clause 2.2 of the Development Agreement set out the undertakings of the Town which included making application for the subdividing of Parcel F. Under Clause 4.1 VDQ was to establish a performance bond in the amount \$250,000.00 to be held by the Town, and to prepare an initial engineering design for the facility by December 31, 2024.
25. On June 26, 2024 Town council gave first reading of Bylaw 12/24. That Bylaw provided for the amendment of the Official Community Plan to add Parcels A and F and designating those parcels as Industrial District.
26. Town Council gave second and third reading of amended Bylaw 12/24 on November 20, 2024 and adopted the bylaw on that date.

The Loan Agreement

27. As previously stated, the Mayor was first elected to that position in the fall of 2021. An election was scheduled to take place on November 13, 2024.

28. The Mayor did not originally intend on running in the November 13, 2024 election. At some point between August and November he had a change of heart and let his name stand for re-election. He was re-elected as the Mayor in the 2024 election.
29. When the Development Agreement was signed in June, 2024 VDQ was still in the process of arranging financing for the project. One aspect of that financing was to arrange short-term funding to support the payment of costs involved with development financing fees, a feasibility study, etc.
30. In June, 2024 the Mayor expressed an interest to VDQ in being involved with the short-term financing, having in mind at the time that he was not intending to run in the November, 2024 election. After further discussions with VDQ, the Mayor and his spouse entered into a loan agreement dated July 30, 2024 whereby the Mayor and his spouse would lend \$70,000.00 to VDQ repayable with interest at 6% per annum after 120 days (subject to an additional 60 day extension). Those funds were advanced to VDQ on August 1, 2024. The Mayor did not disclose or discuss this loan with other Council members at the time.
31. On October 7, 2024, once the Mayor decided to run for re-election, he filed with the Town nomination papers including a Public Disclosure Statement which revealed that he had provided a “cash loan to VDQ-NRG...”. Following re-election in November, 2024 he filed a similar statement pursuant to s. 142(2) of *The Municipalities Act*.
32. The first meeting of the new Town Council took place on November 20, 2024. VDQ representatives attended that meeting. The November 20, 2024 Council meeting minutes provide the following summary of the information conveyed by the VDQ delegation to the newly elected Council:
- VDQ is a technology corporation that develops waste-diversion and reprocessing technology that converts rubber and plastic waste into renewable diesel fuel and industrial products using thermos-chemical technology. There is a delay in the town receiving funds due to VDQ’s finances being delayed. They assured that it would show up in January. Explained some of what they will be doing-this project will create local jobs and boost economic growth. [Emphasis added]
33. The following Council and VDQ Committee meetings dealt with the VDQ matter between July 30, 2024 (the date of the loan agreement) and December 6, 2024 (when the Mayor issued a Facebook (Meta) Post to the residents of Birch Hills):

November 8, 2024-VDQ Committee Meeting
November 20, 2024-Regular Council Meeting
December 5, 2024-Special Meeting of Council

34. Once the issue of the Mayor's financial dealings with VDQ was raised by the complainant with the Town in early December, 2024, the Mayor voluntarily posted the following statement on Facebook (Meta) to the residents of the Town on December 6, 2024:

With respect to the confidence that you have shown me over the past 3 years, I wish to share the background as to my relationship with the company VDQ.

Over the past 3 years, the previous council has been negotiating with VDQ-NRG to bring a major investment to our community. These negotiations were completed with the signing of a development agreement between the Town and VDQ-NRG. This agreement allows the company to purchase a property for their project north of Birch Hills. This agreement was signed on June 12, 2024. The agreement is very favorable to the town, I would recommend that you read it in detail.

In August of 2024, I provided the company with a cash loan to help facilitate their long term financing search. At that time, I had no intention to put my name forward in the upcoming election. When I became aware that we would have an entirely new council for the next four years, I allowed my name to be put forward.

The nature of my investment to the company was disclosed in my declaration for nomination and has also been disclosed in the updated Public Disclosure Statement. I recused myself when the subject of VDQ was discussed at the Special Meeting of Council on December 5, 2024. Further to this, I have communicated to the office that another member of Council should be the contact with the company going forward. I have committed to not have any further discussions with Council members about VDQ and their plans.

I have met all the requirements that legislation requires and I look forward to the large capital investment that VDQ has been promising. This will bring significant additional tax revenue to our community.

Discussion

35. The purpose of legislative provisions relating to conflicts of interest has been recited in several Saskatchewan court decisions. For example, in *Strelieff v Serhienko*, [2019 SKQB 79](#) the Court described it as follows:

[21] The purpose of conflict of interest legislation in municipal law has been reasonably well canvassed in the various authorities. A frequently cited passage in this respect is the comment of Robins J. in *Moll v Fisher* (1979), [1979 CanLII 2020 \(ON SC\)](#), 96 DLR (3d) 506 (Ont H Ct J) (Div Ct) [*Moll*]. There, Robins J. said the following at page 509:

The obvious purpose of the Act is to prohibit members of councils and local boards from engaging in the decision-making process in respect to matters in which they have a personal economic interest. The scope of the Act is not limited by exception or proviso but applies to all situations in which the member has, or is deemed to have, any direct or indirect pecuniary interest. There is no need to find corruption on his part or actual loss on the part of the council or board. So long as the member fails to honour the standard of conduct prescribed by the statute, then, regardless of his good faith or the propriety of his motive, he is in contravention of the statute. And I should say at once, that in so far as this case is concerned there is no suggestion that the appellants acted out of any improper motive or lack of good faith.

This enactment, like all conflict-of-interest rules, is based on the moral principle, long embodied in our jurisprudence, that no man can serve two masters. It recognizes the fact that the judgment of even the most well-meaning men and women may be impaired when their personal financial interests are affected. Public office is a trust conferred by public authority for public purpose. And the Act, by its broad proscription, enjoins holders of public offices within its ambit from any participation in matters in which their economic self-interest may be in conflict with their public duty. The public's confidence in its elected representatives demands no less. [Emphasis added]

Financial Interest

36. The previous version of s. 143(1) of *The Municipalities Act* spoke to a “pecuniary interest” rather than a “financial interest” as it now appears in the current Act. Some of the earlier case law addressed situations where a member of council had a pecuniary interest. For the purposes of this analysis, there is no meaningful difference between a pecuniary interest and a financial interest.
37. After the Mayor lent personal funds to VDQ he had a financial interest as that term is used in s. 143(1)(b).
38. Section 143(2)(j) of the Act provides that a financial interest does not exist by reason only of an interest that “is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member of council”. In considering the test for determining whether a matter is significant or insignificant the court stated the following in *Fleet v Davies*, [2011 SKQB 159](#):

[15] A section similar to s. 143(2)(j) of the Saskatchewan Act is found in Ontario's Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50. In *Whiteley v. Schnurr*, [1999] O.J. No. 2575 (QL), MacKenzie J. of the Ontario Superior Court of Justice formulated a test for determining whether a matter is significant or insignificant within the meaning of the Act:

10 ... Would a reasonable elector, being apprised of all the circumstances, be more likely than not to regard the interest of the councillor as likely to influence that councillor's action and decision on the question? In answering the question set out in such test, such elector might consider whether there was any present or prospective

financial benefit or detriment, financial or otherwise, that could result depending on the manner in which the member disposed of the subject matter before him or her. ...

[16] Pecuniary interest was also the subject of some discussion by the Alberta Court of Appeal in *McCaghren and Lindsay* (1983), 1983 ABCA 41 (CanLII), 144 D.L.R. (3d) 503 at p. 510:

... One could then say that a pecuniary interest is a pecuniary interest of sufficient significance that there is a reasonable apprehension of bias. In short there is to be a readily recognizable pecuniary incentive to vote other than for planning reasons.

[Also see: *Kruse v Santer*, [2015 SKQB 376 \(CanLII\)](#) at par. 38]

39. There is no doubt that the Mayor had a financial interest in the VDQ project of sufficient significance. This financial interest raises a reasonable apprehension of bias. The Mayor could be affected financially if the project did not proceed. The project could not proceed, and VDQ would not have been in a position to purchase and develop a parcel within Parcel F, if it had not been added to the Official Community Plan or if it was not appropriately designated for the type of use contemplated by the project. Neither the Mayor's financial interest nor the potential impact to his financial interest was insignificant.
40. With respect to ss. 143(2)(k) of *The Municipalities Act*, neither the Committee meeting of November 8, 2024 nor the passing of Bylaw 12/24 at the Council meeting of November 20, 2024 involved matters which generally applied to businesses or business activities. VDQ was the only business being affected by Bylaw 12/24 at the time, and the only business contemplating a purchase and development of property within Parcel F.

November 8, 2024-VDQ Committee Meeting

41. The Mayor lent \$70,000,00 to VDQ in August, 2024 and at the time of the November 8, 2024 VDQ Committee meeting that sum had not been repaid. The Mayor had a direct financial interest in the project, and with that interest came the risk of the principal and/or interest not being paid by VDQ.
42. The purpose of the November 8, 2024 VDQ Committee meeting was to discuss the status of the VDQ project and steps going forward before the November 13, 2024 election. The engineers were ready to proceed with the next stage of the development. The Committee discussed the motions that Council would have to consider once the matter progressed, such as a street name and authorizing the engineers to proceed. The decision was made not to move forward at that time until the payment that was required under the Development Agreement was made by VDQ.

43. It was at the November 8, 2024 meeting that the Mayor first disclosed to the other Councillors who sat on that Committee that he had lent money to VDQ.
44. In attendance at the November 8, 2024 meeting were the Mayor, Councillors Keith Matheson, Lyle Evans, John Herd, and the CAO. The VDQ Committee Meeting Log sets out a brief summary of the discussion that took place at that meeting:

Discussed the proposed subdivision plan received from Catteral & Wright-committee is happy with the proposed plan, email Catteral & Wright that it looks good-Catteral & Wright not to proceed until they get the go ahead from the Town, as no money has been exchanged as of yet-will proceed once money is received-Stewart noted that this would be the last committee meeting that he would be attending as he has given VDQ a loan, and moving forward is a conflict of interest so he will be stepping away

45. The Mayor was in attendance and participated in the meeting. He voluntarily announced his conflict and the existence of the loan at the end of the meeting.

November 20, 2024 Regular Council Meeting

46. At the November 20, 2024 Council meeting the Town Council gave second and third reading to amended Bylaw No. 12 of 2024. Bylaw No. 12 of 2024 provided for the amendment of the Official Community Plan to include Parcels A and F and designated the lands as Industrial District.
47. The motivation for Council taking this step was to allow the VDQ project to move forward. Parcel F was the land specified in the Development Agreement where VDQ intended to locate the proposed facility, and it was a commitment of the Town to take steps to have Parcel F subdivided. The passing of Bylaw No. 12 of 2024 was a necessary step in fulfilling the Town's commitment.
48. Although the industrial area was not, in the long term, solely for the benefit of VDQ, the sole motivation by the Town at the time was to move forward with the VDQ project, to meet the Town's commitments to amend the Official Community Plan and to designate such land as Industrial District "for the purposes of facilitating development of the [VDQ] Facility" (as described in the Development Agreement).
49. The Mayor attended this meeting and did not declare a conflict of interest nor did he leave the meeting for that discussion.

December 5, 2024-Special Meeting of Council

50. The December 5, 2024 Special Meeting of Council involved some discussion of the VDQ project. At that meeting the Mayor declared a conflict of interest and excluded himself from Council Chambers while that discussion took place.

December 18, 2024 and January 22, 2025-Regular Council Meetings

51. At the December 18, 2024 Regular Council Meeting the VDQ matter was also discussed. The Mayor declared a conflict and removed himself from Council Chambers during that discussion as well.
52. At the January 22, 2025 Council Meeting there was discussion regarding an “extension of the development agreement to June 30, 2025”. Under the Development Agreement there was an obligation by VDQ to establish a performance bond, and a deadline for VDQ to prepare an initial engineering design outlining the excavation and construction necessary to construct the facility. Town Council passed Resolution #25-050 extending that deadline to June 30, 2025. The Mayor declared a conflict with respect to the VDQ matter and excluded himself from Council Chambers while that discussion took place.
53. The issue to be dealt with is whether the Mayor breached the Bylaw and the conflict provisions of *The Municipalities Act* when he failed to recuse himself from the November 8, 2024 VDQ Committee meeting and the November 20, 2024 Council meeting when the VDQ project was being discussed or considered, at a time when VDQ was indebted to him under the July 30, 2024 Loan Agreement.
54. Section 141.1(1) of *The Municipalities Act* states that a conflict of interest exists if a member of council (which by definition includes a mayor) if, while participating in the decision, the member “knows or ought reasonably to know that in the making of the decision there is the opportunity to further his...private interests...”. The issue is not whether the Mayor actually did take advantage of his position, but whether he ought reasonably to have known that “there is an opportunity” to further his private interests. Given the existence of the loan from the Mayor to VDQ, the Mayor had a conflict of interest relating to VDQ matters when he participated in the November 8, 2024 VDQ Committee meeting as well as the November 20, 2024 Council meeting when amended Bylaw 12/24 was being considered and voted upon. That Bylaw added Parcel F to the Official Community Plan.
55. Should there be any doubt in that conclusion as it relates to s. 141.1(1), then s. 141.1(2) eliminates any question as to whether a conflict existed. Subsection 141.1(2) states that a conflict of interest “always” exists if the member has a “financial interest” as described in s. 143(1).

56. Subsection 143(1)(b) states that a “financial interest” exists if “the member...could make a financial profit or be adversely affected financially by a decision of council [or] a council committee...”. The decisions made in the November 8 and 20, 2024 meetings had the potential to adversely affect the repayment of the loan from VDQ to the Mayor. If the proposed survey plan involving Parcel F had not been approved at the November 8, 2024 meeting or if the Community Plan was not amended to include Parcel F at the November 20, 2024 meeting, it added to the risk of VDQ’s repayment of the loan to the Mayor. In other words, the Mayor could be adversely affected financially by the decisions that were being considered and discussed at those meetings.

57. Even though the Mayor had filed nomination papers with the Town disclosing the fact that he had lent money to VDQ, that did not relieve him from his responsibilities under s. 144(1) of *The Municipalities Act* to recuse himself from those meetings. Specifically, s. 144 states, in part:

144(1) If a member of council has a conflict of interest in a matter before the council, a council committee, a controlled corporation or other body, the member shall, if present:

- (a) before any consideration or discussion of the matter, declare that he or she has a conflict of interest;
 - (b) disclose the general nature of the conflict of interest and any material details that could reasonably be seen to affect the member’s impartiality in the exercise of his or her office;
 - (c) abstain from voting on any question, decision, recommendation or other action to be taken relating to the matter;
 - (d) subject to subsection (4), refrain from participating in any discussion relating to the matter; and
 - (e) subject to subsections (3) and (4), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.
- (2) No member of a council shall attempt in any way, whether before, during or after the meeting, to influence the discussion or voting on any question, decision, recommendation or other action to be taken involving a matter in which the member of council has a conflict of interest.

- (4) If the matter with respect to which a member of council has a conflict of interest is a question on which, pursuant to this Act or another enactment, the member, as a taxpayer, voter or owner, has a right to be heard by the council:
- (a) the member shall leave his or her place at the council table, but is not required to leave the room; and

(b) the member may exercise a right to be heard in the same manner as a person who is not a member of the council.

(5) Every declaration of a conflict of interest made pursuant to subsection (1) and the general nature and material details of the disclosure and any abstention or withdrawal must be recorded in the minutes of the meeting.

(6) On a declaration in accordance with clause (1) (a), the person presiding at the meeting with respect to the matter shall ensure that the other requirements of this section are followed with respect to the member of council. [Emphasis added]

58. As it relates to the November 8, 2024 Committee meeting, the Mayor did not comply with all of the requirements set out in s. 144(1). While he openly disclosed at the end of the meeting that he had a conflict, he failed to declare that conflict at the outset of the meeting and failed to exclude himself from the meeting. He participated in the discussion. As stated by the Court in *Council of The Rural Municipality of Sherwood No. 159 v Probe*, [2018 SKQB 24 \(CanLII\)](#) [*Probe*] at par. 45, he did not “at the very least...declare, disclose and leave”.

59. Section 148 of *The Municipalities Act* addresses the repercussions to a member of Council who is disqualified by reason of contravening s. 144 (see s. 147(1)(e)(ii)). Section 149 goes on to state:

149 A judge who hears an application pursuant to section 148 with respect to an alleged disqualification pursuant to clause 147(1)(e) and finds that the person is disqualified shall dismiss the application if the judge is of the opinion that the disqualification arose through inadvertence or by reason of an honest mistake. [Emphasis added]

[Also see, for example: *Probe*, at [par. 58](#); *Streliaff v Serhienko*, [2019 SKQB 79](#) at par. 40 to 45; *Shellbrook (Rural Municipality No. 493 v Muller)*, [2015 SKQB 346](#) at par. 22 and 34 to 42; *Hill v Saskatoon (City)*, 2021 SKQB 177 at par. 46]

60. While this provision makes it relevant whether the disqualification came about because of inadvertence or an honest mistake, those factors are not relevant for my determination of whether the Mayor breached s. 144. Inadvertence is only relevant on an application to the Court under s. 148. As such, I have not commented on those factors in this investigation.

Conclusion

61. I conclude that the Mayor was in a conflict of interest at the November 8, 2024 VDQ Committee Meeting and at the November 20, 2024 Council Meeting. He did not recuse himself when the VDQ project or the amendment to the Official Community Plan was being discussed. He was in breach of s. 5(q)(i) and (ii) of the Bylaw and s. 144(1) of *The Municipalities Act*.

62. Throughout this investigation the Mayor was cooperative, open, and responsive even when faced with difficult and direct questions. I appreciated and noted his candor throughout.

Dated at Regina, Saskatchewan this 17th day of March, 2025.

A handwritten signature in black ink, appearing to read 'M. Douglas', written over a horizontal line.

Murray W. Douglas (Integrity Commissioner
for the Town of Birch Hills)