

# KING'S BENCH FOR SASKATCHEWAN

Citation: 2026 SKKB 57

Date: 2026 03 13  
File No.: KBG-MJ-00131-2024  
Judicial Centre: Moose Jaw

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BETWEEN:

JERRY KAISER

APPELLANT

- and -

RURAL MUNICIPALITY OF BAILDON No. 131

RESPONDENT

**Counsel:**

Eric Lanoie  
Lauren Wihak K.C. and Gabrielle Robitaille

for the appellant  
for the respondent

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JUDGMENT  
MARCH 13, 2026

DAVIS J.

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[1] Jerry Kaiser lives in the Rural Municipality of Baidon [RM]. He was elected to the Municipal Council in November, 2020. Mr. Kaiser's relationship with Council has been challenging, both before and since his election.

[2] In October, 2024, Council convened a special meeting to address allegations that Mr. Kaiser failed to declare conflicts of interest related to five resolutions which Council debated at its most recent meeting. Mr. Kaiser had voted on each resolution. Council determined that Mr. Kaiser did so in breach of s. 144 of *The Municipalities Act*, SS 2005, c M-36.1 [*Act*] and that he was automatically disqualified from holding office for a further 12 years.

[3] Mr. Kaiser appealed that decision pursuant to ss. 148(2.1) of the *Act*. He argues that he was never in a conflict of interest or that if he was, he should not have been disqualified.

[4] I do not accept that Mr. Kaiser was in a true conflict of interest with respect to two of the five resolutions, but I have no hesitation in finding that he was conflicted in relation to the other three and that this conduct was sufficiently serious to warrant his disqualification.

[5] I conclude that my discretion does not permit me to vary the length of the disqualification term. Accordingly, I am dismissing Mr. Kaiser's appeal and upholding the disqualification resolution.

#### **A. Legal and factual matrix**

[6] The process for addressing a municipal councillor's alleged conflict of interest and the circumstances in which a councillor may be disqualified are codified in ss. 141 to 150 of the *Act*. A person who is in a conflict of interest must declare that conflict, disclose its general nature, and refrain from participation in matters related to that conflict. The obligations on a councillor are detailed in s. 144.

[7] If a councillor breaches those obligations, he or she is disqualified from office and is required to resign: ss. 147-148. Should a disqualified councillor fail to resign as required by s. 148, the municipal council may resolve to declare the seat vacant. If a councillor is disqualified, ss. 147(2) provides that he or she cannot be nominated or elected to municipal office for a period of 12 years.

[8] As an aside, Mr. Kaiser complained that his fellow councillors undertook to declare him disqualified rather than referring the question to a judge at first instance. I make three observations. First, Council was within its rights to decide the issue itself because the Legislature gave it that right. Second, the disqualification of a sitting

politician is often a matter of some urgency, and a legal and expeditious process may sometimes be preferable to court proceedings. This matter was urgent because the municipal election was taking place within a few weeks.

[9] Third, as Justice Danyliuk noted in *Hill v Saskatoon (City)*, 2021 SKQB 177 at para 20 [*Hill*], leaving it to a judge to overrule the will of the electors by disqualifying their chosen representative may be seen as “the thin edge of a decidedly undemocratic wedge.” When council resolves to disqualify a colleague themselves, they can be held accountable at the ballot box. I cannot. While the legislation allows for a first instance decision by either council or this Court, I wish to make clear that there is nothing wrong with the procedure Council followed.

[10] A disqualified councillor may appeal to this Court pursuant to ss. 148(2.1). This triggers a *de novo* hearing. The Court will determine whether the councillor was in a conflict of interest. Thereafter, the Court will either confirm or set aside the disqualification resolution: ss. 148(2.2). In my view, I do not have authority to create a remedy not contemplated by the legislation. I return to the scope of my discretion later. For now, I outline some of the basic facts.

[11] Before being elected to Municipal Council, Mr. Kaiser was an engaged citizen. He interacted frequently with the municipal government, most notably in 2020. These interactions resulted in extensive litigation, the details of which I briefly address when considering the resolutions in which Mr. Kaiser was said to have a personal interest. I think all parties will agree that their relationship with each other is neither cordial nor productive.

[12] Mr. Kaiser was elected as Municipal Councillor and sworn-in in November 2020. Thereafter, he continued to litigate in his personal capacity against the RM as well as addressing matters (arguably) of public interest in his role as Councillor. During his tenure in office, Mr. Kaiser raised matters before Council that concerned his

use of his own land, and the use to which his neighbours put their land. I address the facts relating to these issues when I discuss the resolutions.

[13] Without getting into details, Mr. Kaiser accused the Reeve and municipal employees of ethics violations in 2021; they in turn filed an ethics complaint against him. An independent investigator – Leslie Belloc-Pinder, K.C. – determined that Mr. Kaiser’s complaints were unfounded, but that he had breached both the *Code of Ethics Bylaw* No. 03-2021 [*Code of Ethics Bylaw*] and the RM’s Harassment Policy through his actions toward these individuals.

[14] The RM Council passed a resolution sanctioning Mr. Kaiser by indefinitely suspending him from office until he took certain remedial steps. This Court determined that, while Mr. Kaiser’s behaviour was worthy of censure, Council did not have statutory authority to indefinitely suspend him: *Kaiser v Rural Municipality of Baidon No. 131*, 2023 SKKB 50. Mr. Kaiser was reinstated.

[15] He made further allegations against RM employees and the Reeve in the summer of 2024. As a result, Ms. Belloc-Pinder issued an opinion in which she concluded that the *Code of Ethics Bylaw* applied to Council only, and not to staff. I discuss these circumstances in more detail when I address two of the resolutions at issue.

[16] Mr. Kaiser served out his term until October 2024. On October 2, 2024, Council met and debated several resolutions. These included two related to Mr. Kaiser’s use of his own property, one related to his neighbour’s property about which Mr. Kaiser had a perennial complaint, and two related to Ms. Belloc-Pinder’s most recent ethics report. Mr. Kaiser did not declare a conflict of interest in relation to any of these resolutions. He debated and voted on the five resolutions.

[17] On October 4, 2024, the RM's legal counsel sent Mr. Kaiser a letter advising him that he had participated in discussion and voting regarding three resolutions in which he failed to declare that he was in a conflict of interest. The resolutions were the two related to the ethics report and the one related to the neighbour's land. Counsel invited Mr. Kaiser to make submissions to a special meeting slated for October 8, 2024. On the 8<sup>th</sup>, he was advised by letter that Council would now hold the meeting on the 16<sup>th</sup> and would also discuss the resolutions that concerned Mr. Kaiser's own land use.

[18] Mr. Kaiser attended the October 16, 2024 meeting. The meeting was adjourned at his request because he claimed Council had failed to complete the requisite paperwork to convene a special meeting. The other Council members filled out the relevant form and scheduled the meeting for the next day.

[19] Mr. Kaiser was advised of the new time by voice message, in accordance with his request at the time of his election. Mr. Kaiser called the administrator back after hours, but when she attempted to return his call the next morning, he did not answer. Council delayed the start of the special meeting to see whether Mr. Kaiser would attend. He did not.

[20] Council eventually proceeded with the special meeting and discussed the resolutions in which Mr. Kaiser was said to be in a conflict of interest. The Reeve, Terry Anthony, did not participate in this discussion or vote because he and Mr. Kaiser were running against one another for the position of Reeve in the municipal election.

[21] The remaining five members debated Mr. Kaiser's situation. Councillor McDonald proposed the following resolution:

**Conflict of Interest in relation to Motions 178/24, 179/24, 180/24, 185/24, 186/24**

**200/24 McDonald:** THAT on October 2, 2024, at the Regular Meeting of the Baildon Council, Councillor Kaiser failed to declare a conflict of interest, leave the room, refrain from participating and abstain from voting in relation to the following resolutions

- Resolution 178/2024
- Resolution 179/2024
- Resolution 180/2024
- Resolution 185/2024
- Resolution 186/2024

(the “**Conflict of Interest Resolutions**”):

THAT as a result of his participation in the Conflict of Interest Resolutions, including the failure to disclose a conflict of interest, leave the room, refrain from participating in the discussion and abstain from the votes, Councillor Kaiser has breached sections 144(1), 144(2) and 141.1 of *The Municipalities Act*;

THAT on October 4, 2024 and October 8, 2024 the particulars of Councillor Kaiser's participation in the Conflict of Interest Resolutions was set out to him in writing, and he was afforded an opportunity either to resign voluntarily or to respond to the allegations regarding the Conflict of Interest Resolutions and to persuade Council that he has not breached sections 144(1), 144(2) and 141.1 of *The Municipalities Act*;

THAT a special meeting of the Baildon Council was been [*sic*] called on October 17, 2024 for the purposes of hearing from Councillor Kaiser;

THAT Councillor Kaiser did not attend this special meeting or otherwise provide any submissions in response to the allegations regarding the Conflict of Interest Resolutions despite notice of his right to do so;

THEREFORE the Baildon Council declares that Councillor Kaiser is disqualified pursuant to section 147(1)(e) of *The*

*Municipalities Act* by virtue of having breached sections 144(1), 144(2) and 141.1 of *The Municipalities Act*;

THAT the Baildon Council declares pursuant to s. 148(2) of *The Municipalities Act* that Councillor Kaiser's elected office is vacant; and

THAT pursuant to section 147(2)(a) the Baildon Council declares that Councillor Kaiser is not eligible to be nominated or elected in an election in any municipality in Saskatchewan for 12 years from the date of this resolution.

(Certified Record of Proceedings [Record], Vol I, page 164)

[22] The resolution was passed unanimously.

[23] Though the disqualification from office had taken effect, Mr. Kaiser's name was still on the ballot for the ongoing municipal elections. As it happened, he did not win the election for Reeve and Council did not have to address the effects of the disqualification on the election results. As Mr. Kaiser points out, the fact that he had been disqualified only days before the election could reasonably have impacted on those results.

[24] Mr. Kaiser alleges that he was never in a conflict of interest with respect to any of the matters addressed in the five resolutions. He says the special meeting was improperly convened and that he was denied procedural fairness. He says he ought not to have been disqualified.

[25] Mr. Kaiser appeals his disqualification pursuant to ss. 148(2.1) of the *Act*. An appeal under this section triggers a *de novo* hearing in this Court. My role is to determine whether Mr. Kaiser was in fact disqualified; this means that I must reach my own conclusion regarding the disqualification, but in other respects I should give deference to Council's interpretation of its home statute: *Probe v Sherwood (Rural Municipality)*, 2024 SKCA 119 at paras 43-46.

[26] Pursuant to ss. 148(2.2) and 149, I have discretion to order that Mr. Kaiser is not disqualified even if I find that he failed to declare a conflict of interest and participated in the discussion and voting regarding matters in which he was conflicted.

[27] Section 358 allows a person to apply to this Court to quash a resolution if that resolution is illegal or was passed in a manner that did not comply with the *Act*. Mr. Kaiser did not plead s. 358 of the *Act*. He did argue extensively that Council followed a deficient process in convening the special meeting.

[28] I do not understand Mr. Kaiser to be making an application under s. 358 to quash the disqualification resolution. Rather, I understand him to allege that the deficiencies in process or in form resulted in procedural unfairness. He contends that the resolution was void from the start: *Wushke v Rural Municipality of Rocanville No. 151*, 2025 SKKB 19 at paras 26-29 [*Wushke*]. I am treating Mr. Kaiser's arguments as a threshold issue, and not as an application under s. 358.

[29] For the most part, I reject Mr. Kaiser's arguments. I find that the process by which Mr. Kaiser was disqualified was fair. He was properly disqualified because he was in a clear conflict of interest with respect to three of the resolutions, and he failed to take any required actions to avoid the conflict situation. His conduct was not accidental; it was overt and intentional.

[30] I do not find that he was in a conflict with respect to the two ethics resolutions. Nonetheless, Mr. Kaiser was properly disqualified, and his conduct was sufficiently serious that it is not appropriate to relieve him of that disqualification. While I have discretion to set aside the disqualification resolution, I do not have discretion to impose a different period of disqualification from the statutory period. Accordingly, I am dismissing Mr. Kaiser's appeal.

**B. Was Mr. Kaiser denied procedural fairness?**

[31] Mr. Kaiser says that the RM Council's decision to disqualify him was void because the process was unfair. I address this issue first because if Mr. Kaiser was disqualified from office pursuant to an unfair process, his disqualification cannot stand, and I must set aside Council's resolution.

[32] I conclude that the process was fair. Mr. Kaiser knew the case to meet and was afforded a reasonable opportunity to meet it. The fact he disengaged from the process and refused to make submissions on his own behalf did not render that process unfair.

[33] This Court has previously found that councillors in situations like Mr. Kaiser's are entitled to a moderate level of procedural fairness, considering the *Baker* factors [*Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699, [1999] 2 SCR 817 (SCC)]; *Maharaj v Rosetown (Town)*, 2020 SKQB 254 at paras 43 – 47 [*Maharaj*]; *Wushke* at para 32.

[34] Mr. Kaiser claims that the process failed to meet that standard because Council did not comply with s. 7.4 of the *Council Procedure Bylaw*. That provision says that when Council convenes a special meeting, it shall give 24 hours written notice to all members and to the public. Mr. Kaiser alleges that the lack of written notice here meant that the special meeting was convened in a manner that was procedurally unfair to him and that this makes the disqualification resolution void. I disagree.

[35] As is well understood, procedural fairness requires at a minimum that a person know the case to meet and have a chance to meet it. In *Maharaj*, this Court said that procedural fairness required the decision-maker to give the other party a chance to be heard, to listen to the other party, and not to make a decision until listening to and considering the other party's submissions. The Court also noted that procedural fairness

in this context will require responsive reasons: para. 72. The necessary content of those reasons will depend on the nature of the issue and the nature of the decision-making body, among other circumstances.

[36] In *Wushke*, the rural municipality Council breached the duty of procedural fairness they owed Mr. Wushke because they did not notify him in advance that his conduct was at issue or that disqualification could result. Mr. Wushke's conduct was not on the meeting agenda, and he only learned of the nature of the concerns after Council had passed the disqualification resolution. Mr. Wushke was not given the chance to speak to all the allegations, and Council was not open to his submissions.

[37] Mr. Kaiser's situation is very different. The RM's legal counsel described in detail the nature of the alleged conflicts of interest. She did so in two letters. In both letters, she explained the theory according to which Mr. Kaiser was in a conflict of interest. She told Mr. Kaiser that he could resign, or he could make written and oral submissions at a special meeting of Council.

[38] On October 4, 2024, legal counsel sent Mr. Kaiser the first letter. In that letter, she explained that in Council's view, Mr. Kaiser had a private interest in the ethics report and in the related resolutions. She also explained that Council considered him to have a private interest in relation to the property of Bill Stock and the vehicles stored there. The RM's lawyer explained the nature of the alleged conflicts in some detail, and she outlined the legal consequences for a councillor who finds himself in a conflict of interest.

[39] This letter advised Mr. Kaiser that, should he not resign, Council would convene a special meeting on October 8, 2024, at which Mr. Kaiser was invited to make submissions in his own defence. That meeting did not take place because the RM administrator brought Mr. Kaiser's personal resolutions to Council's attention.

[40] The RM's lawyer promptly sent Mr. Kaiser a second letter, dated October 8, 2024. In that letter, she explained in detail the conflict of interest that arose when Mr. Kaiser voted on resolutions regarding his own land and his personal requests to bury utilities lines on municipal property. Again, the lawyer outlined the implications of the conflict of interest, and the possibilities open to the parties. She advised Mr. Kaiser that the RM Council would convene a meeting on October 16, 2024 to discuss a disqualification resolution. She again invited Mr. Kaiser to make written and oral submissions.

[41] From the foregoing, I have no doubt whatsoever that Mr. Kaiser knew the nature of the allegations against him, and he knew he had a right to make submissions in his own defence. He knew that Council could not make a final decision until he had that chance. He knew the case to meet well in advance of the special meeting.

[42] On October 16, 2024, Mr. Kaiser attended the scheduled special meeting. He objected to the meeting taking place because there had been no Form 1 request for a special meeting. Form 1 is a single-page form which one can fill in by hand to request a special meeting. A municipal bylaw authorises its use. The form does not contain any information that was not already given to Mr. Kaiser in the letters from legal counsel or in the agenda for the special meeting. In fact, Mr. Kaiser had substantially more information than could be communicated through Form 1.

[43] In any event, the October 16, 2024 meeting was adjourned. The remaining members of Council immediately prepared a Form 1. Mr. Kaiser was the only Councillor who did not sign it. The meeting was scheduled for the next morning to comply with the 24-hour notice period.

[44] The RM administrator advised Mr. Kaiser of the new meeting date and time by phone. When she was unable to reach him, she left a message. As I understand it, the administrator provided Mr. Kaiser notice 24 hours before the meeting. Mr. Kaiser

says this notice was inadequate because it was not in writing. There is no merit whatsoever to Mr. Kaiser's argument.

[45] When Mr. Kaiser became a RM Councillor, he filled out a form to indicate how he wanted to be notified of meetings. Mr. Kaiser had checked off the box labelled "regular mail" and written a P.O. box address on the line provided. He had then crossed out both the words "regular mail" and the address.

[46] He checked the box that indicated he wished to receive notifications "by telephone or voice mail". He wrote his phone number on the line provided. He manually crossed out all other possible methods of communication. From this I am satisfied, not only that the administrator was entitled to notify Mr. Kaiser by phone or by leaving a voice message, but that she could not confidently rely on any other means to contact him.

[47] Mr. Kaiser knew about the second meeting. He knew about it because he returned the administrator's call after hours. He failed to pick up when she called him back. As noted, he knew a special meeting was going to be convened since October 4, 2024 when legal counsel wrote to him advising him of that fact. Mr. Kaiser had attended the special meeting convened on October 16, 2024 and prompted its adjournment.

[48] Mr. Kaiser did not attend the October 17, 2024 meeting. He did not attend even though he knew about it, knew what the other Councillors would discuss, and knew that he was entitled to make submissions. By this time, he had well over a week to prepare, and he had known there would be an imminent special meeting for nearly two weeks.

[49] Not only was this process fair, it is difficult to see what else Council was supposed to have done. Mr. Kaiser authored his own lack of participation. It was his choice entirely to let Council proceed on the basis of unanswered allegations of conflict.

[50] As to the reasons for the disqualification, these are found in the resolution itself which should be read together with the detailed letters from legal counsel, and with the relevant provisions of the *Act*. Mr. Kaiser was left in no doubt as to what Council's decision was and why Council reached it. Council found Mr. Kaiser was in a conflict of interest because he participated in the five resolutions which its counsel described to him. When Council concluded that Mr. Kaiser breached the conflict of interest provisions of the *Act*, he was immediately disqualified, as I discuss.

[51] The upshot of this is that Mr. Kaiser was afforded the requisite level of procedural fairness. Any irregularities were technical only; they had no impact on substantive rights, and they did not interfere with Mr. Kaiser's ability to advance his own position. It was he alone who decided to withdraw. He may have believed that doing so gave him a tactical advantage. I am unsympathetic to these tactics given that I find Mr. Kaiser was fully informed of the substantive claims against him and could have been under no misapprehension as to his participatory rights.

[52] I have not found it necessary to address various of the allegations Mr. Kaiser raised in his reply affidavit of February 27, 2025. This affidavit included allegations that municipal staff, and in particular the administrator, were corrupt to the point they were fabricating evidence to use against him. Mr. Kaiser speculates that he was the victim of a coordinated and highly efficient smear campaign.

[53] There is no evidence to support any of Mr. Kaiser's more colourful allegations. The most I can say is that Mr. Kaiser genuinely feels hard done by. That does not mean the process was unfair or the product of bias.

### **C. Was Mr. Kaiser in a conflict of interest?**

[54] Council found Mr. Kaiser violated the conflict of interest provisions of the *Act* when he participated in the discussion and voting on five resolutions at the

October 2, 2024 council meeting. Section 141.1(1) of the *Act* says that a person is in a conflict of interest if he or she “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.”

[55] This statutory definition incorporates what courts have identified as the hallmarks of a conflict of interest. In *Old St. Boniface Residents Assn. Inc. v Winnipeg (City)*, 1990 CanLII 31, [1990] 3 SCR 1170 at p 1196 (SCC) [*Old St. Boniface*], the Supreme Court said:

It is not part of the job description that municipal councillors be personally interested in matters that come before them beyond the interest that they have in common with the other citizens in the municipality. Where such an interest is found, both at common law and by statute, a member of Council is disqualified if the interest is so related to the exercise of public duty that a reasonably well-informed person would conclude that the interest might influence the exercise of that duty. This is commonly referred to as a conflict of interest.

[56] It is self-evident that a person who holds a public office must be free to act in the public interest – whether that is in the interest of a particular constituency or the interest of society more broadly. The public office holder must not be swayed to act in his or her own interests and must safeguard against such suasion.

[57] As the Chief Justice noted in *Council of The Rural Municipality of Sherwood No. 159 v Probe*, 2018 SKQB 24 at para 54 [*Probe 2018*]: “The judgment of even the most well-intentioned people might be impaired when their personal finances are affected.” Conflict of interest situations are not limited to those where the subject has a pecuniary interest; pecuniary interests as described in s. 143 of the *Act* will always give rise to a conflict of interest, but the concept is broader.

[58] A conflict of interest will arise when a public office holder has a particular personal interest in a matter which is not shared by or would not benefit others in the community and where a reasonably well-informed person would conclude the office holder might be influenced by those interests in the exercise of his or her public duty: *Old St. Boniface* at p 1196; *Schlenker v Torgrimson*, 2012 BCSC 41 at paras 56 and 66.

[59] Section 144 of the *Act* prevents a municipal councillor from participating in matters in which he or she has a conflict of interest. This Court has broadly construed what it means to participate, noting the importance of full and frank discussions among members of council, and how the mere presence of a conflicted party may stifle such discussion: *Ross v Rural Municipality of Willow Creek No. 458*, 2021 SKQB 106 at paras 47 – 49 [*Ross*].

[60] I find that Mr. Kaiser participated in discussing and voting on all five resolutions. In respect to one of those resolutions, he called for a recorded vote. He voted against the other members of Council in respect to four of the five resolutions – something it would be impossible to do inadvertently or without taking stock of the nature of the resolution in question. Regardless of whether Mr. Kaiser was in a conflict of interest, he participated in each of these matters and he did so deliberately.

[61] Whether any of these resolutions were “procedural” in nature, they were central to the substantive issues, with the exception – in my opinion – of Resolution 186/24. As this Court noted in *Probe 2018*, a conflict of interest prevents an officer from participating in a “procedural” decision which is “connected to a substantive matter in which they” are conflicted: para. 41.

[62] As should be apparent, the fact Mr. Kaiser’s vote did not change the outcome for any of the resolutions is wholly irrelevant to whether a conflict exists: *R v Probe*, 2020 SKCA 5 at para 39. It may be relevant to the seriousness of that conflict but it is not determinative in that regard: *Shellbrook (Rural Municipality) No. 493 v*

*Muller*, 2015 SKQB 346 at paras 37 - 41.

[63] With that background, I turn to the specific resolutions.

***1. The water line and power line resolutions***

[64] Resolutions 178/24 and 179/24 related to Mr. Kaiser's own land. Resolution 178/24 related to Mr. Kaiser's request from April of that year to bury a water line under the municipal road that runs between two lots of his property. Mr. Kaiser's request was put to the RM Council for approval at the October 2, 2024 meeting. The waterline resolution reads as follows:

**Water Line request – NW 24-15-26-W2, Lot 5&6 Blk 1**

**178/24 Huntley:** THAT Council approves the request by Mr. Kaiser on the Municipal Road (alley way) located between Lot 5&6 a water line to be buried. The water line shall be a minimum six feet in depth and a marker must be placed indicating the location of the water line. Work must be completed by October 31, 2024.

(Records, Vol 1, page 155)

[65] This resolution was carried. Mr. Kaiser did not declare a conflict or leave the room. According to Carol Bellefeuille's affidavit [Bellefeuille affidavit], which I accept, Mr. Kaiser voted to approve his own request to bury a water line under the municipal road.

[66] Resolution 179/24 related to Mr. Kaiser's request to bury a powerline under the municipal road that separated the same two lots. This issue was more contentious. Mr. Kaiser applied for a permit to bury the power line in March, 2024. Council considered this application in April of that year and resolved to require Mr. Kaiser to provide confirmation from SaskPower that the proposed installation met its standards.

[67] Even though he had no permit to install a power line, Mr. Kaiser began working on the proposed installation sometime that April. This prompted the RM administrator to issue a stop work notice. Mr. Kaiser appealed the stop work notice; his appeal was dismissed in August, 2024 and he was ordered to discontinue the work he had begun.

[68] It was in this context that Council discussed Mr. Kaiser's application to install an underground powerline. Following that discussion, Councillor Huntley proposed this resolution:

**Power line request – NW 24-15-26-W2, Lot 3,4,5,6,7 Blk 1**

**179/24 Huntley:** THAT Council requires further information from Mr. Kaiser before proceeding with the decision. The applicant must contact SaskPower and provide the RM documentation that the line will be installed by SaskPower. The line must be detectable with land locates, prior to Council considering the request put forward. Council further instructs the applicant to remove the line that is currently crossing under the lane immediately.

(Record, Vol I, page 155)

[69] Not only did Mr. Kaiser fail to declare a conflict or leave the room, he voted against this resolution, according to the Bellefeuille affidavit. Mr. Kaiser set himself in opposition to the rest of Council over an issue of personal importance to him. He sought to advance interests which he did not hold in common with his constituents or with RM ratepayers more generally. He did so despite the fact he had previously defied a similar resolution and proceeded to work on the installation without obtaining the requisite permits.

[70] To some extent, I agree with Mr. Kaiser that this seems like a routine or uncontroversial matter, dealing, as it does, with the safety of utility installations. It is a routine matter where Mr. Kaiser voted in his public capacity to grant himself personal latitude that was unlikely to be afforded to members of the public generally.

[71] It is frankly difficult to see how Mr. Kaiser can continue to assert he was not in a position of conflict with respect to these two resolutions. I consider his arguments in that regard to be frivolous. In particular, his argument that a conflict could not arise unless he “somehow manipulated the process or outcome” is wholly without merit. A councillor who acts in breach of conflict of interest rules harms the municipal government’s process and risks undermining public confidence, whether or not his actions had a tangible or quantifiable effect on process or outcome: *Ross* at para 49, *Probe 2018* at para 57.

[72] Whether a waterline or a powerline passed under a municipal road and linked two portions of Mr. Kaiser’s property was a matter of great personal interest to him, but to few or no other people. Mr. Kaiser really wanted these lines installed to the point where he undertook work on the powerline himself without a permit and in defiance of Council’s prior resolution. By doing so, he risked undermining public confidence in Council as a dispassionate, deliberative, governing body even if his participation changed neither the process nor the outcome.

[73] When the matter was called at the October 2, 2024 meeting, Mr. Kaiser should have declared a conflict and recused himself from the discussion and vote.

## ***2. The Stock resolution***

[74] Resolution 180/24 concerned a discretionary use permit which the RM had granted to Mr. Kaiser’s neighbours, Bill and Jerry Stock. Bill Stock keeps broken-down vehicles on his property. The RM’s zoning bylaw does not permit vehicles to be stored in this way, but Mr. Stock obtained discretionary use permits which allowed him to keep the vehicles temporarily.

[75] To say that these vehicles have become an obsession for Mr. Kaiser understates the determination with which he has tried to have them removed both before

and since his election to Municipal Council. Mr. Kaiser formally complained to Council in April and May, 2020 about the vehicles. This was before his election. He attended multiple Council meetings to make representations regarding the vehicles. He commenced legal proceedings against Council by way of Statement of Claim in September of that year, two months before his election.

[76] Mr. Kaiser based his unfounded ethics complaints in part on the RM's interactions with the Stock property. After his election, he filed an Originating Application, asking this Court to set aside the RM's decision not to strictly enforce the zoning bylaw. He amended that application to clarify it was an application for judicial review. This application was a dense and wide-ranging document essentially requesting this Court to order the RM to enforce the zoning bylaw and to order Mr. Stock to remove the vehicles.

[77] This matter finally proceeded to a hearing before Justice Crooks who determined that she did not have jurisdiction to do what was requested. As Mr. Kaiser had not directed his complaints to the appropriate party and availed himself of the process in the zoning bylaw, there was no decision which this Court was competent to review. Justice Crooks dismissed Mr. Kaiser's application on March 8, 2022.

[78] In response, Mr. Kaiser requested in writing that the Development Officer facilitate an environmental assessment of the Stocks' property and enforce the zoning bylaw by ordering the removal of the vehicles. When the Development Officer declined, Mr. Kaiser appealed her decision to the Development Appeals Board which determined his complaint did not merit a hearing.

[79] Undeterred, Mr. Kaiser continued to raise the issue of the Stocks' vehicles at Council, moving in March, 2023 that Council enforce the zoning bylaw in relation to the vehicles. His resolution was defeated. In September of that year, Mr. Stock applied for discretionary use permits to allow him to continue storing the vehicles. Mr.

Kaiser made various motions adverse to Mr. Stock's position. These were defeated at Council meetings in September and November, 2023.

[80] Mr. Kaiser continued to complain in writing and to raise the issue of the Stocks' vehicles at many subsequent Council meetings up until the October 2, 2024 meeting. At that meeting, Council granted Mr. Stock's discretionary use application and issued him a permit.

[81] Resolution 180/24 permitted the Stocks to store vehicles on the property on condition that they not increase the number of vehicles, that they comply with applicable environmental and other regulations, and that they provide Council with a report describing their plans to eventually remove the vehicles.

[82] As already noted, Mr. Kaiser did not declare a conflict or recuse himself. He alone voted against granting the Stocks' application.

[83] I have no hesitation whatsoever in concluding that Mr. Kaiser did so despite being in a conflict of interest. Preventing the Stocks from storing vehicles was nothing less than Mr. Kaiser's personal crusade. Anyone who viewed his history of complaints and litigation would conclude that he harboured an interest in this matter well beyond anything he may have shared in common with others.

[84] In fact, there is no evidence that anyone besides Mr. Kaiser cares what the Stocks do with their land. Mr. Kaiser by contrast tried hard to convince someone to order the Stocks to remove their vehicles before he was elected to Council. Once he was elected, he continued to litigate in his personal capacity, and he persistently used his office to keep this issue constantly before Council.

[85] It appears that he lost few opportunities to position himself in a manner that was adverse to the Stocks. The only difference between his posture before and after his election was the extent to which the election enhanced his platform and gave him

new tools with which to prosecute his campaign.

[86] One gets a sense of Mr. Kaiser's dogged pursuit of his neighbours from his many handwritten letters and complaints in which he raised the issue before Council. Just the latest such example was a letter of June 14, 2024 in which Mr. Kaiser insisted five matters be placed on the next Council meeting agenda; three of these concerned the Stocks although one involved a separate grievance. I am satisfied that Mr. Kaiser's interest in the outcome of the Stock resolution was personal – not public.

[87] He was required to declare a conflict and recuse himself from discussing and voting on the Stock resolution. He failed to do so. I have not found it necessary to address the extent to which the discretionary use permit conferred a right of appeal on Mr. Kaiser as an adjacent landowner. The facts I addressed above convince me he was in breach of s. 144 of the *Act*.

### ***3. The Ethics resolutions***

[88] In June and July, 2024 Mr. Kaiser filed three formal complaints against RM staff and against the other members of Council. He made a variety of allegations in these complaints including that the named persons denied him procedural fairness, bullied and harassed him, and failed to ensure his health and safety.

[89] He alleged that the RM administrator herself undertook many corrupt actions tending to harm Mr. Kaiser or to protect other persons or interests. Many specific allegations related to the Stocks, including to an alleged incident of dangerous driving, but Mr. Kaiser raised other issues as well. He indicated that he was bringing the complaints in his capacity as Municipal Councillor.

[90] Upon receipt of these complaints, the RM administrator asked Ms. Belloc-Pinder for a legal opinion on whether the *Code of Ethics Bylaw* applied to RM staff or just to members of Council. She did so because one of the complaints was

against her personally, and she recognised she was unable herself to address that threshold issue.

[91] The investigator was not retained to investigate Mr. Kaiser's complaints. Neither was there any suggestion that Mr. Kaiser was unable to lodge complaints against other members of Council.

[92] In a very brief report, Ms. Belloc-Pinder referred to the title and purpose statement of the *Code of Ethics Bylaw*. These describe the bylaw as applying to "members of council" or to "elected officials". From the plain wording of the text, Ms. Belloc-Pinder opined that the bylaw did not apply to employees or staff but only to members of Council.

[93] At the October 2, 2024 meeting of Council, Council debated the following two resolutions:

#### **Code of Ethics Complaint**

**185/24 McDonald:** Motion to receive the report titled "EXTERNAL OPINION REGARDING SCOPE OF CODE OF ETHICS BYLAW NO. 03-2021 FOR THE RM OF BAILDON #131"

Prepared by Leslie Belloc-Pinder, K.C. Dated August 30, 2024. and that the matters outlined in the Ethics Complaints filed on June 13, 2024, June 17, 2024 and July 5, 2024 by Mr. Jerry Kaiser are now considered closed.

...

**186/24 Hanlan:** That Council will have our legal Council [*sic*] communicate to Mr. Kaiser on the matters associating with the ethics complaints of [*sic*] on June 13, 2024, June 17, 2024, and July 5, 2024 by Mr. Jerry Kaiser are now considered closed.

...

(Records, Vol I, page 159)

[94] Both resolutions were carried, with Mr. Kaiser in dissent.

[95] The RM argues that Mr. Kaiser was in a conflict of interest situation with respect to these two resolutions. It contends that Mr. Kaiser made the complaints in his personal capacity, and that he should not have acted as both complainant and decision-maker. The RM argues that Mr. Kaiser set himself up as a judge in his own case. I have difficulty accepting the RM's position.

[96] As I have already noted, it can be difficult to tell where Mr. Kaiser's public role ends and his personal one begins. Indeed, he seems to view them as being nearly interchangeable. Nonetheless, it appears to me that Mr. Kaiser was raising matters of public interest in alleging corruption in municipal government that went beyond personal disagreements with the rest of the municipal government.

[97] I am not saying that I think Mr. Kaiser's allegations were well-founded. But where there is public corruption, it may well be that a public-office holder must act as whistle-blower or complainant. This does not mean that he or she has a personal interest in the matter beyond what is shared by the public generally. It just means the complainant was – fortunately – in a position to do something about public wrongdoing.

[98] The resolution in question went well beyond the limited scope of Ms. Belloc-Pinder's report. Mr. Kaiser believed that report was asking the wrong question. He believed the other members of Council were closing ranks to shield their wrongdoing from exposure.

[99] Finding a conflict of interest in these circumstances could risk leading to a situation where a municipal councillor who discovers wrongdoing is precluded from doing much about it because he or she is the complainant. I do not accept that to be the case. However, I do not find it necessary to determine in any more detail the scope of Mr. Kaiser's ability to act on his concerns about wrongdoing by public office holders.

[100] As I said, Mr. Kaiser's situation is complicated by the extent to which he melds public and private interests. It is understandable that the rest of Council viewed Mr. Kaiser's interest in the ethics resolutions as being primarily personal. Based on the record before me, I simply cannot be satisfied there was a true conflict of interest.

[101] As to the second resolution – 186/24 – Mr. Kaiser's participation was, in my view, innocuous. Not only do I not accept that Mr. Kaiser was in a conflict of interest with respect to this resolution, the resolution itself appears pointless. It directs legal counsel to communicate with Mr. Kaiser about the contents of a discussion in which he took part, and about documents which he had already seen.

[102] The resolution would make sense if Mr. Kaiser was not a member of Council. But Mr. Kaiser indicated in each complaint that he was acting in his capacity as Municipal Councillor for Division 5. He was present in that capacity when the resolutions were debated and passed.

[103] In the end, I do not find it necessary to consider the ethics report resolutions to dispose of this matter. I have not relied on them in considering how I should exercise discretion.

#### **D. Should I uphold the disqualification resolution?**

[104] Mr. Kaiser argues that Council's decision to declare him disqualified and his seat vacant was unreasonable. Section 147(1)(e)(ii) of the *Act* says that a member is disqualified if the member "contravenes: (ii) section 142 or 144 of this Act". In my view, Mr. Kaiser was deemed to be disqualified as soon as he breached s. 144. A member who finds himself in this situation "must resign immediately" (ss. 148(1)). Should he fail to do so, Council can resolve to declare him disqualified and his seat vacant.

[105] Mr. Kaiser points to the various options available to the reviewing Court. These include setting aside a disqualification resolution even where a councillor acted in breach of s. 144 of the *Act*. Mr. Kaiser points to the similar powers under ss. 148(6) which are open to a judge who makes a first-instance decision on disqualification. I have already mentioned some of the authorities from this Court which address circumstances that might favour affording relief to a conflicted councillor.

[106] There was nothing unreasonable or improper in Council's resolution. More to the point, I too find that Mr. Kaiser was in a conflict of interest and is properly disqualified. While I have not accepted that Mr. Kaiser was conflicted in relation to all five resolutions, I have found he was clearly conflicted in relation to three of them and that these conflicts were serious. The conflicts regarding the Stock resolution and the powerline resolution were particularly so. Mr. Kaiser was disqualified as soon as he was in a conflict of interest, subject only to this Court's discretion to declare him no longer disqualified.

[107] I would not exercise my discretion to set aside the disqualification resolution in this case. As I have pointed out, Mr. Kaiser's conduct was not accidental or inadvertent. His conduct during his time on Council satisfies me that Mr. Kaiser does not always perceive clear boundaries between his interests and those of the public or his constituents. Even his written complaints satisfy me that he thinks something is in the public interests if he perceives it to be in **his** interest.

[108] There is often little demarcation between Mr. Kaiser the ratepayer and Mr. Kaiser the Councillor. Mr. Kaiser's conduct risked causing serious harm to the reputation of Council by creating a perception that it was a vehicle by which individual Councillors could pursue personal agendas.

[109] I consider that upholding the disqualification resolution is necessary to maintain public confidence in Council's integrity.

**E. Can I order a shorter disqualification period?**

[110] Section 147(2)(a) says that a member who has been disqualified cannot stand for municipal election for 12 years. When I asked counsel for the municipality about the harshness of this penalty, she relied on *Hill* to suggest that I retained discretion to impose a shorter period of disqualification.

[111] Counsel pointed out that this Court has discretion to do something different from simply upholding a disqualification, even if a councillor was in a conflict of interest that was not inadvertent or accidental. I agree with this, and this Court's prior decisions establish this is a discretionary decision: *Hill* at paras 40-47.

[112] The Legislature contemplated that there would be situations where the Court would order a councillor to be reinstated or would order that a person was eligible to stand in the next election, despite finding a conflict of interest: ss. 148(2.2) and 148(6).

[113] However, just because I have discretion to uphold or set aside a disqualification, it does not follow that I have discretion to craft a different remedy from those described in the legislation. Section 147(2) describes the duration of any disqualification period. It is the shorter of either 12 years or the time it takes to receive a pardon for certain enumerated offences.

[114] Where a statute specifies that an order is for a particular duration, I must impose an order of that duration unless the legislation confers discretion to do otherwise. This is the case even if the legislation confers discretion not to impose the order in the first place: *R v Russell*, 2005 NLCA 72 at para 1.

[115] In *Hill*, at para 42, Justice Danyliuk described his discretion under a related provision of *The Cities Act*, SS 2002, c C-11.1 The actions he described were all outlined in the statute itself. He did not describe exercising a residual discretion to

do anything other than what the statute expressly authorised him to do.

[116] *The Municipalities Act* gives me discretion to order that Mr. Kaiser be disqualified or that he not be disqualified. It does not give me discretion to make an order that the legislation – and the Legislature – did not contemplate. It does not allow me to impose a disqualification period of less than 12 years.

[117] Mr. Kaiser's appeal is dismissed in its entirety. The RM is entitled to costs in accordance with Column 1.



J.  
A.S. DAVIS