



Transparency and the Public Trust

Report of the Collingwood Judicial Inquiry

VOLUME I

Associate Chief Justice Frank N. Marrocco

COMMISSIONER

VOLUME I

Executive Summary and Recommendations

VOLUME II

Part One – Inside the Collus Share Sale

VOLUME III

**Part Two – The Arena and the Pool:
The Real Cost of Sole Sourcing**

VOLUME IV

Recommendations and Inquiry Process



November 2, 2020

His Worship Mayor Brian Saunderson and Members of Town Council
Collingwood City Hall
97 Hurontario Street
Collingwood, ON L9Y 3Z5

Dear Mr. Mayor and Councillors:

With this letter I deliver my report on the Town of Collingwood Judicial Inquiry.

Yours very truly,

A handwritten signature in blue ink, which appears to read "Frank Marrocco".

Associate Chief Justice Frank N. Marrocco,
Commissioner.

Encl.

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VOLUME I

This Report consists of four volumes:

- I *Executive Summary and Recommendations*
- II *Part One – Inside the Collus Share Sale*
- III *Part Two – The Arena and the Pool: The Real Cost of Sole Sourcing*
- IV *Recommendations and Inquiry Process*

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VOLUME IV

Recommendations and Inquiry Process

Executive Summary

Executive Summary

The Collingwood Judicial Inquiry was asked to examine two major transactions that the Town of Collingwood engaged in under the leadership of its 2010–14 municipal Council.

Part One of the Inquiry examined the sale of a 50 percent interest in the Town's electric utility, Collus Power Corporation, one of the Town's largest assets. The successful bidder, PowerStream Incorporated, enjoyed several unfair advantages throughout the procurement process, many of which were facilitated by the mayor's brother, Paul Bonwick, whom the company hired as a consultant and paid \$323,997 (including HST) over a 17-month period.

Part Two of the Inquiry focused on the construction of arena and pool facilities, which the Town substantially paid for by using the proceeds of the Collus Power share sale. The Town selected an uncommon construction material for the buildings: fabric membrane stretched across aluminum arches. The company hired to supply and construct the buildings paid Mr. Bonwick's company an undisclosed success fee of \$756,740.42 (including HST) for his assistance with the transaction.

Several factors influenced both transactions.

Members of Council, including the mayor and the deputy mayor, had campaigned on reducing spending, lowering taxes, and decreasing the Town's debt. The focus on austerity served as the justification for both transactions and as an excuse for limiting the involvement of professional consultants in the Collus Power share sale.

Roles and responsibilities of Council members and staff were also misunderstood, leading to certain fundamental decisions being made away from the Council table or behind closed doors. Undisclosed conflicts of interest marred many of the decisions made in respect to these two transactions,

as did a series of unfair and precarious procurement practices. Combined, these factors left the transactions vulnerable to improper influence and cast doubt on both their legitimacy and the Town's reputation.

Several long-time residents and well-known public figures were at the centre of the events examined by the Inquiry, in particular Mayor Sandra Cooper, her brother Paul Bonwick, Mr. Bonwick's friend and former business associate Deputy Mayor Rick Lloyd, and Mr. Bonwick's friend Ed Houghton, who was concurrently the Town's executive director, engineering and public works, the president and CEO of Collus Power, the president and CEO of the Town's water utility, and, for a year beginning in April 2012, the Town's acting chief administrative officer (CAO). These four people knew each other well. Their family relationships were generational, and their personal relationships were complex and interrelated.

Ms. Cooper and Mr. Lloyd had served together during previous Council terms, where they worked closely with Mr. Houghton. As mayor, Ms. Cooper frequently sought and relied on Mr. Houghton's advice.

Mr. Bonwick, a former Town councillor and member of Parliament for Simcoe-Grey, worked as a consultant and lobbyist. His company, Compenso Communications Inc., assisted clients in their dealings with government, including the Town of Collingwood. Mr. Bonwick was also one of his sister's closest political advisors and served as a conduit to the mayor. He sometimes discussed Town business with the deputy mayor, his friend Mr. Lloyd, and Mr. Lloyd in turn provided Mr. Bonwick with confidential and non-public information relating to Council business that he thought might assist Mr. Bonwick's clients.

Mr. Houghton and Mr. Bonwick also collaborated on Mr. Bonwick's business ventures. In their testimony, however, both men maintained that Mr. Houghton was not compensated for assisting Mr. Bonwick in this way.

In contrast to this longtime network, at the beginning of the 2010 Council term, the CAO was new to Collingwood. Kim Wingrove, who joined the Town in September 2009, brought a wealth of experience from her work for the Ontario provincial government. She said, however, she was unable to penetrate the existing web of relationships in the Town. She testified she had a tense and strained relationship with Mayor Cooper, who preferred to consult with Mr. Houghton directly, although Ms. Wingrove was in fact his

superior. She also testified that Deputy Mayor Lloyd made her uncomfortable and only spoke to her when he felt it was necessary, usually when he wanted the Town to take a particular action. Ms. Wingrove's employment was terminated in April 2012, and Mr. Houghton replaced her as acting CAO.

Part One – Inside the Collus Share Sale

Mr. Houghton enjoyed unusual influence and freedom in his roles with the Town and the Collus corporations. He initiated the Collus Power share sale without Ms. Wingrove's knowledge. Although the CAO was eventually brought into the discussions, it was as a passenger while Mr. Houghton drove the process. With Mr. Houghton at the helm, Collus Power – the Town's asset – was in charge of selling itself, and the Town – the owner of the asset – had no effective control over the process. This unusual dynamic did not serve the Town's interest.

The origins of the Collus Power share sale can be traced to a series of unofficial conversations and private meetings. Before beginning the share-sale process, Mr. Houghton approached Brian Bentz, PowerStream's chief executive officer. He contacted Mr. Bentz because he believed it was time for Collus Power to merge with another utility that could provide more resources. PowerStream, the electricity provider for several municipalities, including Markham, Barrie, and Vaughan, was itself the product of utility consolidation and intent on completing more mergers and acquisitions.

Mr. Houghton arranged a breakfast meeting with Mr. Bentz in December 2010 to gauge his interest and plant the seed that a Collus request for proposal might be on the horizon. At this point neither Mayor Cooper nor Collingwood Council knew a sale was being considered. This early notice was the first of several unfair advantages Mr. Houghton provided to PowerStream. Mr. Bentz was concerned that the Town had apparently not been engaged in discussions about the sale. In the past, PowerStream had "wasted a lot of time" with potential transactions that never materialized because, although the utility was inclined to proceed with a deal, the municipal council was not. He shared his concern with Mr. Houghton at the meeting.

Shortly after Mr. Houghton's breakfast with Mr. Bentz, in January 2011,

Mr. Bonwick also contacted Mr. Bentz, offering his services as a consultant on the potential sale of Collus Power. Mr. Houghton had suggested to Mr. Bonwick that he reach out to Mr. Bentz to explore opportunities in the electricity industry. Although Mr. Houghton expressed some reservation about the mayor's brother consulting with a potential Collus buyer, he nevertheless gave a glowing reference about Mr. Bonwick to Mr. Bentz. Mr. Houghton, without authorization, provided Mr. Bonwick with confidential details about the potential sale, which Mr. Bonwick used to his advantage in his discussions with PowerStream.

Of particular note, at the end of January 2011, Mr. Houghton told Mr. Bonwick he had prepared a draft letter for Mayor Cooper to send both to him, as CEO of Collus Power, and to the chair of the Collus board of directors. The letter directed Collus Power to look for opportunities to reduce the Town's debt and find greater efficiencies. Significantly, it also purported to instruct Collus to obtain a valuation and review the benefits and drawbacks of selling the utility. Mr. Bonwick immediately shared the news of the valuation with PowerStream. Meanwhile, Council, except for the mayor, still had not been told a sale was under consideration.

Mr. Houghton retained KPMG in February 2011 to value Collus Power and analyze the Town's ownership options. Despite the mayor's letter, Mr. Houghton did not ask KPMG to advise how Collus Power could best assist the Town in its goals of reducing debt or finding efficiencies, nor did he arrange for them to speak with anyone from the Town other than himself (as I note above, he held three different roles: CEO of Collus Power, CEO of the Town's water utility, and the Town's executive director, engineering and public works). KPMG analyzed four ownership options: retain full ownership, sell a majority stake (more than 50 percent), sell a minority stake (less than 50 percent), and sell the whole utility. It provided no recommendations.

Council finally learned about the possibility of a sale of Collus Power at its June 27, 2011, Council meeting during a session that was closed to the public. In preparation for that meeting, Mr. Houghton took KPMG's analysis and altered it to present a new and "preferred" ownership option, which he described as a "strategic partnership." The strategic partnership would ultimately materialize in the form of a 50 percent share sale.

Mr. Houghton did not ask KPMG to consider a 50 percent share sale to a

strategic partner and the issues that might flow from equal co-ownership of a utility. Neither did KPMG recommend a strategic partnership.

The June 27 meeting became an inflection point. Council accepted Mr. Houghton's recommendation and struck a task team to pursue a strategic partner – the Strategic Partnership Task Team. Council's decision was grounded in Mr. Houghton's suggestion that a strategic partnership would best serve the Town's interest. The primary purpose of the strategic partnership, however, was to obtain more resources for the utility and to pursue opportunities for growth, not to achieve the Town's goals of debt reduction and greater efficiencies. As a result, with the exception of Mr. Houghton, the Task Team unwittingly moved forward with a plan that resulted in prioritizing Collus Power's interests over those of the Town: the pursuit of a strategic partner.

Meanwhile, Mr. Bonwick had been working to secure a retainer with PowerStream. Executives at PowerStream immediately recognized the apparent conflict of hiring the mayor's brother to assist in acquiring all or part of the Town's utility and requested disclosure as the appropriate remedy. They limited the disclosure, however, to requiring Mr. Bonwick to speak with the Town's mayor and the clerk. Mr. Bonwick, in turn, was less than forthcoming both in his disclosure to the mayor and the clerk and in the manner he reported on his disclosure to PowerStream. Other purported efforts at disclosure missed the mark. There was nothing more than a veneer of disclosure. This lack of disclosure left the town on a path to selling a 50 percent interest in Collus Power while the mayor and senior staff were unaware that the mayor's brother was working for a potential bidder on the Collus RFP. Mr. Bonwick did succeed in securing a retainer of \$10,000 a month from PowerStream without anyone at the Town, other than his friends Mr. Houghton and Deputy Mayor Lloyd, understanding that his work would involve consulting on a potential share sale of Collus Power.

Early in his retainer, Mr. Bonwick demonstrated to PowerStream the value of his relationships. In July 2011, he and Mr. Houghton arranged to have PowerStream partner with Collus Power in marketing a new green-energy product – a solar-powered roof vent. This advantage, bestowed on PowerStream but not on other potential bidders, allowed it to raise its profile within Collingwood. The partnership was a boon not only to PowerStream

but also to Mr. Bonwick, who had entered into a profit-sharing arrangement with the vent company. One of Mr. Houghton's friends had co-founded the roof-vent company, and Mr. Houghton introduced him to Mr. Bonwick. In exchange for Mr. Bonwick assisting with the sales of the vents to Collus Power and PowerStream, the roof-vent company shared 35 percent of its profits from those sales with Compenso. The principals of the company and Mr. Bonwick discussed sharing profits with Mr. Houghton, but during his testimony, Mr. Houghton denied receiving any such payment.

The Strategic Partnership Task Team held its first meeting in August 2011. It identified potential bidders and began preparing for a competitive request for proposal. While the team intended to operate a fair process, it was unaware that PowerStream, one of four bidders the team identified, had already capitalized on advantages that had not been offered to the other bidders. Except for Mr. Houghton and Mr. Lloyd, the team also did not know that PowerStream had engaged Mr. Bonwick to assist with its bid.

After substantial discussions on what Collus Power might want in a strategic partner, Mr. Houghton retained KPMG in September 2011 to attend confidential meetings between the Task Team and the four potential bidders as well as to assist the team in preparing an RFP. At this point, KPMG and the Task Team focused on finding a strategic partner, as Mr. Houghton had recommended on June 27. The Town's interest – reducing debt and finding efficiencies – was not the primary objective.

After meeting with the four bidders in September, the Town formally issued a request for proposal on October 4, 2011. Both before and during the RFP process, Mr. Houghton and Deputy Mayor Lloyd, who were members of the Task Team, shared confidential information with Mr. Bonwick, including sensitive information about the other bidders' presentations and the Task Team's deliberations. Mr. Bonwick passed the information onto PowerStream to assist with its bid. The PowerStream executives working with Mr. Bonwick did not stop him from providing inside information, nor did they ask him how he was getting it. Meanwhile, as the RFP was ongoing, Mr. Bonwick signed a new retainer with PowerStream that increased his monthly fee and the length of his contract. It provided for a further contract extension if PowerStream succeeded in the RFP.

The Strategic Partnership Task Team evaluated the bidders' responses to

the RFP in November 2011. At the same time, Collus Power and the Town announced publicly for the first time that they were pursuing a sale of up to 50 percent of the utility to a strategic partner. Mr. Houghton consulted with Mr. Bonwick regarding Collus Power's RFP communications strategy. The Collus press release announcing the RFP was actually written by staff at PowerStream. Mr. Houghton did not disclose to either the Town or the Strategic Partnership Task Team that PowerStream, one of the bidders, was advising and assisting in the RFP communication strategy.

The Task Team scored the bids in two parts. First, they evaluated the non-financial submissions that focused on the resources and synergies the bidder would bring to Collus Power. Second, they evaluated the financial offers each bidder made for 50 percent of the Collus shares. Because the goal was to find the best partner, and not necessarily the highest bid, the team structured the RFP to favour the non-financial criteria. PowerStream won this category handily and, as a result, won the whole RFP despite bidding \$3.85 million less than the highest financial bidder, Hydro One Incorporated. PowerStream's victory, however, was blighted by its unfair advantage.

After the Town selected PowerStream as its strategic partner for Collus Power, Mr. Bonwick continued to leverage his relationships with the mayor, deputy mayor, and Mr. Houghton to assist PowerStream in its goal of finalizing the transaction promptly.

At the same time, Mr. Houghton engaged a corporate lawyer to "paper" the transaction. Both the Town and Collus Power had previously been without legal advice, to the detriment of both entities. Once a lawyer was retained, the Town did not fully benefit from his assistance. Mr. Houghton assumed the authority to instruct the lawyer on behalf of both Collus Power and the Town, controlling and filtering the information the Town received. Mayor Cooper and Deputy Mayor Lloyd ignored warnings from the Town's municipal lawyer that the Town might need independent advice about the transaction.

Council voted to proceed with the sale of 50 percent of Collus Power to PowerStream at its January 23, 2012, meeting. Unbeknownst to Council, Mr. Houghton had invited PowerStream to assist in drafting the bylaw authorizing the share sale and, in that process, Mr. Houghton removed protections that would allow the Town solicitor and Council to review changes

to the sale terms before the final agreements were signed. The Town solicitor and the CAO wanted these protections. Their view did not win the day.

Three of the eight councillors who voted on January 23 had undisclosed conflicts of interest, which further undermined an already flawed process. Mayor Cooper did not disclose that her brother, Mr. Bonwick, worked for PowerStream, and that fact had never been disclosed to Council as a whole. Deputy Mayor Lloyd, who knew about Mr. Bonwick's role, did not disclose that he had asked Mr. Bonwick to have PowerStream do a favour for a friend during the RFP, which PowerStream obliged. Councillor Ian Chadwick did not disclose that he had worked for Mr. Bonwick preparing weekly news summaries for his clients – information he believed Mr. Bonwick shared with PowerStream.

Council abruptly terminated Ms. Wingrove's employment in April 2012 before the finalization of the share sale transaction. Throughout March and April 2012, Deputy Mayor Rick Lloyd had kept Mr. Bonwick informed of his criticisms of Ms. Wingrove's performance and the process leading to her termination. The day before Ms. Wingrove's dismissal, Mayor Cooper and Deputy Mayor Lloyd began lobbying Mr. Houghton to take on the role of CAO, despite his many other responsibilities. Mr. Bonwick also provided encouragement and offered advice to Ms. Cooper on some aspects of the process. By April 12, 2012, Ms. Wingrove was replaced by Mr. Houghton who was considered by Mr. Lloyd to be a friend and who had directed Mr. Bonwick towards two business relationships that proved to be lucrative: PowerStream and the solar vent initiative.

After he took over as acting CAO, Mr. Houghton not only oversaw the closing of the Collus Power share sale but also, along with Deputy Mayor Lloyd and their close friend and confidant Mr. Bonwick, engineered the purchase and construction of a new arena and a pool facility, which resulted in a success fee to Mr. Bonwick's company Green Leaf of \$756,740.42 including HST. The arena and pool transaction was the subject of Part Two of this Inquiry.

Part Two – The Arena and the Pool: The Real Cost of Sole Sourcing

Approximately one year before Ms. Wingrove's tenure was terminated, Council struck a volunteer steering committee to investigate a partnership with the YMCA to build new recreational facilities in Central Park, a large park near downtown Collingwood that already housed the YMCA's pool and an outdoor rink (among other amenities). In March 2012, after consulting with the community and with professional advisors, the Steering Committee recommended a multi-use recreational facility, including arena and pool facilities, and suggested that Council explore funding options. Council initially approved the committee's report in principle. Around the time Mr. Houghton was appointed acting CAO, Council balked at the estimated \$35 million cost for the facility and went back to brainstorming how to meet the Town's growing recreational needs.

It was during this period, April to June 2012, that Mr. Houghton and Deputy Mayor Lloyd separately learned about Sprung Instant Structures Ltd. The company, based in Alberta, specialized in fabric buildings it advertised as an affordable alternative to conventional buildings and that could be built in less time. Historically, Sprung structures were primarily used for military purposes, but by 2012, the company was expanding its recreational facilities business. Although Sprung had secured contracts to build some arenas and at least one pool before the summer of 2012, it often found itself losing out to pre-engineered steel buildings (a popular and affordable building type) when it bid on new recreational facility projects. When it did sell buildings in Ontario, Sprung referred the construction work to BLT Construction Services Inc.

From the public's perspective, Council was still brainstorming options for new recreational facilities in late June 2012. Meanwhile, Deputy Mayor Lloyd had become enamoured of Sprung structures and directed Mr. Houghton to obtain estimates from Sprung for fabric structures to cover the Town's outdoor arena and 40-year-old, volunteer-built outdoor pool in Heritage Park.

On July 16, 2012, Council directed staff to prepare a report on the estimated cost and timelines of covering this outdoor pool with a fabric building and of building a single-pad arena in Central Park. Deputy Mayor Lloyd, intent on moving quickly, asked for the report to be delivered to Council on August 27. Mr. Houghton agreed to the short timeline, despite concerns raised by the head of the Town's Department of Parks, Recreation and Culture.

Shortly after the July 16 meeting, Mr. Bonwick met with BLT executives. He offered to promote Sprung structures to members of Council and other stakeholders in exchange for a percentage of the construction contract as a success fee. BLT agreed.

Mr. Bonwick did not advise BLT that his sister was the mayor, and he did not make any effort to disclose his new engagement to Mayor Cooper or anyone else at the Town except Mr. Houghton. Instead, Mr. Bonwick lobbied Town stakeholders on behalf of BLT without disclosing that one of his companies stood to earn a success fee, which was ultimately \$756,740.42 (including HST). Mr. Bonwick obscured his involvement by contracting with and receiving payment from BLT through Green Leaf Distribution Inc. Although Green Leaf was a company that Mr. Bonwick controlled, he was not publicly associated with it.

The decision to deliver a report by August 27 set the Town on a perilous course. Mr. Houghton took control of the staff report. Around the same time, Deputy Mayor Lloyd directed Mr. Houghton to be the sole contact point with Sprung, limiting the staff's ability to investigate. An architect hired by the Town faced similar constraints. Mr. Lloyd told Mr. Houghton that the report needed "the Ed Houghton positive spin" and said to "be careful not to give too much information."

Even though staff anticipated that there would be a competitive procurement for any new recreational facilities, Mr. Houghton coordinated with Mr. Bonwick and Green Leaf to obtain a detailed project budget from BLT for constructing an arena and covering the volunteer-built outdoor pool. He did not seek proposals from any other suppliers. Instead, as the Council deadline approached, Mr. Houghton oversaw a drastic reframing of the staff report on August 23–24. The report morphed from an informational document contemplating a competitive procurement process to a recommendation to sole source a design-build contract in excess of \$12 million for the purchase and

construction of two Sprung facilities. A series of alterations to cost estimates provided by the Town's consulting architect yielded an inaccurate cost comparison that inflated the cost of the other arena option presented to the Town.

Council voted to purchase and construct the Sprung structures at its August 27 meeting. Before the meeting, Mr. Bonwick discussed the potential for Council proceeding with a sole source with Mr. Houghton, who knew BLT had retained Mr. Bonwick. He also promoted Sprung to his sister, Mayor Cooper, but omitted to mention his financial interest in the matter. This non-disclosure was consistent with the siblings' agreement not to discuss Mr. Bonwick's business dealings with the Town, despite the apparent conflicts that might arise.

Neither Mr. Houghton nor Deputy Mayor Lloyd disclosed to Council that Mr. Bonwick had been working for BLT.

Two days after Council's vote, August 29, Mr. Bonwick advised Mr. Houghton about the amount of the success fee by email, writing "Gross is \$675,000.00 approx. ... maybe a bit more." Mr. Houghton forwarded the news to his wife but did not disclose the fee to anyone at the Town.

The next day, after no negotiation with BLT, Mr. Houghton arranged for the Town and BLT to execute the contract. The Town, in turn, paid BLT a 25 percent deposit in the amount \$3,099,725.24. On August 31, BLT wired Mr. Bonwick's company Green Leaf \$756,740.42 (including HST).

Council's decision stirred controversy. The public asked questions, including specific questions about Mr. Bonwick's involvement, which Mr. Houghton denied.

End of the Strategic Partnership

While the controversy regarding the recreational facilities was ongoing, Mr. Houghton stepped down as acting CAO in April 2013. He was replaced by John Brown, a career CAO. As Mr. Brown began to ask his own questions about the Collus Power share sale transaction, he found that the answers led only to more questions. Tensions grew between the Town and its electric utility, now called Collus PowerStream Incorporated.

The strategic partnership did not survive.

Conclusion

Undisclosed conflicts, unfair procurements, and lack of transparency stained both transactions, leading to fair and troubling concerns from the public. The evidence I heard and the conclusions I have drawn show that those concerns were well founded. When the answers to legitimate questions are dismissive, spun, or obfuscated, public trust further erodes.

When trust is lost, the relationship between the public and its municipal government may never be the same. The road back is arduous. Repairing the relationship requires self-reflection and a commitment to change. In the pages that follow, I set out a series of 306 recommendations for the Town of Collingwood which arise from the events I examined and have summarized above.

Recommendations

Recommendations

Introduction

Public inquiries investigate broad systemic and institutional issues and report to the public. Their reports include findings of fact and recommendations made in the public interest. Public inquiries are not trials. They are not intended to resolve disputes between parties or establish the guilt or innocence of accused persons in the criminal context.

The recommendations that follow respond to the matters I was directed to investigate by the Terms of Reference. These recommendations are directed to the Town of Collingwood, but the matters raised in the Terms of Reference are central to municipal governance. The concepts underlying these recommendations are, therefore, applicable to municipalities throughout the Province of Ontario.

Many of the matters addressed in my recommendations are referred to in legislation, have been commented on in previous inquiries and their recommendations, or have been discussed at length in academic and professional writing and are subject to ongoing efforts to improve municipal governance. Despite these efforts, the same issues arise. As a result, I repeat and reiterate earlier guidance throughout my recommendations.

In my recommendations I have also emphasized the need for leadership and education. The importance of maintaining and enhancing a culture of integrity for Council, staff, and those who wish to deal with municipalities is fundamental to good government at the local level.

Part Three of my Inquiry consisted of a series of panels discussing the issues of municipal governance. I was fortunate to receive the assistance in this endeavour of a group of knowledgeable and experienced people. I am indebted to the Honourable David Wake, Honourable Denise Bellamy, John

Fleming, Anna Kinastowski, Greg Levine, Valerie Jepson, Rick O'Connor, Mary Ellen Bench, Wendy Walberg, Marian MacDonald, Michael Pacholok, Suzanne Craig, Linda Gehrke, Robert Marleau, and Town of Collingwood chief administrative officer, Fareed Amin. Collectively, they advised on topics including roles and responsibilities in municipal government, conflicts of interest, municipally owned corporations, procurement, and lobbying. Their advice informed my recommendations and I thank them for volunteering their time and assistance.

I am aware that the Town of Collingwood has made significant changes in its practices, policies, and procedures since 2012 to address issues that I discuss in the Report and highlight in these recommendations. Some of those changes were rightly praised by the experts listed above who participated in the Part Three panels. My recommendations, however, are rooted in the Terms of Reference and respond to the policies, procedures, and decisions captured by my Terms of Reference. Nothing in this Report should be viewed as an express or implied criticism of the Town's efforts to improve its policies, practices, and procedures.

I have organized my recommendations by topic, addressing key municipal positions and specific municipal functions in turn. This structure permits a comprehensive discussion of the considerations that underlie the ethical exercise of each role and the resulting responsible municipal action.

Mayor

It became evident during the Part One and Part Two hearings that the mayor's roles and responsibilities were misunderstood.

That misunderstanding flowed, at least in part, from the description in the *Municipal Act, 2001*, of the head of Council (in the Town of Collingwood, the mayor) as the "chief executive officer of the municipality." The role and responsibilities of a head of Council differ from those of a corporate chief executive officer (CEO) in a meaningful way: the head of Council does not have the same powers as the CEO of a corporation. More specifically, unlike a corporate CEO, the head of Council does not have the power to commit the municipality to anything unilaterally. The head of Council becomes a

trustee in the public interest when she or he accepts the role, and that trust is in danger when imprecise analogies are drawn.

The erroneous belief that the mayor, by virtue of being described as the “chief executive officer of the municipality,” had the power to provide unilateral direction on behalf of Council, without Council’s agreement or approval, underpinned the lack of transparency around the origins of the Collus share sale, where directions from the mayor were treated as if they had the weight of directions issued by Council. That misunderstanding contributed in part to the blurring of the lines between Council and staff that pervaded the Collus share sale transaction and decisions about the new recreational facilities.

The recommendations below clarify the mayor’s leadership role in ensuring appropriate Council conduct and protecting the boundary between Council and staff, as well as eliminating any misunderstanding that the mayor may act on behalf of the municipality without Council’s agreement.

Amendments to the Ontario Municipal Act, 2001¹

- 1** The Province of Ontario should amend sections 225 and 226.1 of the *Municipal Act* to remove the inaccurate description of the head of Council as the chief executive officer of the municipality. The head of Council of a municipality is responsible to Council and does not have the authority to bind Council.

- 2** Describing the mayor as both the head of Council and chief executive officer blurs the fact that the mayor is the head of Council and the chief administrative officer (CAO) is the head of staff. There must be a clear division of roles and responsibilities between the mayor and the CAO, a separation of the political from the administrative.²

Town of Collingwood

- 3** The Town of Collingwood should set out in a bylaw its expectations concerning the mayor. Specifically, it should provide that the mayor demonstrate leadership to Council members regarding compliance with ethical policies and codes of conduct, as well as relevant bylaws and Town policies. It should also state that integrity and transparency in municipal government should be a priority for the mayor.³
- 4** The mayor should intervene where she or he becomes aware of uncivil conduct at Council meetings, at committee meetings, and in other work-related circumstances.⁴
- 5** The mayor should be involved in hiring the chief administrative officer.⁵
- 6** Although the relationship between the mayor and chief administrative officer (CAO) should be one of trust and collaboration, there may be instances where the division between the political role of the mayor and the public service role of the CAO is unclear. Accordingly, there should be a mechanism for resolving issues between the mayor and the CAO when the division between the political role of the mayor and the public service role of the CAO is unclear. The mechanism should be public and transparent.

Council Members

There was a lack of transparency regarding Council members' interests and actions in the events I examined in Parts One and Two of the Inquiry. Members of Council failed to identify and respond appropriately to conflicts of interest. The deputy mayor involved himself in staff's work without

Council's authorization and engaged with vendors seeking to deal with the Town outside of the Council process.

Factors leading to this lack of transparency included a failure to appreciate the importance of avoiding conflicts of interest and of disclosing real and apparent conflicts of interest to maintain public confidence. This result in part flowed from a failure to appreciate the role of Council members and of Council as a whole. That lack of transparency permitted political interests to infiltrate the staff's work, interfering with its efforts to provide objective information and advice to Council. It undermined public confidence in the municipality's actions and negatively affected the reputations of members of Council, staff, and others working to carry out the business of the Town. The legislation about conflicts of interest in effect at the time was confusing. I address this issue in my recommendations below.

It was apparent that all Council members were aware of the *Municipal Conflict of Interest Act*. It was also apparent that it is far too easy to misconstrue the *Municipal Conflict of Interest Act* as addressing all the kinds of conflict of interest that Council members must confront. Despite its name, the *Municipal Conflict of Interest Act* does not provide a complete conflict of interest code for municipal actors. It addresses the pecuniary interests of a narrowly defined group of family members related to a Council member which are by virtue of the *Act* deemed to be pecuniary interests of the Council member. Council members are obligated to avoid all forms of conflicts of interest or, where that is not possible, to appropriately disclose and otherwise address those conflicts.

Like the head of Council, members of Council are trustees of the public interest. Council members must ensure that this trust governs all their actions and decisions. Members of Council must also respect the need for a neutral and impartial public service, which gives its best advice based on the merits of the question before it. When this respect is lacking, staff's work risks becoming politicized and staff are in danger of failing to fulfill their obligations to the public, which in turn creates the risk of loss of public confidence.

The Council as a whole is the directing mind of the municipality, not individual members. It is responsible for setting policies and priorities, allocating resources, and providing direction to staff on the material,

operational, and financial business of the municipality. Council members must not seek to wield that power unilaterally or away from the Council chamber. Explicit Council authorization should be required where Council delegates its authority to a specific member of Council. Council's silence is not the same as Council's consent.

The recommendations below regarding Council members increase the transparency around political decision making and clarify the role of Council members in directing the business of the municipality. The concepts underlying these recommendations are not new. Other public inquiries have made recommendations similar to some of mine. I reiterate them here because the matters I examined in Parts One and Two of the Inquiry illustrated the need for increased commitment to these core principles.

Amendments to the Ontario Municipal Act, 2001

- 7** The Province of Ontario should amend the *Municipal Act* to define the roles and responsibilities of individual Council members.⁶ It should be made clear that only Council as a whole, not a single Council member, has the authority to direct staff to carry out a particular function, or act on any other matter, unless specifically authorized by Council.

- 8** The Province of Ontario should amend the *Municipal Act* to include a provision mandating the annual proactive financial disclosure of private interests of elected municipal officials. Proactive financial disclosure is critical to transparency. The requirement should state that Council members must provide financial disclosure within 90 days of assuming office. Types of financial interests that Council members should disclose include profession, employment, or businesses; debts, property holdings, and directorships; as well as a list of family members who have related financial interests in these matters. Disclosure of these financial interests should be consistent with the disclosure currently required of provincial and federal

elected officials in Canada. A record of these disclosures by Council members should be available to the public.⁷

Before enacting this provision in the *Municipal Act*, the Province should consult Council members in municipalities across Ontario.

- 9** Section 223.2(4) of the *Municipal Act* states the Minister of Municipal Affairs may make regulations prescribing one or more subject matters that a municipality is required to include in a code of conduct. Regulation 55/18 of the *Municipal Act*,⁸ which prescribes the subject matters that must be included in codes of conduct for Council members, should be amended to require that municipal codes of conduct for Council members include provisions on real, apparent, and potential conflicts of interest.
- 10** The Province of Ontario should amend the *Municipal Act* to require that the Staff / Council Relations Policy in each municipality contain specific provisions. For example, the Staff / Council Relations Policy should include the following:

 - a** Council members must respect the role of staff to provide advice based on objectivity and political neutrality and without undue influence from an individual Council member or group of Council members;
 - b** no member of Council shall use, or attempt to use, his or her power or authority to pressure, intimidate, threaten, coerce, or command a staff member in order to interfere with the staff member's duties;
 - c** no Council member shall maliciously or falsely injure the professional or the ethical reputation of staff and all Council members must treat staff with respect and courtesy;
 - d** only Council as a whole – and no single Council member – has the authority to direct staff to carry out a particular function unless specifically authorized by Council.⁹

- 11** The Province of Ontario should amend section 246 of the *Municipal Act* to state that, if a member abstains from voting because of a real, apparent, or potential conflict of interest, this should not be deemed a negative vote, but instead recorded as an abstention.

***Amendments to the Municipal Conflict of Interest Act*¹⁰**

- 12** The Province of Ontario should amend the *Municipal Conflict of Interest Act* to broaden its scope beyond deemed pecuniary interest to encompass any real, apparent, and potential conflict of interest.

EXPANSION OF DEEMED PECUNIARY INTEREST

- 13** The Province of Ontario should amend the *Municipal Conflict of Interest Act* to include an expanded group of family members. At a minimum, this should include:
 - a** spouse, common-law partner, or any person with whom the person is living with as a spouse outside marriage;
 - b** parent, including stepparent, and legal guardian;
 - c** child, including stepchild;
 - d** grandchild;
 - e** siblings;
 - f** aunt, uncle, nephew, niece, first cousins; and
 - g** in-laws, including mother- and father-in-law, sister- and brother-in-law, and daughter- and son-in-law.¹¹
- 14** The Province of Ontario should amend the *Municipal Conflict of Interest Act* to state that the real and apparent conflicts of interest of the expanded group of family members are also deemed to be the conflicted interest of the Council member.

Disqualifying and Non-disqualifying Conflicts of Interest

- 15** The Province of Ontario should amend the *Municipal Conflict of Interest Act* to define disqualifying and non-disqualifying interests. A disqualifying interest prevents Council members from participating in debate, voting on the issue, or attempting to influence other Council members or staff at the municipality. A non-disqualifying interest is one which, upon proactive disclosure by the Council member, permits the member to vote on the issue, engage in discussions with other members of Council, or participate in debate.¹²

- 16** The Province of Ontario should explicitly provide that Council members can rely on advice from the integrity commissioner as to whether a disqualifying or non-disqualifying interest exists in a particular matter.

The Collingwood Code of Conduct for Council Members

- 17** The Code of Conduct should state that Council members must perform their duties with integrity, objectivity, transparency, and accountability to promote public trust and confidence. The public is entitled to expect the highest standards of conduct from the individuals they elect to local government. This provision should be placed in the body of the Code of Conduct for Council members and not in the preamble to the Code.¹³

- 18** The Code of Conduct should state that Council members at the Town of Collingwood must comply with all applicable provincial and federal legislation, Town bylaws, and Town policies concerning “their position as an elected official.”¹⁴

- 19** The Code of Conduct should include a provision mandating the annual financial disclosure of private interests of all elected

municipal officials. The provision should state that Council members are required to provide financial disclosure within 90 days of assuming office. Types of financial interests that should be disclosed include profession, employment, or businesses; debts; property holdings; and directorships; as well as a list of immediate relatives who might have financial interests in these matters. (Recommendation 29 discusses which family relationships constitute “immediate relatives.”) A record of these disclosures by Council members should be available to the public.

- 20** The Code of Conduct should explicitly state that Council members at the Town of Collingwood must discharge their duties in a manner that not only promotes public confidence in the integrity of the individual Council member but also fosters respect for Council as a whole.¹⁵
- 21** The Code of Conduct should reflect the differences in the roles and responsibilities of Council members and staff. Council members should fully understand the roles of staff and never blur the distinction between their duties as elected officials and that of staff at the Town of Collingwood. For example, the Code of Conduct for Council members and the Code of Conduct for staff should state that it is the staff at the Town of Collingwood who are responsible for: a) undertaking research and providing objective, politically neutral advice to Council on policies and programs of the Town of Collingwood, b) implementing Council’s decisions and establishing “administrative practices and procedures to carry out Council’s decisions,” and c) carrying out other duties required under legislation including the *Municipal Act* and “other duties assigned by the municipality.”¹⁶
- 22** The Code of Conduct should provide that Council members must “encourage public respect for the” Town’s bylaws

and policies and should “convey information ... openly and accurately” on adopted policies, procedures, and decisions at the Town of Collingwood.¹⁷

- 23** The Code of Conduct should state that Council members at the Town of Collingwood shall not “use the influence of [their] office for any purpose other than for the exercise of [their] official duties.”¹⁸
- 24** The Code of Conduct should state that Council members at the Town of Collingwood must respect “the role of staff to provide advice based on political neutrality and objectivity and without the undue influence” of a Council member or group of Council members.¹⁹
- 25** The Code of Conduct should state that Council members at the Town of Collingwood should not falsely or maliciously “injure the professional or ethical reputation” of any staff member.²⁰
- 26** The Code of Conduct should state that Council members must be aware of and comply with the requirements of the Lobbyist Code of Conduct. (See the recommendations on lobbying.)
- 27** The Code of Conduct should contain specific provisions addressed to apparent and potential conflicts of interest as well as real conflicts of interest.²¹
- 28** The Code of Conduct should state that Council members must understand and adhere to their obligations concerning real, apparent, and potential conflicts of interest under the *Municipal Act*, the *Municipal Conflict of Interest Act*, the Code of Conduct for Council members in Collingwood, and other relevant Town policies and legislation.

- 29** The Code of Conduct should define “immediate relatives” to include a spouse, common law partner, or any person with whom the person is living as a spouse outside marriage; parent, including stepparent, and legal guardian; child, including stepchild; grandchild; sibling; aunt, uncle, nephew, niece, first cousin; and in-laws, including mother- and father-in-law, sister- and brother-in-law, and daughter- and son-in-law.²²
- 30** The Code of Conduct should state that the pecuniary interests of the expanded group of “immediate relatives” are also deemed to be the interest of the Council member.
- 31** The Code of Conduct for Council members in Collingwood should include provisions on disqualifying and non-disqualifying interests. The Code should prohibit Council members from participating in “decision-making processes” related to “their office when they have a disqualifying interest in the matter.”²³

A disqualifying interest is “an interest in a matter, that by virtue of the relationship between the Member of Council and other persons and bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could not participate impartially in the decision-making processes related to the matter.”²⁴

A non-disqualifying interest is “an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could participate impartially in the decision-making processes related to the matter,”²⁵ if

- a** the Council member “fully discloses the interest” and provides “transparency” regarding the relationship;²⁶

- b** the Council member thoroughly explains “why the interest does not prevent” the Council member “from making an impartial decision on the matter;”²⁷
- c** the Council member promptly files a Transparency Disclosure Form established by the Town which is available to the public and posted on the Town of Collingwood website.²⁸

Whether a Council member is challenged or not, the assessment of whether a disqualifying or non-disqualifying interest exists should be subject to the advice of the integrity commissioner.

- 32** The Code should explicitly state that “only Council as a whole,” and no single Council member, “unless specifically authorized by Council,” “has the authority to direct” any staff “to carry out a particular function,” policy, or matter.²⁹
- 33** Notwithstanding that this type of conduct is unacceptable in any context, the Code should explicitly state that no Council member shall “use or attempt to use their authority or influence” to threaten, coerce, intimidate, command, or otherwise influence “any staff member with the intent of interfering with that person’s duties.”³⁰
- 34** The Code should state that Council members must “represent the public and the interests” of the Town of Collingwood with objectivity and impartiality and that “the acceptance of a gift, benefit, or hospitality can imply favoritism,” influence, or bias on the part of the Council member.³¹
- 35** The Code of Conduct should prohibit Council members from accepting gifts, favours, entertainment, meals, trips, or benefits of any kind from lobbyists.³²

- 36** The Code of Conduct should state that a Council member shall not receive gifts, favours, benefits, or hospitality which “a reasonable member of the public” would believe is “gratitude for influence, to induce influence,” or goes beyond the “appropriate public functions involved. For these purposes, a gift, benefit, or hospitality provided” to an “immediate relative” as defined in the recommendations, or to the Council “member’s staff, that is connected directly or indirectly to the performance of the” Council member’s duties is deemed to be a gift, benefit, or hospitality to that Council member.³³
- 37** The Code of Conduct should contain a provision prohibiting Council members from accepting gifts, favours, entertainment, trips, or benefits of any kind from any bidder or potential bidder in either the pre-procurement phase or during the procurement process.
- 38** “To enhance transparency and accountability” concerning gifts, favours, benefits, and hospitality, Council members should be required to file a disclosure statement each month relating to all such gifts, favours, benefits, hospitality, including any sponsored travel. The integrity commissioner should add the disclosure statement to the public gifts registry operated by the integrity commissioner. The disclosure statement should at a minimum indicate:
- a** the source of the gift, favour, benefit, hospitality;
 - b** a description of the gift, favour, benefit, or hospitality;
 - c** “its estimated value”;
 - d** the circumstances in which the Council member received it;
 - e** the date of the gift, favour, benefit, or hospitality;
 - f** the estimated value of the gifts, favours, benefits, hospitality received by the Council member from that person, organization, or group in the previous 12 months.³⁴

- 39** Council members should be encouraged to seek advice from the integrity commissioner regarding the propriety of accepting any gift, favour, benefit, or hospitality.³⁵
- 40** The gifts registry should be regularly updated and posted on the Town of Collingwood's website for public viewing.
- 41** The Code of Conduct should contain provisions on the appropriateness of a Council member attending charity events.³⁶
- 42** The Code of Conduct should state that Council members cannot use their position to “influence the decision of another person to the private advantage” of the Council member, his or her family and/or “immediate relatives” as defined in these recommendations, friends, business associates, or staff at the Town of Collingwood.³⁷
- 43** The Code of Conduct should contain comprehensive provisions concerning confidential information.³⁸
- 44** The Code of Conduct should prohibit Council members from using confidential information and non-public information received by virtue of their position, for personal or private gain, for the gain of family or “immediate relatives” (defined in Recommendation 29), or of any person or corporation. This information includes emails and correspondence from other Council members or third parties.³⁹
- 45** The Code of Conduct should state that Council members at the Town of Collingwood should not “disclose or release by any means” to any person, in oral or written form, “confidential information acquired by virtue of their office,” except when “required by law or when authorized explicitly by Council to do so.”⁴⁰

- 46** The Code of Conduct should state that Council members must not use confidential information to cause harm or detriment to Council or the Town of Collingwood.⁴¹
- 47** The Code of Conduct should state that Council members must keep information confidential both during and after their terms as Council members.⁴²
- 48** The Code of Conduct should state that no Council member shall “access or attempt to gain access to confidential information in the custody of the” Town of Collingwood “unless it is necessary for the performance of their duties and is not prohibited by Council policy.”⁴³
- 49** The Code of Conduct should state that no Council member shall “directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of ... property or assets” at the Town of Collingwood.⁴⁴
- 50** Council members who hold positions on municipal corporations at the Town of Collingwood may be in a conflict of interest position. Council members who believe they might have a potential, real, or apparent conflict of interest regarding their responsibilities and obligations to Council and their responsibilities and obligations to the municipal corporation should seek the advice and guidance of the integrity commissioner.
- 51** Former Council members should not accept employment for one year on specific matters on which they worked as an elected official at the Town of Collingwood.
- 52** The Code should state that Council members who have reasonable grounds to believe that a violation of the Code of Conduct has occurred should promptly report such behaviour

or activity in writing to the integrity commissioner or his or her delegate.

- 53** Integrity commissioners require sufficient resources to investigate promptly complaints of violations of the Code of Conduct for Council members and to take prompt action where a complaint is well founded.
- 54** Council members must fully co-operate during an investigation of alleged wrongdoing concerning any activity or behaviour contained in the Code of Conduct. Sanctions should exist for Council members who fail to co-operate with such investigations of the integrity commissioner.⁴⁵
- 55** Reprisal or retaliation by a Council member against a complainant, witness, or other person involved in an investigation should be prohibited, and such behaviour should result in the imposition of an appropriate penalty on the Council member.⁴⁶
- 56** Ethical misconduct by Council members is serious misconduct and the penalties should reflect this. An appropriate range of penalties for Council members must exist for violations of the Code of Conduct and other ethical policies and bylaws. This range includes a reprimand, suspension of remuneration paid to the Council member, a public oral or written apology by the Council member, the return of property or reimbursement of its value or monies spent, removal from membership of a committee, or removal as chair of a committee. The integrity commissioner should have the authority to recommend to Council any of these sanctions.⁴⁷
- 57** The integrity commissioner should have the necessary resources to provide ethical education and material for Council members. Council members must receive training

and education on the Code of Conduct, conflict of interest rules, and other pertinent legislation and policies. Conveying accurate and comprehensive information to Council members on managing conflicts must be a priority. The training should also make it clear that each time a Council member reviews a report, the Council member should consider whether the report affects his or her business interests or property, or whether it affects a family member, relative, or friend.⁴⁸

- 58** Training and education are critical to promoting and maintaining a strong ethical culture at the Town of Collingwood. Training should be mandatory and occur at regularly scheduled times. When new legal and other issues arise, Council members should receive timely additional training and education.⁴⁹
- 59** Training and education of newly elected Collingwood Council members by the integrity commissioner should be mandatory and occur promptly after the election.
- 60** An online provincial training program should also be created with the involvement of municipal integrity commissioners. All newly elected Council members should be required to take this training program.
- 61** A public record of the subjects of the training sessions provided to Council members as well as the attendance of Council members at the training sessions should be maintained.
- 62** The integrity commissioner should meet with each Council member on an annual basis.⁵⁰
- 63** Council members should be encouraged to seek guidance and advice on ethical issues including the Code of Conduct from the integrity commissioner or his or her designate.⁵¹

- 64** The integrity commissioner should regularly forward interpretation bulletins and educational material to all Council members on the Code of Conduct, conflict of interest rules, and other pertinent legislation and policies.⁵²
- 65** The website of the integrity commissioner should contain the Code of Conduct, FAQs, and other educational material on the ethical obligations of Council members.⁵³
- 66** The integrity commissioner should be responsible for holding meetings for prospective candidates seeking to become Council members in a municipal election at the Town of Collingwood. The integrity commissioner should educate potential candidates on conflicts of interest, the Code of Conduct for Council members, and all relevant policies and statutory provisions. This information will enable individuals to make informed choices about seeking election to the Collingwood Town Council.⁵⁴
- 67** The integrity commissioner should be responsible for submitting an annual report to Council on the number of Code of Conduct complaints received and processed, the nature of the allegations, the resolution of the complaints, and any recommendations made by the integrity commissioner. Council should disclose this annual report at an open Council meeting. The annual report should be available to the public and placed on the website of the integrity commissioner.⁵⁵
- 68** Council members at the Town of Collingwood should be required to sign annually an acknowledgement that they are aware of their obligations and will abide by the provisions in the Code of Conduct for Council members.⁵⁶
- 69** The Code of Conduct should regularly be reviewed when relevant legislation is amended, and at other times when

appropriate, to ensure that it remains current for Council members at the Town of Collingwood.⁵⁷

Chief Administrative Officer

It was apparent in the matters I examined in Parts One and Two of the Inquiry that the importance of the chief administrative officer (CAO) in the proper functioning of the Town was not appreciated. This lack of appreciation manifested itself in the manner that the role was treated publicly and in the approach to the role taken behind closed doors. This failure weakened a key pillar in the structure of the municipality, contributed to the blurring of the boundary between Council and staff, and made it easier to avoid proper procedure in the pursuit of Council's goals. It was also detrimental to the staff's confidence and morale and interfered with their efforts to provide objective information to Council.

The CAO is a full-time position that comes with significant responsibility. Someone with the education and experience required to maintain a culture of integrity and to provide the best information and advice to Council should always fill the CAO role. The CAO must operate independently, advising Council and carrying out Council's direction while remaining unaffected by political influence.

The recommendations that follow focus on providing a clear framework for the CAO role, including hiring, training, tenure, responsibilities, and a mechanism for addressing complaints about the CAO's conduct.

Amendments to the Ontario Municipal Act, 2001⁵⁸

- 70** The Province of Ontario should amend section 229 of the *Municipal Act* to mandate that municipalities the size of the Town of Collingwood appoint a chief administrative officer.⁵⁹

- 71** The Province of Ontario should amend the *Municipal Act* to describe fully the role and responsibilities of the chief administrative officer.⁶⁰

Town of Collingwood

- 72** The Town of Collingwood should establish in a bylaw the position of chief administrative officer (CAO) and must appoint a person to that position. This bylaw should define and describe the role and responsibilities of the CAO at the Town of Collingwood.⁶¹
- 73** As head of the public service, the chief administrative officer should have clear responsibilities and accountability for managing the administration of the Town, which must be described fully in the bylaw.⁶²
- 74** The bylaw should state that there must be a distinct separation between the administrative role of the chief administrative officer and the political role of the mayor and Council members.
- 75** The bylaw should state that the chief administrative officer (CAO) provides advice to Council, and receives instructions and policy directions from Council, and that the CAO must work with staff to ensure Council's directives are carried out.
- 76** The bylaw should state that the chief administrative officer (CAO) has a responsibility to provide impartial advice to Council. It should also state that the CAO has the ultimate responsibility for the accuracy of information presented to Council.
- 77** The chief administrative officer (CAO) should be the only member of staff who reports to Council. All other staff report

to the CAO. Where the CAO delegates his or her authority, such delegation should be explicit.⁶³

- 78** The bylaw should state that the chief administrative officer (CAO) must have the authority to direct staff at the Town of Collingwood and ensure that staff respect the separation between elected members on Council and staff. It is the role of the CAO, not the mayor or other members of Council, to direct staff.
- 79** The bylaw should state that the chief administrative officer is responsible for leading and fostering a “culture rooted in the highest ethical standards” for staff at the Town of Collingwood.⁶⁴
- 80** There should be training for new chief administrative officers at the Town of Collingwood on the role and responsibilities of the position, codes of conduct and policies on ethical obligations, Town bylaws, and relevant statutes such as the *Municipal Act* and *Municipal Conflict of Interest Act*.
- 81** There should be training for the mayor and Council members on the role and responsibilities of the chief administrative officer.
- 82** The chief administrative officer's term should be a six-year non-renewable term.
- 83** A process for complaints regarding the chief administrative officer should be established. Such complaints should be reported to the integrity commissioner.⁶⁵
- 84** Any reprisal or retaliation against a complainant, witness, or other persons for providing information to the integrity commissioner should be prohibited.⁶⁶ Similarly, it should also be prohibited for the chief administrative officer (CAO) to obstruct the integrity commissioner in her or his investigation.

Such behaviour on the part of the CAO should result in the imposition of an appropriate penalty.

- 85** Termination of the chief administrative officer before the end of his or her term of employment should require a two-thirds vote of members of Council.

Staff

Municipal staff are imperative to the functioning of the Town. It is staff's role to provide Council with objective information and recommendations, to inform Council's decision making, and to carry out Council's directions in a manner that maintains public confidence in the integrity of Council, staff, and the municipality. Staff are subject to a number of pressures and require clear guidelines, boundaries, and resources to respond appropriately. The consequences of failing to protect and support staff were apparent in the Part One and Two hearings. The evidence proved that political will trumped proper process, and public confidence was lost along the way.

The recommendations below are intended to clarify staff's role, reiterate staff's ethical obligations, and articulate mechanisms to address issues that arise in municipal public service.

Amendments to the Ontario Municipal Act, 2001

- 86** The Province of Ontario should amend the *Municipal Act* to mandate that each municipality establish a Code of Conduct for staff.⁶⁷
- 87** The Province of Ontario should amend the *Municipal Act* to declare that staff are expected to be neutral, objective, and impartial in all their work for the municipality.

Code of Conduct

- 88** The Town of Collingwood should pass a bylaw establishing a comprehensive Code of Conduct for staff. The Code of Conduct should set standards of ethical conduct designed to promote and protect the public interest and enhance public confidence and trust in the integrity, objectivity, impartiality, honesty, accountability, diligence, and transparency of all staff at the Town of Collingwood.⁶⁸
- 89** The Code of Conduct at the Town of Collingwood “should be written in plain language” and easily understandable by staff and members of the public.⁶⁹
- 90** Staff at the Town of Collingwood should be mandated to sign an annual acknowledgement that they are aware of their obligations under the Code of Conduct and will adhere to and uphold the provisions in the Code.⁷⁰
- 91** The Code of Conduct should state that staff at the Town of Collingwood must conduct themselves in an ethical manner with integrity, objectivity, impartiality, honesty, accountability, diligence, and transparency.⁷¹
- 92** The Code of Conduct should state that staff at all times should act, and be seen to act, in the public interest to maintain public confidence and trust in the Town of Collingwood.⁷²
- 93** The Code of Conduct should state that the role of staff is the implementation of Council’s decisions and the establishment of “administrative practices and procedures to carry out” the decisions of Council.⁷³
- 94** The Code should state that staff must undertake research and provide impartial and objective advice to Council concerning

the policies and programs of the Town of Collingwood and other duties assigned by the municipality, including those required under legislation such as the *Municipal Act*.⁷⁴

- 95** Staff should take measures to ensure that they are not influenced in their advice or recommendations to Council by an individual Council member or group of Council members. Staff are obligated at all times to provide information to Council that is politically neutral. There must be a clear separation between Council and staff when staff are formulating their advice and recommendations.⁷⁵
- 96** Staff have an obligation to speak the truth to their superiors and to Council.⁷⁶
- 97** Staff must not conceal or manipulate information. Staff must never intentionally misrepresent facts or information.⁷⁷
- 98** Staff must not use intimidation or fear in the workplace.⁷⁸ Staff must not inappropriately disclose or share confidential information.⁷⁹
- 99** Staff must be aware of and comply with the requirements of the Lobbyist Code of Conduct.⁸⁰

CONFLICTS OF INTEREST

- 100** The Code of Conduct for staff at the Town of Collingwood should provide detailed rules on conflicts of interest including real, apparent, and potential conflicts of interest.⁸¹
- 101** Staff should be prohibited from participating “in the analysis of information” or making any “decisions on an issue or matter in which” staff have “a real or apparent conflict of interest.”⁸²

- 102** The Code of Conduct should prohibit staff from using their positions at the Town of Collingwood “to further their private interests.”⁸³
- 103** The Code of Conduct should explicitly state that staff are prohibited from giving preferential treatment to family, relatives, or friends.⁸⁴
- 104** Staff “shall not use information for personal or private gain” or the gain of family, relatives, or friends.⁸⁵
- 105** Staff must take immediate action to prevent or resolve real, apparent, or potential conflicts of interest.⁸⁶
- 106** Staff must promptly inform the chief administrative officer in writing “that they are unable to act on a matter in which there is a real or apparent conflict of interest.”⁸⁷
- 107** Staff shall “decline employment, including self-employment,” with regard to matters that are incompatible or in conflict with the staff’s official responsibilities and duties at the Town of Collingwood.⁸⁸
- 108** Staff who hold positions on a municipal corporation at the Town of Collingwood may be in a conflict of interest position. Staff who believe they might have a potential, real, or apparent conflict of interest regarding their responsibilities and obligations to Council and their responsibilities and obligations to the municipal corporation should seek the advice and guidance of the chief administrative officer.

REPORTS

- 109** The Code of Conduct should state that staff reports must be objective and identify a full range of options for Council to consider. The risks associated with options must be clearly and fully presented. At no time should the fiscal impacts of any option be minimized by staff.⁸⁹
- 110** Staff at the Town of Collingwood should receive training on drafting clear, accurate, objective, and comprehensive reports.
- 111** Staff reports, including draft reports, should not be shared or disclosed to individual Council members or groups of Council members, except where explicitly authorized by Council.⁹⁰ If a Council member requests information from staff, the requested information should be provided to all Council members.⁹¹ The Code should provide that every effort should be made by staff to ensure that each member of Council has the same information.
- 112** The Code of Conduct should state that staff should not summarize or explain the findings of a consultant's report. A consultant should be available to speak to Council and respond to questions and issues that arise from the consultant's report. If the report is lengthy, the consultant should provide an executive summary of the report.⁹²

GIFTS

- 113** The Code of Conduct for staff at the Town of Collingwood should contain a provision prohibiting staff from accepting gifts, favours, entertainment, meals, trips, or benefits of any kind from lobbyists.⁹³

- 114** The Code of Conduct for staff at the Town of Collingwood should contain a provision prohibiting staff from accepting gifts, favours, entertainment, meals, trips, or benefits of any kind from any bidder or potential bidder in either the pre-procurement phase or during the procurement process.⁹⁴
- 115** Staff should be permitted in certain circumstances “to accept gifts, entertainment,” or “benefits of nominal value.”⁹⁵ Any gifts received should be reported on a Town of Collingwood gift registry to promote and ensure transparency.⁹⁶
- 116** Staff should be encouraged to consult and seek advice from the chief administrative officer or his or her designate regarding the propriety of accepting a gift.
- 117** The gift registry should contain at a minimum the following information:
- a** the name and position of the staff who received the gift;
 - b** the person, organization, or group who gave the gift;
 - c** “a description of the gift”;
 - d** the date on which it was received;
 - e** its estimated value; and
 - f** the estimated value of gifts received by the staff from that person, organization, or group in the previous 12 months.⁹⁷
- 118** The gift registry should be regularly updated and posted on the Town of Collingwood website for public viewing.

VIOLATIONS OF CODE OF CONDUCT, INVESTIGATIONS, AND SANCTIONS

- 119** Staff “who have reasonable grounds to believe a violation of the Code of Conduct has occurred” should promptly report in

writing such behaviour or activity to the chief administrative officer or his or her designate.⁹⁸

- 120** Complaints of alleged violations of the Code of Conduct should be investigated promptly and appropriate actions taken when there is a violation.⁹⁹
- 121** The Code of Conduct should contain reprisal protection for staff at the Town of Collingwood. The purpose of such protection provisions is to facilitate disclosure of wrongdoing, ensure that disclosures of wrongdoing are investigated, and protect from reprisal staff who report wrongdoing in good faith.¹⁰⁰
- 122** Reprisal or retaliation should be prohibited against a complainant, witness, or other persons involved in an investigation. Reprisal or retaliation should “result in appropriate disciplinary action.”¹⁰¹
- 123** All staff must fully co-operate “during an investigation of alleged wrongdoing” concerning any activity or behaviour contained in the Code of Conduct.¹⁰² Sanctions should exist for staff who fail to co-operate with such investigations by the chief administrative officer.
- 124** Any staff “found to have violated the Code of Conduct may be subject to disciplinary action,” “including discharge from employment.” A clear message must be sent that ethical misconduct by staff is serious misconduct and the penalties should reflect this principle.¹⁰³

TRAINING AND EDUCATION

- 125** Regular training and education are critical to promoting and maintaining a strong ethical culture at the Town of Collingwood.

The chief administrative officer should have the mandate and resources to provide ethical education programs and material for staff.

- 126** Training for staff on the Code of Conduct and their ethical obligations should be mandatory and occur at regularly scheduled times. In circumstances in which new legal and other related issues arise, there should be timely additional staff education and training.¹⁰⁴
- 127** Training on the Code of Conduct for staff should be practical and job-related to ensure that it is relevant to staff in different departments and various positions at the Town of Collingwood.
- 128** Information bulletins and other educational materials regarding the ethical obligations and Code of Conduct for staff should be sent regularly to staff at the Town of Collingwood.
- 129** Staff should be encouraged to seek guidance and advice on ethical issues from the chief administrative officer or his or her designate.¹⁰⁵
- 130** Hiring practices “should include appropriate questions designed to elicit perspective on the ethics” of a person applying for a position at the Town of Collingwood. Responses to ethical issues should be an essential consideration in the Town's hiring decisions.¹⁰⁶
- 131** Staff newly hired at the Town of Collingwood “should receive immediate training” on the Code of Conduct for staff.¹⁰⁷
- 132** The Code of Conduct for staff should be available to the public and posted on the Town of Collingwood website. Publication of the Code of Conduct may assist the public, including anyone considering work in the public service, in understanding the

responsibilities of public service holders and the manner in which they are expected to conduct themselves.

FORMER STAFF

- 133** Former Town of Collingwood staff should “not directly or indirectly use or disclose” any confidential information obtained during their employment at the Town of Collingwood.¹⁰⁸
- 134** Former Town of Collingwood staff should not accept employment for one year on specific matters on which they worked in their positions at the Town of Collingwood.

MANAGEMENT

- 135** The Code of Conduct for staff should contain specific provisions addressed to management at the Town of Collingwood.¹⁰⁹
- 136** The Code of Conduct should state that management at the Town of Collingwood should lead and promote a culture of the “highest ethical standards.”¹¹⁰
- 137** The Code of Conduct of staff should state that management at the Town of Collingwood should at all times behave in a way that is “consistent with the Code of Conduct.”¹¹¹
- 138** Management should “establish and maintain” “systems, procedures, and controls” to support compliance with the Code of Conduct for staff at the Town of Collingwood.¹¹²
- 139** Management should take appropriate steps both to prevent and to put an end to violations of the Code of Conduct that

come to their attention.¹¹³ They should deal expeditiously with any issues or allegations of violations of the Code of Conduct.¹¹⁴ Management with reasonable grounds to believe that a violation of the Code of Conduct has occurred should promptly report such behaviour or activity in writing to the integrity commissioner or his or her designate.

- 140** Information disclosed by management to a member of Council should be shared with all members of Council.¹¹⁵
- 141** Management should ensure that staff receive regular training and educational sessions on the Code of Conduct and other relevant ethical policies and guidelines.¹¹⁶
- 142** Management should “promote a safe and healthy workplace” that encourages all staff to report allegations of violations of the Code of Conduct without “fear of reprisal or retaliation.”¹¹⁷
- 143** To ensure that the Town receives the benefit of the relevant expertise of its staff, the Code of Conduct should state that every major initiative at the Town of Collingwood should be disclosed to and considered by the chief administrative officer and all members of management.

Procurement

Part One of the Inquiry, which examined how Council procured a strategic partner for its electric utility, and Part Two of the Inquiry, into how Council procured recreational facilities, revealed a failure to appreciate and follow proper procurement procedures. The two transactions I examined demonstrated a lack of transparency; a misconception of the roles of Council, staff, the Town solicitor, and suppliers; and a failure to appreciate the need for equitable treatment of proponents to secure the best information and prices the market has to offer.

The importance of transparency and fairness in public sector procurement is not a new concept. Prior municipal inquiries have made recommendations regarding procurement, and some of those recommendations are reflected here. I repeat and reiterate these recommendations because issues continue to arise despite the guidance previously issued. These core concepts remain as important as ever because, as former Ontario Superior Court Justice Denise Bellamy observed, “procurement is the biggest shopping with the people’s money that gets done in government.”¹¹⁸ If the integrity of procurements is maintained, so too is public confidence; if that confidence is lost, great efforts are required to restore it.

In the public sector, political actors are to remain at arm’s length from the procurement process. Council as a whole develops procurement policies and processes, identifies municipal needs and sets budgets, and makes final procurement decisions informed by staff’s non-partisan research and recommendations. There is no appropriate role for individual Council members in the execution of a procurement process. Council members must ensure that they guard against the risk of politicizing the procurement process. The chief administrative officer and senior staff must also do so.

Staff ensure successful public procurement through effective planning, maintaining clear and public policies, running transparent procurement processes, and executing and managing contracts with the successful proponents. The Town solicitor is a key member of the procurement team and must be involved from the inception of any major procurement.

Suppliers who wish to do business with the municipality must act ethically. Council members, staff, and suppliers must be aware of any potential conflicts of interest posed by a procurement and, as they are obliged to do, they must avoid those conflicts where possible, and address them appropriately where avoidance is not a viable option. These obligations continue throughout the procurement process.

The recommendations that follow articulate the goals and objectives that should guide municipal procurement and delineate the appropriate roles, responsibilities, and obligations of municipal and other actors in procurement.

Amendments to the Ontario Municipal Act, 2001¹¹⁹

144 The *Municipal Act* requires municipalities to adopt and maintain policies regarding the procurement of goods and services. The Province of Ontario should amend the *Municipal Act* to state that municipal procurement policies must be designed to promote the following objectives: openness, honesty, fairness, integrity, accountability, and transparency in the procurement process; competition in the procurement process; the best value for money for goods and services; equitable treatment of suppliers in the procurement process; and maintaining public confidence in the municipal procurement process.

Procurement at the Town of Collingwood

145 Procurement at the Town of Collingwood should be open, fair, ethical, and transparent.¹²⁰

146 The goals and objectives of the procurement bylaw and related policies and codes of conduct at the Town of Collingwood should:¹²¹

- a** promote openness, honesty, fairness, integrity, accountability, and transparency in the procurement process;
- b** encourage competition in the procurement process;
- c** prevent conflicts of interest – real, apparent, and potential – between suppliers and the Town’s elected officials and staff;
- d** ensure that goods and services are acquired at the best value for money;
- e** require that suppliers are treated equitably, consistently, and without discrimination throughout the entire procurement process;

- f** clearly identify the roles, responsibilities, and accountability of individuals involved in the procurement process, including the purchasing officer, the treasurer, procurement staff, department heads, consultants, senior staff, and the Town solicitor; and
- g** instill confidence in the public and in participants in the procurement process.

COMPETITIVE PROCUREMENT PROCESSES

- 147** There should be a strong presumption in favour of mandatory competitive tendering for all procurements at the Town of Collingwood. Criteria for exemption from competitive tendering should be strictly defined in the purchasing bylaw. A competitive procurement process should be used for procurements at the Town of Collingwood unless the conditions are met for a non-competitive procurement process.¹²²

NON-COMPETITIVE PROCUREMENT PROCESSES

- 148** The Town of Collingwood should be required, except for emergency situations, to issue an advance contract award notice when it plans to proceed with a non-competitive procurement process. Issuing an advanced contract award gives potential suppliers the opportunity to indicate whether they can meet the business needs of the Town and it provides the Town with information as to whether there is competition in the marketplace. The advance contract award informs members of the public that the Town intends to engage in a non-competitive procurement process and it promotes transparency and openness.¹²³

- 149** Exceptions to a competitive process, such as sole sourcing and single sourcing, should be delineated in the purchasing bylaw. Emergencies and monopolies are examples of situations in which a non-competitive procurement process may be appropriate. Other examples are lack of response to a competitive process, and a single supplier in the marketplace for the particular goods or services required by the Town.¹²⁴
- 150** Lack of planning or insufficient time to conduct a competitive procurement, except in an emergency situation, should not be an allowable exception.¹²⁵
- 151** A high level of scrutiny is necessary for non-competitive procurements.¹²⁶ The approval of the treasurer must be obtained to proceed with a non-competitive procurement.

UNSOLICITED PROPOSALS

- 152** The procurement bylaw should specify the conditions for unsolicited proposals.¹²⁷
- 153** The procurement bylaw should state that there must be one point of contact within Town staff for unsolicited proposals.¹²⁸
- 154** Before an unsolicited proposal is accepted, the Town should notify the marketplace that it plans to proceed with the unsolicited proposal. Notification should occur in a way that allows suppliers to compete and enable the Town to determine if another supplier has a superior proposal.¹²⁹
- 155** The treasurer should submit a report on the non-competitive and competitive procurement transactions annually to Council in an open session.¹³⁰ This promotes openness, integrity, accountability, and transparency in the procurement process.

TRAINING

- 156** Procurement staff at the Town of Collingwood should receive comprehensive and regular training on the procurement bylaw, procurement policies and practices, and relevant codes of conduct. Training should be mandatory and should include ethical issues that arise in the procurement process.¹³¹
- 157** Procurement staff at the Town of Collingwood should engage in discussions with procurement staff in other municipalities and in the province of Ontario to share best practices.¹³²
- 158** Senior staff and Council members should also be trained on the principles and objectives of the procurement bylaw, related policies, and codes of conduct. This training should include the ethical principles that arise in the procurement process and the presumption of competitive procurement at the Town.
- 159** The Town should make the training and educational material it provides to its procurement staff, senior staff, and Council members available to the public and post it on its website.¹³³

Council

- 160** Council is responsible for requiring and enforcing a fair, transparent, honest, and objective procurement process.¹³⁴
- 161** Council has a minimal role in procurements, and the separation between the role of Council and staff in procurements at the Town must be clear. Council's role is to set the budget and approve the overall procurement plan. In addition, Council must be satisfied that the procurement process is fair, honest, impartial, and equitable before it accepts staff's

recommendation of the supplier who is to be awarded the contract with the Town.¹³⁵

162 Council should be asked to approve the award of contracts where:

- a** the purchase is over budget or the “approved funding is insufficient for the award”,¹³⁶
- b** “the contract is not being awarded to the lowest bid that has met the specifications and terms and conditions of the quotation, tender, or proposal”,¹³⁷
- c** “the award is for a single source contract” or other contract in a non-competitive procurement process in which the total value “of the contract exceeds \$100,000”,¹³⁸
- d** the purchasing officer has recommended an award to a supplier whose response does not meet the specifications and qualification requirements set out in the solicitation or whose response may not represent the best value to the Town based on the evaluation criteria set out in the solicitation;
- e** “a major irregularity precludes the award of a tender to” a “supplier submitting the lowest responsive bid”,¹³⁹
- f** the chief administrative officer or treasurer recommends Council approval,¹⁴⁰
- g** the term of the contract exceeds five years; or¹⁴¹
- h** Council approval is mandated by statute.¹⁴²

163 Council members must remain at arm's length from staff and suppliers in the procurement process. Elected officials should be prohibited from involvement in the selection of the procurement process, evaluation of the bids, or selection of the successful supplier.¹⁴³

164 Council members should not receive or review any information or documents related to a particular procurement during the procurement process.¹⁴⁴

- 165** Council members must adhere to their obligations in the Code of Conduct for Council Members, the Lobbyist Code of Conduct, and other related policies and bylaws that address procurement at the Town.

Role of Staff

- 166** The procurement bylaw should clearly define the roles, responsibilities, and accountability of staff involved in the procurement process.¹⁴⁵
- 167** Procurement staff are responsible for recommending the most appropriate procurement method, overseeing all stages of the procurement process, and interacting with department staff to assess the business needs of the Town.¹⁴⁶
- 168** Procurement staff should identify additional resources, such as a fairness monitor, consultants, or professionals (for example, architects or engineers) to assist in the development or oversight of the procurement.¹⁴⁷
- 169** Staff must adhere to all their obligations in the Code of Conduct for staff and other related codes of conduct, bylaws, and policies related to lobbyists and procurement.

Fairness Monitor

- 170** The Town should retain a fairness monitor for procurements that are complex, high-risk, controversial, or of a substantial dollar value. The fairness monitor promotes the integrity of the procurement process and protects against bias or discriminatory practices.¹⁴⁸

- 171** A fairness monitor should be an independent third party who monitors the procurement process and provides feedback to Council on fairness issues. The fairness monitor should provide an objective, unbiased, and impartial opinion to Council as to whether the procurement process is conducted following the principles of openness, fairness, transparency, honesty, and consistency and in accordance with the procurement bylaw, codes of conduct, and other related policies at the Town. The fairness monitor can also provide guidance and advice on best practices in the procurement process to the Town.¹⁴⁹
- 172** The Town should be satisfied that the fairness monitor has the expertise and specialized knowledge necessary to provide an informed opinion on the particular procurement.
- 173** The decision to retain a fairness monitor is at the discretion of the chief administrative officer.

Consultants

- 174** Before issuing a significant, high-risk, complex, or substantial dollar value procurement, the Town should consider retaining consultants to provide expert advice and guidance.¹⁵⁰
- 175** The retainer agreement should identify the client. The retainer agreement should also provide clear and detailed instructions concerning the responsibilities of the consultant and the work the consultant is to perform.¹⁵¹
- 176** The Town should retain consultants at the beginning of a significant procurement process to provide expert advice, guidance, and assistance throughout the procurement process. Consultants can also offer advice on best practices from other municipalities and other jurisdictions.¹⁵²

- 177** Consultants retained by the Town to provide advice on the procurement process are precluded from submitting a bid or participating as a vendor or purchaser in the procurement process.¹⁵³
- 178** Consultants retained by the Town are prohibited from assisting or providing advice to “any potential bidder in a forthcoming tender.”¹⁵⁴
- 179** Consultants retained by the Town must declare any real, apparent, or potential conflicts of interest.
- 180** Consultant reports should be appended to staff reports. Town staff are precluded from modifying in any way the consultant’s report. If an executive summary of the consultant’s report is required, the consultant, not Town staff, should prepare it.¹⁵⁵

Timing for Submission of Bids

- 181** When dealing with a significant procurement, Town Council should obtain assurance from the chief administrative officer that staff have sufficient time to prepare the solicitation, as well as to evaluate the responses of prospective suppliers.
- 182** When setting deadlines for the submission of bids, the Town should provide sufficient time for suppliers to assess the requirements of the particular procurement and to prepare their bid. Adequate timing will help ensure that the Town receives the best value for the particular goods or services. There are costs associated with short timelines. Some suppliers may not respond to the solicitation, with the consequence that there may be adverse financial impacts to the Town.¹⁵⁶

Code of Conduct for Suppliers

- 183** The Town should establish a Code of Conduct for suppliers to promote a strong procurement process, as well as transparency, fairness, integrity, accountability, and honesty.¹⁵⁷
- 184** As part of the procurement process, the Town should include links and references to its relevant codes of conduct in tender documents, emphasizing that all bidders are under an obligation to be aware of and adhere to the provisions in the codes of conduct. This includes the Code of Conduct for suppliers, the Code of Conduct for lobbyists, the Code of Conduct for Council members, and the Code of Conduct for staff.
- 185** The Code of Conduct for suppliers should state that all suppliers must comply with the provisions in the Code of Conduct.¹⁵⁸ It should also require compliance with all applicable federal laws and provincial laws, including the *Municipal Act* and *Municipal Conflict of Interest Act*, relevant trade agreements, the Town of Collingwood procurement bylaws, and related policies.¹⁵⁹
- 186** The Town should include in all procurement documents a provision stating that sanctions may be imposed for violations of the Code of Conduct for suppliers and other relevant codes of conduct.
- 187** The supplier should provide the Town with a formal statement of compliance with the Code of Conduct for suppliers as a condition precedent to making a bid. The supplier should explicitly agree in the certification that material non-compliance with the Code of Conduct for suppliers, regardless of when it is discovered, is a basis for terminating the contract.¹⁶⁰

HONESTY

- 188** The Code of Conduct for suppliers should state that all suppliers must respond to the Town's "solicitations in an honest, fair, and comprehensive manner that accurately reflects" their ability "to satisfy the requirements ... in the solicitation."¹⁶¹
- 189** "Suppliers shall submit a bid only if they know they can satisfactorily perform all the obligations of the contract in good faith."¹⁶²
- 190** Suppliers must act with integrity and in accordance with their obligations pursuant to their contract with the Town.

CONFIDENTIALITY

- 191** Suppliers must maintain the confidentiality of all "information disclosed to the supplier as part of the" procurement process.¹⁶³
- 192** Any misuse by a bidder of confidential information belonging to the Town or another bidder should be grounds for disqualification of the bid.¹⁶⁴

CONFLICT OF INTEREST

- 193** Suppliers must ensure that all apparent, real, or potential conflicts of interest are appropriately addressed.¹⁶⁵
- 194** "Suppliers must declare and fully disclose any" apparent, real, or potential conflicts of interest or unfair advantage concerning "the preparation of their bid" or "in the performance of" their contract. Examples of such conflicts include:¹⁶⁶

- a** engaging family members, friends, or “business associates of any public office holder” at the Town “which may have, or appear to have, any influence on the procurement process, or subsequent performance of the contract”;¹⁶⁷
- b** “communicating with any person” to obtain “preferred treatment in the procurement process”;¹⁶⁸
- c** engaging current staff or public office holders at the Town to take part “in the preparation of the bid or the performance of the contract, if awarded”;¹⁶⁹
- d** engaging former Town staff or former “public office holders to take any part in the” development “of the bid or the performance of the contract, if awarded, any time within” one year of such person “having left the employ or public office” at the Town;¹⁷⁰
- e** “prior involvement by the supplier or affiliated persons in developing the” “specifications or other evaluative criteria for the solicitation”;¹⁷¹
- f** access to related confidential information “by the supplier, or affiliated persons” that is not readily available “to other prospective suppliers”;¹⁷²
- g** “conduct that compromises, or could be seen to compromise, the integrity of the procurement process.”¹⁷³

COLLUSION AND OTHER UNETHICAL PRACTICES

- 195** No supplier shall communicate, “directly or indirectly, with any other supplier” or their affiliates, regarding the supplier’s submission.¹⁷⁴
- 196** A supplier must “disclose any previous convictions” “for collusion, bid-rigging, price-fixing, bribery, fraud, or other similar” conduct “prohibited under the *Criminal Code*, *Competition Act*, or other applicable law, for which they have not received a pardon.”¹⁷⁵

INTIMIDATION

- 197** “No supplier may threaten, intimidate, harass, or otherwise interfere with any” Town staff or public office holders.¹⁷⁶
- 198** No supplier may “threaten, intimidate, harass, or otherwise interfere with an attempt by any other prospective supplier to bid for a” “contract or to perform any contract awarded by the” Town.¹⁷⁷

GIFTS

- 199** No supplier or potential supplier “shall offer gifts, favours, inducements of any kind to” Town staff “or public office holders, or otherwise attempt to influence or interfere with their duties” and responsibilities concerning the procurement or management of the process.¹⁷⁸
- 200** Town staff are prohibited from accepting gifts, favours, entertainment, meals, trips, or benefits of any kind from suppliers or potential suppliers in either the pre-procurement phase or during the procurement process.¹⁷⁹
- 201** Council members are prohibited from accepting gifts, favours, entertainment, meals, trips, or benefits of any kind from suppliers or potential suppliers at any time during the pre-procurement phase or procurement phase of the process.

SANCTIONS

- 202** The Code of Conduct should explicitly state that any material violation of the Code, “including any failure to disclose potential conflicts of interest or unfair advantages, may be

grounds for” disqualifying the supplier or terminating the contract.¹⁸⁰

- 203** Suppliers who have violated the Code of Conduct may be prohibited from bidding on future contracts at the Town for a designated period.¹⁸¹

Planning

- 204** A procurement plan for the Town should be prepared annually and published.¹⁸² Procurement planning helps insulate the procurement process from political influence.
- 205** Before initiating any procurement process for goods or services, the purchasing department shall, (a) prepare detailed specifications and quantity requirements for the particular goods or services, and (b) certify that the goods or services are required for the Town of Collingwood.
- 206** “A standard checklist should be prepared” and published “indicating all the elements that should be in place before the” Town issues a tender.¹⁸³
- 207** Procurement staff and senior staff should take measures to ensure that lobbying in the Town does not have any impact on the design of the tender so as to unfairly favour a bidder.

Designated Contact Person

- 208** The tender document should specify the name and contact information of the person whom prospective bidders can contact with questions. The tender document should make it clear that for the duration of the procurement process, only this

Town staff member can be contacted by bidders regarding the tender.¹⁸⁴

209 If a bidder requests information, the designated contact person should notify the bidder that the information requested and conveyed may be disclosed to other bidders.

210 “To ensure that there is no appearance of advantage for bidders who” have communicated with the designated contact person, “that person should not participate” in the evaluation of the bids.¹⁸⁵

Blackout Period

211 Every tender document should define the “blackout period” when communication between bidders and the Town is prohibited.¹⁸⁶

212 During the blackout period, suppliers must refrain from contacting anyone but the designated person at the Town of Collingwood.

Legal Counsel

213 For each major procurement, the Town should retain a solicitor who should be involved from the inception of the procurement.¹⁸⁷ Major procurements include high-risk, complex, controversial procurements, as well as procurements that involve a substantial dollar value. The Town solicitor helps to ensure that the procurement process is open and transparent. The Town solicitor can identify risks in the procurement process, review procurement documents, and help to ensure compliance with the Town’s procurement bylaw and other relevant bylaws,

policies, and codes of conduct. The Town solicitor can also identify situations where legal counsel with particular expertise may be required for part or all of the transaction.¹⁸⁸

Evaluation of Bids

- 214** No person “involved in evaluating the bids” at the Town “should have a pre-existing relationship with any of the bidders or be influenced” “by anyone else’s pre-existing relationship with a bidder.”¹⁸⁹
- 215** No person “involved in the pre-procurement phase or the bidding process should be involved in evaluating the proposals.”¹⁹⁰
- 216** The Town “should have clear practices” for reading the bids.¹⁹¹
- 217** Each member of the evaluation team “should sign a conflict of interest declaration disclosing any entertainment, gifts,” meals, favours, or benefits of any kind “received from any of the proponents or their representatives.”¹⁹²
- 218** Each member of the evaluation team should sign a declaration “that they will conduct the evaluation” fairly and objectively, “free from any conflict of interest or undue influence.”¹⁹³
- 219** “The weight to be assigned to price in determining the winning bid should be carefully considered” and determined “in advance.”¹⁹⁴
- 220** The Town “should maintain a record of when” and who tells a bidder that they have been successful.¹⁹⁵

Debriefings

- 221** Following a “decision to award a contract, unsuccessful bidders are entitled to a debriefing” that explains “the evaluation process that led to the” Town’s “selection of the successful bidder.”¹⁹⁶

Supplier Complaint Process

- 222** The Town should establish a comprehensive complaints process for suppliers and potential suppliers.¹⁹⁷
- 223** A complaint process is essential to promote and maintain transparency and integrity in the procurement process and to ensure the objective and equitable treatment of all suppliers.¹⁹⁸
- 224** All supplier disputes or complaints, whether sent to Council members or staff, shall be referred to the treasurer.
- 225** In no circumstances, should Council members or staff act as advocates for aggrieved or successful suppliers.¹⁹⁹
- 226** Suppliers should try to resolve any pre-award disputes by communicating in writing directly to the treasurer as quickly as possible after the basis for the dispute becomes known to them. The treasurer should have the authority: (a) to dismiss the dispute; or (b) to accept the dispute and direct the Town’s purchasing officer to take appropriate remedial action, including, but not limited to, rescinding the award and any executed contract, as well as cancelling the solicitation.²⁰⁰ The treasurer may decline to delay the award or any interim step of a procurement if the complaint appears to the treasurer to have no merit or if the supplier has failed to notify the treasurer

immediately after the disputed conduct came to the supplier's attention.

- 227** Any dispute of an award decision must be submitted in writing to the treasurer as soon as possible after the disputed conduct comes to the attention of the complainant.

Lobbying

Lobbying at the municipal level can be defined as “communication with a public office holder” by a person “who is paid or represents a business or financial interest”: the objective is to influence a legislative action, including the development, passage, “amendment, or repeal of a bylaw, motion, resolution, or outcome of a decision on any matter before Council, a Committee of Council,” Council member, or municipal staff.²⁰¹

Council and staff were subject to considerable lobbying during the two transactions examined in Parts One and Two of this Inquiry. The lobbying was not open or transparent. As I discuss in Parts One and Two of the Report, lobbying behind closed doors damages public confidence in Council members, municipal staff, and the business of the municipality. It can also have broad and long-term implications for the municipality, including discouraging businesses from doing business with the Town. Ethical and transparent lobbying activity, however, can assist staff and Council members in making informed decisions in the interest of the municipality.²⁰²

Lobbying must happen in the light of day. There is no room for secrecy and no place for claims that lobbyists, as private businesspeople, should not disclose details of the dealings they have or the compensation they receive for their work advocating Council members on behalf of specific interests. Ultimately, dealing with a municipality involves dealing with the public, and that requires openness, transparency, and honesty.

The recommendations that follow provide for an open, transparent, and ethical lobbying framework to govern lobbyists, businesses who wish to lobby the municipality, and municipal actors who may be subject to lobbying.

228 Members of the public and public office holders should be educated to understand that lobbying has a legitimate role in municipal government and can benefit elected officials and staff, provided it is properly conducted and controlled.²⁰³ Although a lobbyist is in the business of seeking to influence Council members and staff, this activity is not necessarily against the public interest. What is against the public interest is lobbying that occurs in secret and that is not transparent.²⁰⁴ The public has the right to know how decisions are made in the Town of Collingwood and what attempts are made to influence decision makers.

Lobbyist Registry

229 The Town of Collingwood should establish a Lobbyist Registry after consultation with businesses, staff, and Council members.²⁰⁵ The primary purpose of the registry is to foster transparency and integrity in government decision making. The Lobbyist Registry also assists in managing behaviour because the behaviour occurs in the open.²⁰⁶

230 The Lobbyist Registry should include all those who are paid or represent a business or financial interest whose objective is to influence elected officials or staff at the Town of Collingwood.²⁰⁷

231 Only persons registered in the Lobbyist Registry should be permitted to participate in any lobbying activity in the Town of Collingwood.²⁰⁸

232 The Lobbyist Registry should contain at a minimum the following information:²⁰⁹

- a** the name of the lobbyist, the name of the company or partnership represented, and “the names of all principals in the company or partnership”;²¹⁰
- b** the lobbyist’s contact information;
- c** “the subject matter of the lobbying activity;”²¹¹
- d** detailed disclosure of the lobbyist’s client, its business activities, or its organizational interests. This disclosure includes information on anyone who, to the knowledge of the lobbyist, controls or directs the client or otherwise has significant control of the client, the client’s business activities, or its organizational interests.
- e** identification by the lobbyist of who at the Town of Collingwood is the subject of the lobbying. This information should be detailed and include, for example, the name and title of the staff being lobbied, as well as the staff’s department;²¹²
- f** the “amount paid to the lobbyist for the lobbying activity;”²¹³
- g** the date, hour, and location where the lobbying took place, as well as details of the lobbying activity.

233 Council members and staff in the Town of Collingwood should be required to record “information on their meetings with lobbyists in the Lobbyist Registry.”²¹⁴

234 Sanctions should be imposed on lobbyists for failing to register.²¹⁵

Code of Conduct for Lobbyists

235 The Town of Collingwood should establish a Code of Conduct for lobbyists because it is important to the integrity of government decision making. A Code of Conduct for lobbyists indicates that compliance with the rules of proper conduct is more than

voluntary. Creating such a code of conduct also helps establish that lobbying is a legitimate activity.²¹⁶

- 236** A Code of Conduct is a required companion to a Lobbyist Registry.²¹⁷
- 237** The Code of Conduct should contain minimum standards with which lobbyists must comply. It should clearly delineate permissible and prohibited lobbying activities.²¹⁸
- 238** Every lobbyist must “agree to be bound” by the Code of Conduct before engaging in lobbying at the Town of Collingwood.²¹⁹
- 239** Lobbyists should “inform their client, employer or organization” of their obligations under the Town of Collingwood Code of Conduct for lobbyists and the Lobbyist Registry.²²⁰
- 240** The Code of Conduct for lobbyists should mandate that documents in relation to the activities of the lobbyist at the Town of Collingwood be retained and preserved by the lobbyist for a period of 10 years.
- 241** Lobbyists should be prohibited from giving gifts or providing entertainment, meals, trips, favours, or benefits of any kind to Council members or staff in the Town of Collingwood.²²¹
- 242** The Code of Conduct for lobbyists should contain a provision that states that lobbyists are prohibited from placing elected officials or staff in a real, apparent, or potential conflict of interest.²²²
- 243** Lobbyists must be transparent about who they are representing and the purpose of their lobbying activity. The Code of Conduct should prohibit lobbyists from misrepresenting for whom they act or the subject matter of their lobbying activity.²²³

- 244** Lobbyists who receive confidential information concerning Town business either intentionally or inadvertently from Council members or staff should immediately report this to the lobbyist registrar. In addition, the Code of Conduct should prohibit lobbyists from seeking confidential information or using any confidential information to the benefit of their client.
- 245** Lobbyists should be prohibited from receiving contingency fees or any type of payment, bonus, or commission connected or “tied to a successful outcome.”²²⁴ Although the lobbyist registrar should be able to rely upon the lobbyist’s representations regarding any fees received, the registrar should also have the power under the bylaw to verify information concerning any fees paid to the lobbyist.²²⁵
- 246** There should be a prohibition on lobbying during the procurement process about the subject matter of the procurement.²²⁶
- 247** Any communication by lobbyists in the pre-procurement phase should be registered on the Lobbyist Registry. “Lobbying aimed at influencing the procurement process before” it takes place, with the objective of favouring the lobbyist’s client in the procurement process, is inappropriate and should be prohibited.²²⁷
- 248** Each bidder should be required to provide a warranty to the Town of Collingwood that it will adhere to the relevant ethical standards in the Town’s bylaws and policies, and acknowledge that the Town reserves the right to annul any contract if there has been misuse of confidential information or any other material non-compliance with the Lobbying By-Law, the Procurement By-Law, or other relevant Town bylaws, policies, and codes of conduct.²²⁸

- 249** A lobbyist registrar should be appointed by the Town of Collingwood to oversee and ensure compliance with the Lobbyist Registry and the Code of Conduct for lobbyists. The lobbyist registrar, who could also be the integrity commissioner, should perform the function of providing advice, interpretation, monitoring, and enforcement of the Lobbyist Registry and the Code of Conduct.²²⁹
- 250** The lobbyist registrar should be independent of the Town of Collingwood Council and staff.²³⁰
- 251** The lobbyist registrar should be appointed for a non-renewable term.²³¹
- 252** “The lobbyist registrar should prepare an annual report.”²³² This report should include complaints, investigations, and sanctions imposed, as well as recommendations for improvement of lobbying activity in the Town of Collingwood.
- 253** The annual report, the Code of Conduct for lobbyists, the Lobbyist Registry, as well as interpretation bulletins and informational materials for lobbyists, Council members, and staff, should be placed on the Town of Collingwood website and should be easily accessible. This information should be updated on a regular basis.²³³
- 254** The lobbyist registrar should provide continuing education for lobbyists, their prospective clients and suppliers, Council members and staff, as well as the public, on the purpose of the Lobbying Registry and Codes of Conduct that address lobbying activity. This activity should include providing advice to people who want to know whether they are required to register. The responsibility of the lobbyist registrar should also include the obligation to provide a training tool for lobbyists, the chief administrative officer, and Town staff.²³⁴

- 255** One of the purposes of the educational component should be to ensure that staff in all departments within the Town of Collingwood, lobbyists, and their prospective clients, as well as prospective suppliers, understand why an accountability regime has been set up. Specifically, the educational component should ensure that the Town, lobbyists, and their prospective clients, as well as prospective suppliers, understand that a Lobbyist Registry mitigates the risk to the municipality that the public will believe or come to believe that the money it entrusts to elected officials has been used for the private gain of an individual or company.²³⁵
- 256** Council members and staff should be trained by the lobbyist registrar on the requirements for dealing with lobbyists and should be encouraged to seek advice and guidance from the lobbyist registrar on legitimate and prohibited activities of lobbyists.²³⁶
- 257** Lobbyists who fail to comply with the Lobbyist Registry or the Code of Conduct should be prohibited from any further lobbying activity with the Town of Collingwood.²³⁷ The Lobbyist Registrar should promptly communicate this information to public office holders to ensure that Council members and staff are aware of the non-compliance and the prohibition on the lobbyist from continuing to carry on any further lobbying activity with the Town.

Council Members and Staff

- 258** Council members and staff at the Town of Collingwood should be mandated to report breaches of the Code of Conduct for lobbyists to the lobbyist registrar.²³⁸

- 259** Staff reports submitted to Council at the Town of Collingwood should list the lobbyists who have contacted them “on the subject matter of the report.”²³⁹
- 260** The Code of Conduct for Council members at the Town of Collingwood should contain provisions on prohibited lobbying activities with Council members, as well as a duty to report lobbyists who engage in prohibited activities to the registrar. For example, the Code of Conduct for Council members should contain a provision that precludes receiving a gift, benefit, entertainment, meal or hospitality from lobbyists or anyone doing business with the Town of Collingwood.²⁴⁰
- 261** The Code of Conduct for staff at the Town of Collingwood should contain provisions on prohibited staff activities with lobbyists. The Code of Conduct should prohibit accepting gifts, entertainment, meals, trips, favours, or benefits of any kind from persons who do business with the Town and a duty to inform lobbyists of this requirement. This code of conduct should also provide that staff have a duty to inform lobbyists that they cannot accept gifts, entertainment, meals, trips, favours, or benefits of any kind. In addition, the Code of Conduct for staff should provide that staff have a duty to inform lobbyists that there is a registration system.²⁴¹
- 262** The Code of Conduct for Council members and the Code of Conduct for staff at the Town of Collingwood should contain a provision prohibiting the disclosure of confidential information to others, including lobbyists.
- 263** Council members and staff have the duty to inform people who are lobbying them that they must register on the Town of Collingwood’s Lobbyist Registry.²⁴²

264 Former Council members and former staff at the Town of Collingwood should be prohibited from lobbying on matters on which they were involved during their tenure at the Town of Collingwood. With respect to other activities, former Council members at the Town of Collingwood should be prohibited from lobbying staff or elected public office holders at the Town of Collingwood for a minimum of one year after they leave office. Similarly, former staff at the Town of Collingwood should be prohibited from lobbying elected public office holders or staff at the Town of Collingwood for a minimum of one year after they leave their public service position.²⁴³

Municipally Owned Corporations

The governance of municipally owned corporations presents unique issues for Council, municipal staff, the corporation's board of directors, and its management. A clear understanding of the roles, responsibilities, and obligations of corporate management and the board of directors is required to ensure that decisions are made by the proper parties and that there is an appropriate and timely flow of information between the corporation and the municipality. As I discuss in Part One of my Report, the misplaced belief that corporate management was acting in the best interests of the municipality led to the subordination of the Town's interests to those of the corporation in the Collus share sale.

The recommendations that follow ensure that the roles of Council, municipal staff, the corporate board of directors, and corporate management are clearly defined and understood.

265 Municipally owned corporations at the Town of Collingwood must be accountable and transparent.²⁴⁴

Board of Directors – Selection Process

- 266** The selection process for board membership on a municipally owned corporation at the Town of Collingwood must be robust. It should involve a broad invitation for applications, a review of resumés, an interview process, recommendations by a nomination committee, followed by the appointment of a director by resolution of Council.²⁴⁵
- 267** The selection process must be applied consistently.²⁴⁶
- 268** The selection process should “be clear and understandable, and available to the public.”²⁴⁷
- 269** The selection of board members must be objective and based on the skills and qualifications of the applicants.²⁴⁸
- 270** The board should be composed of directors with a variety of experiences and backgrounds. Council may, for example, seek a member with a financial background, another with an auditing background, and other board members who have different skills to ensure that the board can serve the interests of the corporation.²⁴⁹
- 271** Appointees to the board should be committed to principles of integrity, ethical conduct, and the “values of public service.”²⁵⁰
- 272** The majority of board members on the municipally owned corporation should be independent of management. This independence will help ensure that the board functions in the best interests of the municipal corporation.²⁵¹
- 273** Appointments to the board should be staggered to ensure continuity.²⁵²

274 Appointments to the board should have “set term limits with options for renewal.”²⁵³

275 Vacancies on the board should be filled promptly.²⁵⁴

Clarity of Roles

276 A municipal bylaw should delineate the roles and responsibilities of board members representing the municipality.²⁵⁵

277 The role of the chair of the board and that of the chief executive officer (CEO) of the municipally owned corporation should be separate positions, and those positions should be held by different individuals to ensure “a check and balance” on each other’s authority. This separation ensures that the board can function independently from management. The CEO should “not be a voting member of the Board.” The chair is accountable to the shareholder or shareholders, and the CEO “is accountable to the Board.” “Combining the two positions creates” “conflicts of interest” and blurs accountability.²⁵⁶

278 The board’s role in a municipally owned corporation is to set the strategic direction of the corporation and to “monitor the performance and results achieved by management in implementing” that “direction.”²⁵⁷

279 “Monitoring the performance of the CEO” is also an important “responsibility of the Board.”²⁵⁸

280 Management is responsible for providing the board with “high quality information on a timely basis.” “Information and management proposals” must be submitted “to the Board in a manner that facilitates” board members’ “understanding of

the overall impact” of a decision. Information must be objective, useful, and relevant to the options under consideration and the decision that must be made. Board members should receive clear, accurate, reliable, and comprehensive information to fulfill their role as a board of a municipally owned corporation.²⁵⁹

- 281** The agenda of board meetings of municipally owned corporations should periodically include time reserved for *in camera* sessions. *In camera* meetings “without the presence of ... management” enables the board to discuss any “issues or concerns they may not wish to raise” in the presence of management. It also permits the board to discuss candidly the performance of senior management and its impact on the municipally owned corporation.²⁶⁰ The board should meet periodically *in camera* with the chief financial officer in the absence of the chief executive officer, and with the auditor in the absence of management so that the chief financial officer and the auditor have an unfettered opportunity to raise matters of concern.

Training

- 282** There should be comprehensive training for both current and newly appointed members of the board of directors of municipally owned corporations at the Town of Collingwood.²⁶¹
- 283** The training package for all members of the board should be comprehensive. It should include the mandate and purpose of the municipal corporation, the role and responsibilities of members of the board, conflict of interest and ethical principles, relevant legislation, such as the *Municipal Act* and the *Municipal Conflict of Interest Act*, and relevant Town bylaws and policies.²⁶²

- 284** Council members on the board of a municipally owned corporation at the Town of Collingwood must have extensive training on the Code of Conduct for Council members, other codes of conduct and ethical policies, and bylaws relevant to their position as board members of the municipally owned corporation. The training must include their duties and responsibilities to that municipally owned corporation and their duties and responsibilities as elected members to Council.²⁶³
- 285** Town staff on the board of a municipally owned corporation must have extensive training on the Code of Conduct for staff and other relevant codes of conduct, ethical policies, and bylaws relevant to their roles and responsibilities concerning the municipally owned corporation and their roles and responsibilities to Council.²⁶⁴

Conflicts of Interest

- 286** Council members and staff at the Town of Collingwood who hold positions on municipally owned corporations may be in a conflict of interest position. Council members and staff who believe they might have a potential, real, or apparent conflict of interest regarding their obligations to Council or their obligations to the municipally owned corporation should seek the advice and guidance of the integrity commissioner.

Board Meetings

- 287** It is the responsibility of the board, not management, to set the agenda for the board meeting. The lead responsibility for the agenda is generally the function of the chair. "A Board should not rely on management to set the agenda."²⁶⁵

- 288** Minutes of board meetings should be recorded and detailed.²⁶⁶

Role of Council

- 289** Council should be trained on the obligations that officers and directors of that corporation owe to the corporation.²⁶⁷
- 290** A municipally owned corporation is at arm's length from the municipality. When Council wishes to compel the corporation to act, Council should issue a shareholders resolution. Council speaks as one voice. At no time, does an individual Council member speak for Council at the Town except where explicitly authorized by Council.²⁶⁸
- 291** Board members who refuse to comply with a direction from Council can resign or be removed from their position by Council. The appointment bylaw for members of the board should state that they serve at the pleasure of Council and that they are subject to removal by Council.²⁶⁹

Reporting to Council

- 292** The chair of the board of the municipally owned corporation must submit an annual report to Council at the Town of Collingwood. Reporting to Council promotes accountability. The annual report should include the municipally owned corporation's business plans, strategies, financial statements, and information on its achievements and outcomes, as well as compliance with ethical policies and codes of conduct. The information should be transparent and understandable to members of the public. The annual report should be published on the Town of Collingwood website.²⁷⁰

Sale of the Corporate Asset

293 The board of directors of a municipally owned corporation should not have a direct role in the decision of the municipality to sell its asset. The role of the board is to be a resource to staff whose responsibility it is to provide information and advice to Council.²⁷¹

294 A solicitor retained by the Town of Collingwood should be involved from the inception to ensure that all rules, policies, and bylaws are strictly followed and to provide advice and guidance to Council.²⁷²

Integrity Commissioner

The absence of clear information and guidance about conflicts of interest, including identifying and addressing conflicts, was the subject of much evidence during Parts One and Two of the Inquiry and discussion in participants' closing submissions. The absence of a clear understanding of conflicts of interest was obvious and disturbing. The Town of Collingwood did not have an integrity commissioner during the events I examined. It is only fair to Council members, regardless of their occupation, to provide them with an adequate and complete understanding of real, apparent, and potential conflicts of interest.

According to the *Municipal Act, 2001*,²⁷³ the integrity commissioner reports to Council and is responsible for discharging in an independent manner the functions assigned by the municipality. These can include the application of the Code of Conduct for Council members, as well as the application of the *Municipal Conflict of Interest Act*.²⁷⁴ The integrity commissioner is a resource and educator for Council and an educator for staff and the public.

The recommendations that follow further clarify the role and importance of the integrity commissioner in municipal governance.

- 295** An integrity commissioner is a neutral, independent officer as defined in the *Municipal Act*. The integrity commissioner at the Town of Collingwood should be appointed by Council for a fixed non-renewable term of five years.²⁷⁵
- 296** The integrity commissioner should report directly to Council, not to the mayor, to ensure the independence of the integrity commissioner. (I recognize that section 223.3 of the *Municipal Act* contains a similar provision. I make this recommendation to emphasize that the integrity commissioner should report to Council not the head of Council.)
- 297** The removal from office of the integrity commissioner should require a two-thirds vote of all Council members.²⁷⁶
- 298** The integrity commissioner should have a dedicated website at the Town of Collingwood for education, training, and outreach purposes. It should contain material on the roles and responsibilities of the integrity commissioner; educational content for Council members, staff, and the public, such as interpretation bulletins, codes of conduct, updates on relevant statutory provisions, regulations, bylaws, and policies; and a section on frequently asked questions (FAQs), as well as the annual report of the integrity commissioner.
- 299** The integrity commissioner should be obliged to discharge the responsibilities described in my recommendations. (See my recommendations on Mayor/Council Members, CAO/Staff, Lobbying, and Municipally Owned Corporations.)
- 300** Integrity commissioners in municipalities in Ontario should share information and best practices. The sharing of information will enable integrity commissioners in smaller municipalities, such as the Town of Collingwood, to learn from each other and from integrity commissioners in larger

municipalities. While I am aware that an organization of integrity commissioners already exists, the purpose of this recommendation is to emphasize the importance of regular education and sharing of information and resources among integrity commissioners.

301 “An external auditor should periodically review the operations”
“of the integrity commissioner.”²⁷⁷

Municipal Solicitor

Council received filtered, incomplete, and at times misleading accounts of the advice provided by professional advisors. The filtering and incomplete nature of the advice sought and communicated to Council was particularly apparent when it came to the advice of the municipal solicitor in Part One, and the absence of legal advice regarding the procurement process and resulting contract in Part Two. Ineffective communication, as well as a lack of clear division of roles, responsibilities, and reporting structure, impeded Council’s interactions with the Town’s solicitor in Part One, the Collus share sale. The Town’s legal counsel were largely excluded from decisions concerning the recreational facilities in Part Two.

Council as a whole, the directing mind of the municipality, must receive legal advice directly from the lawyer retained to provide it. The need for direct communication becomes obvious where there is a clear understanding that Council as a whole is the municipal solicitor’s client. Staff may work with the solicitor to inform Council. Still, the solicitor’s duties are owed to Council, and Council must ensure that solicitors retained by the municipality report to it. Council must ensure that no one Council member or member of staff can leave a false impression that reporting to them is the same as reporting to Council.

The recommendations I set out in this section are foundational to establishing and maintaining the proper relationship between Council and the municipal solicitor.

Amendments to the Ontario Municipal Act, 2001²⁷⁸

- 302** The Province of Ontario should amend the *Municipal Act* to mandate that municipalities the size of the Town of Collingwood should have a solicitor on retainer to provide legal advice.

Town of Collingwood

- 303** A solicitor retained by the Town of Collingwood should have a direct reporting relationship to Council. Council is the client, not the mayor, deputy mayor, individual Council members, or Town staff.²⁷⁹
- 304** When the Town of Collingwood retains a solicitor, there must be a retainer letter.²⁸⁰

Professional Consultants

Professional consultants were involved in both of the transactions I examined in the Inquiry. In Part One, KPMG was involved in assessing options for Collus Power and in the request for proposal for a strategic partner for the electric utility; in Part Two, WGD Architects analyzed arena options. In both cases, these professional advisors issued reports, but those reports were not provided to Council.

The recommendation that follows ensures that the relationship between the Town and its professional advisors is clearly articulated and documented.

- 305** Every time a consultant is retained, there should be a retainer or engagement letter setting out, in part, that the Town is the client, the scope of the work, and the consultant's reporting obligations.

Follow-Up to Public by Town of Collingwood on Recommendations

- 306** The Town of Collingwood Council should issue a public report on the first anniversary of the release of this Report describing Council's response to these recommendations.

Notes

- 1 *Municipal Act, 2001*, SO 2001 c 25 [*Municipal Act*].
- 2 The Honourable Denise Bellamy, Introductory Remarks, Part Three, November 27, 2019, 50.7–50.24; John Fleming, Good Governance Panel, November 27, 2019, 81.10–81.17, 83.1–84.7.
- 3 The Honourable Denise Bellamy, Introductory Remarks, November 27, 2019, 37.5–39.7, 47.23–48.2. See also *Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry Report, Volume 2: Good Government* (Toronto: City of Toronto Publications, 2005) (Commissioner Denise E. Bellamy) at Recommendation 71 [*TCLI/TECI Report*].
- 4 See *TCLI/TECI Report* at Recommendation 16. See also City of Ottawa, by-law 2019-8, *Rules of Procedure* (January 30, 2019), s 12(2); City of Mississauga, by-law 139-13, *Council Procedure By-law* (June 19, 2013), ss 23, 25; County of Simcoe, by-law No 6703, *Procedure By-law* (November 28, 2017), s 8.3; City of Vaughan, by-law No 7-2011, *A By-Law to govern the proceedings of Council and Committees of Council* (Jan 25, 2011), s 3.1; Town of Caledon, by-law No BL-2015-108, *Town of Caledon Procedural By-law*, s 4.3.5; City of Toronto, by-law Chapter 27, *Council Procedures* (July 29, 2020), §§ 27-6.1, 27-6.5.
- 5 See *TCLI/TECI Report* at Recommendation 84.
- 6 See example: *Municipal Act*, CCSM c M225, ss 82, 83(1).
- 7 Valerie Jepson, Conflict of Interest Panel, November 28, 2019, 67.10–68.16.
- 8 O Reg 55/18, *Codes of Conduct – Prescribed Subject Matters*.
- 9 See examples: City of Kingston, Council, *Council/Staff Relations*, Policy 74 (September 2019), s 3.1; City of Brampton, City Clerk’s Office, *Council Staff Relations Policy*, GOV-140 (March 1, 2019), ss 5, 6; City of Vaughan, City Manager, *Council-Staff Relations*, 13.C.04 (May 1, 2019), ss 1, 5; Corporation of the Town of Caledon, Town Council, *Council-Staff Relations Policy*, Staff Report 2020-0031 (February 18, 2020), s 5.
- 10 *Municipal Conflict of Interest Act*, RSO 1990, c M50 [*Municipal Conflict of Interest Act*].
- 11 City of Vaughan, Council, *Code of Ethical Conduct for Members of Council and Local Boards*, CL-011 (June 28, 2011), Definitions s 5 “Family Member” [Vaughan Council Code of Conduct]; Rick O’Connor, Conflict of Interest Panel, November 28, 2019, 44.7–44.10. Similar provisions exist in County of Simcoe, Warden, CAO, Clerk and Archives: Clerk’s Department, CLK 8.0.1 (October 9, 2018), s 4.5 [Simcoe Council Code of Conduct]; Town of Caledon, *Town of Caledon Code of Conduct for Members of Council and Designated Boards*, Definitions “Family” [Caledon Council Code of Conduct].
- 12 Simcoe Code of Conduct, s 6.8; Rick O’Connor, Conflict of Interest Panel, November 28, 2019, 85.2–86.6; Valerie Jepson, Conflict of Interest Panel, November 28, 2019, 63.3–63.12, 86.9–86.12.

- 13 See City of Mississauga, *Council Code of Conduct* (December 11, 2013), r 1(b), (c) [Mississauga Council Code of Conduct]; Simcoe Council Code of Conduct, s 1; Vaughan Council Code of Conduct, r 1(b), (g); City of Ottawa, by-law 2018-400, *Code of Conduct for Members of Council* (December 12, 2018), s 4(1) [Ottawa Council Code of Conduct]. See also *TCLI/TECI Report* at Recommendation 2.
- 14 Ottawa Council Code of Conduct, s 4.2.
- 15 See Mississauga Council Code of Conduct, r 1(c); Simcoe Council Code of Conduct, s 1; Vaughan Council Code of Conduct, r 1(g).
- 16 Ottawa Council Code of Conduct, s 10; John Fleming, Good Governance Panel, November 27, 2019, 80.18–81.17. See also *TCLI/TECI Report* at Recommendation 15.
- 17 Simcoe Council Code of Conduct, ss 6.15.3, 6.16.4; Vaughan Council Code of Conduct, r 13.
- 18 Mississauga Council Code of Conduct, r 7(1); Simcoe Council Code of Conduct, s 6.10; Vaughan Council Code of Conduct, r 7; City of Toronto, Office of the Integrity Commissioner, *Toronto Council Code of Conduct* (July 7, 2010), Part VIII [Toronto Council Code of Conduct].
- 19 Mississauga Council Code of Conduct, r 13(3); Simcoe Council Code of Conduct, s 6.17.3; Vaughan Council Code of Conduct, r 16(3); Ottawa Council Code of Conduct, s 10(5); Toronto Council Code of Conduct, Part XII. See also *TCLI/TECI Report* at Recommendations 15, 18.
- 20 Mississauga Council Code of Conduct, r 13(4); Simcoe Council Code of Conduct, s 6.17.3; Vaughan Council Code of Conduct, r 16(4); Ottawa Council Code of Conduct, s 10(6); Toronto Council Code of Conduct, Part XII.
- 21 See *TCLI/TECI Report* at Recommendation 20. See Simcoe Council Code of Conduct, ss 4.11, 6.8. See also Mississauga Council Code of Conduct, Definition (f), r 1(b); Vaughan Council Code of Conduct, r 1(c); Ottawa Council Code of Conduct, s 4(5).
- 22 Vaughan Council Code of Conduct, Definitions s 5 “Family Member.”
- 23 Simcoe Council Code of Conduct, s 6.8.5.
- 24 Simcoe Council Code of Conduct, s 6.8.2.
- 25 Simcoe Council Code of Conduct, s 6.8.3.
- 26 Simcoe Council Code of Conduct, s 6.8.3.
- 27 Simcoe Council Code of Conduct, s 6.8.3.
- 28 Simcoe Council Code of Conduct, s 6.9.1.
- 29 Simcoe Council Code of Conduct, s 6.17.5.
- 30 Ottawa Council Code of Conduct, s 10(6); Simcoe Council Code of Conduct, s 6.17.6.
- 31 Ottawa Council Code of Conduct, s 13(1).
- 32 See *TCLI/TECI Report* at Recommendations 61, 62. Ottawa Council Code of Conduct, s 12(4).
- 33 Ottawa Council Code of Conduct, s 13(2).
- 34 See Ottawa Council Code of Conduct, ss 13(3), (4); *TCLI/TECI Report* at Recommendations 66, 67.

- 35 *TCLI/TECI Report* at Recommendation 68. See Mississauga Council Code of Conduct, r 2.
- 36 *TCLI/TECI Report* at Recommendation 69. See Mississauga Council Code of Conduct, r 2.
- 37 Mississauga Council Code of Conduct, r 7; Simcoe Council Code of Conduct, s 6.10; Vaughan Council Code of Conduct, r 7; Ottawa Council Code of Conduct, s 8; Toronto Council Code of Conduct, Part VIII.
- 38 See examples: *TCLI/TECI Report* at Recommendations 26, 27; Simcoe Council Code of Conduct, s 6.4; Mississauga Council Code of Conduct, r 4; Vaughan Council Code of Conduct, r 3; Caledon Council Code of Conduct, s 2; Toronto Council Code of Conduct, Part V.
- 39 See Simcoe Council Code of Conduct, s 6.4.3. See also Mississauga Council Code of Conduct, r 4(4)(c); Vaughan Council Code of Conduct, r 3(2); Ottawa Council Code of Conduct, s 5(1); Toronto Council Code of Conduct, Part V.
- 40 Mississauga Council Code of Conduct, r 4.4; Simcoe Council Code of Conduct, s 6.4.3(a); Vaughan Council Code of Conduct, r 3(1); Ottawa Council Code of Conduct, s 5.2; Caledon Council Code of Conduct, s 2; Toronto Council Code of Conduct, Part V.
- 41 See Simcoe Council Code of Conduct, s 6.4.3(b).
- 42 Simcoe Council Code of Conduct, s 6.4.2.
- 43 Mississauga Council Code of Conduct, r 4(4)(d). See also *TCLI/TECI Report* at Recommendation 27. See examples: Simcoe Council Code of Conduct, s 6.4.3(f); Vaughan Council Code of Conduct, r 3(6); Caledon Council Code of Conduct, s 2.4; Toronto Council Code of Conduct, Part V.
- 44 See Mississauga Council Code of Conduct, r 4(4)(c); Simcoe Council Code of Conduct, s 6.4.3; Vaughan Council Code of Conduct, r 3(3); Toronto Council Code of Conduct, Part V.
- 45 See Simcoe Council Code of Conduct, s 6.20.
- 46 See Mississauga Council Code of Conduct, r 16(2); Simcoe Council Code of Conduct, s 6.20.3; Vaughan Council Code of Conduct, r 19.2; Toronto Council Code of Conduct, Part XVI.
- 47 *TCLI/TECI Report* at Recommendation 47. See examples: Mississauga Council Code of Conduct, Complaint Protocol, s 9(4); Simcoe Council Code of Conduct, Complaint Protocol s 9(4); Vaughan Council Code of Conduct, r 20; Ottawa Council Code of Conduct, s 15; Caledon Council Code of Conduct, s 18; Toronto Council Code of Conduct, Part XVIII.
- 48 See *TCLI/TECI Report* at Recommendations 8, 49.
- 49 See *TCLI/TECI Report* at Recommendations 8, 49.
- 50 See the Honourable J. David Wake, *Ethical Government in Ontario*, November 28, 2019, 32.21–33.19.
- 51 See *TCLI/TECI Report* at Recommendations 12, 22.

- 52 Valerie Jepson, Conflict of Interest Panel, November 28, 2019, 34.1–34.10; *TCLI/TECI Report* at Recommendation 49.
- 53 See *TCLI/TECI Report* at Recommendation 50.
- 54 Rick O'Connor, Conflict of Interest Panel, November 28, 2019, 104.8–105.9.
- 55 See Ottawa Council Code of Conduct, Appendix “A” s 6; Caledon Council Code of Conduct, s 15.1; Mississauga Council Code of Conduct, Complaint Protocol, s 3(1); Simcoe Council Code of Conduct, Complaint Protocol s 3(3).
- 56 *TCLI/TECI Report* at Recommendation 10.
- 57 See Simcoe Council Code of Conduct, s 3.2; Mississauga Council Code of Conduct, r 1(h).
- 58 *Municipal Act, 2001*, SO 2001, c 25 [*Municipal Act*].
- 59 John Fleming, Good Governance Panel, November 27, 2019, 119.7–119.15.
- 60 John Fleming, Good Governance Panel, November 27, 2019, 119.7–119.15.
- 61 See examples: City of Toronto, by-law Chapter 169, *Officials, City* (April 30, 2020), § 169-1 [Toronto Officials By-Law]; The Corporation of the Town of Caledon, Town Council, *Delegation of Powers and Duties to the CAO*, Staff Report 2020-0092 (April 28, 2020), s 2.1 [Caledon CAO By-Law].
- 62 See examples: Toronto Officials By-Law, § 169-1; Caledon CAO By-Law, s 2.1.
- 63 John Fleming, Good Governance Panel, November 27, 2019, 140.20–140.21.
- 64 City of Toronto, by-law Chapter 192, *Public Service* (October 3, 2019), § 192-33(1) [Toronto Public Service By-Law].
- 65 See John Fleming, Good Governance Panel, November 27, 2019, 132.12–132.21.
- 66 See Greg Levine, Good Governance Panel, November 27, 2019, 138.4–138.8; *Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry Report, Volume 2: Good Government* (Toronto: City of Toronto Publications, 2005) (Commissioner Denise E. Bellamy) at Recommendation 43 [*TCLI/TECI Report*]; Toronto Public Service By-Law, §§ 192-47, 192-51.
- 67 See examples of Codes of Conduct: City of Vaughan, Human Resources, *Employee Code of Conduct*, 13.A.02 (November 20, 2018) [Vaughan Employee Code of Conduct]; City of Ottawa, City Manager: *Employee Code of Conduct* [Ottawa Employee Code of Conduct].
- 68 See examples: Vaughan Employee Code of Conduct; Ottawa Employee Code of Conduct.
- 69 *TCLI/TECI Report* at Recommendation 3.
- 70 *TCLI/TECI Report* at Recommendation 10; Vaughan Employee Code of Conduct, s 10.1.
- 71 Vaughan Employee Code of Conduct, Purpose, s 1.1.1.
- 72 Vaughan Employee Code of Conduct, Purpose. See also Ottawa Employee Code of Conduct, at 8.
- 73 This is stated in *Municipal Act*, s 227(a), but should be reiterated in the Code of Conduct for staff.
- 74 This is stated in *Municipal Act*, s 227(b), but should be repeated in the Code of Conduct

- for staff. John Fleming, Good Governance Panel, November 27, 2019, 81.10–81.17. See also *TCLI/TECI Report* at Recommendation 87.
- 75 See *TCLI/TECI Report* at Recommendation 82.
- 76 The Honourable Denise Bellamy, Introductory Remarks, Part Three, November 27, 2019, 19.19–19.23, 22.9–22.19, 24.10–24.14; *TCLI/TECI Report* at Recommendation 87.
- 77 The Honourable Denise Bellamy, Introductory Remarks, Part Three, November 27, 2019, 22.14–22.19; Vaughan Employee Code of Conduct, s 2.2.4.
- 78 Vaughan Employee Code of Conduct, s 1.1.4. See also Ottawa Employee Code of Conduct at 14.
- 79 *TCLI/TECI Report* at Recommendations 26; Toronto Public Service By-Law, § 192-16; Vaughan Employee Code of Conduct, s 2.2.
- 80 See Toronto Public Service By-Law, § 192-21; Vaughan Employee Code of Conduct, s 3.11.
- 81 *TCLI/TECI Report* at Recommendations 20, 21. See examples: Vaughan Employee Code of Conduct, s 1.2.3, 3; Toronto Public Service By-Law, § 192-11; Ottawa Employee Code of Conduct at 8.
- 82 Vaughan Employee Code of Conduct, s 3.8; *TCLI/TECI Report* at Recommendations 21, 22.
- 83 *TCLI/TECI Report* at Recommendation 23. See Toronto Public Service By-Law, § 192-12.
- 84 *TCLI/TECI Report* at Recommendation 30. See examples: Vaughan Employee Code of Conduct, s 3.3; Toronto Public Service By-Law, § 192-12.
- 85 Vaughan Employee Code of Conduct, s 2.2.5.
- 86 *TCLI/TECI Report* at Recommendation 22. Vaughan Employee Code of Conduct, s 1.2.3.
- 87 See Vaughan Employee Code of Conduct, s 3.6. (However, note that the Vaughan by-law instructs staff to inform their supervisor, not the CAO.)
- 88 Vaughan Employee Code of Conduct, s 3.9; *TCLI/TECI Report* at Recommendation 24.
- 89 The Honourable Denise Bellamy, Introductory Remarks, Part Three, November 27, 2019, 23.18–24.12; Anna Kinastowski, Good Governance Panel, November 27, 2019, 98.9–99.4; Fareed Amin, Town of Collingwood CAO’s Presentation, December 2, 2019, 108.12–108.22; *TCLI/TECI Report* at Recommendation 87.
- 90 Anna Kinastowski, Good Governance Panel, November 27, 2019, 107.16–107.22; John Fleming, Good Governance Panel, November 27, 2019, 109.3–109.15.
- 91 Fareed Amin, Town of Collingwood CAO’s Presentation, December 2, 2019, 112.15–113.7.
- 92 John Fleming, Good Governance Panel, November 27, 2019, 146.8–146.13; Anna Kinastowski, Good Governance Panel, November 27, 2019, 146.14–146.19; Mike Pacholok, Procurement Panel, November 29, 2019, 119.15–119.25.
- 93 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 86.23–87.5. See also *TCLI/TECI Report* at Recommendations 61, 62.
- 94 See *TCLI/TECI Report* at Recommendation 204.
- 95 *TCLI/TECI Report* at Recommendation 61; Vaughan Employee Code of Conduct, s 8.1; Toronto Public Service By-Law, § 192-13(c).

- 96 See *TCLI/TECI Report* at Recommendation 66.
- 97 *TCLI/TECI Report* at Recommendation 67.
- 98 Vaughan Employee Code of Conduct, s 12.1. See also Toronto Public Service By-Law, § 192-35; Ottawa Employee Code of Conduct at 16.
- 99 See Vaughan Employee Code of Conduct, ss 12.2-12.4.
- 100 Greg Levine, Good Governance Panel, November 27, 2019, 138.4-138.15. See examples: Vaughan Employee Code of Conduct, s 13; Toronto Public Service By-Law, § 192-47.
- 101 Vaughan Employee Code of Conduct, ss 13.1, 13.3. See examples: Toronto Public Service By-Law, § 192-49; Ottawa Employee Code of Conduct at 16.
- 102 Vaughan Employee Code of Conduct, s 13.2. See also Toronto Public Service By-Law, § 192-41; Ottawa Employee Code of Conduct at 15.
- 103 Vaughan Employee Code of Conduct, s 14.1. See also Toronto Public Service By-Law, § 192-45.
- 104 Anna Kinastowski, Good Governance Panel, November 27, 2019, 147.7-147.15.
- 105 See Toronto Public Service By-Law, §§ 192-10, 192-11.
- 106 *TCLI/TECI Report* at Recommendation 6.
- 107 *TCLI/TECI Report* at Recommendation 7.
- 108 Toronto Public Service By-Law, §§ 192-11(C), 192-16; Vaughan Employee Code of Conduct, s 2.2.3.
- 109 See examples: Vaughan Employee Code of Conduct, s 9.1; Toronto Public Service By-Law, §§ 192-33, 192-34.
- 110 See Toronto Public Service By-Law, §§ 192-33, 192-34. See also Vaughan Employee Code of Conduct, s 9.1.1.
- 111 Vaughan Employee Code of Conduct, s 9.1.3.
- 112 Vaughan Employee Code of Conduct, s 9.1.6. See also Toronto Public Service By-Law, § 192-34(A).
- 113 Vaughan Employee Code of Conduct, s 12.2.
- 114 Vaughan Employee Code of Conduct, s 9.1.7.
- 115 Fareed Amin, Town of Collingwood CAO's Presentation, December 2, 2019, 112.15-113.7.
- 116 See for example: Vaughan Employee Code of Conduct, s 11.2.
- 117 Vaughan Employee Code of Conduct, s 9.1.5.
- 118 The Honourable Denise Bellamy, Introductory Remarks, Part Three, November 27, 2019, 33.9-33.10.
- 119 *Municipal Act, 2001*, SO 2001, c 25 [*Municipal Act*].
- 120 Mike Pacholok, Procurement Panel, November 29, 2019, 58.5-58.12. See also *Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry Report, Volume 2: Good Government* (Toronto: City of Toronto Publications, 2005) (Commissioner Denise E. Bellamy) at Recommendation 129 [*TCLI/TECI Report*].
- 121 See City of Toronto, by-law Chapter 195, *Purchasing* (January 31, 2019), § 195-1.1 [Toronto Purchasing By-Law]; City of Vaughan, Procurement Services, *Corporate Procurement*

- Policy*, PS-003 (March 21, 2017), s 1.3 [Vaughan Procurement Policy]; City of Ottawa, by-law 2017-362, *Procurement By-law*, s 2 [Ottawa Procurement By-Law]; County of Simcoe, Corporate Performance: Procurement Fleet and Property, *Procurement Bylaw*, 2013-02 (July 1, 2018), s 4.1 [Simcoe Procurement Policy]; Corporation of the Town of Essex, by-law 1043, *A By-Law to Adopt a Policy for the Procurement and Disposal of Goods and Services* (September 20, 2010), s 2 [Essex Procurement Policy]; The Regional Municipality of Peel, by-law 30-2018, *A By-law to Govern the Procurement and Disposal of Goods and Services* (May 10, 2018), s 1 [Peel Procurement By-Law]; The Regional Municipality of Halton, by-law 83-19, *A By-Law to Amend By-Law No. 74-15, Being A By-Law to Define Procurement Policies and Procedures for the Regional Municipality of Halton* (November 20, 2019), s 1 [Halton Procurement By-Law].
- 122 See *TCLI/TECI Report* at Recommendation 146; Mike Pacholok, Procurement Panel, November 29, 2019, 58.13–58.22, 69.1–70.11; Marian MacDonald, Procurement Panel, November 29, 2019, 107.9–107.13. See examples: Toronto Purchasing By-Law, § 195-6.3; Ottawa Procurement By-Law, ss 2, 22; Simcoe Procurement By-Law, ss 2.1, 13; Essex Procurement Policy, ss 2.02, 3.01; Peel Procurement By-Law, s 3.1; Halton Procurement By-Law, ss 4.1, 7.1.
- 123 Mike Pacholok, Procurement Panel, November 29, 2019, 70.8–70.22; Marian MacDonald, Procurement Panel, November 29, 2019, 97.23–98.23. See example: Vaughan Procurement Policy, s 4.2.7.
- 124 Mike Pacholok, Procurement Panel, November 29, 2019, 69.1–70.2. See examples: Toronto Purchasing By-Law, § 195-7.1; Vaughan Procurement Policy, s 4.2.4; Ottawa Procurement By-Law, s 22; Simcoe Procurement By-Law, s 13; Essex Procurement Policy, s 9.08.
- 125 Marian MacDonald, Procurement Panel, November 29, 2019, 63.7–63.14; Mike Pacholok, Procurement Panel, November 29, 2019, 70.3–70.7.
- 126 Mike Pacholok, Procurement Panel, November 29, 2019, 69.15–69.18.
- 127 See examples: Vaughan Procurement Policy, s 10; Ottawa Procurement By-Law, s 25; Essex Procurement Policy, s 45.06; Peel Procurement By-Law, s 11.1; Halton Procurement By-Law, s 22.1.
- 128 See examples: Vaughan Procurement Policy, s 10; Ottawa Procurement By-Law, s 25; Peel Procurement By-Law, s 11.1.
- 129 See Mike Pacholok, Procurement Panel, November 29, 2019, 70.8–71.3.
- 130 See examples: Vaughan Procurement Policy, s 4.6.1; Peel Procurement By-Law, s 17.1.
- 131 *TCLI/TECI Report* at Recommendations 136, 137, 138. See example: Toronto Purchasing By-Law, §§ 195-3.1(J), 4.1(A).
- 132 *TCLI/TECI Report* at Recommendation 141.
- 133 See *TCLI/TECI Report* at Recommendation 147.
- 134 See *TCLI/TECI Report* at Recommendation 129.
- 135 Marian MacDonald, Procurement Panel, November 29, 2019, 61.16–62.5, 79.2–79.22;

- Mike Pacholok, Procurement Panel, November 29, 2019, 77.21–78.13; See *TCLI/TECI Report* at Recommendation 130.
- 136 Vaughan Procurement Policy, s 3.6. See also: Ottawa Procurement By-Law, s 9(c); Essex Procurement Policy, s 7.03(b).
- 137 Essex Procurement Policy, s 7.03(b); Halton Procurement By-Law, s 23.1(b).
- 138 Vaughan Procurement Policy, s 3.6; Halton Procurement By-Law, ss 23.1(a), (e).
- 139 Ottawa Procurement By-Law, s 9(1)(e); Peel Procurement By-Law, s 16.1.2.
- 140 Essex Procurement Policy, s 7.03(b); Vaughan Procurement Policy, s 3.6(e).
- 141 Toronto Purchasing By-Law, § 195-8.5(B).
- 142 Vaughan Procurement Policy, s 3.6(b).
- 143 Marian MacDonald, Procurement Panel, November 29, 2019, 61.16–62.5; Mike Pacholok, Procurement Panel, November 29, 2019, 81.3–81.22; *TCLI/TECI Report* at Recommendation 130.
- 144 *TCLI/TECI Report* at Recommendation 131.
- 145 Mike Pacholok, Procurement Panel, November 29, 2019, 58.19–58.22. See also *TCLI/TECI Report* at Recommendation 155. See examples: Toronto Purchasing By-Law, § 195-1.1(E); Vaughan Procurement Policy, s 3; Ottawa Procurement By-Law, s 5; Essex Procurement Policy, s 7; Peel Procurement By-Law, Part IV; Halton Procurement By-Law, s 5.
- 146 Marian MacDonald, Procurement Panel, November 29, 2019, 61.7–61.15.
- 147 Mike Pacholok, Procurement Panel, November 29, 2019, 75.12–75.17. See also *TCLI/TECI Report* at Recommendation 159.
- 148 Mike Pacholok, Procurement Panel, November 29, 2019, 117.5–118.3. See: *TCLI/TECI* at Recommendation 166. See example: Vaughan Procurement Policy, s 7.
- 149 Mike Pacholok, Procurement Panel, November 29, 2019, 117.5–118.3. See example: Vaughan Procurement Policy, s 7.
- 150 Marian MacDonald, Procurement Panel, November 29, 2019, 105.6–105.24. See *TCLI/TECI Report* at Recommendation 159.
- 151 See *TCLI/TECI Report* at Recommendation 161.
- 152 Marian MacDonald, Procurement Panel, November 29, 2019, 118.8–118.16.
- 153 See Marian MacDonald, Procurement Panel, November 29, 2019, 118.10–119.9.
- 154 *TCLI/TECI Report* at Recommendation 160.
- 155 Mike Pacholok, Procurement Panel, November 29, 2019, 119.10–120.6.
- 156 Marian MacDonald, Procurement Panel, November 29, 2019, 64.21–65.16, 87.20–88.18; Mike Pacholok, Procurement Panel, November 29, 2019, 88.25–89.17.
- 157 See Mike Pacholok, Procurement Panel, November 29, 2019, 120.7–121.2. See examples: Toronto Purchasing By-Law, § 195-13; The Regional Municipality of Halton, Supply Chain Management Division: *Vendor Code of Conduct* [Halton Vendor Code of Conduct].
- 158 Mike Pacholok, Procurement Panel, November 29, 2019, 120.7–121.2. See example: Toronto Purchasing By-Law, § 195-13.12.

- 159 Halton Vendor Code of Conduct at 6–7.
- 160 Mike Pacholok, Procurement Panel, November 29, 2019, 120.7–121.2. See example:
Toronto Purchasing By-Law, § 195-13.12.
- 161 Toronto Purchasing By-Law, § 195-13.1(A).
- 162 Toronto Purchasing By-Law, § 195-13.1(B).
- 163 Toronto Purchasing By-Law, § 195-13.2(A). See also: Halton Vendor Code of Conduct at 8.
- 164 See examples: Toronto Purchasing By-Law, § 195-13.12; Halton Vendor Code of
Conduct at 19.
- 165 See example: Halton Vendor Code of Conduct at 10.
- 166 Toronto Purchasing By-Law, § 195-13.3.
- 167 Toronto Purchasing By-Law, § 195-13.3(B).
- 168 Toronto Purchasing By-Law, § 195-2.1 Definitions: “Conflict of Interest or Unfair
Advantage.”
- 169 Toronto Purchasing By-Law, § 195-13.3(A).
- 170 Toronto Purchasing By-Law, § 195-13.3(A) (Note: the Toronto Purchasing By-Law
specifies two years).
- 171 Toronto Purchasing By-Law, § 195-13.3(B).
- 172 Toronto Purchasing By-Law, § 195-13.3(D).
- 173 Toronto Purchasing By-Law, § 195-2.1 Definitions: “Conflict of Interest or Unfair
Advantage.”
- 174 Toronto Purchasing By-Law, § 195-13.4.
- 175 Toronto Purchasing By-Law, § 195-13.5(A).
- 176 Toronto Purchasing By-Law, § 195-13.6. See also: Mike Pacholok, Procurement Panel,
November 29, 2019, 72.17–72.23.
- 177 Toronto Purchasing By-Law, § 195-13.6.
- 178 Toronto Purchasing By-Law, § 195-13.7. See also: Mike Pacholok, Procurement Panel,
November 29, 2019, 72.17–72.23; Halton Vendor Code of Conduct at 11.
- 179 *TCLI/TECI Report* at Recommendation 204.
- 180 Toronto Purchasing By-Law, § 195-13.12(A).
- 181 Mike Pacholok, Procurement Panel, November 29, 2019, 120.13–121.2. See examples:
Toronto Purchasing By-Law, § 195-13.13; Halton Vendor Code of Conduct at 19.
- 182 Marian MacDonald, Procurement Panel, November 29, 2019, 62.22–63.14.
- 183 *TCLI/TECI Report* at Recommendation 156.
- 184 Marian MacDonald, Procurement Panel, November 29, 2019, 65.25–66.5; Mike
Pacholok, Procurement Panel, November 29, 2019, 94.15–94.24; *TCLI/TECI Report*
at Recommendation 205. See also: Vaughan Procurement Policy, s 1.1.9; Essex
Procurement Policy, s 5.01; Peel Procurement By-Law, s 12.1.
- 185 *TCLI/TECI Report* at Recommendation 207.
- 186 *TCLI/TECI Report* at Recommendation 208; Marian MacDonald, Procurement Panel,
November 29, 2019, 92.21–93.4; Mike Pacholok, Procurement Panel, November 29,
2019, 93.16–94.8.

- 187 See *TCLI/TECI Report* at Recommendation 164.
- 188 Marian MacDonald, Procurement Panel, November 29, 2019, 110.8–111.5; Mike Pacholok, Procurement Panel, November 29, 2019, 111.6–113.3
- 189 *TCLI/TECI Report* at Recommendation 213.
- 190 *TCLI/TECI Report* at Recommendation 214.
- 191 *TCLI/TECI Report* at Recommendation 212.
- 192 *TCLI/TECI Report* at Recommendation 215.
- 193 *TCLI/TECI Report* at Recommendation 215.
- 194 *TCLI/TECI Report* at Recommendation 218.
- 195 *TCLI/TECI Report* at Recommendation 228.
- 196 *TCLI/TECI Report* at Recommendation 229; Mike Pacholok, Procurement Panel, November 29, 2019, 122.8–122.12; Marian MacDonald, Procurement Panel, November 29, 2019, 122.13–123.4. See examples: Toronto Purchasing By-Law, §§ 195-2.1 Definitions: “Supplier Debriefing,” 195-10.2; Ottawa Procurement By-Law, s 46.3(a); Peel Procurement By-Law, s 15.1.
- 197 *TCLI/TECI Report* at Recommendation 230; Mike Pacholok, Procurement Panel, November 29, 2019, 121.12–122.12. See for example: Toronto Purchasing By-Law, § 195-10; Vaughan Procurement By-Law, s 9; Ottawa Procurement By-Law, s. 46; Simcoe Procurement Policy, ss 10.4, 10.5.
- 198 *TCLI/TECI Report* at Recommendation 230.
- 199 See *TCLI/TECI Report* at Recommendation 232.
- 200 See Toronto Purchasing By-Law, § 195-10.
- 201 City of Ottawa, by-law 2012-309, *Lobbyist Registry By-law*, Definitions: “lobby” [Ottawa Lobbyist Registry By-Law]. See City of Vaughan, by-law 165-2017, *Lobbyist Registry By-law* (December 11, 2017), s 1 Definitions: “lobby” [Vaughan Lobbyist Registry By-Law]; City of Toronto, by-law Chapter 140, *Lobbying* (December 13, 2018), § 140-1 Definitions: “lobby” [Toronto Lobbying By-Law].
- 202 See Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 16.6–16.10; *Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry Report, Volume 2: Good Government* (Toronto: City of Toronto Publications, 2005) (Commissioner Denise E. Bellamy) at 79-80 [*TCLI/TECI Report*].
- 203 Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 16.11–16.17, 51.25–52.22; Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 50.16–50.23, 51.9–51.17. See *TCLI/TECI Report* at Recommendation 97.
- 204 Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 17.25–18.4; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 59.11–59.20.
- 205 See examples: Ottawa Lobbyist Registry By-Law, s 2; Vaughan Lobbyist Registry By-Law, s 2; Toronto Lobbying By-Law, § 140-34.
- 206 Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 17.18–18.4, 31.20–32.12, 53.4–54.2; Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 63.11–63.23

- referencing *TCLI/TECI Report* at Recommendation 116; Fared Amin, Town of Collingwood CAO's Presentation, December 2, 2019, 117.23–118.7.
- 207 Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 31.20–33.25. See also *TCLI/TECI Report* at Recommendation 117.
- 208 *TCLI/TECI Report* at Recommendation 118. See also Toronto Lobbying By-Law, § 140-10.
- 209 *TCLI/TECI Report* at Recommendation 119; Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 68.24–69.16; Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 69.18–72.11; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 72.21–73.3.
- 210 *TCLI/TECI Report* at Recommendation 119.
- 211 *TCLI/TECI Report* at Recommendation 119.
- 212 *TCLI/TECI Report* at Recommendation 119.
- 213 *TCLI/TECI Report* at Recommendation 119.
- 214 See *TCLI/TECI Report* at Recommendation 121.
- 215 *TCLI/TECI Report* at Recommendation 123; Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 13.16–13.21; Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 100.5–100.15. See examples: Ottawa Lobbyist Registry By-Law, s 10; Vaughan Lobbyist Registry By-Law, s 9.
- 216 Fared Amin, Town of Collingwood CAO's Presentation, December 2, 2019, 110.9–110.14. See *TCLI/TECI Report* at Recommendation 98; Vaughan Lobbyist Registry By-Law, Schedule "A" [Vaughan Lobbyist Code of Conduct]; Ottawa Lobbyist Registry By-Law, Appendix "A" [Ottawa Lobbyist Code of Conduct]; Toronto Lobbying By-Law, § 140, art VI.
- 217 Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 64.5–65.20; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 66.23–67.10. See also *TCLI/TECI Report* at Recommendation 98.
- 218 *TCLI/TECI Report* at Recommendation 98.
- 219 *TCLI/TECI Report* at Recommendation 98; Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 64.16–65.11, 72.3–72.11.
- 220 Ottawa Lobbyist Code of Conduct, s 4(1); Vaughan Lobbyist Code of Conduct, s 4; Toronto Lobbying By-Law, §140-43.
- 221 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 86.20–86.25; *TCLI/TECI Report* at Recommendation 109. See example: Toronto Lobbying By-Law, § 140-42.
- 222 *TCLI/TECI Report* at Recommendation 103. See example: Ottawa Lobbyist Code of Conduct, s 6(2).
- 223 Linda Gehrke, Lobbyist Registries Panel, Dec 2, 2019, 72.12–73.3; *TCLI/TECI Report* at Recommendation 101. See examples: Ottawa Lobbyist Code of Conduct, s 3(1); Vaughan Lobbyist Code of Conduct, s 3(a); Toronto Lobbying By-Law, § 140-40.
- 224 *TCLI/TECI Report* at Recommendation 112; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 8.11–8.24. See example: Toronto Lobbying By-Law, § 140-8.

- 225 Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 98.12–98.22. See Toronto Lobbying By-Law, § 140-35.
- 226 *TCLI/TECI Report* at Recommendation 107. See Toronto Lobbying By-Law, § 140-41.
- 227 *TCLI/TECI Report* at Recommendation 108.
- 228 Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 75.7–76.15; *TCLI/TECI Report* at Recommendations 54–56.
- 229 Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 15.9–15.14; *TCLI/TECI Report* at Recommendation 122. See Ottawa Lobbyist Registry By-Law, s 9; Vaughan Lobbyist Registry By-Law, s 6; Toronto Lobbying By-Law, § 140-33.
- 230 Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 19.11–19.23. See Ottawa Lobbyist Registry By-Law, s 8.
- 231 Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 10.11–10.16, 21.23–22.4.
- 232 *TCLI/TECI Report* at Recommendation 124; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 10.11–10.16.
- 233 See *Vaughan Lobbyist Registry-By-Law*, s 2(b); *Toronto Lobbying By-Law*, § 140-34.
- 234 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 51.5–51.13; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 87.22–88.7; Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 83.13–84.11; *TCLI/TECI Report* at Recommendation 125.
- 235 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 51.5–51.13; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 87.22–88.7; Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 83.13–84.11.
- 236 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 51.5–51.13; Linda Gehrke, Lobbyist Registries Panel, December 2, 2019, 87.22–88.7; See Suzanne Craig, Lobbyist Registries Panel, 84.7–84.11. See also *TCLI/TECI Report* at Recommendation 125.
- 237 See Suzanne Craig, Lobbyist Registries Panel, December 2, 2019, 100.5–100.15. See also *TCLI/TECI Report* at Recommendation 123.
- 238 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 87.1–87.12; Linda Gehrke, Lobbyist Registry Panel, December 2, 2019, 88.8–89.20.
- 239 See *TCLI/TECI Report* at Recommendation 106.
- 240 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 86.20–87.18.
- 241 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 86.20–87.18; *TCLI/TECI Report* at Recommendations 61–62, 100, 204.
- 242 Robert Marleau, Lobbyist Registries Panel, December 2, 2019, 86.20–87.18.
- 243 *TCLI/TECI Report* at Recommendations 110, 111. See also Fareed Amin, Town of Collingwood CAO’s Presentation, December 2, 2019, 116.13–117.3.
- 244 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 17.6–17.9, 45.11–45.18; Guy Holburn and Adam Fremeth, “Best Practice Principles of Corporate Governance for Crown Corporations” (March 2019) Ivey Energy Policy and Management Centre, at 5. Although this article deals with corporate governance for crown corporations, we have relied on it.

- 245 Wendy Walberg, Municipally-Owned Corporations Panel, November 29, 2019, 15.12–15.20.
- 246 Holburn & Fremeth at 9; Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 17:9–17:15.
- 247 Holburn & Fremeth at 9.
- 248 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 16.17–17.5; Holburn & Fremeth at 9.
- 249 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 32.22–33.11; Holburn & Fremeth at 10.
- 250 Holburn & Fremeth at 9.
- 251 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 18.9–18.15; Holburn & Fremeth at 12.
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