



Statement on Mayor McKay from Nanaimo City Council *

Members of Nanaimo City Council are concerned and disappointed with information and reports pertaining to the Mayor and his conduct and are therefore compelled by our duties and responsibilities to place these before the authorities and community.

We have had more than a year of discord due, in part to, the Mayor's inability to be honest with Council about the business of the City and matters important for the community. Council has warned the Mayor several times that his actions were jeopardizing the integrity of Council and placing the City at unnecessary risk for litigation.

All Councillors have a duty to uphold the obligations of elected office. Over a seven month period commencing in March 2016, Council directed staff to investigate financial disclosure reporting, international travel and trade missions and business dealings on foot ferries, hotels and internal investigations. Staff reported back to Council periodically, always with a letter to Mayor McKay asking him to provide explanation and key information.

Our investigation reveals that Mayor McKay was not transparent to Council, to staff or to the community.

1) Business Dealings with Private Company

Without Council approval, Mayor McKay entered into a non-disclosure agreement with Clipper Navigation Inc. to begin discussions to bring a foot ferry to Nanaimo. At this time the City had leases with Island Ferry Services (IFSL) and was party to a Memorandum of Understanding with IFSL, the Nanaimo Economic Development Corporation (NEDC), Regional District of Nanaimo and the Nanaimo Port Authority to locate a foot ferry on City lands. In September 2015, Mayor McKay accepted a free trip from Clipper to do business out of the country without Council's knowledge and failed to report it to either Council or on his financial disclosure declaration.

2) International Delegation to China

It appears that Mayor McKay failed to declare the gifts and services in kind he received in 2015 while on an official trip to China, as required by law. This matter is important in order for the City to be aware of which private companies and investors made contributions to

Mayor McKay and Andre Sullivan (see note A), former Chair of the Nanaimo Economic Development Corporation. Two local developers and investors helped set up meetings for the delegation in China. When the Mayor returned to Canada, one of these developers asked for a Letter of Intent to do business exclusively. In addition, Mayor McKay did not report a gift (flight) from the Chair of NEDC to return home.

3) Litigation against the City

As part of the settlement of a constructive dismissal claim and human rights claim against the City and CAO, the former employee alleges that Mayor McKay provided them confidential and privileged information. This conduct is in direct violation of his obligations and duty to the City.

Council has directed staff to take this information to the RCMP (see note B) for consideration of violations under the *Offence Act* (see note B), take steps to commence litigation under section 117(2) of the *Community Charter* and notify the public about the details of the alleged breach of his Financial Disclosure Obligations under section 111 of the *Community Charter*. We will further speak to these matters once the RCMP reports out.

The business of the City continues with a strong Council leading and moving forward. Council regrets having to speak to the Mayor's actions, but is obligated to abide by the *Community Charter* and operate in an open and transparent manner.

Nanaimo City Council

Contacts:

Councillor Jerry Hong
250-713-9143

Councillor Bill Bestwick
250 -713-6876

Notes:

A: Nanaimo City Council wishes to clarify that Mr. Andre Sullivan performed no wrong doing by choosing to provide a gift to the Mayor. As per the *Community Charter*, the Mayor is required to declare such gifts using established processes and policies.

B: This applies to item 3 - Litigation against the City.

* This is an updated version issued November 9, 2016. Original issued November 8, 2016. Update applies to notes only.