

**IN THE MATTER OF A CODE OF ETHICS COMPLAINT
INITIATED BY JERRY KAISER AGAINST REEVE ANTHONY AND COUNCILORS
SHORTLAND, LEWIS, HANLAN, STACHERUK, AND MCDONALD**

**AND IN THE MATTER OF CODE OF ETHICS AND HARASSMENT COMPLAINTS
INITIATED BY REEVE ANTHONY, FORMER REEVE LOOS, RM ADMINISTRATOR
BELLEFEUILLE, AND RM ASSISTANT ADMINISTRATOR BREITKREUZ AGAINST
JERRY KAISER**

**INVESTIGATION REPORT FOR CODE OF ETHICS BYLAW AND HARASSMENT
POLICY COMPLAINTS
WITHIN THE RM OF BAILDON NO. 131**

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Investigation Report for Code of Ethics Bylaw and Harassment Policy Complaints

I. Introduction

- [1] During the RM of Baildon (“RM”) council meeting on March 17, 2021, a report was tabled which listed the number of legal actions, appeals, and complaints Jerry Kaiser (“Kaiser”) initiated against the RM from 2013 to 2021, together with a summary of legal costs the RM has incurred in dealing with such matters. On Kaiser’s own motion, the reports were included in the meeting minutes and made available to the public. Copies of these documents may be accessed here: [List of Legal Actions & Costs](#). Other documents referenced throughout this report may also be accessed via hyperlink.
- [2] Shortly after the meeting, Kaiser filed a formal complaint alleging the Reeve and all other council members had contravened the RM of Baildon Code of Ethics Bylaw (“Code of Ethics”) by taking the actions they did at the meeting. After receiving this complaint, Reeve Terry Anthony (“Anthony”) filed his own complaint against Kaiser, as did former Reeve Charlene Loos (“Loos”), RM Administrator Carol Bellefeuille (“Bellefeuille”), and RM Assistant Administrator Christine Breitreuz (“Breitreuz”). In addition to alleging Kaiser contravened the Code of Ethics in his capacity as a council member for Division 5, the complaints from Anthony, Loos, Bellefeuille, and Breitreuz alleged that Kaiser repeatedly breached the RM of Baildon Harassment Policy (“Harassment Policy”) over the past several years and failed to abide by restrictions imposed upon him according to the RM of Baildon Public Conduct Policy.

II. Process for Investigation

- [3] The [Code of Ethics Bylaw](#) sets out a process for receiving and investigating complaints if any person believes that a member of council has contravened the Bylaw. In some circumstances, council investigates such complaints, but this is not always appropriate. The bylaw provides a second option where a third party investigates the complaint. This option was necessary in this case because Kaiser’s complaint was against everyone and the counter-complaints were from four people against Kaiser. As a result, the entire council and both RM staff became personally involved in the investigation process as complainants, respondents, or both.
- [4] The RM’s lawyer retained me to conduct an objective, and unbiased investigation. The fundamental purpose of this investigation is to assess whether any respondent’s conduct contravenes the standards and values set out in the Code of Ethics and/or the [Harassment Policy](#). My mandate includes preparing a written report, including factual findings and conclusions. To that end, I am responsible to find whether each complaint is substantiated or unsubstantiated, and, if substantiated, whether the allegation(s) contravene the Code of Ethics or Harassment Policy. I am not required to address the legal or practical consequences of my findings, since council retains the responsibility to control its own process.
- [5] Given the unique circumstances of this investigation, I was advised at the outset that the RM would publicly release this report to ensure transparency. All parties were made aware of this plan and willingly participated in interviews conducted on June 21, 22, and 23, 2021. Prior to the interviews, all respondents to each complaint were provided with a copy of the

complaint made against them and any documents relied upon by any complainant in support of their complaint. On or about July 13, all parties were provided with a preliminary draft of this report and invited to provide comments and corrections. Only Bellefeuille, Breitkreuz, and Kaiser responded. Kaiser did not provide suggested corrections but simply indicated he denies all allegations and believes there is insufficient evidence against him regarding any wrongdoing. Bellefeuille and Breitkreuz noted a few typographical errors and suggested three minor word substitutions.

III. Context regarding Kaiser's historical complaints, appeals, and legal actions which have resulted in legal expenses incurred by the municipality

- [6] At the beginning of our interview, Kaiser provided a document he prepared, called "The Jerry Kaiser Problem", which he wrote to assist me in understanding the backstory or context behind his current complaints against council and the counter-complaints against him. The document begins with a recital of historical disputes regarding municipal fees, bylaw enforcement, and Kaiser's perception of the inappropriate or unethical conduct of others, including the former and current Reeves. The document ends with statements of Kaiser's personal principles and values as a Canadian citizen whose family has lived, worked, and owned property in the municipality for more than a century. Kaiser states that criticizing those in power is the lifeblood of democracy and that his freedom of speech and political expression should be unfettered when it comes to commenting on the actions of the Reeve and former Reeve. He views his numerous questions to the RM as "persistence" necessary to get a "straight answer" from the municipality which appears to govern by "divine right".
- [7] Kaiser acknowledges that the list of court actions, appeals, and other legal challenges he has initiated against the municipality is accurate, although he questions how the legal costs were calculated and has made repeated requests to see particulars of the legal bills. Kaiser has been advised by the RM's lawyer that these bills are private documents subject to solicitor-client privilege, but that the total costs appear in the audited RM financial statements for every year as indicated.
- [8] It is important to emphasize that none of the counter-complaints which give rise to this investigation are based on Kaiser's legal actions or the amount of money the RM has spent dealing with them. No one alleges that Kaiser's initiation of appeals, lawsuits, regulatory body complaints, or other legal applications constitutes harassment or a breach of the Code of Ethics for council members. These are lawful actions he is entitled to take, even if some might view them as ill-advised. Nevertheless, the counter-complaints are rooted in this history and context in the same way that Kaiser's perception of council's behavior is informed by his own principles, values, and goals. An objective assessment of the behavior and events at the heart of all complaints under investigation must consider these circumstances.
- [9] The evidence indicates that beginning in approximately 2008, Kaiser disagreed with some RM decisions or processes and periodically sent letters or appeared at council meetings to ask questions. In his view, he was being an engaged ratepayer, exercising his democratic right to speak truth to power. By 2013, Kaiser's complaints and questions became more numerous, and the list of his bylaw violations or appeals of administrative orders began to grow. The list of appeals and actions attached to the March 17, 2021 RM Council Meeting

Minutes is long and not all appeals, complaints, or actions resulted in written decisions. Nevertheless, there are dominant themes which run through Kaiser's complaints which, over the past 7 years, have been addressed by the Court of Queen's Bench of Saskatchewan several times. These judgments are matters of public record and were not appealed. Therefore, at least in a legal sense, they are beyond reproach. Read together, the four decisions below represent the nature and scope of Kaiser's complaints against the RM administrators, the constitutionality of its bylaws, and Kaiser's position that his *Charter* rights and other freedoms have been repeatedly impugned by the RM. In granting the RM's application to strike Kaiser's claims, the Court of Queens's Bench has ruled as follows:

[Kaiser v RM Baildon, City of Moose Jaw, and Dept of Municipal Affairs, 2013 SKQB 129.](#)

[18] It is my finding that the allegations made by the plaintiff [Kaiser] against the City is frivolous within the meaning of Rule 173(c). Thus the City's application to strike the pleadings against it also succeeds on that ground... a pleading is frivolous if it is groundless and pursued for the purpose of delay or embarrassment. I find the claim that the City misappropriated funds to be groundless and to have been pursued for the purpose of embarrassment.

Justice Scherman ruled that no amendment could salvage Kaiser's claims against the municipalities, and the claim was struck entirely. Further, the Court ordered that Kaiser pay both defendants double the amount of taxable costs to which they would ordinarily be entitled.

[Kaiser v R. M. of Baildon No. 131, 2018 SKQB 292.](#)

Justice Kalmakoff's decision canvasses several of Kaiser's longstanding complaints about what he does with his property and the structures upon it including a garage, monument, and former church hall building. The Court concluded Kaiser's multiple claims disclosed no reasonable cause of action and/or amounted to an abuse of process, and commented on his history with the RM as follows:

[99] Even if I had not decided to strike Mr. Kaiser's claims for the reasons I have outlined [above regarding *Charter* arguments], they are claims that, when considered in light of the history between Mr. Kaiser and Baildon, would properly be struck because they are vexatious. They are the fourth and fifth claims Mr. Kaiser has filed against Baildon in the past five years. Two of the previous three claims were discontinued, and the other has not been advanced. Mr. Kaiser has raised the allegation that Baildon's bylaws and actions violate his *Charter* right to freedom of expression in at least one of the actions (QBG 54 of 2017), which he discontinued on November 10, 2017. In addition to that, he has made complaints to the Law Society of Saskatchewan about the actions of Baildon's legal counsel, and complaints to the Rural Municipalities Administrators' Association of Saskatchewan about the conduct of Baildon's officials, that have been summarily dismissed. He has continuously raised the same issues, without success. The repeated filing of hopeless proceedings and seeking forms of relief that cannot be obtained is properly characterized as vexatious conduct: *Chutskoff v Bonora*, 2014 ABQB 389, 590 AR 288.

The Court found Kaiser's conduct "[108]... improper and relentless..." and "[109] there is no question that his conduct shows a disregard for his legal obligations and the authority of statutorily-appointed decision-makers. He has brought a number of meritless claims and

pursued avenues of appeal on questionable, or even arguably frivolous bases. His actions have undoubtedly added to the complexity of the proceedings, and to the costs incurred by Baildon.”

[*The Rural Municipality of Baildon No. 131 and its Development Officer v Jerry Baron Kaiser*, 2019 QBG No. 68 of 2019, Moose Jaw.](#)

A year later, in July 2019, Justice Hildebrandt granted an originating application from the RM, seeking an order to enforce its zoning bylaw and building bylaw, and to compel Kaiser’s compliance with three stop work orders made pursuant to Section 242 of *The Planning and Development Act* 2007 SS 2007, c. P-13.2. Noting that Kaiser was self-represented while resisting every compliance effort made by the RM which predated the application, the Court found as follows:

[28] It is the element of unreasonable conduct which must be considered in the current case. But for the intervention of [Kaiser’s] counsel in advising Mr. Kaiser to withdraw the application to strike and remove the handwritten affidavits, this Court would readily consider Mr. Kaiser’s conduct in this matter to be unreasonable. After refusing to even apply for a permit with respect to the concrete pad and having exhausted all appeal mechanisms in relation to the garage, church, and concrete pad, Mr. Kaiser has still declined to abide by the Stop Work Orders. This made the RM of Baildon’s application necessary, complete with its lengthy affidavit and volumes of exhibits. Mr. Kaiser’s conduct in relation to the application, prior to engaging counsel, was also not reasonable.

[*The Rural Municipality of Baildon No. 131 and its Development Officer v Jerry Baron Kaiser*, 2021 QBG 68 of 2019, Moose Jaw.](#)

The most recent Court action in this matter was decided in Kaiser’s favor and relates to the RM’s decision to set off Kaiser’s honorarium for his attendance at council meetings against a debt to the municipality it has been unable to collect from Kaiser directly. Justice Keene agreed with Kaiser that setting off an outstanding inspection fee against Kaiser’s honorarium without notice to him was effectively a garnishment. The Court found the RM did not follow the correct process in claiming this money, and it was repaid to Kaiser. That said, after receiving reimbursement from the RM, Kaiser has still refused to pay the inspection fee and he advised me he is unfazed that a credit collection agency is pursuing this matter with him.

- [10] All other appeals and claims initiated by Kaiser to date (except for actions currently in process) have either been withdrawn by him or dismissed by the relevant tribunal or court. Against the backdrop of these court decisions and facing another SMB appeal launched by Kaiser, the Reeve and council participated in an in-camera session during the March 17, 2021 meeting in accordance with the agenda. As noted above, Kaiser’s Code of Ethics complaint and the complaints advanced against him were filed after that meeting.

IV. Legal Framework

- [11] The purpose of the **Code of Ethics Bylaw** is to “outline basic ethical standards and values for members of council... to guide members... when fulfilling their duties and responsibilities as elected officials.” There are several standards and values set out in the Bylaw, but the most significant for the purposes of this investigation are as follows:

5(c) Respect

- i. Members of council shall treat every person, including other members of council, municipal employees and the public, with dignity, understanding and respect;
- ii. Members of council shall not engage in discrimination, bullying or harassment in their roles as members of council;
- iii. Members of council shall not use derogatory language towards others;
- iv. Members of council shall treat people with courtesy; and
- v. Members of council shall recognize the importance of the different roles others play in local government decision making.

5(f) Leadership and the Public Interest

- i. Members of council shall serve their constituents in a conscientious and diligent manner and act in the best interests of the R.M. of Baildon #131;
- ii. Members of council shall strive, by focusing on issues important to the community and demonstrating leadership, to build and inspire the public's trust and confidence in local government;
- iii. Members of council are expected to perform their duties in a manner that will bear close public scrutiny and shall not provide the potential or opportunity for personal benefit, wrongdoing or unethical conduct; and
- iv. Members of council shall not accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties.

[12] Reference to harassment in the Code of Ethics Bylaw above leads to consideration of the personal harassment definition set out in the **Harassment Policy**, which is as follows:

Personal Harassment

Personal harassment means any objectionable or offensive behavior that is known or ought reasonably to be known to be unwelcome. It includes objectionable conduct, comment, or display made on either a one-time or continuous basis that demeans, belittles, or causes personal humiliation or embarrassment.

...

Abuse of Authority

Harassment also includes abuse of authority where an individual improperly uses the power and authority inherent in a position to endanger a person's job, undermine the performance of that job, threaten the person's economic livelihood, or in any way interfere with or influence a person's career. It is the exercise of authority in a manner which serves no legitimate work purpose and ought reasonably to be known to be inappropriate. Examples of abuse of authority include but are not limited to acts or misuse of power such as:

- intimidation
- threats
- blackmail
- coercion

Beyond the definition provided in the Harassment Policy, I advised Kaiser that personal harassment in a workplace, while not related to a protected ground, is commonly understood as behavior which results in an intimidating, demeaning, or hostile work environment. To assess whether harassment has occurred, I must apply both a subjective and objective analysis. Subjective elements include the alleged harasser's own knowledge of how the behaviour is being received, as well as the perceptions and reactions of the person to whom the actions or words are directed. The objective component considers the

behaviour from the point of view of a reasonable third-party observer; the “reasonable person” who inhabits tort law and our collective conscience. The context and circumstances which surround a complaint are also relevant to the objective analysis because such circumstances influence what might or might not be “reasonable” in a specific situation.

- [13] The RM’s [Public Conduct Policy](#) “outlines expectations for appropriate behaviour by all individuals interacting with RM staff, Members of Council, and other patrons and users of RM facilities and services.” Everyone interacting with RM staff, including members of council, are subject to the policy, which includes in-person interactions, written, telephone, and electronic communication. The RM Administrator is empowered to restrict the ability of people who have engaged in “unacceptable behavior” to communicate with the RM office, which is defined as follows:

5.1.1 Prohibition on Unacceptable Behaviour

- (a) Unpleasant, disrespectful, or demeaning comments made towards RM Staff or RM Council or other members of the General Public frequenting RM Services and/or RM Property;
- (b) Treating other members of the general public or RM Staff while on RM Property or receiving RM Services in a threatening, intimidating, abusive and/or violent manner;
- (i) Submitting inquiries or requests for service that are Frivolous or Vexatious in nature; Per 3.1(d), “‘Frivolous’ means a request that has no serious purpose or business value” and 3.1(t) “‘Vexatious’ means a request with the intent to embarrass, harass, or annoy the recipient(s) or subject(s) of the request, and without the intention to seek genuine redress for the matter in question.
- (k) Continually refusing to accept or acknowledge the decision of RM Staff with respect to a matter within the jurisdiction of the RM.

V. Complaints against Reeve Anthony and all other Members of Council pursuant to the Code of Ethics; where Kaiser is the Complainant

- [14] While Kaiser’s complaint was filed shortly after the RM Council meeting on March 17, 2021 and deals largely with events occurring during that meeting, two of his five complaints relate to other matters. I will deal first with his three complaints arising from the meeting. In that regard, Kaiser complained as follows:

- 1. Transparency
Council did not act transparently when I was told to leave the 17/03/21 due to the alleged conflict. I asked what the problem was and there was nothing under 141 of the Act. This was an abuse of power as it became clear that there was not a conflict issue but a strategy meeting to plan a confrontation with me over a report by the administrator on legal fees.
- 2. Respect
The attack on me robbed me of dignity. Members bullied and harassed me in an effort to deny me my rights. This included gratuitous interjections by the administrator and assistant which is outside their job descriptions.
- 5. Objectivity
After the attack on me, council heard my request to reactivate a well in the hamlet that provides water for gardens, orchards and fire protection. The Reeve would not accept any proposal.

Council did not carefully, fairly, or impartially consider the motion. The Approach was best stated by Ms. Hanlan who said words to the effect that she would not help because of my actions.

- [15] Kaiser elaborated on these complaints during our in-person interview. Regarding transparency, Kaiser recalled the meeting began in the usual fashion, with declarations of conflict of interest and in-camera conversations happening at the outset. Kaiser said he did not object to being excused from the meeting while the balance of council met in-camera because he thought they were discussing a zoning bylaw appeal currently ongoing against the RM. Kaiser said he was shocked to learn that the in-camera meeting dealt with both his bylaw appeal and the legal costs incurred by the RM dealing with various actions he has brought against the municipality over the past several years. When the full meeting began again, Kaiser said he felt attacked when he was presented with a copy of the legal actions list and legal costs summary.
- [16] Kaiser's second complaint, regarding respect, describes him feeling bullied and harassed when the documents were presented and discussed. Kaiser told me he was offended by the preparation of the documents because they seemed to be part of a strategy intended to embarrass or humiliate him. He acknowledged that publicly releasing the information would likely be prejudicial to him. Moreover, Kaiser was offended by the interjections of Bellefeuille and Breitzkreuz who spoke during the meeting. Kaiser believes that the RM staff should play only administratively supportive roles during meetings, and not take any part in discussions. He was critical of the meeting minutes which contained a description of the discussion, and he described the minutes arising therefrom as "editorial comment". Kaiser did not provide a detailed recollection of the discussion except to say that both Bellefeuille and Breitzkreuz were called into the meeting by Reeve Anthony. At one point, he recalled Breitzkreuz questioned him about whether he was willing to uphold his oath of office as a council member, which presumably includes upholding the RM's bylaws. Kaiser acknowledged that he replied he would have to "think about it" and that he felt the question was "hypothetical".
- [17] After further discussion, it was Kaiser himself who moved the motion to include the legal actions and costs documents in the meeting minutes. The motion reads as follows:
- 47/21 Kaiser: That Council in recognizing transparency for the ratepayers, specifically to ratepayer's monies, places the following information in these minutes in regards to costs associated with Mr. Kaiser's acts & omissions filed against the R.M.
- Following unanimous approval of Kaiser's motion, Reeve Anthony asked the administration to make a detailed report outlining the costs associated and incurred by the RM regarding Kaiser, which had the effect of bringing the new council current. Also at the Reeve's request, notes of the discussion were included in the minutes, including Breitzkreuz's question to Kaiser referred to above.
- [18] It is difficult to reconcile Kaiser's complaint about the release of information that he deems to be prejudicial against him with his own motion to release the same information. Further, when the administrator and assistant administrator were invited by the Reeve to report on the ongoing actions and costs associated with and incurred by the RM relating to Kaiser's complaints, there is no evidence they behaved inappropriately or in a manner outside their

job descriptions. Without even considering evidence provided by RM staff, Reeve Anthony, and the balance of council who were present during the meeting, the public record of the meeting itself does not support Kaiser's position or perception of the events of March 17. Added to that, it is noteworthy that no person present at the meeting shared the same perspective as Kaiser – either regarding events leading up to the in-camera session or events afterward. All individuals, except for Kaiser, expressed that the issues were discussed respectfully, candidly, and directly. Reeve Anthony said he asked the RM staff to brief the council on the information contained in the two documents and asked Breitkreuz to remind Kaiser of his Oath of Office to Kaiser to help him remember his overarching responsibility to the municipality and its ratepayers.

- [19] I accept that Kaiser felt uncomfortable, defensive, and isolated from all his colleagues while these events were unfolding. However, his feelings in the moment or subsequent reflections are insufficient to support either of his first two complaints. The agenda for the meeting clearly notes that "Kaiser costs to date – in legal file" and the "Kaiser SMB appeal – in legal file" were the topics to be discussed in his absence and for legitimate reasons. Kaiser is in a conflict of interest regarding both topics since they involve him personally, which he and the rest of council recognized when he left the meeting while the in-camera session occurred from 10:29 am to 10:53 am. The evidence does not support that either of Kaiser's first two complaints are well-founded.

- [20] Regarding his third meeting-based complaint, Kaiser made a motion to restore power to a well located in the Hamlet of Baildon and spoke in favour of his motion. Discussion ensued and, ultimately, a recorded vote indicated 1 vote in favour and 6 opposed. As a result, Kaiser's motion was defeated. This is the circumstance giving rise to Kaiser's third complaint about council lacking objectivity. In his view, council did not fairly or impartially consider his request to reactivate the well because they were annoyed or displeased with his actions regarding other matters, including his bylaw challenge and historical legal costs.

- [21] In response, Councilor Hanlan recalled making the comment referred to in Kaiser's complaint (regarding objectivity at paragraph 15 above). According to Hanlan, she posed a rhetorical question about why council might do "a good deed for someone who has cost us 200k." Reeve Anthony and other councilors said that reactivation of the well was not as simple as Kaiser proposed, and involves consideration of several complicating factors including compliance with SaskPower regulations and resultant expenses. Therefore, it is apparent that differing views and concerns about the well's reactivation surfaced during discussion of this motion, however there is no evidence to support the assertion that the motion was not fairly considered. Ultimately, a recorded vote documents that only one person (presumably Kaiser) voted in support of the motion.

- [22] Disagreement with this, or any, motion or opposing positions voiced for any reason during council discussions does not lead to a reasonable inference that the discussion participants lack objectivity. For this primary reason, the complaint is not well-founded. Moreover, Hanlan's comment that council discussions may involve a "give and take" dynamic is an expression of her opinion to explain why she was not prepared to support Kaiser's motion. In hindsight, Hanlan told me she regretted speaking up because her words found their way into a complaint against her, but she also shared her belief that council meetings must involve free and open discussion. Like Kaiser, she is a relatively new council member who

sees it as her duty to be a fully engaged in her role. She is concerned that Kaiser's complaint against her could contribute to a chilly and overly restrained environment during meetings. Other council members expressed the same sentiment and concern during my interviews with them.

- [23] For his part, Kaiser does not view his behavior in or outside council meetings as problematic, although he acknowledged during our interview that he can be a "difficult person" at times. Kaiser's colleagues on council confirmed he does not raise his voice, say rude or inappropriate words, or demonstrate hostile body language during meetings. It is apparent Kaiser reserves his negative comments and complaints until after meetings and chooses to voice his displeasure largely in handwritten letters delivered to the RM office. All of this is to say that the evidence establishes that RM council meetings involve full and frank discussion, with decisions ultimately reached on each order of business. The minutes reflect meetings run in accordance with standard rules and procedures, and the evidence demonstrates Kaiser's third complaint is unsubstantiated.

- [24] Kaiser's fourth allegation regarding council's failure to act in the public interest is not clearly described in his complaint document. During our interview, Kaiser said that it relates to his ongoing zoning bylaw appeal which is currently ongoing, as well as his longstanding grievance about a ratepayer's (a former councilor) storage of many "junk vehicles" on his property. Kaiser has made many complaints about this person having more than three "junk vehicles" on his property, in contravention of a bylaw which provides the RM with power to enforce removal of more than three junk vehicles. The bylaw section is permissive and, according to Bellefeuille, Kaiser has been advised many times that the RM will not be exercising its discretion to "enforce" the bylaw as Kaiser requests because the unique circumstances of the lot and its appearance do not require it. Reeve Anthony echoed the same position. Further, Kaiser provided no evidence regarding how the existence of these vehicles, or the RM's decision not to prosecute his neighbor, are "endangering the best interests of the community". It is neither appropriate nor necessary for me to resolve this debate within the context of this investigation, particularly since the legal dispute regarding the bylaw's enforcement is ongoing and is being handled by the RM's counsel. It is sufficient to say that this complaint lacks evidence and merit, so is not well-founded.

- [25] Finally, Kaiser complained that council has contravened the *Canadian Charter of Rights and Freedoms*, albeit without stating particulars. During our interview, Kaiser shared his opinion that the Public Conduct Policy recently adopted by the RM is a draconian incursion on free speech and likely unconstitutional. He also feels singled out by the policy and believes it was implemented primarily to silence him. That said, Kaiser's *Charter* arguments are not related to his Code of Ethics complaints. The Public Conduct Policy is relevant to other parties' complaints against Kaiser, but only to the extent that Kaiser's ability to communicate with RM staff has been periodically restricted due to his allegedly unreasonable behavior. This evidence will be addressed below within the context of the harassment complaints against Kaiser.

- [26] Protecting and fighting for his freedom of speech is a theme which runs through Kaiser's narrative. He is an independent thinker, self-described activist, and someone who is keen to advance points of principle in a public way. Kaiser maintains that he believes in democratic principles and is energized by the "rough and tumble" nature of politics. That

said, Kaiser's Code of Ethics complaint against his colleagues demonstrates his own sensitivity when his actions are the ones being subjected to scrutiny.

Conclusion and Findings

- [27] For the reasons noted above, I find that none of the complaints made by Kaiser and filed against Reeve Anthony and Councilors Shortland, Lewis, Hanlan, Stacheruk, and McDonald are substantiated. The evidence does not support a finding that any of the respondents breached the Code of Ethics Bylaw as alleged.

VI. Complaints against Kaiser initiated by Anthony, Loos, Bellefeuille, and Breitkreuz; where Kaiser is the Respondent

- [28] In the same way as Kaiser's complaints against the RM cluster around some dominant themes, so do the complaints against him. For that reason, I will review the allegations by issue rather than by complainant or chronologically, however note I interviewed Anthony, Loos, Bellefeuille and Breitkreuz separately.
- [29] All four complainants described examples of behavior they considered harassment by Kaiser which occurred both before and after he was elected as an RM councilor in late 2020. They provided letters written by Kaiser, described his words and demeanor when addressing them, and elaborated about how his behavior made them feel. They unanimously expressed frustration, discomfort, and a desire to move beyond time-consuming conflict which, in their view, compromises their personal effectiveness and impacts negatively on the municipality.
- [30] RM Administrator Bellefeuille and RM Assistant Administrator Breitkreuz described their experiences with Kaiser when he appears personally at the RM office or through receiving his letters and frequent requests for information. It is an enormous understatement to say they find contact with Kaiser stressful. Both are determined to serve the RM, but find dealing with Kaiser's requests, lawsuits, challenges, and unwillingness to comply with rules and regulations to be exhausting, frustrating, and sometimes overwhelming. Prior to her engagement as RM Administrator in 2016, Bellefeuille advised that the RM had 11 different administrators in 15 years. By the time she arrived, Bellefeuille said Kaiser was already engaged in "full-on conflict" with the RM and multiple letters from him were arriving each week. Both Bellefeuille and Breitkreuz referred to a "chilling effect" Kaiser's presence has on them and used words such as "belittling", "demeaning", "ungracious", "disturbing", and "demanding" to describe Kaiser's communication with them. Other people who work in the same building which houses the RM of Baildon office are also attuned to Kaiser's presence. Without being requested by Bellefeuille and Breitkreuz but in response to their own observations and instincts, these people established an informal monitoring system which is activated when Kaiser attends the premises. This system was developed to ensure that Bellefeuille's and Breitkreuz's interactions with Kaiser would be as brief and safe as possible.
- [31] Prior to being elected, Kaiser's requests largely concerned his personal issues but, once he was elected to council, Kaiser also became interested in such things as Bellefeuille's salary and hours of work. While such municipal expenses are a matter of public record, Bellefeuille is uncomfortable with Kaiser's keen interest in her employment contract. She

finds the inquires too personal and Kaiser's scrutiny disrespectful. Further, she is concerned Kaiser's inquiries could affect some aspects of her employment terms, although she noted feeling supported by the rest of council and the Reeve. Bellefeuille estimated that answering inquiries from Kaiser takes a disproportionate amount of her time, accounts for the bulk of her workplace stress, and prevents her from performing other important aspects of her job in a timely way. She presented as a dedicated and capable administrator who has been pushed to her limit by Kaiser's relentless nature and actions.

- [32] Breitkreuz is less frequently required to answer Kaiser's questions than Bellefeuille, but she is no less distressed by Kaiser's demands. She was particularly upset when Kaiser complained about her work to the Professional Association of Rural Municipal Administrators when he asserted she deliberately "falsified" a document. Breitkreuz had to provide information to the Law Society of Saskatchewan and her own professional regulator and was ultimately exonerated. Nevertheless, she experienced Kaiser's "attack" as extremely upsetting and humiliating. In general, Breitkreuz considers Kaiser's conduct to be "blatantly rude" and reports that his personal presence at the RM office has provoked a palpable physical stress response in her. Like Bellefeuille, Breitkreuz observed that Kaiser's inappropriate demands have escalated since his election to council in late 2020. To that end, she supported Bellefeuille's use of the RM Public Conduct Policy to address Kaiser's behaviour toward them.
- [33] Both Bellefeuille and Breitkreuz have been subject to Kaiser making unpleasant, disrespectful, or demeaning comments about their work and professional lives. For example, Kaiser implies they have nothing better to do than respond instantly to his questions. They feel he has treated them both in a threatening, intimidating, and abusive manner. For example, Kaiser's unannounced and unwelcome physical presence in the RM office is unsettling. Further, they find his inquiries or requests for information frivolous and vexatious. Some days, multiple separate letters arrive from Kaiser postmarked the same day – each asking a different question. Similarly, multiple Freedom of Information requests have come from Kaiser on the same topic in the same week, which frequently require hours of work to investigate and answer. Finally, even after they answer Kaiser's questions, in writing, he often asks the same questions again – sometimes repeatedly. The amount of time both spend dealing with Kaiser's letters and requests for information takes away from time available to do all the other work they are required to perform, which, in turn, results in both having to spend significant time working outside regular office hours. These actions, among other things, constitute the unacceptable behaviour Bellefeuille identified when she placed restrictions on Kaiser's ability to contact the RM office shortly after he began his term on council.
- [34] On or about January 3, 2021, the Level 1 response to unacceptable behavior as contemplated by section 6.2.1 of the Public Conduct Policy was implemented. The restrictions imposed upon Kaiser were as follows:
1. Mr. Kaiser will be permitted to correspond with the RM of Baildon regarding requests for information or documents no more than once every two weeks. This restriction does not apply to correspondence related to RM of Baildon Council business.

2. Mr. Kaiser will be permitted to contact the RM of Baildon by telephone regarding requests for information or documents no more than once a week. This restriction does not apply to requests related to RM Council business.
3. (Notwithstanding point 2), should Mr. Kaiser need to bring any matter to the immediate attention of the RM of Baildon, he may do so by telephone.

The restrictions remained in place until February 3, 2021 and the evidence indicates Kaiser successfully abided by the restrictions. However, by mid-February 2021, Kaiser's contact with the RM escalated again.

- [35] On February 12, Kaiser sent a letter including an access to information request. On February 21, he sent two letters - one to the RM requesting a fee refund and a second letter to the RM's lawyer. The number and tone of these three letters indicated to Bellefeuille that a Level 2 restriction was warranted. Consequently, she extended the duration of restrictions on Kaiser's ability to request information so that work responding to Kaiser's requests could be more effectively managed on a bi-weekly basis. The Level 2 restrictions were the same as those outlined for the Level 1. They began on February 24, 2021 and were to continue until May 15, 2021.
- [36] The evidence indicates that Kaiser was not successful in complying with these Level 2 restrictions. A tracking record indicates 16 letters and/or requests for information were sent by Kaiser to the RM office between March 11 and May 15, 2021. Further, the RM administrators have been tracking correspondence, requests, and contact from Kaiser for several years due, at least in part, to having to repeatedly defend RM actions and decisions in court and other tribunals in matters initiated by Kaiser. I reviewed these comprehensive tracking records which began during the time Charlene Loos was Reeve and continue to be recorded up to the present time. I also reviewed the letters, photographs, and notices to which the tracking records refer.
- [37] While by no means a comprehensive list, the following excerpts from Kaiser's letters to council over the years illustrate their tone and content:

May 7, 2017

Here are my current complaints:

1. Reeve: Ms. Loos is not competent to serve as Reeve because:
 - 1.1 She is guilty of hypocrisy...
 - 1.2 She is guilty of bigotry...
 - 1.3 She has shown that she is vicious and incompetent...
- 2.3 Ms. Loos should resign as Reeve of Baildon and if not Council must pass a motion of non-confidence.

April 30, 2021

Unethical Behaviour

- 2.1 The Reeve and two administrators have falsified a document intending to deceive the Provincial Appeal Committee.

July 14, 2018

What are you thinking?

So far, Lauren Wihak of McDougall Gauley has done nothing but petty-fog with rules of court. I have countered with more rules of court. Each letter costs you \$100's and me the price of a stamp. Come to your senses.

October 19, 2015

Krismer Consulting

2. Obviously this organization is made up of BOZOES.

April 16, 2021

2. Reeve Anthony, you have perpetuated this unfair behaviour of the administrators. You repeated the false allegations and did nothing to delete Ms. Breitkreuz's statements from the minutes. Even worse is the fact you are blatantly guilty of breaking your oath of office to uphold the RM's bylaws... Not only do you flaunt the law, but you authorize our lawyer to subvert the law and pay thousands for the service. Your hypocrisy has no limits. Since you are not elected, resign or admit to wrongdoing and submit a sincere apology.

3. I will await your response before I make another ethics complaint or a further judicial review.

April 21, 2021

4. Eyesore Building in Hamlet (to Reeve Anthony)

The irony of your comment on the building north of the church is huge. In 2010 the "hanky-panky" with you, your buddy (name redacted) and your other buddy (name redacted) put that there. In those days you had all sorts of shady deals. One was your brother a foreman. From the first four months of your term it looks like more of the same from you.

- [38] Anthony served as Reeve for the RM of Baildon for 20 years before stepping down to become a director of another organization. He returned to serve as Reeve in December 2020 at the same time as Kaiser was elected to council. In early 2021, Anthony was hopeful he could work with Kaiser to address his concerns with the RM and support RM staff in dealing with his inquiries and complaints. However, he was shocked to observe Kaiser's aggressive attitude toward Bellefeuille and Breitkreuz who appeared to attract most of Kaiser's ire. Fairly recently, Anthony received his own "poison pen letters" from Kaiser, which he views as slanderous personal attacks containing offensive and untrue allegations. Anthony said he does his best to manage council meetings and ensure they run smoothly, but Kaiser's issues always take at least one hour every meeting, and sometimes longer. It was on Anthony's invitation that Bellefeuille and Breitkreuz provided a report to council in March explaining the legal actions and costs documents, and Anthony spoke to the issue during the full meeting. He asked Kaiser "what would it take" to satisfy his complaints and Kaiser responded by pivoting to address a different issue. When Kaiser was unable to state unequivocally that he would uphold his Oath of Office as a councilor, Anthony doubted Kaiser's willingness to represent his Division in the way the Code of Ethics Bylaw requires. During one meeting, Kaiser's questioning of Bellefeuille brought her to tears and Anthony had to declare a recess to provide her with time to collect herself. Anthony has also observed the chilling effect Kaiser's presence and post-meeting letter writing has had on open discussion at meetings which, in turn, inhibits dealing effectively with the municipality's business.

- [39] More than any other individual, Loos has been a public target of Kaiser's condemnation, particularly when she served as Reeve from November 2016 to November 2020. Kaiser sent his letter of May 7, 2017 (referenced above) to council and posted signs in the community. One large hand-painted sign read as follows:

Save the Church
 Repeal building law
 Fire the Reeve

A similar sign in a different location read:

Fire the Reeve
 Repeal building bylaw
 Demand action from council

Kaiser also took out a half-page ad in the Moose Jaw Express on April 18, 2018 alleging that the RM and Reeve Loos untruthfully reported incurring \$36,000 in legal fees regarding a property dispute with him. The ad was prominent and caught the attention of many readers, including Loos' children and RM administrators from across the province. Following publication, and supported by a council motion passed in 2017, Loos obtained legal advice regarding the ad. The RM lawyer sent a letter to Kaiser stating that, in her view, the ad was defamatory because it represented Reeve Loos as having lied. The letter invited Kaiser to publish an apology and retraction of his defamatory statement in the same newspaper, which Kaiser did not do. Loos said that while she appreciated the legal advice, she ultimately decided against suing Kaiser because she thought it would make the situation worse.

- [40] Moreover, Kaiser initiated at least two claims in the Court of Queen's Bench against the RM while Loos was Reeve which included unnecessarily personal and disrespectful remarks, including:

13. Reeve Loos has recently separated from her spouse and seeks to control council by disallowing members from speaking in public meetings. (QBG 88 of 2018)

- [41] During our interview, Loos said that Kaiser's early appearances at council meetings, while he was still a ratepayer, were reasonably respectful and infrequent. However, toward the end of her tenure, Kaiser began name-calling ("pigs at the trough") and she put a stop to it. Once Kaiser's comments became rude and snide, Loos indicated his speaking time at the meeting was complete. Given Kaiser's public statements against Loos, council passed a motion in 2017 (in her absence) authorizing the RM lawyer to provide Loos with legal assistance to defend herself against Kaiser's accusations.

- [42] Loos advised that she was not overly concerned about her physical safety when around Kaiser, but he could be physically intimidating due to his demeanor. She shared that she has always worked in male-dominated environments so she has "thick skin" but could understand why people, especially women, might be uncomfortable around him. Loos stated that she is comfortable with disagreement in her personal or professional life; however, Kaiser took it "so much further" through the large signs, personal attacks, and especially the ad in the paper. She felt that the ad went far over the line of acceptable behaviour. Other councilors from RMs across the province went out of their way to contact

her to commiserate and offer support. Since deciding to leave her position as Reeve for the RM, Loos has had no further encounters with Kaiser.

- [43] During his interview with me, Kaiser did not deny writing any of the letters provided by the other complainants, nor did he express regret about his actions. Instead, he framed his letters and words as the behavior of an engaged citizen, albeit one who believes in civil disobedience and pursues an activist's agenda. Kaiser repeatedly stated that he feels free to express himself in any way he wishes, particularly during an election campaign where, in his view, the "rough and tumble of politics" allows for the exchange of personal insults and hyperbole.
- [44] In the March 17 meeting discussion regarding the legal costs the RM has incurred in dealing with his complaints, actions and appeals, Kaiser said his fellow councillors swarmed him and, "all but one", called him a "monster". He recalled being asked "how can you do this to us?" and that council later retaliated against him by voting down his well motion. Kaiser demonstrated little insight into how his actions and words are received by others and was prone to obvious exaggerations while presenting his views to me. He described his letters to Anthony as "firm" but not inappropriate, and that his communication is never threatening because it comes from him alone, as a single person. Kaiser described himself as an individual empowered with freedom of expression but council, on the other hand, is like a wolf pack. Rather than the hour or more Anthony estimated Kaiser's issues take during council meetings, Kaiser said council spends between 5 and 20 minutes on his concerns. He does not think there is anything problematic about sending the RM office multiple letters on one day and believes his criticisms of the Loos, Anthony and his fellow council members are predictable "perils of public life".
- [45] In his closing remarks to me, Kaiser emphasized that people on the receiving end of his words or actions should not take them personally. As an activist, Kaiser believes it does not matter to whom or how his free speech is delivered. He offered this as his fundamental defense to the allegations of harassment contained in the complaints against him and to illustrate that, far from breaching his Code of Ethics obligations as a councilor, he is doing his duty by taking the positions he does.
- [46] During our interview, I found Kaiser was respectful, attentive, and articulate. He asked reasonable questions about the process, particularly around the legal tests for establishing harassment and expressed concern the allegations against him were entirely subjective. I explained that both a subjective and objective analysis would be undertaken in this investigation, and we talked about the reasonable person's perspective. My concern about Kaiser's lack of insight into the effect his actions and words have on others was amplified when he bluntly told me he views himself as the quintessential reasonable man, and that the actions of others in conflict with him are unreasonable. The evidence does not support such a characterization.
- [47] I did not form the impression Kaiser set out to deceive me as he was presenting his version of events, but during and after our conversation, numerous inaccuracies emerged in his narrative. I will provide a few examples, which is not intended to be an exhaustive list. First, Kaiser told me that previous councilor Bob McLarty moved a motion in 2016 that the RM should "prosecute Kaiser no matter the cost". Minutes of the meeting demonstrate that the motion dealt solely with providing potential funding for Reeve Loos to defend

herself against actions from Kaiser, with council reserving the right to approve any expenses in advance. I put this contradictory information to Kaiser and he agreed his earlier comment was wrong and did not elaborate. This scenario illustrates Kaiser's tendency to distort the truth and exaggerate. Second, Kaiser told me he recused himself to facilitate the March 17, 2021 in camera session because he believed the discussion would only be about his "zoning bylaw question" however the meeting agenda clearly demonstrates the issue of legal costs related to Kaiser was the second item to be discussed in camera. This scenario illustrates a complete inaccuracy. Third, Kaiser recalled receiving a letter from the RM's lawyer after placing the ad about Loos in the newspaper. He told me the lawyer advised him he should "watch it" because the ad was "almost slander". I reviewed the letter, which clearly stated the ad was defamatory and demanded a public retraction. This scenario illustrates Kaiser's tendency to understate his own problematic behavior. Finally, Kaiser's characterization of a memo and meeting notes relating to a pre-trial settlement conference conducted by Justice Brown as a fraudulent document, which he reported to the Law Society of Saskatchewan and the RM Administrator's regulatory association, is extremely inflammatory. Further, even after being advised that the allegation has no merit by both professional regulators and the Court of Queen's Bench, he continued to raise it – as he did when he provided me with a copy of the document with the word "fraudulent" scrawled across it. Kaiser presented this allegation without regard for the reality it had already been summarily dismissed and criticized by the Court.

- [48] Considering the totality of the evidence, I find that Kaiser was not an accurate historian about some events which were clarified by documents, and he demonstrated little to no insight into the effects of his behavior on the complainants and the municipality at large. Further, where Kaiser's recollections differ from those who have complained about him, his evidence is less reliable and carries less weight due to his demonstrated tendency to exaggerate certain events while denying or diminishing others. All other witnesses I interviewed exhibited self-awareness and appreciation of the complicated dynamics of council meetings and municipal governance, animated by the various personalities involved. They also expressed both positive and negative points about Kaiser, which was a more balanced view of him than Kaiser reciprocated about them.

Conclusion and Findings

Harassment Policy Complaints

- [49] The analysis above includes descriptions of incidents, letters, behavior, and conversations which have occurred over several years. There is a clear pattern in Kaiser's interactions with the complainants, and the evidence establishes that every complainant has been subjected to personal harassment by Kaiser. I have considered the subjective experiences of each complainant and Kaiser's own knowledge of how his behavior is being perceived. While each incident, inquiry or communication viewed individually may not be egregious, the collective weight of Kaiser's repeated behavior has produced harm for each of the complainants. They described, to varying degrees, psychological, emotional, and even physical distress due to Kaiser's actions. Bellefeuille and Breitzkreuz felt intimidated and threatened by Kaiser, and oppressed by his repeated inquiries and demands for information. Anthony and Loos were insulted and offended by correspondence and publications.
- [50] I have also applied an objective analysis to the evidence by considering Kaiser's behavior directed toward the complainants from the point of view of a reasonable third-party observer. Using that lens, I have no hesitation in concluding that a reasonable person would find the tone, nature and content of Kaiser's communication with the complainants improper, insulting, and offensive. Further, I find a reasonable person considering the context and surrounding circumstances from which the complaints spring, including Kaiser's strong belief in exercising his *Charter* rights and freedoms, would view his behavior as objectionable, unreasonable, unnecessary, and harassing.
- [51] That said, not every encounter the complainants identified in their complaints can result in a finding that the Policy has been breached. This is because the RM's Harassment Policy deals only with behavior which emanates from and relates to the workplace and, consequently, to people who work in the RM administrative offices and populate the RM council. For this reason, it is only Kaiser's behavior since he became an elected representative on the RM council which is relevant to my consideration of whether there is sufficient evidence to find he has breached the Policy. Further, I must consider only his behavior against RM staff and Reeve Anthony from his election onward because Kaiser was not a council member when he took the actions he did against Loos, and she is no longer the Reeve nor a person in the workplace. Therefore, I cannot find the Harassment Policy applies to Loos' experiences with Kaiser as described in her complaint. But for this jurisdictional constraint, I would have found her complaints substantiated.
- [52] Within this constraint and considering acts following the 2020 election onward, I find the evidence demonstrates, on a balance of probabilities:
- Kaiser displayed improper and offensive conduct, including objectionable acts, comments, or displays, including acts of intimidation or threats;
 - Kaiser's behaviour was directed at each of the three complainants, at various times, since his election;
 - The complainants were offended or harmed, including the feeling of being demeaned, belittled, personally humiliated or embarrassed, intimidated or threatened;
 - Kaiser knew or reasonably ought to have known that such behaviour would cause offence or harm;

- A third party observer would view Kaiser's behaviour as improper and offensive, considering all the surrounding circumstances;
- The context surrounding and preceding Kaiser's behaviour exacerbates the harm experienced by the complainants;
- The behaviour occurred in and around the RM of Baildon workplace.

- [53] The persistent and deliberate course of targeted conduct by a person who earnestly believes he is entitled to act as he does can still constitute harassment. Kaiser seems to genuinely believe that he is entitled to express his opinion as often as he wishes using whatever approach and terms he deems appropriate because he is a citizen in a democratic country, an elected official with a mandate to represent others, and an activist dedicated to fighting for his principles and challenging laws he views as illegitimate. However, regardless of the genuineness of Kaiser's beliefs which are amplified by his perceived *Charter* rights, such beliefs do not justify Kaiser persisting in a course of conduct which is harassing, oppressive, intimidating, and contrary to the RM's Workplace Harassment Policy.
- [54] The complaints of personal harassment against Kaiser by Bellefeuille, Breitzkreuz, and Anthony are substantiated. The complaint of personal harassment against Kaiser by Loos is unsubstantiated due to the jurisdiction and scope of the Harassment Policy.

Code of Ethics Bylaw

- [55] The totality of the evidence summarized above demonstrates that Kaiser has not met standards for behavior as an RM council member, especially regarding expectations for respectful conduct as set out in section 5(c) and leadership in section 5(f). Kaiser has engaged in harassment, used derogatory language, behaved discourteously, and failed to recognize the different roles others play in decision making within the municipality. Further, Kaiser does not consistently act in a manner which would build or inspire public trust nor would his objectionable behavior withstand close public scrutiny. The complaints against Kaiser that he has breached the Code of Ethics Bylaw are substantiated.
- [56] The evidence does not demonstrate that Anthony or any other council member failed to abide by the Code of Ethics Bylaw as alleged by Kaiser. As a result, Kaiser's complaint that Anthony, and all other council members, breached the Code of Ethics Bylaw in several ways is not substantiated.

DATED at Saskatoon, Saskatchewan on August 10, 2021.



Leslie Belloc-Pinder, Q.C.
Investigator