

Code of Conduct

Investigation into  
Alleged Breaches of the  
Code

by  
Audit & Administration Committee  
Wanganui District Council

24 June 2005

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## Executive Summary

In response to alleged breaches of the Wanganui District Council's Code of Conduct by his Worship, Mayor Laws, the Audit and Administration Committee met on a number of occasions between March and June 2005 to investigate and deliberate on the alleged breaches.

Six complainants were represented by their legal representative, Dr Moodie. Mayor Laws represented himself.

The complainants were:

- Ms Valerie Calder, Wanganui.
- Mr Warwick Chapman, Wanganui.
- Mr Matt Dutton, Wanganui.
- Dr Jay Kuten, Wanganui.
- Mr William Pearce, Wanganui.
- Ms Carol Webb, Wanganui.

The Committee followed a process which took into account the principles of natural justice and considered factual and legal submissions made on behalf of the complainants and the Mayor. The Committee also took its own legal advice

The Committee met in an open forum on 31 March 2005, heard submissions from the complainants and their legal representative, and adjourned in committee for deliberation.

After deliberation, the Committee wrote to the Mayor asking him to respond to a number of the allegations. Other allegations were determined to be not relevant or not substantiated and accordingly did not require a response.

On 13 June 2005, the Committee heard Mayor Law's response to the allegations, and then heard the subsequent rights of reply given by Dr Moodie and the Mayor. The Committee then adjourned to deliberate in committee.

After investigating the alleged breaches and deliberating on the individual allegations, it was resolved that the Audit and Administration Committee recommend to the full Council that Mayor Laws had not breached the Wanganui District Council's Code of Conduct.

It was also recommended by the Audit and Administration Committee that the Wanganui District Council proceeds with the review of the Code of Conduct as already resolved by the Council at its meeting held on 21 February 2005.

## Introduction

During February 2005 correspondence was received by the Council alleging breaches of the Code of Conduct by Mayor Laws. The complainants were:

- Ms Valerie Calder, Wanganui.
- Mr Warwick Chapman, Wanganui.
- Mr Matt Dutton, Wanganui.
- Dr Jay Kuten, Wanganui.
- Mr William Pearce, Wanganui.
- Ms Carol Webb, Wanganui.

In accordance with the Code of Conduct adopted by the Council at its triennial meeting on 22 October 2004, the complaints were referred to the Audit and Administration Committee for investigation.

The Committee convened on 31 March 2005 to investigate the complainants' submissions.

Deputy Chairman, Cr McKinnon, assumed the chair (the Mayor as Chairman of the Committee being the subject of the complaints). The Committee resolved to meet as a Committee of the Whole Council (the Committee).

Committee members were:

Cr Bullock\*  
 Cr Dahya\*  
 Cr Higgle  
 Cr Hughes  
 Cr Lindsay  
 Cr McGregor  
 Cr McKinnon (Chair)  
 Cr Pepperell  
 Cr Taylor  
 Cr Westwood\*  
 Cr Wills

\* These Councillors removed themselves from the Committee during deliberations, citing a lack of transparency and a lack of neutrality.

## The Process

The Committee took legal advice as to its obligation to follow the principles of natural justice including the following:

- To hear both sides
- Take give each party notice of what was to be considered
- Provide opportunities for adjournment
- Provide opportunities to make submissions
- Provide opportunities to put evidence to the investigating body
- Provide opportunity for legal representation

During the deliberation stage, Cr Dahya expressed unhappiness with the process and left the meeting. Cr Westwood and Cr Bullock removed themselves from the Committee. Cr Westwood cited a lack of neutrality and no evidence of natural justice in the process. Cr Bullock cited a lack of transparency and natural justice not taking place.

The process then followed the following format:

1. In the absence of Mayor Laws, submissions were made by the six complainants and their legal representative, Dr Moodie, on the alleged breaches of the Code in an open forum on 31 March 2005.
2. The Committee deliberated on the individual alleged breaches of the Code in committee to determine whether the Mayor should respond to any or all of the complaints. In considering the allegations at this stage the Committee assumed (for the purposes of its preliminary deliberations) that the facts alleged by the complainants could be established.
3. The Mayor was asked to respond to several of the allegations.
4. The Mayor provided his response in an open forum on 13 June 2005.
5. The complainants through their legal representative gave a right of reply.
6. The Mayor gave a further response.
7. The Committee deliberated on the responses in committee.
8. This report will be tabled for the consideration of Wanganui District Council at an open meeting of Council.

During the course of its deliberation the Committee received a number of submissions in regard to the process from or on behalf of the complainants and also from Mayor Laws. The Committee took these submissions into account when determining the process referred to above.

## The Alleged Breaches

### Complainant – Valerie Calder

Mrs Calder submitted that Mayor Laws had breached the Code's principle:

- Public interest – Elected members must always act in the best interests of the Wanganui district as a whole.

She provided examples, mainly extracts from newspapers, to support her complaint.

### Complainant – Warwick Chapman

Mr Chapman submitted that Mayor Laws had breached the Code's principle:

- Personal judgment – Elected members must respect the views of others but should reach his/her own conclusions on the issues before them.

He cited instances of public comment by Mayor Laws as corroboration.

### Complainant – Matt Dutton

Mr Dutton submitted that Mayor Laws had breached the Code's principles that:

- Public interest – Elected members must always act in the best interests of the Wanganui district as a whole.
- Personal judgment – Elected members must respect the views of others but should reach his/her own conclusions on the issues before them.

He provided copies of emails between himself and Mayor Laws to corroborate his complaint.

Complainant – Jay Kuten

Dr Kuten submitted that Mayor Laws had breached the Code's principles:

- Public interest – Elected members must always act in the best interests of the Wanganui district as a whole.
- Personal judgment – Elected members must respect the views of others but should reach his/her own conclusions on the issues before them.
- Conflicts of Interest – An elected member must be careful that he/she maintain a clear separation between his/her personal interests and his/her duties as an elected member.
- Civic Events and Functions – All elected members should attend civic functions, citizenship ceremonies, memorial services and other official functions held from time to time.

Dr Kuten provided commentary on statements and actions of Mayor Laws he considered corroborated his complaint.

Complainant – William Pearce

Mr Pearce cited two occasions on which he considered Mayor Laws to have breached of the Code of Conduct. The first occasion being a breach of the Code's principles:

- Contact with the media – Elected members are free to express a *personal view* in the media, at any time, provided the following rules are observed:
  - ~ Media comments must neither state nor imply that they represent the views of the Council.
  - ~ Where an elected member is making a statement contrary to a Council decision or Council policy, the member must not state or imply that his or her statements represent a majority view.
  - ~ Comments to the media must observe the other requirements of the Code of Conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff.
- Confidential Information – In the course of his/her duties elected members occasionally receive information that should be treated as confidential. This will generally be information that is either commercially sensitive or private or personal to a particular individual or organisation.

Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.

- Conflicts of Interest – An elected member must be careful that he/she maintain a clear separation between his/her personal interests and his/her duties as an elected member. This is to ensure that people in positions of authority carry on his/her duties free from bias, whether real or perceived.
- Ethics – The Wanganui District Council seeks to promote the highest standards of ethical Conduct amongst its elected members. Accordingly, an elected member will: not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests.

The corroborative evidence cited by Mr Pearce referred to comments he believed Mayor Laws had made about members of the Exclusive Brethren sect during the course of his Radio talk-back programme.

The second occasion cited by Mr Pearce being a further breach of the Code's principle regarding

- Contact with the media – Elected members are free to express a *personal view* in the media, at any time, provided the following rules are observed (see above).

The corroborative evidence being media statements in the Wanganui Chronicle newspaper on 3 March 2005 about Mayor Laws' actions concerning the Port of Wanganui Ltd and that company's involvement with Macquarie Bank.

#### Complainant – Carol Webb

Ms Webb, in her complaint, cited 17 individual instances, each with corroborative evidence, of breaches of the Code of Conduct by Mayor Laws. She considered the Code's principles that had been breached were:

- Public interest – Elected members must always act in the best interests of the Wanganui district as a whole.
- Personal judgment – Elected members must respect the views of others but should reach his/her own conclusions on the issues before them.
- Respect for others – Elected members must treat people with respect, regardless of his/her race, age, religion, gender, sexual orientation, or disability.
- The Council's agreed standards of behaviour regarding:
  - ~ Relationships between Council Elected Members
  - ~ Relationships with the Community
  - ~ Contact with the media
  - ~ Conflicts of Interest
  - ~ Council processes.

Ms Webb provided commentary and newspaper extracts on instances she considered corroborated her complaint.

## Deliberation on Alleged Breaches

The Committee, first, considered whether each complaint established a case of sufficient weight for the Committee to require Mayor Laws to respond. The Committee resolved that those complaints that did not require a response did not establish a "prima facie" breach of the Code of Conduct.

#### Complainant – Valerie Calder

Mrs Calder provided 12 examples she said were "examples of inappropriate language and behaviour, and comments by well-known people outside Wanganui" of this breach. The Committee considered each example.

#### **Example 1**

A Wanganui Chronicle report on 17 November 2004 said Mayor Laws had stated in a Council meeting that "Journalists loved getting pissed". By majority vote the Committee found that while the language used by Mayor Laws was not what might be expected by some in the community it did not breach the Code principle complained about and accordingly this was not a matter requiring a response from Mayor Laws.

**Example 2**

Mayor Laws' Sunday Star Times Column on 28 November 2005. The majority of members resolved that Mayor Laws was employed to write opinion in newspapers and this was covered in the Code of Conduct under Media Contract whereby councillors were free to express personal views. The column did not breach this part of the Code and accordingly this was not a matter requiring a response from Mayor Laws.

**Example 3**

A comment by Mayor Laws at a meeting with Save Our Sarjeant representatives in his office. It was resolved that the example referred to the Mayor's personal opinion which he was entitled to express and no response would be required.

**Example 4**

Letters published in the Sunday Star Times by Peter Webb of Peter Webb Galleries Ltd, and Paula Savage of City Gallery, Wellington. It was resolved that the statements were made by third parties and not by the Mayor so no response of the Mayor was required.

**Example 5**

An article in the Sunday Star Times, 12 December 2004, by reporter Helen Bains, quoting from an interview with Mayor Laws. Whilst some Councillors considered a comment by Mayor Laws regarding the Sarjeant Gallery Trust Board reflected badly on them as Councillors and on Wanganui as a whole, by a majority the Committee resolved that the example referred to the Mayor's personal opinion which he was entitled to express and no response would be required.

**Example 6**

A letter by Peter Biggs, Creative New Zealand, published in the Sunday Star Times on 12 December 2004. It was resolved that the statements were made by third parties and not by the Mayor so no response of the Mayor was required.

**Example 7**

A news article in the Sunday Star Times, 12 December 2004, reporting Mayor Laws comment that he would have the Sarjeant Gallery collection assessed by independent valuers, and that it would make sense to sell some of the Gallery's 6,500 art works rather than have them "rot away" in storage. It was resolved that the example referred to the Mayor's personal opinion which he was entitled to express and no response would be required.

**Example 8**

The Chairman noted that this example referring to the Opera School and the Mayor's comments regarding opera at a public meeting held on 13 December 2004, referred to an unofficial, as opposed to a "civic" function. The Committee resolved that the Code of Conduct did not oblige councillors to attend such functions. No response was required

**Example 9**

Mayor Laws had not attended the Opening of Majestic Square on 18 December 2004. Councillors generally considered that there was an expectation on the Mayor to display leadership at the opening of the Majestic Square. This leadership had not been evident in his decision not to attend the opening. The Committee asked Mayor Laws to respond to this example.

**Example 10**

An article, “Laws Plans Art Sale”, in the Sunday Star Times, published 19 December 2004. It was resolved this was again a personal comment by the Mayor and no response was necessary.

**Example 11**

A letter, initially published in the Christchurch Press on 26 January 2005, and subsequently published in the Wanganui Chronicle on 1 February 2005, by John Coley, former Director, Robert McDougall Art Gallery. Giving his views on the, then, current Sarjeant Gallery issue. It was resolved that the statements were made by third parties and not by the Mayor so no response of the Mayor was required.

**Example 12**

An interview by Linda Clark broadcast by National Radio on 1 February 2005. She was interviewing Tommy Honey, a Wellington architect. It was resolved that the statements were made by third parties and not by the Mayor so no response of the Mayor was required.

The Committee considered Mrs Calder’s letter of 28 February 2005 which she tabled at the meeting held on 31 March 2005. The Committee resolved that this letter did not substantially change the original complaints and no additional response was necessary.

The Committee noted that the over-arching complaint by Mrs Calder was that Mayor Laws had breached an obligation to act in the best interests of the Wanganui district as a whole. The Committee resolved that the Mayor should respond to this over-arching complaint.

**Complainant – Warwick Chapman**

Mr Chapman’s over-arching complaint was that Mayor Laws had breached the Principle of the Code of Conduct regarding ‘personal judgement’ – ‘Elected Members must respect the views of others’. The Committee found that Mr Chapman’s complaint was concerned with Mr Laws’ comments on his radio programme about the Exclusive Brethren Sect. The evidence established that the matter had arisen prior to Mayor Laws’ election as Mayor of Wanganui District and a complaint referred to the Broadcasting Standards Authority had been upheld and the Authority had dealt with the matter. The Committee sought legal advice and resolved that it had no jurisdiction to consider a statement made by Mr Laws prior to the 2004 Local Body Election. Whilst the complainant referred to comments Mayor Laws had made in response to the Broadcasting Standards Authority’s decision (comments made since the 2004 Election) these were not made in his capacity as Mayor of Wanganui and did not repeat the original statements. The Committee resolved that a response was not necessary.

To the second part of Mr Chapman’s complaint that Mayor Laws had continually referred to many other Wanganui citizens as ‘nutters’ and ‘crazies’ the Committee noted that this complaint was the same as the complaint by Valerie Calder, notably her letter dated 28 February 2005. The Committee’s decision on that matter was not to require a response and accordingly the Committee resolved that Mayor Laws would not be asked to respond. The Committee resolved that the Mayor should respond to the over-arching complaint in respect of the principle that elected members should respect the view of others.

### **Complainant – Matt Dutton**

The Committee considered that Mr Dutton's complaint was in two parts. The first complaint addressed the same over-arching Public Interest principle referred to by other complainants. The example given by Mr Dutton was similar to examples provided by Valerie Calder. The Committee had resolved that Mrs Calder's complaint on this issue did not require a response from Mayor Laws and, therefore, the Committee reached the same conclusion regarding this part of Mr Dutton's complaint.

The second complaint by Mr Dutton referred to the Personal Judgement – respect the views of others principle within the Code of Conduct. The example given was an email sent to Mr Dutton by Mayor Laws from his Council-provided email address. It was unanimously resolved by the Committee that as the email carried the official mayoral email address Mayor Laws be asked to respond.

### **Complainant – Jay Kuten**

The Committee notes that Cr McKinnon declared an interest in Dr Kuten's complaint, vacated the Chair, and withdrew from the table. Cr Higgin also declared an interest and withdrew from the table. Cr Taylor assumed the Chair for the consideration of this complaint.

Dr Kuten's first complaint that Mayor Laws had failed to observe the principle of good governance was noted as similar to a complaint example by Valerie Calder that had not been referred to Mayor Laws for a response. The Committee resolved unanimously that this complaint be treated likewise. No response was required.

Dr Kuten in his submission raised repeated incidences he believed were a failure by Mayor Laws to respect the views of others – the principle of Personal Judgement. The Committee resolved that while this part of Dr Kuten's complaint would not be separately referred to Mayor Laws for a response, it would be considered as part of the over-arching complaints.

The Committee separately considered Dr Kuten's letter dated 9 March 2005. This complaint alleged that Mayor Laws abused his right of free speech. The majority of Committee members agreed that Mayor Laws be asked to respond to Dr Kuten's complaint that he had breached the principle of respecting the views of others in statements that he had made about Dr Kuten and the other complainants.

Dr Kuten's third complaint was that Mayor Laws had breached the principle 'An Elected Member must be careful that he/she maintain a clear separation between his/her personal interests and his/her duties as an Elected Member'. The alleged breach related to Mayor Laws' roles as radio talk-back host and columnist on the one hand and Mayor on the other.

The Committee took legal advice in regard to the issue of non-pecuniary conflicts of interest and considered the booklet published by the Controller and Auditor General (Conflicts of Interest – A Guide to the Local Authorities (Members Interests) Act 1968 and Non- Pecuniary Conflicts of Interest). The Committee resolved that the non-pecuniary conflicts of interest referred to in the Code related to conflicts of interest that could affect a particular decision of the Council (in the same way that pecuniary interests could) and not to any general relationship between a Councillor's employment and their role as an elected representative. The Committee resolved that a response was not necessary in regard to this part of the complaint.

The Committee considered Dr Kuten's complaint that Mayor Laws had breached the Code of Conduct principle that all Elected Members should attend Civic Functions. The Committee noted that Mrs Calder had also raised this issue in her complaint and the Committee had agreed that Mayor Laws should respond to it. The Committee resolved that Mayor Laws should respond to this part of Dr Kuten's complaint

### **Complainant – William Pearce**

Mr Pearce's first complaint was about Mayor Laws' references to the Exclusive Brethren Sect during his employment as a radio talk-back host. This complaint was the same as part of Mr Chapman's complaint and, for the same reasons expressed in respect of that complaint, the Committee resolved that a response was not necessary.

Mr Pearce's second issue was concerned with the Mayor discussing the Port of Wanganui Ltd with merchant banker Macquarie Bank without the permission of either the Council or Port of Wanganui Ltd principals.

The Committee decided, after taking legal advice, that Mayor Laws be asked to respond to Mr Pearce's allegation that he had breached the Code of Conduct principles regarding contact with the media, with reference to:

- Whether he was aware the name of the merchant bank was confidential.
- Whether he breached confidentiality of the bank by contacting the bank.
- Whether he breached the Code of Conduct by giving the media comment purportedly to be the view of the Council.

### **Complainant – Carol Webb**

Ms Webb had identified general principles of good governance covered by the Code of Conduct that she considered Mayor Laws had breached. Ms Webb gave examples of how she considered Mayor Laws had breached each principle.

The Committee considered each example provided by Ms Webb.

#### **• Public Interest**

Ms Webb provided copies of Mayor Laws' Sunday Star-Times columns she considered examples of his disparage and attack on communities, people in positions of national importance, national institutions and bodies, and individuals with a proven record of support for Wanganui institutions.

The Committee noted that the persons who were allegedly "attacked" had not, themselves, complained. The Committee also noted that the examples were similar to those provided by Valerie Calder. Accordingly, and for the same reasons expressed in respect of that complaint, the Committee resolved that a response was not necessary. However, the Committee resolved that Mayor Laws should respond to the over-arching complaint in respect of the principle that elected members should act in the best interests of the District and respect the view of others.

#### **• Personal Judgement**

The example was a Wanganui Chronicle editorial article, published 17 January 2005. As with other "opinion" based allegations, the Committee resolved that the example referred to the Mayor's personal opinion which he was entitled to express and no response would be required.

- **Respect for Others**

The example was a Wanganui Chronicle weekly column written by Mayor Laws, published 10 January 2005. As with other “opinion” based allegations, the Committee resolved that the example referred to the Mayor’s personal opinion which he was entitled to express and no response would be required.

- **Relationships with Council Elected Members**

An example was drawn from the Strategy Committee’s meeting held on 20 January 2005, of a verbal exchange between a councillor and Mayor Laws. Another example was a comment made by Mayor Laws about Councillors’ remuneration at a public meeting. The Committee noted that the examples were of comments by Mayor Laws directed to a specific councillor or to councillors generally and that the councillors themselves had not made a complaint. On this basis the Committee resolved that Mayor Laws should not be asked to respond to this part of the complaint.

- **Relationships with the Community**

The example addressed a proposal to establish an economic development agency, tentatively named Wanganui Inc, for which a final decision had not yet been made by the Council. The Committee found that the statement by Mayor Laws had been a statement at a Council meeting. It was resolved that Mayor Laws was entitled, as an elected representative, to express his point of view and accordingly no response would be required.

- **Contact with the Media**

The examples provided were drawn from the Wanganui Chronicle, published on 1 January 2005, 8 January 2005 and 4 February 2005. The Committee considered that the examples addressed a matter which had already been dealt with by the Council publicly. An example that suggested the Mayor had improperly announced an enquiry into last year’s Council election was not accepted as it was a Central Government expectation that local bodies would hold enquiries into the election process. On this basis no response would be required.

- **Conflicts of Interest**

The complainant suggested the Mayor accepted payment from Sunday Star-Times to provide a weekly column through which he “pursued various agendas by generating controversy and attacking institutions and individuals.” She also referred to an article in the Wanganui Chronicle published 2 February 2005. Ms Webb contended that Mayor Laws was paid by Radio Pacific to host a morning talk- back programme, and in so doing he flouted the Code requirement to maintain a clear separation between his personal interests and his Mayoral duties. The Committee noted that the examples were similar to those provided by Dr Kuten. Accordingly, and for the same reasons expressed in respect of that complaint, the Committee resolved that a response was not necessary.

- **Council Processes**

Examples provided by the complainant referred to the Council’s meeting held on 17 December 2004 at which Mayor Laws stated his view on the value of the present Long-term Council Community Plan. The complainant also referred to a Letter to the Editor published in the Wanganui Chronicle on 2 February 2005 in which Mayor Laws, responding to a correspondent, stated “I will agree the Code of Conduct is silly”. As with other “opinion” based allegations, the Committee resolved that the examples referred to the Mayor’s personal opinion which he was entitled to express and no response would be required.

- **Roles and Responsibilities**

Ms Webb's example that Mayor Laws had relocated artworks from the Sarjeant Gallery to the Council's Chamber in a manner that failed to meet the Code's requirements for prudent stewardship of the Council's resources was considered.

On making enquiry the Committee found that the Director of the Sarjeant Gallery had agreed to the artworks being relocated subject to an assurance that the artworks would be appropriately cared for and covered by insurance. These assurances were given to the Director before the artworks were moved. On this basis the Committee resolved that this was not a matter requiring a response from Mayor Laws.

### **Overview of the Complaints**

The Committee then considered the issues identified as requiring further 'over-arching' discussion.

- That Mayor Laws had breached the Code of Conduct principles of:
  - Good Governance – Elected Members must always act in the best interests of the Wanganui District as a whole
  - Personal judgement – Elected Members must respect the views of others but should reach his/her own conclusions on the issues before them.

The Committee noted that the complainants had variously raised examples of ways in which they alleged that Mayor Laws breached two provisions of the Code . It was decided that Mayor Laws be asked to give the Committee his view of his role as Mayor, together with an over-arching response to the complainants' examples of breaches of the Code's principles that Elected Members:

- act in the best interests of the Wanganui District as a whole; and
- must respect the views of others,

as these two principles reflected the tenor of all six complaints.

## **Mayor Laws' Response**

As instructed by the Committee, the Chief Executive Officer wrote to Mayor Laws asking his response to the particular matters raised in the complaints identified by the Committee as requiring his response.

Mayor Laws provided a written response, supported with examples, including newspaper articles and an excerpt from the Bill of Rights Act.

At the Committee's reconvened meeting, open to the public, held at 1:00pm Monday 13 June 2005, with the complainants and their legal adviser, Dr R Moodie, present, Mayor Laws tabled and spoke to his response.

Addressing the overarching complaints identified by the Committee as requiring a response, Mayor Laws submitted his view of the Code. He submitted that the Code was being misused by the complainants, as it was intended to regulate the conduct and relationships between elected representatives of the Council, and between elected representatives and the Council's staff. The Code, it was submitted, was not designed as a means for members of the public to complain about elected members' conduct. Mayor Laws referred to the clause in the Code (page 4):

“Elected members should ensure that individual citizens are accorded respect in their dealings with the Council, have their concerns listened to, and deliberated on in accordance with the requirements of the Act.”

He argued that this ensured that elected representatives were only required to give special consideration to the views of others “in their dealings with the Council”. That is the formal relationships between an individual and the Council.

Mayor Laws then referred the Committee to the Bill of Rights Act 1990, and its relationship to the Council’s Code of Conduct. Mayor Laws submitted that the Bill of Right Act effectively overrode the Code and allowed everyone to “impart information and opinions of any kind in any form”. He submitted that this was reflected by the Code “Elected members are free to express a personal view in the media, at any time . . .”. Mayor Laws referred the Committee to the Human Rights Commission’s guidelines on the Bill of Rights Act in support of this submission.

The Committee notes that Dr Moodie, in his reply, did not challenge these submissions.

Referring to the individual complaints identified for a response by the Committee, Mayor Laws clarified his non-attendance at the Majestic Square Opening. He said he could not attend for personal reasons, but had asked the Deputy Mayor to attend. He noted that the Opening was not a Council organised “Civic” event and submitted that the Code did not apply to such “non-civic” events.

The matter of “acting in the best interests of Wanganui” could be variously interpreted by different people Mayor Laws submitted. He explained his interpretation was:

- To act with scrupulous honesty
- To nationally promote the district (utilising every opportunity)
- To safeguard ratepayers’ money
- To outline a vision of what Wanganui can be
- To advance and implement the policies to get us (Wanganui) there.

He addressed his role as Mayor, referred to the support he and his proposed policies received at the 2004 election, and emphasised his commitment to making Wanganui a better, more democratic and more vibrant city and district.

Mayor Laws submitted that his actions and statements were “in the best interests of Wanganui.

Referring to Mr Dutton’s complaint and the inference that he had in an email labelled Mr Dutton a “dumb elitist” Mayor Laws assured the Audit and Administration Committee this was not intended, that he did not regard Mr Dutton as an elitist, but was referring to those people in Wanganui who expected the ratepayer to fund their private interests.

There was no corroborative evidence for Dr Kuten’s complaints Mayor Laws submitted.

The allegation by William Pearce was considered to be very serious by Mayor Laws. He said there was no evidence that he had breached Council confidentiality and reviewed the sequence of events the Mr Pearce was concerned about. In essence he submitted that the evidence showed that the presentation by Port of Wanganui Limited where the name of McQuarrie Bank was mentioned was not subject to any obligation of confidence and that, accordingly any actions if his could not have breached such an obligation.

Further he submitted that there had been a meeting between Port of Taranaki and Council representatives on a date before the Port of Wanganui Ltd presentation and likewise such a meeting could not have been in breach of any supposed obligation of confidentiality.

Mayor Laws next addressed the allegation that he had breached the Code by making a statement to the press (in respect of the Port of Wanganui Ltd proposal) which purported to be the view of the Council when the Council had not reached that conclusion. Mayor Laws pointed to a resolution of the Harbour Committee and the full Council before the “offending” publication which, on his submission, confirmed that the view he expressed was, indeed, the view of the “majority of councillors”.

Addressing the complaints by Ms Webb, Mayor Laws repeated his claim of a right, encapsulated in the Bill of Rights Act and also in the Code of Conduct, to express his opinions as he wished.

Following Mayor Laws presentation the Chairman invited Dr Moodie, representing the complainants, to exercise the right of reply.

The Committee noted Dr Moodie’s suggestion that Mr Pearce’s complaint should be subject to an independent enquiry.

## Deliberation on Mayor Laws Response

The Committee considered Mayor Laws’ response to each of the issues identified in the letter.

### Complainant Valerie Calder

The Committee found that whilst Mayor Laws, in his response, submitted that there was no corroborating evidence of this complaint, he had acknowledged that he would not have attended the Majestic Square opening, providing corroborating evidence himself. Therefore, the Committee needed to consider the impact on the community of Mayor Laws not attending this function.

The Committee accepted Mayor Laws’ submission that as the Majestic Square opening had not been a “civic” function there was no expectation within the Code of Conduct that the Mayor, or indeed any Councillor, need attend it. It was further noted that the Mayor had made it clear that for personal reasons he could not attend this function and had invited the Deputy Mayor to attend it on his behalf.

It was resolved that there had not been a breach of the Code of Conduct.

### Complainant – Warwick Chapman

The Committee resolved that Mr Chapman’s complaint was not substantiated but should be considered in the context of the overview of all the complaints.

### Complainant – Matt Dutton

The Committee noted Mayor Laws’ response that he had not, in his email labelled, Matt Dutton a ‘dumb elitist’ and had assured the Committee that he did not regard Mr Dutton as an elitist. The Committee considered that it should not endeavour to interpret the intent of the words in the email but should accept the explanation by the writer of the intention of his words.

Members agreed that the Mayor's email to Mr Dutton referring to 'elitists' encapsulated that intent in a 'generic' sentence. Taking the emails in the context of the conversation between two individuals, the overall tone was considered to be personal communication rather than official mayoral correspondence.

The Committee decided that the exchange of emails between Matt Dutton and Mayor Laws was at a personal level and, therefore, did not breach the Code of Conduct.

#### Complainant – Dr Jay Kuten

The Committee found that Mayor Laws had not breached the Code of Conduct in relation to his responsibilities for attendance at civic functions (see Calder complaint above).

Dr Kuten's complaint that Mayor Laws had failed to respect the views of others was further considered against Mayor Laws' response. Whilst some people might have the perception that Mayor Laws' manner could cause people to be wary of expressing a view, the Committee accepted Mayor Laws' submission that all individuals had a right to express their personal view.

While the Committee resolved that Mayor Laws did not breach the Code of Conduct in respect of this complaint when viewed individually. It was agreed to give this matter further consideration during a review of the over-arching issues.

#### Complainant – William Pearce

It was noted that Dr Moodie, legal representative for the complainants, had asked that this complaint be referred to an independent enquiry and there was an indication this was because Mr Pearce intended to offer new information.

The Committee noted that the original complaint by Mr Pearce was one that Mayor Laws had breached confidentiality but the issue appeared to have been expanded. Dr Moodie had inferred the Mayor had usurped the Chief Executive Officer's role. The Committee was of the view that Dr Moodie's submission had tried to change the complaint to a different issue which was not an issue to be considered under the Code of Conduct. Accordingly the Committee resolved that it was not appropriate to deal with the expanded issue.

The Committee accepted Mayor Laws' evidence relating to the chain of events. This evidence was not challenged by Mr Pearce. The Committee noted that the Harbour Committee's meeting held on 9 February 2005, at which Port of Wanganui Ltd presented their Business Plan was an "open" meeting. The recommendation of that meeting adopted by the Council at its meeting held on 21 February 2005 was: 'That Port of Wanganui Ltd be advised that the Council considers the proposal is not sufficiently advanced for it to make any further commitment to the project at this stage'. The Mayor's discussions with the McQuarrie Bank representative and the newspaper report all occurred after the full Council meeting.

The Committee also accepted that the Council had been in discussions with Port Taranaki before the Port of Wanganui presentation.

The Committee, accordingly, found that:

- The name of McQuarrie Bank was not made confidential by Port of Wanganui Limited and there was no restriction on Mayor Laws contacting the Bank.

- The report of Mayor Laws' statements in the Wanganui Chronicle of 2 March 2005 did not breach the Code of Conduct rules relating to Contact with the Media.
- The Council's contact with Port of Taranaki did not breach any obligation of confidentiality.

On this basis the Committee resolved, in respect of this complaint, that Mayor Laws did not breach the Code of Conduct.

#### Complainant – Carol Webb

The Committee agreed that Ms Webb's complaints had been considered, were reflected in the complaints of other complainants and the individual issues had been addressed and found not to breach the Code of Conduct.

#### Overarching Complaints

The Committee noted an overall trend in the complaints. This was that the complainants' considered Mayor Laws had breached the Code of Conduct general principles of good governance.

In particular:

- Public interest – Elected members must always act in the best interests of the Wanganui district as a whole.
- Personal judgment – Elected members must respect the views of others but should reach his/her own conclusions on the issues before them.

In respect of the overarching issue of whether the Mayor acted in the best interest of Wanganui the Committee accepted Mayor Laws' submission that he had illustrated in a number of ways his passion for developing Wanganui to its full potential and that his provocative leadership style had been well known before he was elected Mayor of the Wanganui District. The Committee did not, therefore, consider this to be a breach of the Code.

In respect of the issue of the Mayor's alleged disrespect for others in the community, the Committee accepted Mayor Laws' submission that the Bill of Rights Act overrides that Code of Conduct. The Committee particularly noted passages in Appendix 2.1 of Mayor Laws' submission (the Human Rights Commission's guidelines on the Bill of Rights Act referred to earlier).

The Committee sets part of that extract out in full.

- *“There are very few activities that will not be protected by the freedom of expression because most human activity has an expressive element (including political, artistic and commercial expression).*
- *Speech or an expression that is considered important to the ability of individuals to participate in core democratic processes, for example in elections, and political and social speech, is likely to enjoy a very high degree of protection.*
- *A fundamental aspect of the right of freedom of expression is that it extends to protecting all information and opinion, however unpopular, offensive or distasteful.”*

Therefore, even though there may be a section of the community that considers the Mayor's comments disrespectful or distasteful, the Committee resolved that the Mayor's actions and statements were not a breach of the Code of Conduct in view of the Mayor's rights under the Bill of Rights Act.

## Conclusion

The Committee followed a process determined by the Wanganui District Council's Code of Conduct, taking into account fairness to all and natural justice.

Both parties, the complainants and the Mayor, were heard in a public forum. Each allegation was considered methodically and deliberated on. Legal advice was available to all parties.

The Committee dealt with each complaint individually and also noted an over-arching trend through the six complainants' submissions. The Committee accepted that some people had been aggrieved by some of the Mayor's comments. Some members of the Committee felt that the Mayor's comments did not reflect the traditional expectation of the office of Mayor. Yet to find, through reviewing the over-arching issues of the complaints, that the Mayor had breached the Code would put the Committee into a position of denying freedom of expression as defined in the Bill of Rights Act.

## Recommendation

THAT as a consequence of the deliberations, it was resolved that the Audit and Administration Committee recommend to the full Council that Mayor Laws had not breached the Wanganui District Council's Code of Conduct.

THAT it is also recommended by the Audit and Administration Committee that the Wanganui District Council proceeds with the review of the Code of Conduct as already resolved by the Council at its meeting held on 21 February 2005.

