

December 9, 2022

Mayor Hamer-Jackson
City Hall
7 Victoria Street West
Kamloops BC V2C 1A2

Via: Hand Delivery

Dear Mayor Hamer-Jackson,

Re: Confidential Letter of Concern from Council

This letter is a confidential record containing *in camera* information within the meaning of section 117 of the *Community Charter*. Because of this, you may not share the document or any information in it with any other person, including your legal advisors, unless expressly authorized by Council.

These matters must remain confidential because of the ongoing concern about the City's potential liability. If this information becomes public, it could further jeopardize the City's legal position. Aside from legal exposure, we're also concerned about how these matters impact you, Council, and the City as a whole. They continue to distract from the important business we were all elected to accomplish, and we would very much like to move past the public controversy and get to work.

We feel it's important and fair that you understand the reasons we held closed meetings on December 6th and December 8th. While we're expressly not waiving any privilege on behalf of the City, we can say that the purpose of both meetings was to obtain legal advice about how to best address, and minimize, certain legal exposure that has resulted from your recent conduct. The intent was not to take any action against you, but rather to take whatever steps we could to protect the City from what could be significant legal and financial risk.

Based on your public statements, it appears to us that you believe the only legal issue of concern is the allegation by ASK Wellness Society and Mr. Hughes that you defamed them. That is incorrect. While there's no doubt that your legal dispute with ASK and Mr. Hughes raises all sorts of potential conflicts of interest, Council has additional concerns.

Your personal views about ASK and Mr. Hughes are well documented in the public record. Even if you resolve the defamation allegations, there's still a reasonable concern of bias. As long as your public hostility toward them continues, the public may perceive that your personal interests are interfering with your official duties. This exposes both you and the decisions of Council to legal challenge when matters involving ASK and/or Mr. Hughes come before Council. Because ASK contracts with the City, receives funding from the city, and is one of the primary social service agencies in the City, the potential for conflict is significant.

Additionally, we feel that these problems were only exacerbated again by your personal lawyer's recent communications with legal counsel for ASK and Mr. Hughes. By using your mayoral title and referring to your official powers to create a "task force" that will review and audit social service agencies who "receive funding from the City" (such as ASK) in a "fault-finding" investigation, your lawyer has blurred the line between your public office and your personal legal dispute.

We also hope it's helpful for you to understand that the *Community Charter* authorizes the establishment and operation of committees and commissions, not task forces. Even though mayors may establish and appoint members to standing committees of Council, all committees and commissions must report to the Council as a whole. Mayors have no individual authority to direct any group to engage in the type of investigations threatened by your lawyer.

It is inappropriate for any member of Council (which includes the mayor) to direct their personal lawyer to speak on behalf of the City regarding municipal business. Personal lawyers are not authorized to speak on behalf of Council or to make any statements regarding future Council decisions or the work of future Council committees.

Although you might not have intended it, your lawyer's communications could be construed by a court as an improper threat to your legal adversaries amounting to an abuse of public office. This exposes both you and the City to legal risk, which we're sure no one wants.

These are not the only legal issues that have caused Council concern. We understand that the City's security contractor has alleged that you directed its staff to base their vehicles on your business property. The implication is that you were attempting to personally benefit from tax-payer funded security services. We are aware that you deny these allegations, but we think there is little to be gained by arguing over whether you directed them to set up at your own business, or next door to your business. Instead, in the interest of all, we are focussed on the public's perception of your conduct, and the impact on the municipal corporation and its residents. By directing a publicly-funded service provider to concentrate its security efforts in and around your business, you have raised the possibility of a conflict of interest. We are concerned about how this looks for both you and the City.

Aside from the perception of a conflicting personal interest, your actions could also be viewed as an improper exercise of municipal power. As you know, Council is the governing body of the municipality. As per the *Community Charter*, all powers, duties, and functions of the municipality are to be exercised and performed by its **Council**, not by its mayor or any other individual member.

Council did not authorize you to override the instructions of City staff or otherwise interfere with the operations of a City service provider. That is not Council's role. When you act outside the scope of your legal authority, you expose yourself and the City to legal jeopardy and put us, your colleagues, in a very unfortunate position.

We have also been advised that you have, on more than one occasion, invoked your mayoral title and office to direct municipal staff during the course of their employment duties. Again, Council is not responsible for the operational activities of municipal staff. That is not our job. No elected official – not even the mayor – has the authority to direct municipal staff in the conduct of their official employment duties. This type of conduct interferes with municipal operations and exposes the City to employee grievances and other legal complaints.

Council recognizes and appreciates the excellent service provided by City staff, and in particular, its senior management who is attempting to guide us through a steep learning curve in our new roles. That's why your recent public criticism of **S.22(1) Personal Information** regarding the agenda for the December 6, 2022 regular meeting of Council is particularly troubling. You repeatedly stated to media that **S.22(1) Personal Information** did not consult you about the December 6, 2022 Administrative Report to Council being included on the agenda, and you implied that **S.22(1) Personal Information** included it knowing that you would be conflicted out of participating in the matter. It appears that you are

action can result in significant legal exposure that is often difficult to mitigate. We all want to avoid involving the City in unnecessary claims such as this.

We have chosen to address these issues with you confidentially as an act of good faith, and because we wish to put an end to these divisive and unproductive distractions and get on with the business of running the City. We look forward to turning the page and working together for the benefit of all Kamloops citizens.

Sincerely,

Kamloops City Council:
Councillor Bill Sarai
Councillor Dale Bass
Councillor Katie Neustaeter
Councillor Kelly Hall
Councillor Margot Middleton
Councillor Mike O'Reilly
Councillor Nancy Bepple
Councillor Stephen Karpuk