

**Official Administrator Report
Review and Approval of Council Meeting Minutes**

September 27, 2022, Regular Council Meeting:

Resolution No.	Motion	Council Decision	OA Response	Comments
220927-01	Council adopt the agenda as presented	Carried Unanimously	APPROVED	
220927-02	Council amended the motion of the March 15, 2022 of the worlds longest Hockey Game to remove the words "in kind"	Carried Unanimously	APPROVED	
220927-03	Council directs Administration to review the process to seek clarification of motions to ensure timely disbursements and advise to Council by email and any corrective measures taken.	Carried Unanimously	APPROVED	
220927-04	Council directs Administration that the Worlds Longest Hockey Game source of funding is Councils Budget for the Sponsorship of Community Events.	Carried Unanimously	APPROVED	
220927-05	Council move into in Camera at 9:12 a.m.	Carried Unanimously	APPROVED	
220927-06	To come out of in Camera at 1:26 p.m.	Carried Unanimously	APPROVED	
220927-07	To release the Code Report Presentation as discussed in Camera, September 27. 2022, to be released for view of the public.	In Favor Mayor Jeff Colvin, Deputy Mayor Mel Foat, Councillors Blaine Funk and Stephen Hanley Opposed: Councillors Sandy Johal-Watt	DISALLOWED	Please refer to attachment for rationale

OA Initials

October 11, 2022
Date

Municipal Government Act,

Section 575(1) The Minister may at any time appoint an official administrator to supervise a municipality and its council.

Section 575(2) So long as the appointment of an official administrator under this section continues.

- (c) No bylaw or resolution that authorizes the municipality to incur a liability or to dispose of its money or property has any effect until the bylaw or its resolution has been approved in writing by the official administrator, and
- (d) The official administrator may at any time within 30 days after the passing of any bylaw or resolution disallow it, and the bylaw or resolution so disallowed becomes and is deemed to have always been void.

Legend: Approved – Bylaw or resolution approved

Disallowed – Bylaw or resolution is void

Out of Scope – Council's bylaw or resolution does not require Official Administrator approval

		and Shannon Dean		
220927-08	For Code of conduct investigation into the Herald News Article released on September 22, 2022 on Councillor Ritesh Narayan, for possible code of conduct breaches and for that to be sent to a third party.	In Favor Mayor Jeff Colvin, Deputy Mayor Mel Foat, Councillors Blaine Funk and Stephen Hanley and Shannon Dean Opposed: Councillor Sandy Johal-Watt	DISALLOWED	Please refer to attachment for rationale
220927-09	Provide a cease and desist letter to Councillor Ritesh Narayan from the City Lawyer	In Favor Mayor Jeff Colvin, Deputy Mayor Mel Foat, Councillors Blaine Funk and Stephen Hanley Opposed: Councillors Sandy Johal-Watt and Shannon Dean	DISALLOWED	Please refer to attachment for rationale
220927-10	For lack of confidence in Councillor Ritesh Narayan and purpose to remove him from all City committees and boards at a point until after the investigation and to revisit it at that time.	In Favor Mayor Jeff Colvin, Deputy Mayor Mel Foat, Councillors Blaine Funk and Stephen Hanley Opposed:	DISALLOWED	Please refer to attachment for rationale

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		Councillors Sandy Johal-Watt and Shannon Dean		
220927-11 (No motion number in the minutes)	To adjourn the meeting at this time 2:45 p.m.	Carried Unanimously	ALLOWED	

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Rationale for Decisions

Submitted October 20th, 2022

I, Doug Lagore, have been appointed Official Administrator of the City of Chestermere (the “City”) by the Minister of Municipal Affairs pursuant to Ministerial Order MSD082/22. The Minister of Municipal Affairs’s Letter to His Worship Mayor Colvin regarding my appointment states:

I have taken this action at this time because I am deeply troubled by the continued escalation of conflict within council, as demonstrated at the September 20 and 27, 2022, council meetings where council launched 100 investigations for alleged code of conduct complaints. The use of the code of conduct in this manner, and to this magnitude, indicates a degree of intra-council conflict that I believe puts at risk council's ability to govern effectively and in the best interests of your residents. In that light, I believe it is necessary to take immediate action to protect the public's interest in good governance and to promote the functionality of council.

Ministerial Order MSD082/22 requires the City’s Chief Administrative Officer to, within 72 hours of a Council meeting, forward all unapproved Council meeting minutes and related documents, such as passed bylaws and supporting agenda packages to the Minister of Municipal Affairs for distribution to me as Official Administrator for my review.

I requested the full agenda package from City Council meeting of September 27, 2022, and to date, I have not received the full agenda package.

I have requested the Notice of Special Meeting and confirmation that the Special Meeting of September 27, 2022, was called in accordance with the *Municipal Government Act*, RSA 2000, c M-26, s. 194 (the “MGA”), specifically:

- That 24 hours’ notice in writing of the Special Council Meeting was provided to each councillor and the public stating the purpose of the meeting and the date, time, and place for the meeting to be held;
- If less than 24 hours’ notice in writing was provided to all councillors, that 2/3 of the whole council agreed to this in writing before the beginning of the meeting;
- If no notice or less than 24 hours’ notice was given to the public, that 2/3 of the whole council agreed to this in writing before the beginning of the meeting.

To date, this information has not been received.

I have reviewed portions of the September 27, 2022 Special Meeting (excluding *in camera* portions which were not broadcast) through the YouTube link provided at https://www.youtube.com/watch?v=9OGszFU1kMs&ab_channel=Chestermere

The City is currently the subject of an investigation authorized by Ministerial Order MSD:040/22 for George Cuff to conduct an inspection of the management, administration, and operation of the City, specifically including issues regarding:

- Members of Council acting alone and outside of Council resolution;
- The complaints process for Code of Conduct infractions;
- Members of Council performing administrative functions and duties;
- Improper Council meeting procedures and conduct; and
- Sale of municipal property not in accordance with the MGA.

I understand that the Inspectors Report has not been publicly released at this time.

SEPTEMBER 27, 2022

Resolution 220927-07

To release the Code Report Presentation as discussed in Camera, September 27, 2022, to be released for view of the public.

Resolution 220927-07 is disallowed. My reasons are set out below.

I have reviewed the Code of Report Presentation. The document states on its front page “Alleged Code of Conduct Violations by Councillor Ritesh Narayan, Councillor Sandy Johal-Watt and Councillor Shannon Dean”. The document states that it was presented by Mayor Jeff Colvin. His Worship Mayor Colvin read out portions of this document at the September 27, 2022, Special Council Meeting.

The document contains extracts from numerous emails between private citizens and councillors, correspondence with the Office of the Minister of Municipal Affairs, correspondence with the RCMP, and correspondence between legal counsel and members of council and administration with highlighting and commentary. The commentary includes numerous statements which conclude that specific councillors breached the Elected Officials Code of Conduct.

I have significant concerns regarding the decision to release this document. Specifically, I have concerns regarding:

- The application of *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25 to a number of the documents included in the Code Report Presentation;
- Interference with Municipal Affairs Investigation

Freedom of Information and Protection of Privacy Act, RSA 2000, c F-25

Council of the City of Chestermere went *in camera* on the basis of section 17 of the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25. Section 17 provides:

17(1) The head of a public body **must** refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party’s personal privacy. [emphasis added]

The Code Report Presentation contains numerous emails between private citizens and councillors, correspondence with the Office of the Minister of Municipal Affairs, correspondence with the RCMP and correspondence between legal counsel and members of council and administration. Prior to passing Resolution 220927-07, based on the materials before me, it does not appear that the City Council considered received a legal opinion or advice from the Legislative Services department on the

application of the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25, s. 17, 20, 21, 23, 24 and 27 to the Code Report Presentation.

I note that some information such as staff names, individual phone numbers and last names have now been redacted. However, it does not appear the City Council considered the relevant provisions of FOIP prior to releasing this document. I have serious concerns that the redactions applied are not sufficient and that individuals may be identifiable based on the contents of the document. Other provisions of FOIP including s. 20 (Disclosure harmful to law enforcement), 21 (Disclosure harmful to intergovernmental relations), 23 (Local public body confidences), 24 (Advice from officials) and 27 (Privileged information) should also have been considered by City Council prior to the release of this document.

The information contained in the document is sensitive and relates to ongoing inter-council disputes and the Municipal Affairs investigation. It is not of the nature that a reasonable person would expect to be released in this fashion. As such, I would expect that City Council would have turned its mind to and sought advice from officials regarding the application of FOIP to the disclosure of this document and potentially other sources of privilege (such as solicitor-client privilege). Based on the documents before me, it does not appear that City Council did so.

Interference with ongoing Municipal Affairs Investigation

As noted above, the information contained in this document is sensitive and much of it relates to issues that are encompassed in the Municipal Affairs investigation (see Ministerial Order No. MSD:040/22). I understand that the Investigators Report has not been made public yet. I am concerned that the disclosure of this document interferes with the integrity of the Municipal Affairs investigation as it discloses portions of correspondence from members of Council to Municipal Affairs. The document includes commentary on areas which were directed to be investigated in Ministerial Order MSD:040/22.

I do not believe that disclosure of this document, which provides commentary on the areas currently under investigation by Municipal Affairs, is in the interest of good governance or procedural fairness. A significant portion of this document concludes that Councillors Narayan, Watt and Dean have made false or untrue statements, including to Municipal Affairs in respect of the ongoing investigation. Councillor Dean raised concerns at the Special Council Meeting on September 27, 2022, that the three Councillors identified in the document were not given an opportunity to publicly respond to this document and that both sides were not represented. I agree.

I have significant concerns regarding the process followed by City Council in disclosing this document. Despite the cover page of the document and statements made by His Worship Mayor Colvin that these are allegations, a review of the document does not show allegations but rather conclusions that Councillors Narayan, Watt and Dean made false statements. I understand there are areas of significant disagreement within Council regarding matters which are the subject of the Municipal Affairs investigation. I have significant concerns that the release of this document is or appears to be an attempt to undermine the conclusions of the Investigators Report. I find that it is an irregular, improper, and improvident for City Council to release this document at the present time, prior to the release of the Inspectors Report. The disclosure of this document does not support good governance and promotes inter-council conflict.

As such, Resolution 220927-07 is disallowed. As result, I strongly recommend that the City remove this document from its website. His Worship Mayor Colvin read portions of this document out loud in the public portion of the Special Meeting of September 27, 2022, which has been published on YouTube. I strongly recommend that the City remove those portions of the Special Council Meeting from the video published on YouTube.

Resolution 220927-08

For Code of conduct investigation into the Herald News Article released on September 22, 2022 on Councillor Ritesh Narayan, for possible code of conduct breaches and for that to be sent to a third party.

<https://calgaryherald.com/news/local-news/its-a-witch-hunt-chestermere-to-investigate-three-councillors-over-conduct-allegations>

Resolution 220927-08 is disallowed. My reasons are set out below.

The Elected Officials Code of Conduct is required under s. 146.1 of the MGA. The *Code of Conduct for Elected Officials Regulation*, Alta Reg 200/2017 (the “*Code of Conduct Regulation*”) provide that the Elected Officials Code of Conduct must provide for a complaint system which includes:

- who may make a complaint alleging a breach of the code of conduct,
- the method by which a complaint may be made, the process to be used to determine the validity of a complaint, and
- the process to be used to determine how sanctions are imposed if a complaint is determined to be valid. (*Code of Conduct Regulation*, s. 2(a)-(d))

The purpose of the complaint process set out in the Elected Officials Code of Conduct is:

- to protect the public interest,
- to enforce this Code of Conduct,
- to provide a means by which complaints about an Elected Official can be dealt with in a fair and expeditious way, and
- to preserve the integrity of Council. (Elected Officials Code of Conduct, s. 6.5)

The Elected Officials Code of Conduct provides for a process by which Council receives a complaint, conducts a preliminary review of a complaint, and determines if the complaint can be summarily disposed of or directs the CAO to engage an investigator to conduct a formal investigation.

I find that, based on the information before me, City Council did not comply with the Elected Officials Code of Conduct. It appears the complaint against Councillor Narayan was made by His Worship Mayor Colvin, however, I do not have a copy of any complaint other than the Code of Conduct Report detailed above. I will proceed to evaluate Resolution 220927-08 on the basis that the Code of Conduct Report is the complaint.

On my review of the documents before me, I cannot conclude that the City Council followed the requirements of the Elected Officials Code of Conduct in directing a third-party investigation “into the Herald News Article released on September 22, 2022, on Councillor Ritesh Narayan...” as it does not appear that City Council conducted a preliminary review as required by s. 6.11 of the Elected Officials Code of Conduct. In particular, City Council does not appear to have considered the context and intent of the complaint to ensure the legitimacy of the complaint and if any further action in relation to the complain will serve the purposes of the complaint process as set out in s. 6.5 of the Elected Officials Code of Conduct.

The Code of Conduct Report identifies that the complaint regarding Councillor Narayan is that statements he made to the Calgary Herald in respect of the Elected Official Code of Conduct investigations authorized by City Council on September 20, 2022, are factually incorrect and may mislead the public. I am concerned that City Council’s authorization of a further investigation based on Councillor Narayan’s comments to the media about the Elected Official Code of Conduct investigations directed at the September 20, 2022 Council Meeting represents a continuation of the ongoing inter-council dispute. This does not represent an appropriate use of the Elected Official Code of Conduct process.

As such, I disallow Resolution 220927-08.

Resolution 220927-09 and Resolution 220927-10

Provide a cease and desist letter to Councillor Ritesh Narayan from the City Lawyer.

Resolution 220927-09 is disallowed. My reasons are set out below.

Resolution 220927-09 is problematic on two grounds:

- Resolution 220927-09 directs that a cease and desist letter be sent to a Councillor Ritesh Narayan but provides no specifics of the nature of what the Councillor Ritesh Narayan is to cease and desist.
- Resolution 220927-09 is in effect a sanction against Councillor Ritesh Narayan without compliance with the Elected Officials Code of Conduct.

City Council cannot prevent a Councillor from fulfilling the legislated duties of a councillor even where there is a Code of Conduct violation found (*Code of Conduct Regulation*, s. 6). Resolution 220927-09 does not specific what Councillor Narayan will be told to cease and desist and could include activities which are part of his legislated duties. Further, it is unclear why Resolution 220927-09 is for a cease and desist letter to come from the City’s lawyer, and it appears on its face that the intent of Resolution 220927-09 is to threaten legal action against Councillor Narayan.

City Council does not have authority under the Elected Officials Code of Conduct to sanction a Councillor prior to the completion of an investigators report and consideration of an investigators report by Council. Prior to issuing any sanction, City Council must provide an opportunity for the Councillor to respond to the complaint. Resolution 220927-09 is in effect a sanction against Councillor Narayan. I note that two sanctions available to Council in the event a breach of the Elected Officials Code of Conduct is

found are a verbal reprimand or written reprimand (Elected Officials Code of Conduct, s. 7.5.2 and 7.5.3).

Resolution 220927-09 is in effect a written reprimand to Councillor Narayan and is a sanction. City Council does not have authority to issue a sanction against Councillor Narayan without following the procedure set out in the Elected Officials Code of Conduct, including providing an opportunity for Councillor Narayan to speak to the complaint before any decision on the outcome of the complaint is made by Council.

City Council's actions in passing Resolution 220927-09 do not comply with the procedure as set out in the Elected Officials Code of Conduct. As such, I disallow Resolution 220927-09.

Resolution 220927-10

For lack of confidence in Councillor Ritesh Narayan and purpose to remove him from all City committees and boards at a point until after the investigation and to revisit it at that time.

Resolution 220927-10 is disallowed. My reasons are set out below.

As note above, City Council does not have the authority to sanction Councillor Narayan without following the procedure set out in the Elected Officials Code of Conduct. Removal from committees and boards is a sanction available when Council has found a breach of the Elected Official Code of Conduct (Elected Officials Code of Conduct, s. 7.5.8).

City Council's actions in passing Resolution 2209270-10 does not comply with the procedure as set out in the Elected Officials Code of Conduct. As such, I disallow Resolution 2209270-10.