

Council Resolution from the September 26, 2023, Closed Council Meeting

WHEREAS:

The City of Kamloops has a legal duty to provide a safe workplace for its employees, free of bullying and harassment, pursuant to the provisions of the *Workers Compensation Act*, R.S.B.C. 2019, c. 1, the *Occupational Health and Safety Regulation*, B.C. Reg. 296/97, the WorkSafeBC Occupational Health and Safety Guidelines, the *Council Code of Conduct Bylaw No. 53, 2023*, and the common law;

On May 12, 2023, all members of Council received the following email from the City's Human Resources Manager:

"This message is for: all City of Kamloops staff, Directors, Management and City Council

Action required: for information and review

The Human Resources and Safety Department wishes to remind everyone that a person secretly or openly recording conversations of others in the workplace is cause for concern on several levels, not the least of which is damage to general morale. It is strictly prohibited at City of Kamloops worksites.

Such actions violate the standards laid out in Corporate Policy HR-1-0 "Standards of Conduct" and erode understanding and mutual respect in the workplace protected by HR-2-3 "Bullying and Harassment". Employees who fail to comply with these standards or policies may be subject to disciplinary action up to and including dismissal.

For formal investigations, and some group meetings and training sessions, management may use its discretion to record discussions. In these cases, everyone is made aware that the meeting is being recorded. In the case of investigations, a transcript of the recording will be provided to the Union when the meetings involve unionized employees.

Any questions pertaining to this notice may be referred to the Human Resources and Safety Department";

At the September 5, 2023 open meeting of Council, Mayor Hamer-Jackson disclosed that a telephone conversation between him and CAO Trawin had been recorded without CAO Trawin's knowledge and without his consent;

In subsequent media interviews, Mayor Hamer-Jackson has disclosed that the subject telephone conversation took place in his vehicle in the presence of his wife, and was in fact recorded by his wife without CAO Trawin's knowledge and without his consent; and

In subsequent media interviews, Mayor Hamer-Jackson has also disclosed that on more than one occasion he has conducted telephone calls with others about municipal business in the presence of his wife, who has taken notes,

BE IT RESOLVED THAT:

- (a) *[in camera]*
- (b) Mayor Hamer-Jackson immediately deliver and surrender to Director Quigley – as soon as practicable and no later than 10 days after the date of this resolution and without making any deletion or alteration or modification – all of the following to the extent they were created since he took office as Mayor and are currently in his possession or under his control:
 - (i) any audio recording of any conversation with any City staff member;
 - (ii) any transcript of any such recording;
 - (iii) any notes taken at his direction by any non-City representative during any conversation with any City staff member, where the staff member was not expressly advised that a non-City representative was present and taking notes; and
 - (iv) copies of (i) through (iii) above, whether in hardcopy, recorded, electronic, or other form,(collectively, the “Unauthorized Materials”);
- (c) Mayor Hamer-Jackson thereafter confirm to Council in writing – as soon as practicable and no later than 10 days after the date of this resolution – that he has:
 - (i) delivered and surrendered to Director Quigley – without making any deletion or alteration or modification – all of the Unauthorized Materials and all copies thereof, whether in hardcopy, recorded, electronic, or other form, and all excerpts therefrom that were at any time in his possession or under his control and, to the extent he does not deliver and surrender to Director Quigley any Unauthorized Materials, he provide full and detailed particulars of such Unauthorized Materials that he is unable or unwilling to deliver and surrender; and
 - (ii) not disclosed any Unauthorized Materials to any non-City representative, either in whole or in part, verbally or in hardcopy, recorded, electronic or other form and, to the extent he has made any such disclosure to a non-City representative, he provide full and detailed particulars of that disclosure or those disclosures;
- (d) the City retain, through its external legal counsel, a professional external investigator to conduct an impartial and objective fact-finding investigation into the Mayor’s practices of:
 - (i) conducting conversations with City staff members in the presence of non-City representatives without the staff member’s knowledge and without that person’s consent; and
 - (ii) recording his conversations with City staff members; and
 - (iii) the extent and frequency of such practices,

pursuant to appropriate terms of reference;

- (e) the said investigator be asked to compile an investigation report containing his or her findings and deliver his or her report to the City's external legal counsel;
- (f) Director Quigley prepare for Council's consideration a Council policy providing that members of Council are prohibited from:
 - (i) recording any conversation, be it in person or over the telephone or using video technology, with any City staff member at any location with any electronic or digital recording device, unless every participant in that conversation has provided express consent;
 - (ii) conducting any conversation, be it over the telephone or using video technology, with any City staff member while in the presence of any person who is not a City staff member, unless every participant in that conversation has provided express consent; and
 - (iii) recording any conversation, be it in person or over the telephone or using video technology, with any person about municipal matters at any location with any electronic or digital recording device, unless every participant in that conversation has provided express consent; and
- (g) Councillor Hall be appointed as Council spokesperson on this matter; and
- (h) *[in camera]*.