

IN THE MATTER OF the *Public Inquiries Act*, S.O., 2009

AND IN THE MATTER OF the *Municipal Act*, 2001, S.O. 2001

AND IN THE MATTER OF the *Town of Collingwood Judicial Inquiry*

**JUDICIAL INQUIRY – PHASE II
SUBMISSIONS ON BEHALF OF MAYOR SANDRA COOPER**

Phase II of the Collingwood Judicial Inquiry was conducted so as to consider:

The allocation of the proceeds of the transaction (50% share sale of Collingwood Utility Services Corporation to Power Stream Inc.) to the construction of the recreational facility at Central Park and Heritage Park;

and

The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility at Central Park and Heritage Park.

Inquiry Hearing testimony considered a part allocation of the Collus/PowerStream transaction funds to the construction of two fabric membrane structures from Sprung Instant Structures and its preferred partner BLT Construction Services Inc.

Inquiry Hearing testimony also examined the role of Paul Bonwick as to involvement in the Town's acquiring of the two recreational facilities. Paul Bonwick is a sibling to Mayor Sandra Cooper. Evidence on the Inquiry established Mr. Bonwick was retained by BLT, the company contracted to erect the two Sprung fabric membrane structures. Testimony on the Inquiry explored any personal or business relationship in which Mr. Bonwick may have been involved with Sprung/BLT. The Inquiry also examined any personal or business relationship in which Mr. Bonwick may have participated with Abby Stec, Deputy Mayor Rick Lloyd, and Town of Collingwood acting CAO, Ed Houghton.

For purposes of written submissions I will deal with the time frame which spans from 5 March 2012 up to and including the month of June 2013. On behalf of Mayor Sandra Cooper I would submit that at no time did she know nor was she aware of any involvement of her brother, Paul Bonwick, in the Town of Collingwood procurement process which resulted in a contract between the Town of Collingwood and BLT Construction dated August 30, 2012. I would submit that Mayor Cooper's testimony is overwhelmingly clear as to this assertion and is uncontradicted in any material particular. Mayor Cooper was honest and truthful in her testimony before the Inquiry. She had no knowledge of any involvement of Paul Bonwick in any matters relating to

the conceptualization of, negotiations for, or construction of the Town's recreational facilities.

Additionally, I would respectfully submit that the evidence of Mayor Cooper on the Inquiry Hearing establishes no evidentiary foundation on which actual knowledge is attributed to her as concerns the alleged involvement on the part of Paul Bonwick in the recreational facility projects. I submit there is no evidentiary foundation on which knowledge could be imputed to Mayor Cooper. Mayor Cooper was not wilfully blind to any factual circumstances on which a possible finding in this regard could be sustained. I submit there is no evidence to that effect.

Nor did Mayor Sandra Cooper have knowledge of any personal or business relationship arising from any association among Paul Bonwick, Abby Stec, Deputy Mayor Rick Lloyd and acting CAO Ed Houghton. Mayor Cooper had no knowledge of any involvement by related companies Compenco Communications Inc (CCI) and Green Leaf Distribution Inc. (GL). Mayor Cooper was totally unaware of any association amongst those individuals and corporations. Specifically, she had no knowledge of any involvement as between or among any of these individuals or corporate entities and the Sprung/BLT corporate group. I submit Mayor Cooper was unaware and knew of no circumstances of complicity as concerns involvement on the part of any of these persons and entities in referencing the sole sourcing purchase and contract of construction for the two recreational facilities.

The Inquiry Hearing dealt with a considerable email correspondence involving Paul Bonwick, Deputy Mayor Rick Lloyd, acting CAO Ed Houghton, and Abby Stec. The email correspondence constitutes real evidence of association, involvement and relationship. The email correspondence disclosed evidence of covert activity and a lack of transparency in dealings which were conducted behind the scenes and with an intent to obtain advantage or benefit, to the detriment of the interests of the Town of Collingwood. Mayor Cooper was not involved in any of these emails; she was not privy to the email correspondence; nor did she have knowledge of the existence of the emails. I submit the Inquiry evidence confirms beyond doubt that Mayor Cooper had no knowledge of these associations and no knowledge of the conduct of the associated members.

Abby Stec testified on the Inquiry Hearing. She was examined as follows:

Question: In the time before Council votes to proceed with Sprung for the pool and arena on August 27, did you have any interactions with any members of Town Council in relation to the pool or arena?

Answer: No I did not.

Question: Did you have ... What can you tell us about the meeting that you had with Rick Lloyd?

Answer: That meeting took place very shortly possibly a day after Tom Lloyd had come and met me in Collingwood. And Mr. Bonwick suggested that we discuss Sprung with Mr. Lloyd, Mr. Rick Lloyd because he had met them. He had spoken to - - to Mr. Lloyd and he - - Rick Lloyd had indicated that he had been at the AMO Conference and, I believe - - or - - or one of the municipal conferences, and he had met Sprung as well and that Rick Lloyd would be very interested in my opinion. And the thought that Rick Lloyd would be excited about the project because he was the designated financial person

on Council to move forward with projects. And he thought it would be a cost effective way to get recreational facilities in the community.

Question: Did you in fact meet with Rick Lloyd, as Mr. Bonwick had suggested?

Answer: I did yes.

Question: Was anybody else at that meeting?

Answer: Yes Mr. Bonwick was there and it was in the Compensio Office.

Question: What can you tell us about what was discussed at that meeting?

Answer: It was – a very short meeting. I don't know Mr. Lloyd very well, but he's typically - - he got very excited about the prospect and - - and wanted to definitely pursue something in that regard...

Question: Other than that meeting did you have interactions with any members of Council about the pool or arena facilities before Council voted to proceed with Sprung on August 27?

Answer: No I did not.

Question: You already told us about the interactions you had with Mr. Houghton. Other than those did you have any interactions with any other members of Town staff about the pool and arena before the August 27 Council meeting?

Answer: No I did not.¹

Abby Stec testified that she and Green Leaf Distribution Inc. were used as a conduit by Paul Bonwick so as to provide “cover” for Paul Bonwick to engage in business relationships with BLT and Sprung. She testified that her involvement and that of Green Leaf was at the instance of Paul Bonwick. The cover, as provided, would ostensibly take Mr. Bonwick out of the focus otherwise attendant upon him as a result of his sibling relationship with Mayor Cooper. Ms. Stec referred to an alleged concern on the part of

1 Transcript, Abby Stec, September 11, 2019, pages 84 to 87

Mr. Bonwick as to an apparent or perceived conflict of interest arising as a result of his relationship with Mayor Cooper. As a front to Paul Bonwick, Abby Stec became involved in dealings with BLT and Sprung. As well, Abby Stec testified as to business relationship involving herself, Paul Bonwick, Green Leaf and Ed Houghton. I submit that the Inquiry evidence is clear that Paul Bonwick remained the operating and directing mind of the involvement of Abby Stec and Green Leaf. I submit that the “cover” so obtained was successful throughout the time frame under review in the Judicial Inquiry Phase II, in that this business relationship was not in fact detected. Mayor Cooper had no knowledge nor was she aware of any involvement on the part of Paul Bonwick, Abby Stec, Green Leaf or Ed Houghton until she received a telephone call from Ed Houghton disclosing same in 2018.

Mayor Cooper testified she had no dealings with Abby Stec nor was she aware of any Green Leaf involvement with Sprung or BLT.²

Mayor Cooper testified that she had no discussions with Paul Bonwick referencing the recreational facilities.³

I submit Mr. Bonwick's purported concern as to an apparent or perceived conflict of interest is of no substance given his evidence on Phase I of the Inquiry wherein he acknowledged he had little to no concern in referencing any apparent or perceived conflict of interest, given its lack of reality.

2 Transcript, Sandra Cooper, October 4, 2019, pages 213 and 214

3 Transcript, Sandra Cooper, October 4, 2019, page 223

I submit that an analysis of the events in question are best considered in three distinct time frames:

1. March 5, 2012 to July 16, 2012;
2. Post July 16, 2012 up to and including August 30, 2012; and
3. Post August 30, 2012 to and including June 2013.

1. EVENTS OF MARCH 5, 2012 TO JULY 16, 2012

RECREATION FACILITIES: Needs and Potential Options:

➤ March 5, 2012: Central Park Steering Committee report

The Central Park Committee recommended a multi-unit recreational facility (MURF) at Central Park location. The committee recommendation was not unanimous; the projected cost of the MURF was \$35 million. That sum did not include the additional costs associated with the dismantling of existing facilities, their relocation with attendant land costs. In addition, there were special restrictions with the Central Park location, particularly as concerns vehicle parking limitations. Deputy Mayor Lloyd publicly stated his belief the real cost of the Central Park Project would approach \$44 to \$45 million. Council's concerns prompted Mayor Cooper to organize a strategic planning session to allow Council to express their individual views.

➤ June 11, 2012: Strategic Planning Session

This was a public session but of an informal nature to allow Council members to discuss recreational facility needs, costing, and requirements of the public. Staff members were in attendance in order to note and appraise these discussions. Staff was requested to provide a summary and list of potential options for Council and to present at the July 16, 2012 Council meeting. Deputy Mayor Lloyd introduced Sprung Structure concepts to Council and provided Sprung literature to Council members.

➤ June 12,13 & 14, 2012:

Deputy Mayor Lloyd sends email to acting CAO Houghton requesting that he get a price for a fabric cover to completely go over the Centennial pool and building at Heritage Park and obtain a cost for a fabric building over the outdoor ice rink at Central Park. Mr. Houghton forwarded the email to Clerk Almas who responded that the Deputy Mayor “really shouldn’t be directing you to do this either”. In a later email to Mr. Houghton, Clerk Almas wrote “could you ask Rick [i.e. Deputy Mayor Lloyd] to ask you in an email that all Council and Marta sees, to include approx. costs for these in our report back to Council”.⁴ In so directing the CAO, Deputy Mayor Lloyd breached the Code of Ethics for members of Council which provided that members will “acknowledge that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions;” Mayor Cooper was not aware of the Deputy Mayor’s conduct.

4 Foundation Document II, paras 155 and 156

The Deputy Mayor, being rebuked, then forwarded a similar email on June 14, 2012 which appropriately copied Council, Marta Proctor and the EMC.⁵

The June 14, 2012 email expanded upon the earlier email request to include “a building structure that I would interested in is the building produced by Sprung Building Products.”

➤ July 11, 2012: Sprung Meeting with Town

On the invitation of acting CAO Ed Houghton, Mayor Cooper attended this meeting. The meeting included the acting CAO, Deputy Mayor Lloyd and the manager of fleet, facility and purchasing for the Town of Collingwood, David McNalty. The meeting was described as an introductory meeting with Sprung representatives who provided product information. Given the nature of the meeting and its purpose, I would submit Mayor Cooper’s attendance was not improper nor inappropriate.⁶

➤ July 11, 2012: Local Newspaper Interview of Mayor Cooper

This news article discussed the upcoming July 16, 2012 Council meeting and whether Council would proceed with the proposed Central Park MURF and its projected cost of \$35 million. The article quoted Mayor Sandra Cooper as follows:

“Whether to go forward with Central Park?” Cooper said “I think there will be other options that come forward. The task force has been notified and thanked for the work that they have done”. Mayor

5 Foundation Document II, paras 14; 159

6 Transcript, David McNalty, September 24 & 30, 2019, pgs 198-200; 208; 87 & 98; 126 and Transcript, Sandra Cooper, October 4, 2019, pg 175

Cooper went on to state: “It’s too much money”, “I’ve said that all along, that it’s too much money”. The article continued: Mayor Cooper said she is interested in looking at different ideas including covering the centennial pool at Heritage Park and keeping an outdoor rink at Central Park. For Cooper, any recreation plan has to include the refurbishing and continued use of the Eddie Bush facility as an arena. “I would like to see a concrete floor poured”. “I would like to see ice in the winter and other options in the summer months. I think that’s multi-purpose facility right there”⁷

➤ July 12, 2012:

On July 12, 2012, Brian Saunderson emailed his co-chair associate of the Central Park Steering Committee, Claire Tucker-Reid and Marta Proctor, Parks and Rec Director. Mr. Saunderson stated that he had read the Mayor’s comments in the news article about Central Park and that he believed they would not be able to convince Council to change direction. He suggested that the “best outcome...is to keep the shovels out of the ground until the next election”. Ms. Tucker-Reid responded,

“...I still think that we should use the PPP (i.e. public private partnership and funding facility) but add our own comments. We also need to be ready for the media afterwards, the Enterprise Bulletin has a poll question this week about Central Park, we need to stack the results in our camps favour!”⁸

➤ Council Meeting July 16, 2012

Deputations were heard from PRCAC Chair Penny Skelton and Central Park Steering Committee Co-Chairs Brian Saunderson and Claire Tucker-Reid who presented by way of letter. Ms. Skelton expressed concern with new alternatives or options for recreational facilities being discussed

7 Foundation Document, paragraph 193

8 Foundation Document II, paragraph 194: An email chain TOC0184061

without operational costs considered; Mr. Saunderson described the Town as being at a “watershed moment” and having a “one-off chance” to build a recreation facility. Mr. Saunderson’s remarks, in part, mirrored Ms. Skelton’s concern referencing identifying operation costs. Mr. Saunderson urged that any other possible developments should involve proper due diligence on the part of Council to identify the capital costs and operation costs. Mr. Saunderson urged Council to stay the course and pursue funding alternatives and options as recommended in the Centennial Park Steering Committee report.

I submit a review of the minutes of the Council meeting reasonably establishes that Council, as a whole, was attuned to the remarks and circumstances and did consider these matters in providing subsequent Council direction to staff.⁹

In the Council meeting acting CAO Houghton and Parks and Rec Director Proctor presented the results of the June 11, 2012 strategic planning session. Ms. Proctor explained that the summary of resolutions being presented by staff outlined potential resolutions as being divided into two categories: “Direction A” and “Direction B”. Briefly, “Direction A” provided the option of Council continuing to pursue the Central Park Steering Committee’s recommendation of a MURF in Central Park. “Direction B”

9 Foundation Document II, paras 225 to 229 inclusive; Transcript Council meeting July 16, 2012 (CJI0011234)

provided Council with options which staff believed were raised at the Central Park strategic planning session of June 11, 2012.¹⁰ In presenting “Direction B” Ed Houghton referred to the “menu of options” in which Council had an opportunity to sort of mix and match these and be creative and do others.

In the meeting of Council Deputy Mayor Lloyd asserted that, as Chair of the budget process, he had concerns with the \$35 million cost. The Deputy Mayor expressed concerns with the Town’s ability to service the debt and the potential debenture debt attendant thereto. He referred to the resulting financial difficulties encountered by the towns of St. Mary’s and Midland and the significant cost burden being experienced by their taxpayers. While the Deputy Mayor was of the opinion that ultimately the Town of Collingwood could have a multi-use recreational facility, the Town could not afford to do so at present. He was of the mind that a phased-in approach was required; accordingly, a type of structure which could be repurposed in future made for good sense. He expressed to Council that “as Chair of Finance I really would like to work with staff and our CAO to come up with an alternative. I would like to see a report back for our next Council meeting which is July 30th. Again, to look at covering our centennial pool in a newly expanded Central Park.” As concerns the Deputy Mayor's comments as to his working with the CAO and staff, I propose to deal with that matter later in these submissions. The date of

10 Foundation Document II, paragraphs 231 to 233 inclusive

July 30 was replaced with an August 27, 2012 date. Marta Proctor raised the notion the August 27, 2012 timeline in which to obtain a staff report was an aggressive timeline given the scope of Council's direction to staff. After some discussion on this issue it was acknowledged that if Ms. Proctor required additional resources she could consult with Mr. Houghton and obtain same. Acting CAO Houghton acknowledged this discussion.

Mayor Cooper testified that if staff were to make a request for further time to complete the options analysis she would have supported that request and acceded to it. The evidence discloses no such staff request was made to her or came to her attention.¹¹

I would submit that a review of the Council proceedings of July 16, 2012 establishes the following:

- All Council members agreed there was an immediate demand required to be fulfilled, namely, ice time;
- The MURF concept as espoused by Central Park Committee members was a good idea but the projected cost of \$35 million was too high and was not fiscally obtainable for the Town;

11 Transcript, Sandra Cooper, October 4, 2019, pgs 196 to 198; Transcript, Sandra Cooper, October 7, 2019, pgs 59 to 62

- If a future MURF project were to be achieved a Phase-in approach would be necessary and advisable;
- There was urgent need for a structure to enclose the Heritage Park pool so as to create a year-round facility; consideration should be given to a structure which could be an architectural membrane or a fabric building that can be repurposed in the future and in the event that monies are made available to pursue the MURF concept;
- Operational costs and detailed estimates would be included in options proposals.

Deputy Mayor Lloyd proposed the following by way of motion:

THAT Council direct staff to pursue the following recommended options and develop a project timeline and detailed estimates and bring the report back to Council not later than August 27, 2012.

1. Construct a single pad arena that could be phased into a double pad;
2. Enclose the outdoor pool with a fabric building.

Following the motion there was further Council discussion. The cost of displaced amenities were to be noted in the staff report. The motion was voted on with a recorded vote of 8–1.¹²

12 Council minutes July 16, 2012, document CJI0011234

2. POST JULY 16, 2012 UP TO AND INCLUDING AUGUST 30 2012

Staff Report; Recreational Facility Procurement; and Construction Contract:

In testimony on the Inquiry Hearing Mayor Cooper acknowledged she had no formal training involving the municipal process of procurement of goods and services. I submit her evidence was clear that she attempted to self-educate by conducting a By-law review. In addition, Mayor Cooper acknowledged her support and reliance on municipal staff members throughout the years 2010 to 2012; and, in particular, her reliance on the Clerk and Senior Staff members. In matters involving the Purchasing By-law Mayor Cooper consulted and took advice from Treasurer Marjorie Leonard. Mayor Cooper understood that the Purchasing By-law made provision for sole source procurement of goods and services. Mayor Cooper believed that the By-law permitted sole sourcing in instances when the goods or services to be obtained were unique and available from one source of supply. Mayor Cooper was unable to articulate any past instance of being involved with a form of sole sourcing. Her evidence clearly indicated she relied exclusively on staff and their investigation and recommendation when it came to consideration as to the appropriateness of proceeding by way of sole source procurement.

Mayor Cooper was familiar with and practised the requirements of the Code of Ethics for members of Council. She acknowledged same by signing the Code of

Ethics on December 6, 2010. The Code of Ethics, in part, provided that members will:

- a. Acknowledge that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions;
- b. Refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others; and
- c. Refrain from publicly criticizing individual members of staff in a way that casts aspersions on their professional competence and credibility.¹³

Mayor Cooper understood and respected the distinction as between the role of Council and that of staff in matters concerning the business of the Town. She was aware that in directing staff, individual Councillors could not be involved in any form of influence or interference or conduct which might be seen as amounting to interference or influence. She acknowledged that staff must be free to provide truly objective and unbiased assessment in the performance and execution of their duties and responsibilities.

13 Document T0C0534828

Mayor Cooper testified as to her high degree of reliance on staff, for whom she had the utmost regard and respect. She had been involved with many staff members over her years of serving Council. She remained impressed with staff and particularly with staff in senior positions who she perceived as knowledgeable, experienced and able in the performance and discharge of their respective duties.

I submit the Inquiry evidence sustains that Mayor Cooper was at no time engaged in any questionable conduct with staff. To the contrary, I submit she continuously conducted herself so as to respect the bright line which exists between the role of Council and that of staff. Mayor Cooper knew nothing of any irregular or improper conduct regarding any interference or influence of staff on the part of acting CAO Houghton or Deputy Mayor Lloyd relating to the preparation of the staff report dated August 24, 2012.

During the entirety of this specific time frame under consideration, (ie. July 16 – August 30), Mayor Cooper had no knowledge of any involvement on the part of Paul Bonwick, Abby Stec, and their respective companies CCI and Green Leaf Distributing Inc. in matters pertaining to the Town's recreational facilities. Mayor Cooper had no knowledge of any relationship or association of Paul Bonwick, Abby Stec and their corporate entities with Deputy Mayor Lloyd or Acting CAO Houghton. Nor did she have any knowledge of any interaction or association of

any of the aforesaid persons or entities with BLT Construction or Sprung Structures.

Accordingly, given her clear and unequivocal lack of knowledge, I do not intend to comprehensively recite the evidence presented on the Inquiry as to the the involvement of those corporations and individuals referencing the Town's obtaining of recreational facilities.

Mayor Cooper testified she reviewed the staff report dated August 24, 2012 and the Council agenda over the weekend of August 25 and 26, 2012. During this review of the staff report she confirmed first learning staff were advancing a sole source procurement of the Sprung Structures. On the morning of Monday August 27, 2012 Mayor Cooper attended a meeting with the Acting CAO Ed Houghton, Deputy Mayor Lloyd and Councillor Kevin Lloyd. Following that, she met with Parks and Rec Director Marta Proctor and Treasurer Marjorie Leonard. Mayor Cooper spoke directly with Treasurer Leonard; Ms. Leonard explained to her the sole sourcing recommendation and confirmed that staff had performed their due diligence as to that recommendation. Mayor Cooper testified that she conducted the Monday meetings with the purpose of satisfying herself that staff members were prepared in their presentations to be made on the Council meeting of 27 August 2012. The agenda for that meeting was a lengthy agenda. The Mayor wished the conduct of the agenda to be advanced in an orderly and appropriate manner.

Council meeting August 27, 2012:

The minutes of the Council meeting of August 27, 2012 are captured in Document CJI0008068; a transcript of the Council meeting proceedings is obtained in a review of Inquiry Document CJI00112133.

Deputations were provided on behalf of Ameresco Canada and its partner Greenland Consulting; and the Friends of Central Park Group through their spokesperson, Mr. Cadieux. The record of Council proceedings establishes these individuals were afforded sufficient and satisfactory opportunity to be heard.

Next, staff report EMC 2012-01, dated August 24, 2012, was presented and received by Council. Acting CAO Ed Houghton introduced Mr. Tom Lloyd who presented to Council on behalf of Sprung Structures. Once completed, Acting CAO Ed Houghton and Treasurer Marjorie Leonard provided presentations to outline the background, research and recommendations including operational costs and financing for the recreational facility projects. The attending public were given opportunity to ask questions. Throughout the proceedings Council members asked questions and expressed their views. A number of Council members spoke in support of the staff report recommendations and, in doing so, indicated reliance on the staff report content and the recommendations therein.

The record of Council proceedings confirms an informed decision was made by Council. Council voted to:

- (a) direct staff to proceed with the purchase and construction of an insulated architectural membrane facility for a year-round single pad ice arena at Central Park, maintaining two ball diamonds, the outdoor ice rink, the lawn bowling facility, and additional green space - while keeping the option to twin the new arena at a future date;

The recorded vote of Council was 8:1 in favour; and

- (b) direct staff to proceed with the purchase and construction of an insulated architectural membrane structure over the existing outdoor pool including the removal and reconstruction of the existing building, in order to provide a year-round pool to meet the communities aquatic and competitive swimming needs.

The recorded vote of Council was 7:2 in favour.

Mayor Cooper testified that on August 27, 2012 she felt confident in her decisions. Her decisions were arrived at after listening to further presentations by staff and being informed as to information provided by them and as disclosed in the staff report. She confirmed that she was persuaded, as well, by information presented by Treasurer Marjorie Leonard. Mayor Cooper testified she made her decision on August 27, 2012 at the end of the presentations. In confirming her reliance on the staff report; she testified as follows:

Question: So did you have any sense or did you have any doubt that what you were provided by way of a staff report was something that you could rely on?

Answer: Absolutely I relied on it. It was the Executive Management Team that put it together. Ms. Proctor had input into it, Mr. McNalty would certainly have some input into it as well. I was satisfied with all the staff that were involved with it, that the information was accurate.

Question: Okay. So you acted on the staff report?

Answer: Absolutely, yes.

Mayor Cooper was asked if she was satisfied the Town was in a position to proceed by way of sole source when it came to the Sprung Structures. Mayor Cooper responded:

“Yes. I felt that, and I still feel, there is very competent staff here, well trained, and I would still today take their recommendation.”

In response to the question if Mayor Cooper researched herself or investigated herself whether or not the Town was in a position to sole source or were you relying on staff solely, she responded:

“I relied on staff.”¹⁴

In cross-examination by Town of Collingwood Legal Counsel, Mayor Cooper acknowledged she trusted staff to give precise and accurate information to Council in order to make that determination.¹⁵

Further, she believed that there appeared to be a resolve on the part of Council that if the two facilities, the pool and the arena, could be affordably obtained,

14 Transcript, Sandra Cooper, October 4, 2019, pgs 227 to 229 inclusive

15 Transcript, Sandra Cooper, October 7, 2019, pgs 58 and 59

there was the will of Council to go forward. Council, in her opinion, was very enthused and excited to move it forward, as was ultimately confirmed by the overwhelming majority vote.¹⁶

On August 30, 2012, Mayor Cooper was asked to make herself available in order to execute on a contract between the Town of Collingwood and BLT Construction Inc. Deputy Mayor Lloyd and Treasurer Marjorie Leonard attended on the Mayor at Town Hall. Mayor Cooper was presented with a 46 page contract document.¹⁷ Mayor Cooper was advised that acting CAO Houghton was involved in the preparation of the contract and that the town's legal counsel had reviewed same and provided opinion that the contract was satisfactory. Treasurer Marjorie Leonard stated it was fine to sign. Accordingly, Mayor Cooper signed the contract. She did not review the content of the contract; Marjorie Leonard then executed on the contract as well.

3. POST AUGUST 30, 2012 UP TO AND INCLUDING JUNE 2013

PAUL BONWICK and GREEN LEAF

Mayor Cooper had no discussions with Paul Bonwick about the recreation facilities or any Town of Collingwood business during the summer of 2012 up to and including the Council meeting of August 27, 2012. She did not know that Green Leaf, Paul Bonwick, or Abby Stec were speaking with Mr. Houghton about the Town's recreation facilities in the summer of 2012. She had no knowledge

16 Transcript, Sandra Cooper, October 7, 2019, pgs 80 & 81
17 Document T0C0512663

that Green Leaf, Paul Bonwick, and Abby Stec were involved in the preparation of the contract between BLT and the Town of Collingwood and dated August 30, 2012. She was unaware that any monies paid on the contract by the Town would be channelled or paid to Paul Bonwick, Abby Stec and/or Green Leaf. As stated in her testimony Mayor Cooper had no intimation or knowledge of any involvement on the part of Paul Bonwick/Green Leaf until the year 2018. Mayor Cooper testified she had limited involvement with Green Leaf in September of 2012 as a result of sending a thank you card to donors and participants in the Mayor's Golf Tournament held in August 2012. Green Leaf had made a contribution to the charity tournament which the Mayor acknowledged in her thank you note. She was unfamiliar with Green Leaf and looked up Green Leaf on the internet and saw that Abby Stec was listed as the principal to the company which was an environmental company. Apart from this brief and limited involvement Mayor Cooper had no contact with Abby Stec or with Green Leaf. Abby Stec confirmed this in her evidence on the Inquiry; she had no contact with Mayor Cooper or any Council member with the exception of Deputy Mayor Lloyd during the time frame leading up to August 27, 2012.

Almost immediately following the Council decision of August 27, 2012 a vocal public reaction was raised. Council and staff members received a significant amount of public feedback, both pro and con, as to Council's decision. Mayor Cooper was contacted; the contact was intense and considerably time consuming to her. There were email correspondences which were considered

uncomplimentary and potentially threatening. These instances were sufficiently disturbing so as to result in involving the local OPP detachment. An occurrence report was taken and filed by the OPP detachment. She described this period as being “stressful” to her.

On August 28, 2012 Mayor Cooper received an email from a couple, known to her and who were friendly with her parents and family. The email was of concern to her as the couple, usually supporters of her, expressed their disappointment with the decision reached by Council.

Mayor Cooper surmised that perhaps the scope and benefits of the recreation projects had not been well enough communicated to the public resulting in some of the outcry. At this time Collingwood did not have a media relations personnel on staff. In those circumstances with a public controversy and a personal element in play, she thought to reach out to her brother Paul Bonwick, who she knew to be experienced in public communications, as well as being familiar with, in particular, the couple who had sent one of the complaining emails.

Mayor Cooper personally responded to the couple's email and, later that same morning, forwarded the email chain to her brother, Paul Bonwick. In his response to his sister Paul Bonwick advised he had suggested to Ed Houghton that a news release be prepared for the Mayor's review. Mr. Bonwick believed

that was being taken care of. Within a span of 15 minutes Mayor Cooper emailed Ed Houghton requesting that a media release be prepared.

I would submit that Paul Bonwick had no authority to make such a request as made of acting CAO Ed Houghton. Nor did he have authority to do it on behalf of Mayor Cooper. Once again, I submit that this is an indication of unsolicited activity on the part of Paul Bonwick. In addition, I submit that Mayor Cooper's forwarding the email exchange to her brother was innocently done. There is no indication Mayor Cooper was seeking any input to the email. She had responded to it prior to forwarding same to her brother.

Later that afternoon an email draft news release was prepared by personnel for the Department of Parks, Recreation and Culture. Mayor Cooper made revision to the email and copied same to Paul Bonwick. Subsequently, further revisions were made by the Mayor and Councillor Chadwick. The media release entitled "Expanded Recreation Facilities Approved for Collingwood" was released on August 29, 2012. Mayor Cooper testified that her actions were prompted by her wish to obtain some insight from someone with communications experience, hence her brother. She testified at this time the Town did not have a communications professional on staff.

I intend to make further comment on this area later in the course of these submissions.

Council Meeting of September 17, 2012

At the outset of the Council meeting Mayor Cooper addressed the public. She did so in order to address the “menu of rumours concerning Council’s dealings with the pool and ice pad issue”. Mayor Cooper asserted that due to misfortune of rumour circulating within the community and which has worked some people into protest mood she would refer to the steps taken to advance the recreational facilities project. She cautioned the audience not to “short change” our staff as every staff member in the project worked hard to assist in the project which came about on the heels of submissions from committee members. In her address she referred to the Central Park report of March 2012 with its stiff price tag of \$35 million; and the resulting open public forum of June 11, 2012 (strategic planning session) in which themes were reviewed and noted by staff. She referred to the fact that the Collingwood YMCA was not successful in their application for funding from the Province. She made reference to an intense study by staff conducted over the summer, a forty-five day period. She assured the Collingwood taxpayers there had been accountability and transparency to all that has been done in those forty-five days and that, like it or not, the decision made stands as the best for your community. The Mayor made reference to the massive debt load carried by the Town and to other looming capital expenditures concerning town infrastructure. In addition, she referred to the needs of the

Collingwood General and Marine Hospital and Hospice Georgian Triangle, to name but two important endeavours that need financial support from the people in our community. She expressed her opinion that the current proposal for recreation facilities was obtained through a sole sourcing system which was allowable due to the unique product as manufactured by the Sprung Company and Sprung's proven success. She extended a welcome to the public to come forward anytime with questions about any aspect of the municipality's life; that Council and staff welcome questions from the electorate in order to inform the electorate so that wrongful information would not arise. In that respect she named and introduced her fellow Council members and gave her opinion that they provided a "wealth strong town at our Council table". As to Council's decision of August 27, 2012, she commended her fellow members of Council with having the courage of their convictions and to address municipal business in a positive and meaningful manner.

In publicly addressing the matter of rumour, I submit Mayor Cooper employed the appropriate forum in which to deal with this unsettling situation. Upon concluding her remarks, Mayor Cooper called upon acting CAO Ed Houghton. Mr. Houghton addressed the public and essentially reiterated and provided the information which had been presented on the August 27, 2012 Council meeting. Further, I submit Mayor Cooper dealt with this unsettling issue of rumour in a timely and effective manner having regard to all the prevailing circumstances.

On October 12, 2012 a Freedom of Information request was submitted to the Town of Collingwood seeking, among other things, “an accounts payable listing of all fees paid by cheque or other method to Compenso (i.e. CCI) from January 1, 2011 to present (October 12, 2012)”. On October 26, 2012, the Town of Collingwood Clerk responded, noting that the Town did not have any record of any payments to Compenso during the requested time period.¹⁸ At the November 5, 2012 Council meeting a deputation was heard from Dr. Mike Lewin, spokesperson for the Friends of Central Park, who reported on the input received to date, their public meeting held October 3, and other important facts pertaining to the current recreation project. He expressed concerns with the process undertaken, communications with the community, adherence to Town procedures, costs of the project and Council’s decision. Council responded to Dr. Lewin's deputation; Council requested clarification be provided to the items within the documents submitted by Friends of Central Park.¹⁹

Following the November 5, 2012 Council meeting, on November 6, 2012, a member of the public sent Mayor Cooper and Councillors Mike Edward and Ian Chadwick an email in which he expressed disappointment with the treatment of Dr. Lewin during his deputation. He raised several issues, including that he had “also heard your cousin Paul Bonwick was paid a substantial amount to negotiate this deal...I would especially like to hear whether...whether you’re close relative

18 Foundation Document II, paragraph 719
19 Document CJI0008049

Paul Bonwick benefited from this deal!”²⁰ Within minutes Mayor Cooper copied this email to Acting CAO Ed Houghton with the statement:

“really??”

Acting CAO Houghton responded:

“not worth a response”²¹

Mr. Houghton’s response to Mayor Cooper was untruthful and misleading. I submit there is ample evidence that Acting CAO Ed Houghton knew Paul Bonwick benefited from the contract between the Town and BLT Construction. He had been personally advised of that fact by Paul Bonwick in August 2012.

Approximately two hours later Councillor Ian Chadwick responded to the person. He advised the individual Mayor Cooper was occupied with County work and was presently not available. In response to the question about whether Paul Bonwick benefited from the Town’s decision to build two Sprung Structures, Councillor Chadwick wrote, “a freedom of information request recently filed to the Town of Collingwood turned up NO payment to Mr. Bonwick for any service. Mr. Bonwick does not do business with the municipality”²²

Three days later, the individual sent a second email in which he responded “guess I have the scandals all mixed up. Kim Wingrove resigned over the Collus

20 Foundation Document 2, paragraph 771
21 Document T0C0240669.0001
22 Document T0C0240831.0001

sale where Paul Bonwick (who is Sandra Cooper's brother) was paid to negotiate for the Town. Sorry for the confusion, hard to keep all the scandals straight".

Council Chadwick provided the timely response:

"Kim Wingrove did not resign. Her contract was terminated by the Town long after the Collus sale was approved. Paul Bonwick did not negotiate the sale for Collus. It was done through the standard request for proposal (RFP) with sealed envelopes from several interested utility companies opened by a committee the staff, Collus Board and Council. That group analyzed the proposals and made a recommendation to Council based on an evaluation matrix. No one received a commission for the sale. ...a recent freedom of information request asked for a list of any payments made to Mr. Bonwick or his company by the Town. There were none. The Town has not paid Mr. Bonwick for any service. Hope this clears everything up. There are no scandals here, just baseless rumours and innuendo."

Mayor Cooper was satisfied with Councillor Chadwick's response. She testified that she was not prepared to address every rumour; that being the Mayor she was not "chasing down rumours as I go by fact".²³ She believed that she had addressed the issue of rumours in the Council meeting of September 17, 2012.²⁴ In Cross examination she stated that if she had known of any involvement on the part of Paul Bonwick with Sprung or BLT she would have taken appropriate proper steps, she would have called him and asked what exactly are you doing. In addition she definitely would have spoken to the Clerk and requested assistance in going in the appropriate direction by involving the Town Solicitor.²⁵

23 Transcript Sandra Cooper, October 7, 2019, pgs 66 and 67

24 Transcript Sandra Cooper, October 7, 2019, page 68

25 Transcript Sandra Cooper, October 7, 2019, pgs 70 to 72

On December 1, 2012 Council held a public meeting about the use of the Collus Share sale proceeds. A reserve for the Collus share proceeds was established. On January 17, 2013 Treasurer Marjorie Leonard sent a “summary of all the suggestions received regarding how we should use the Collus funds”. The summary was sent to members of the EMC, Director of Parks and Recreation, Marta Proctor, and certain other staff members. Ms. Leonard explained that it was her intention to let Council know what was suggested and what staff approximates the cost and to request of Council which items Council wishes to pursue. On February 25, 2013 Council received a staff report about the use of the Collus funds. At the Council meeting held on June 10, 2013 Council voted to allocate the Collus funds to the recreational facilities. The balance of the Collus funds would be held in reserve with the intention of applying those funds to the Hume Street Redevelopment Project. That reserve fund was established on the June 24, 2013 Council meeting.

At the Council meeting held April 15, 2013 Ed Houghton stepped down from the acting CAO role. At the Council meeting of July 3, 2013 Council appointed John Brown as Interim CAO.

On behalf of Sandra Cooper I wish to respond to certain issues as identified in the Commission of Inquiry and through particulars as provided to me by Inquiry Counsel.

Firstly, I would address the following allegation that:

Your actions undermined the ability of the Town of Collingwood to investigate, assess, consult and decide on recreation facilities. In particular, you failed to investigate the rumours in the November 6, 2012 allegation that your brother, Paul Bonwick, benefited from Council's decision to purchase and construct an arena and a building to cover the Town's outdoor pool (the "Town's decision");

In the course of these submissions I have attempted to set out instances of rumour which specifically came to the attention of Mayor Cooper, from the date following Council's August 27, 2012 decision up to and including November 9, 2012 and culminating in the emails as directed by Councillor Chadwick to the unknown citizen. Mayor Cooper has described that she was inundated with emails coming in from the public to her and her attempts to respond to those emails and redirecting certain of them to the Clerk's department.²⁶ She was focused on addressing in a timely way the emails that were coming in. She was asked by Associate Commission Counsel the following question:

Q: "Do you recall as part of that process, being aware that people were questioning or asking whether or not Mr. Bonwick had had anything to do with the Sprung decision?"

A: "no one asked me".²⁷

In response to the "concerned citizen" November 6, 2012 email inquiry Mayor Cooper responded:

"Councillor Chadwick had responded appropriately with the information and once he had responded I was satisfied".²⁸

26 Transcript, Sandra Cooper, October 4, 2019, pgs 216 & 217

27 Transcript, Sandra Cooper, October 4, 2019, page 217

28 Transcript, Sandra Cooper, October 4, 2019, pgs 218 & 219

Mayor Cooper confirmed she was busy dealing with other matters as Mayor and as County Councillor and other responsibilities. She was satisfied with the answer as provided by Councillor Chadwick.

In continuing cross examination Mayor Cooper was asked the following:

“...stepping back to July and August, 2012, as Council was considering how to proceed with recreation facilities, and in looking as Sprung as a potential option, did you ever have any conversations with Mr. Bonwick just generally about the recreation facilities issues and how Council might proceed?”

Mayor Cooper responded “No.”

Mayor Cooper acknowledged that on August 23, 2012 she received an email from Paul Bonwick. Ed Houghton and Deputy Mayor Lloyd were copied. The email attached an article referencing a P3 issue with the Mastercard Centre, a recreational facility located in Etobicoke, Ontario. The article reported financial difficulties being encountered by the facility through P3 funding. Mayor Cooper testified the email was unsolicited. She could provide no reason why Mr. Bonwick would send it. She surmised that he may have sent it because of the media coverage in the community regarding recreations, parks and the project in Collingwood. However she stated that while that could be “it’s not a discussion that I had had with him.” Mayor Cooper was asked:

Q: “did you have any discussions after he sent you this email?”

A: “no I did not regarding this article that was sent, the email, no”

Q: “did Mr. Bonwick send you any other unsolicited information that related to the recreation facilities decision?”

A: "not in my recollection".

When asked if she recalled any other instance of discussion she had with her brother prior to August 27, 2012 referring to recreational facilities Mayor Cooper responded "no, no".²⁹

On behalf of Mayor Cooper I would submit she took appropriate and adequate steps to "investigate" rumour and the November 6, 2012 allegation. Sandra Cooper was the Mayor of Collingwood; as such, I would submit her actions were responsive and sensitive to the office which she held and her determination as not to be seen as chasing rumour during her occupancy of the office. I would respectfully submit actions taken by her were responsive and did not undermine the ability of the Town of Collingwood to investigate, assess, consult and decide on recreational facilities.

In all the circumstances I would submit Mayor Cooper acted appropriately and in accordance with the information as obtained by her inquiry of acting CAO Ed Houghton. I would submit that her actions in response were reasonable in all the circumstances as known to her.

Mayor Cooper did not fail to investigate rumours and allegation of Paul Bonwick's involvement in the recreational facilities projects. To the contrary she made inquiry of Ed Houghton, accepted his response, and in the process was misled.

29 Transcript, Sandra Cooper, October 4, 2019, pgs 223 to 226

A second allegation is made, as follows:

“Your actions undermined the ability of the Town of Collingwood to investigate, assess, consult and decide on recreational facilities. In particular, you made an agreement with your brother to refrain from discussing his business despite your role as the Mayor of the Town of Collingwood and your reliance on him as a political advisor and a communications professional.”

A similar allegation was made in Phase I of the Judicial Inquiry. Submissions were made in reference to that allegation. I would wish to incorporate those submissions in furnishing a response to this allegation. I submit that this allegation requires a two-part response, namely:

- (a) Made an agreement with your brother to refrain from discussing his business despite your role as the Mayor of the Town of Collingwood;
- and
- (b) Your reliance on him as a political advisor and a communications professional; [emphasis added]

Firstly, Mayor Cooper made no agreement, as alleged, with her brother. Rather, Paul Bonwick dictated to her that he would not discuss his business with her. Further, Paul Bonwick stipulated he could not discuss his business with her because he had executed non-disclosure agreements (NDAs) with his clients and was subject to the terms of the NDAs.

On the Inquiry Hearing Paul Bonwick cross examined his sister as follows:

Question: “...during the time 2004 when I left office federally, did I typically share with you the details of the people that I’m working with?”

Answer: “No.”

Question: “Thank you. In fact, was I...or were we not clear that that information should be kept separate and that in fact I should not be discussing those kinds of matters with you?”

Answer: “Yes.”³⁰

And further, in cross examination by Town of Collingwood Counsel, Mayor Cooper was asked the following questions:

Question: “And just now there was an exchange between you and Mr. Bonwick surrounding a rule, he didn’t quite use those words, but that the two of you wouldn’t discuss his business. And was that in fact the case, that you had an understanding that you wouldn’t?”

Answer: “Mr. Bonwick had told me [emphasis added] that he signed confidentiality agreements.”

Question: “Right. And was that to prevent you from having any discussion with him about what he was doing?”

Answer: “That no one would have discussion with him, he would be his own information.”

Question: “And even if his business was involving the Town, the confidentiality agreement, as you understood, prevented you from knowing? [emphasis added]

Answer: “Well, if he’s doing work with the Town, yes.”³¹

Mayor Cooper did not seek legal advice in this matter. I submit that the position advanced by Mr. Bonwick was untenable and unsustainable in any conduct of his business with the Town of Collingwood. However, I submit that this whole matter becomes in effect a non-issue given the fact that Mr. Bonwick never intended to disclose his real involvement in any dealings of a direct or indirect nature in which he was involved in the Town of Collingwood obtaining recreational facilities with

30 Transcript, Sandra Cooper, October 7, 2019, pgs 45 & 46

31 Transcript, Sandra Cooper, October 7, 2019, page 55

Sprung/BLT. Mayor Cooper testified that she did not know of any involvement on the part of Paul Bonwick until the year 2018, nor that Mr. Bonwick was involved in a company called Green Leaf nor did she know that Green Leaf was involved in the Sprung/BLT transaction. She became aware of that only when Mr. Houghton told her in 2018.³²

There was no agreement made between Mayor Cooper and Paul Bonwick that she would not discuss his business interests involving the Town of Collingwood. Mr. Bonwick refused to discuss his business interests with her at all. With respect to the recreational facilities in question, Mayor Cooper was not aware that Mr. Bonwick had any business interests in that regard until 2018. Hence, she could not have made an agreement to refrain from discussing that of which she was wholly unaware.

Issue is taken with the allegation that Mayor Cooper placed reliance on Paul Bonwick as a political advisor and a communications professional. In response to this allegation I would wish to make reference to the submissions as made on behalf of Mayor Cooper on Phase I of the Judicial Inquiry and adopt those submissions in furnishing a response to this allegation.

On Phase II of the Judicial Inquiry Mayor Cooper was examined by Associate Commission Counsel. The transcript sets out the following:

Question: “In part I, the Inquiry heard evidence that your brother acted as a political advisor to you from time to time. Is that fair”

32 Transcript, Sandra Cooper, October 17, 2019, pgs 63 & 64

Answer: "I'm not sure if I would refer to him as my political advisor. I had many taxpayers that I would have to answer to and weekly phone calls from individuals with their opinion or their comments, their suggestions."

Question: "So both Mr. Bonwick and Mr. Houghton testified that he - -, Mr. Bonwick was a political advisor, did he provide – provide you political advice at any point in time that you can recall?"

Answer: "Well he assisted with - - and a review of my inauguration speech."

Question: "Is there any reason why you understand that Mr. Bonwick and Mr. Houghton would believe that Mr. Bonwick was your - - one of your political advisors?"

Answer: "It may be an assumption for Mr. Houghton, and I don't believe I have ever stated that Paul Bonwick was my political advisor. I didn't - - I didn't say that."³³

Paul Bonwick testified on the Inquiry. He acknowledged that in 2012 he and his sister were dealing with health issues concerning their father and had opportunity for casual conversation. However, he stated:

"the interactions were not necessarily focused in terms of what has kind of been identified here as a formal advisory role but rather, you're driving to the nursing home, you're going over to the hospital, you're at some family function, whatever the case might be"

Mr. Bonwick continued

"she would use me as a sounding board from time to time, or how would you approach this, or how would you approach that. But it wasn't - - a structured relationship in terms of the Mayor and me as an advisor. ... I don't want anybody thinking that it was a kind of formal relationship where I was the advisor, and she was the Mayor. It was a family relationship, where, you know, I suspect more often than not, my dad gave her advice that wasn't welcomed as well."³⁴

33 Transcript, Sandra Cooper, October 4,2019, pgs 226 & 227

34 Transcript, Paul Bonwick, October 23,2019, pgs 266 & 267

I would submit that the relationship described in these circumstances would not create or constitute a “reliance” on Mr. Bonwick as a “political advisor”. The evidence discloses no specific reliance on Mr. Bonwick by Mayor Cooper.

In reference to the press release of August 2012, previously referred to in these submissions, although Mr. Bonwick did choose to involve himself to a limited extent in consulting with Ed Houghton as to the necessity of a press release, and although Mayor Cooper had consulted him in regard to the urgent events of that specific time, she was in no way “reliant” on Mr. Bonwick as a political advisor or as a communications professional.

The third allegation is set out as follows:

“Your actions undermined the ability of the Town of Collingwood to investigate, assess, consult and decide on recreational facilities. In particular, you failed to take adequate steps to understand and address the extent to which Deputy Mayor Rick Lloyd directed and attempted to influence staff.”

Any alleged failure on the part of Mayor Cooper to take adequate steps to understand and address the extent to which Deputy Mayor Rick Lloyd directed and attempted to influence staff would be dependent upon an examination of the circumstances as known to Mayor Cooper or brought to her attention. To assess “adequate” response would entail and be dependent upon such examination.

Deputy Mayor Lloyd testified in the Inquiry proceedings. He had been a member of Council for some 25 years, being first elected in the year 1985. During the 2010 to

2014 Council term, Mr. Lloyd was the Deputy Mayor. He was also the Chair of the Public Works Committee and Chair of Finance and was responsible for the Town's budget. He acknowledged that over many years he personally knew and worked with many staff members as employed by the Town.

Councillor Rick Lloyd was a part-time Councillor in the sense that his principal occupation and livelihood was centred in the construction industry and in particular with excavation and earth work. He was an experienced contractor. He had subcontracted in earth works projects related to the erection of buildings. As a Town Councillor he had been involved in decisions which Council made concerning prior construction projects before 2012.³⁵

Deputy Mayor Lloyd testified he was aware and acknowledged paragraph 4 of the Code of Ethics for Council members. On December 6, 2010 Councillor Lloyd affixed his signature to the Code of Ethics and thereby acknowledged that he had read the Code in its entirety and acknowledged and accepted the Code. Paragraph 4, in part, provides that:

“Members will acknowledge that only Council as a whole has the capacity to direct staff members to carry specific tasks or functions.”

Deputy Mayor Lloyd believed paragraph 4 of the Code applied to Council members in order that Council would be aware what direction was given to staff.³⁶

35 Transcript, Richard Lloyd, October 7, 2019, pgs 102 to 104 inclusive

36 Transcript, Richard Lloyd, October 7, 2019, pgs 104 to 106

Having chaired a number of committees the Deputy Mayor acknowledged there were instances of confusion between what the Code of Ethics had prescribed and what, in fact, members of Council did when they were approached by staff with questions. In those instances he would respond to staff questions and provide his opinion rather than taking those questions back to Council. In providing an answer and/or providing his opinion he stated:

“It didn’t mean they had to do it, it was what I felt they - - that was a good idea to do.”³⁷

He saw nothing wrong with answering questions from staff. Deputy Mayor Lloyd continued:

“Again, I want to make it very clear here, on the record, I wasn’t instructing staff. What I was doing was when I was asked a question by staff I would answer the questions and assist them. I wasn’t, again as I said earlier, saying thou shall do this. It was a case of this is what I think we should do, if it was asked of me. And there is never, ever a concern brought forth to me, I never, ever had a concern brought to me from the Clerk or from the HR Committee. So I wasn’t there in a dictatorship role I was in there as the Chair of the Committee, trying to work with them.”

I would respectfully submit that in reality the supposed clear direction in the Code of Ethics becomes less clear in everyday practice involving matters of interaction as between Council members, committee chairs and staff. Further, I would surmise that interactions as described by Deputy Mayor Lloyd would undoubtedly arise in a great number of instances. There would be need for timely response which would necessarily exclude notice to Council members. Further, there would be a risk that in providing “opinion” there would exist a perception and real risk of influencing staff, whether intended or unintended by the Council member. A balancing of potential and competing

37 Transcript, Richard Lloyd, October 7, 2019, page 109

interests would be in play and, hence, unpredictability, ambiguity, and less objectivity would arise. I submit there is a fine balancing component involved as concerns the extent to which Council may be involved without affecting the integrity of the process which is designed to promote the removal of any element of undue influence or interference. Clearly, staff must be free to objectively pursue and execute on the duties and responsibilities, as directed and undertaken.

At a point earlier in these submissions I made reference to a July 16 2012 Council meeting wherein Deputy Mayor Lloyd expressed his desire “as Chair of Finance I really would like to work with staff and our CAO to come up with an alternative. I would like to see a report back for our next Council meeting which is July 30. Again to look at covering our centennial pool and a new ice pad at Central Park.” The date of July 30 was extended to August 27, 2012.³⁸ In response to a question where the new ice pad would go, Deputy Mayor responded “it would be something that would have to work with staff to deliver location...in Central Park. But something that is viable. There has been places that come through in the neighbourhood of \$5 million for a complete facility that’s turn-key but I would want staff to investigate it further.” Whereupon, Council minutes record Council Chadwick stating “...but I also support Deputy Mayor’s request to have a staff report so we can look at some alternatives. So maybe we could actually have something in the near future.”

The July 16, 2012 Council minutes do not record any objection taken or any further comments made in respect of the Deputy Mayor’s expressed wish. There was no

38 Document CJI0011234, pgs 23 & 24

formal application placed before Council. There was no express consent or authority provided by Council acceding to Deputy Mayor Lloyd's expressed wish.

The Deputy Mayor testified that as no one objected to the comments made by him, he thereby felt authority had been conferred upon him and by which copies staff reports would be available to him. He went on to state that the intent in receiving the staff reports was not to change the staff report or to change the intention of the staff report, it was mainly to help staff achieve whatever they were doing in their staff report.³⁹

I would respectfully submit this statement of intention was considerably removed from what in fact occurred in the formulation and drafting of the final staff report. There were no fewer than seven attempts at drafting the final staff report before it was provided to Council. Inquiry Hearing evidence establishes numerous instances of direct involvement with staff by Deputy Mayor Lloyd in the formulation of the staff report. The email chain of communication establishes involvement as between the Deputy Mayor and the acting CAO Ed Houghton pertaining to breaches of the Code of Ethics. Numerous instances of undue influence and interference have been uncovered in the evidence as adduced in the Inquiry Hearing. There was direct and indirect influence and interference exerted by both the Deputy Mayor and the acting CAO. I submit that staff were compromised and instances of compromise are borne out in the evidence. At no time during the staff report process was Mayor Cooper aware, nor was she apprised of any such impugned conduct. Nor was Mayor Cooper made aware of any staff

39 Transcript, Richard Lloyd, October 8, 2019, pgs 103 to 105

concerns arising from the circumstances of impugned conduct.⁴⁰ In addition to the Mayor being unaware of any such conduct, it ought to be noted that the evidence does not disclose that any of the other seven Council members were aware of any such conduct either.

The expressed wish of Deputy Mayor Lloyd at the July 16, 2012 Council meeting was to work with the CAO and staff. I submit that the evidence discloses that acting CAO Houghton did not rein in Deputy Mayor Lloyd but participated in and allowed the interference with staff to continue unabated. In addition, I submit there were instances involving staff requests and expressions of concern voiced to the acting CAO and which were deliberately withheld from Mayor Cooper.

Finally, I submit there is evidence which may amount to establishing complicity as between Deputy Mayor Lloyd and Acting CAO Houghton as to affecting the content of the staff report as submitted to Council, and which reasonably may have misled Council in their decision of August 27, 2012. In that regard, both Deputy Mayor Lloyd and acting CAO Houghton testified and confirmed the high degree of reliance which Council would place on the content of the staff report.⁴¹

Mayor Cooper testified that in instances of her becoming aware of individual Councillor direction to staff she would intervene with the Council member and direct that the issue

40 Transcript, Sandra Cooper, October 4, 2019, pgs 198 to 199; pgs 202 to 203; pgs 205, 206

41 Transcript, Richard Lloyd, October 8, 2019, page 238; and Transcript, Ed Houghton, October 21, 2019, page 189; page 40

come to Council as a whole. She acknowledged there had been prior contact with Deputy Mayor Lloyd in matters of this sort. She was asked:

Question: "What would his reaction typically be?"

Answer: "Well he was an elected official as well, and he would determine the direction that he wanted to go"⁴²

As to whether Deputy Mayor Lloyd would listen to her Mayor Cooper responded:

"I can't give you an example, but I'm sure he - - if the Mayor has said, you know could you bring that forward to Council, that would be appropriate then that would be the case".

Mayor Cooper further acknowledged that as Mayor it presented a challenge to her when other members of Council were individually directing staff without having provided notice to Council and obtaining Council approval. I submit that the Inquiry Hearing evidence reasonably establishes that in instances of becoming aware of such conduct, Mayor Cooper took appropriate and timely steps to deal with the indiscretions.⁴³

I wish to deal with the final issue as relating to Mayor Cooper which alleges as follows:

"Your actions relating to the termination of Kim Wingrove and the appointment of Ed Houghton to the position of Acting CAO for an indefinite time period undermined the ability of the Town of Collingwood to conduct its business."

Kim Wingrove testified on Phase I of the Judicial Inquiry. She did not testify on Phase II of the Inquiry and thus was not available to be examined in relation to this specific

42 Transcript, Sandra Cooper, October 4, 2019, page 173

43 Transcript, Sandra Cooper, October 4, 2019, pgs 168 to 174 inclusive

allegation. I submit that in these circumstances there arises a concern as to Mayor Cooper's ability to make full answer in response to this allegation.

The termination of Kim Wingrove from the position of CAO for the Town of Collingwood was a result of a decision made by Council as a whole. The decision was made on April 2, 2012 in an in-camera meeting of Council. No record of that in-camera meeting was produced on the Inquiry. Neither was there evidence adduced as to individual Council member voting as to termination. It ought to be noted that Mayor Cooper held one of nine votes in relation to Council's decision to terminate.

Without getting into specifics I would submit there were issues raised by Council members referencing Ms. Wingrove's performance in the role of CAO. She had been hired in the fall of 2009; she had no prior CAO experience. In April 2011 she and Mayor Cooper interviewed in reference to her work performance. Evidence of the performance review was entered as an exhibit on Phase I of the Inquiry. The review recorded a "satisfactory" performance by Kim Wingrove in the job of CAO. Subsequent to the interview Mayor Cooper and Ms. Wingrove engaged in an informal discussion and review of the areas as identified in the interview as requiring attention and improvement.

The Phase I Inquiry Hearing record establishes that on December 5, 2011 Council held an in-camera meeting pertaining to CAO Wingrove. Once again, there is no record of the proceedings.

On March 10, 2012 Deputy Mayor Lloyd emailed Mayor Sandra Cooper and Paul Bonwick about CAO Kim Wingrove:

“Sandra I would really like to meet with you and Paul ASAP. I need to discuss my concerns I have about Kim. I have had enough in the lack of ability...I haven't really expressed how I feel YET!!!! But feel if we don't deal with her I'm going to explode!!!!”⁴⁴

Within 10 minutes Mayor Cooper replied to Deputy Mayor Lloyd's email:

“I will call you shortly”

In the telephone call Mayor Cooper took issue with the inappropriate conduct of Deputy Mayor Lloyd in including Paul Bonwick in the email and in referencing a private and confidential personnel matter. The Deputy Mayor was clearly in breach of the Code of Ethics, Paragraph 2 “Use of Information”.⁴⁵

Mayor Cooper testified that Deputy Mayor Lloyd never gave her any sense of why he included Paul Bonwick on the email.⁴⁶

In testimony on both Phase I and Phase II of the Inquiry Mayor Cooper disclosed continuing instances of Council frustration arising out of the work performance of Kim Wingrove. Generally, there was a frustration arising from a seeming inability of the CAO to delegate tasks which resulted in delays and frustration in the conduct of Council business. Accordingly, Mayor Cooper suggested that all of Council need to have some input as concerns the job performance of the CAO. Mayor Cooper confirmed that that

44 Foundation Document II, para 86

45 Document TOC0534838

46 Transcript, Sandra Cooper, October 4, 2019, page 143

process was implemented and followed.⁴⁷ Accordingly, Council provided their input in the in-camera Council meeting held on April 2, 2012, in which Council voted in-camera to terminate Ms. Wingrove's employment.

On April 12, 2012 Council appointed Ed Houghton as acting CAO for the Town of Collingwood. Mayor Cooper testified as to a sense of urgency in this appointment in order to conduct Town business. The appointment was welcomed by Council as was the fact that Mr. Houghton formed an Executive Management Committee (the "EMC") which was put in place to assist him in the performance of the CAO responsibility. The EMC consisted of Treasurer Marjorie Leonard, Clerk Sarah Almas and Larry Irwin, all experienced staff members and knowledgeable in various disciplines of expertise. As to the formation of the EMC Deputy Mayor Lloyd testified:

"...it was a brainchild of Mr. Houghton and it was a good decision."

Question: "did you give him any feedback on who was appointed to the Executive Management Committee?"

Answer: "I don't think so. I think it was a natural being that the Clerk and the Treasurer were on it and Mr. Irwin as well. I think they were all high executive levels within the town and I think Council looked at it and thought it was a brilliant idea. And I still think it would have been a brilliant idea to continue on that way."⁴⁸

Deputy Mayor Lloyd confirmed weekly meetings of the EMC and that Council continually heard back and was thereby appraised of the work of the committee. Mr. Houghton testified that in the weekly meetings CAO business was properly identified and attended to by way of discussions held. There was consensus reached in each

47 Transcript, Sandra Cooper, October 4, 2019, pgs 138 to 144

48 Transcript, Richard Lloyd, October 7, 2019, pgs 142 & 143

instance of business discussed; Mr. Houghton could recall no instance to the contrary apart from one matter involving a Council member in which Mr. Houghton personally intervened as the Acting CAO.⁴⁹ Mr. Houghton acknowledged that he, as acting CAO, and members of the EMC were taking on responsibility for the administrations and operation of the Town.⁵⁰ Mr. Houghton acknowledged that he was seconded to the position of acting CAO. It was anticipated he would be in this position only briefly before a permanent CAO was hired by the Town. Mr. Houghton resigned from the position effective April 15, 2013.

Mayor Cooper testified that the formation of the EMC was to support the acting CAO in whatever areas in which he may require assistance. Mayor Cooper did not attend EMC meetings; she understood their discussions would go forward to department heads and then to Council. She acknowledged that process and her belief that Mr. Houghton would continue to have the CAO's prerogative to make decisions, individually or collectively with the EMC group.⁵¹

On Phase I of the Judicial Inquiry Mayor Cooper testified that she personally made attempts to recruit a CAO following the termination of Kim Wingrove. She was personally involved in speaking with three individuals; two of whom were retired Clerks from Clearview Township in the County of Simcoe; the third was a CAO within the County of Bradford West Gwillimbury. She was unsuccessful in her recruiting attempts.

49 Transcript Ed Houghton, October 21, 2019, p. 75; pp. 101, 102; p. 108, 109; pp. 111 & 112

50 Transcript, Ed Houghton, October 21, 2019, pgs 101 & 102

51 Transcript, Sandra Cooper, October 4, 2019, pgs 149 to 151

Mr. Houghton testified that on stepping down from the position of acting CAO on the 15th of April, 2013 the Executive Management Team went forward from there.⁵² On July 3, 2013 Council appointed John Brown as Interim CAO.

In the Inquiry Hearing Mr. Houghton was asked the following:

Question: “Did you feel at any time that your appointment as the Acting CAO for the Town of Collingwood undermined the ability of the Town of Collingwood to conduct its business?”

Answer: “Absolutely not.”⁵³

This allegation relating to the “actions” of Mayor Cooper as regards the termination of Kim Wingrove as CAO is a vague allegation, lacking in specificity. I submit there is no reference in any of the evidence as to improper conduct on the part of Mayor Sandra Cooper in what was a decision of Council as a whole. I would submit that in all the circumstances the evidence is consistent with her acting faithfully, honestly and openly in the conduct of the Town’s business. I submit she put forth her best efforts at all times and, accordingly any allegation that she undermined the ability of the Town of Collingwood to conduct its business is unsubstantiated in the evidence before the Inquiry.

52 Transcript, Ed Houghton, October 21, 2019, page 35

53 Transcript, Ed Houghton, October 21, 2019, page 43

All of which is respectfully submitted.

Dated this 7th day of January, 2020.

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