



City of Prince Albert

RPT 2024-227

TITLE: Coverage of Legal Fees Request

DATE: July 11, 2024

TO: City Council

PUBLIC: X

INCAMERA:

RECOMMENDATION:

That the following recommendation forwarded from Executive Committee be considered:

That payment be authorized pursuant to section 317(3)(a) of The Cities Act, in the total amount of \$10,308.75, to cover the legal costs incurred personally by Mayor Dionne in successfully defending two unfounded Code of Ethics Bylaw complaints initiated against him directly by persons who had involvement in the municipal labour strike.

EXECUTIVE SUMMARY:

Consideration of the City covering payment of a member of City Council's legal fees personally incurred by reason of him having to defend proceedings under The Code of Ethics Bylaw on complaints ultimately determined to be unfounded.

BACKGROUND:

The Cities Act requires each City in Saskatchewan to invoke a bylaw governing the conduct of its elected City Councillors. In Prince Albert, it is The Code of Ethics Bylaw that governs the conduct of elected members of Council. Under the Bylaw a complaint can be laid against a member of Council on the basis of conduct alleged to contravene the conduct standards in the Bylaw. Where a complaint is laid, the Bylaw provides in section 25 that the other members of Council are to determine whether the complaint is justified or should be dismissed. To protect members of Council from potentially unfair reputational implications in cases where allegations of conduct breaches of the Bylaw standards are determined to be unfounded, section 25(3) provides that all discussions concerning the alleged or substantiated complaint take place confidentially, incamera. It is only when the complaint is substantiated and a penalty is

considered appropriate that the Bylaw expressly contemplates that Council would need to come into public forum to impose a penalty by a Resolution of Council.

In the context of a labour dispute and strike action involving City employee members of a City union local, a complaint under the Bylaw was filed with the City Clerk under date of November 15, 2023, raising allegations against Mayor Dionne and commencing complaint proceedings. Councillors conducted a hearing of the complaint on March 26th, 2024, and ultimately dismissed the complaint on a finding that the Mayor's conduct did not constitute a violation of the Bylaw standards. Mayor Dionne was represented by legal counsel through the incamera complaint proceedings.

On February 15, 2024, while the first complaint remained outstanding, a second complaint under the Bylaw was filed by one of the union employees who represented the complainant on the earlier complaint against Mayor Dionne (declaring the second complaint to have been initiated in the person's capacity as a private citizen). This second complaint raised allegations again against Mayor Dionne and commenced a further complaint proceeding. Councillors conducted a hearing for this second complaint on May 17th, 2024, following which this second complaint was also dismissed based on a finding that the conduct complained of did not constitute a violation of the Bylaw standards. Mayor Dionne was represented by his same legal counsel again through this second complaint proceeding.

The complaint proceedings and the Councillors' deliberations and decisions were documented in the Reasons for Decision documents (01-23 and 01-24) attached. In accordance with section 25(3) of the Bylaw, these Reasons for Decision, while shared with the complainants and Mayor Dionne, have not previously been a matter of public record. As the Reasons for Decision are relevant to Council's consideration of whether to exercise its discretion to cover legal fees, redacted versions of the Reasons for Decision are attached to this public report with consent of counsel for Mayor Dionne. These Reasons for Decision, as attached, have been redacted as to the name of the complainants, persons representing the complainants and witnesses individually named.

Correspondence dated June 3, 2024 was sent by Mayor Dionne's legal counsel to the City Clerk requesting that Council consider payment of Mayor Dionne's legal fees personally incurred by him, the potential for reimbursement being contemplated under section 317(3)(a) of The Cities Act. Legal invoices were presented with the letter, in the amount of \$5,154.50 for the first complaint proceedings, and for \$5,154.25 for the second complaint proceedings, totalling legal costs of \$10,308.75.

PROPOSED APPROACH AND RATIONALE:

The Cities Act contains principles specific to coverage of legal costs personally incurred by City officials in legal proceedings claiming liability against the official for conduct performed in good faith in the course of his municipal duties. The principles are based in a recognition that persons accepting public responsibilities can be particularly and unfairly exposed to elevated risk by personal litigious allegations raised on the basis of various interest-driven agendas, and that

protections are therefore warranted. Section 317(3)(a), referenced specifically in the request, is one such section, and reads as follows:

317 (2) A city may pay:

(a) the cost of defending an action or proceeding against a member of council ...that claims liability on the part of that person for acts or omissions done or made by the person in good faith in the course of his or her duties;

While this section does not require Council to cover such costs incurred by a member of Council, the City, acting through its Council, is afforded a discretion (ie. the City “may” pay) to cover these legal costs where Council considers it appropriate to apply the statutory principles to the particular circumstances of the legal proceedings in question.

In these two legal proceedings, it may be relevant to members of Council that the proceedings were advanced in both cases by or on behalf of persons invested in the interests the City union local during and immediately following a very charged municipal labour strike, and that both complaints, aimed exclusively at the Mayor, were determined to be unfounded by the presiding members of Council.

In the event that members of Council should determine it appropriate to exercise its discretion in support of covering these legal costs, the implication of section 317(3)(a) is that Council’s decision would need to occur by way of a Council Resolution, in public forum (excluding participation of members obligated to declare themselves in conflict). Council’s consideration of such a proposed Resolution in public forum would in that event necessarily require some consideration of the Bylaw complaint proceedings in the same public Council meeting. While section 25(3) of the Bylaw requires on its face that all complaint discussions occur incamera. Mayor Dionne (as the complaint Respondent for whose protection against unfounded allegations the incamera principle exists in the Bylaw) has consented to the complaint proceedings being brought into open forum in consideration of the section 317(3)(a) request for reimbursement of his legal expenses incurred.

OPTIONS TO RECOMMENDATION:

Council may exercise its discretion to cover the costs of Mayor Dionne’s legal expenses in these specific circumstances. However, if members of Council in their discretion under section 317(3)(a) are not prepared to consider payment of these legal fees, Council is within its rights to refuse to consent to the request to reimburse his legal costs.

PUBLIC NOTICE:

Public Notice pursuant to the Public Notice Bylaw No. 24 of 2015 is not required.

ATTACHMENTS:

1. Veritas Law Letter including Statements-June 3, 2024
2. Reasons for Decision 01-23-Redacted Version; and,
3. Reasons for Decision 01-24-Redacted Version.

Written by: Mitchell Holash, K.C., City Solicitor

Approved by: City Manager