

To: Judge F. Marrocco
Collingwood Judicial Inquiry
June 21, 2019
Prepared for Rick Lloyd, former Deputy Mayor
Without prejudice

Your Honour:

Re: confidential email from Kate McGrann, May 24, 2019

With respect to my role as Deputy Mayor on Collingwood Council, 2010-14 and issues raised in the above email, I would like to submit the following comments.

I was elected to not only represent the people of my community at the council table, but to act as a facilitator and liaison between the residents and the bureaucracy. And in my role as Deputy Mayor, I represented and advocated for the community's interests at the Simcoe county council. I also worked cooperatively with the mayor towards common goals in presenting and communicating our issues and arguments clearly and unambiguously to the county, to town staff and to the community. I also acted on behalf of individuals who came to me, when I felt my involvement was warranted.

Every elected member brings their own skills and talents to the role; mine lay in my professional network and personal connections throughout the region, as well as in my experience in and knowledge of building, infrastructure, construction and planning. I attempted to use these to the good of both the community and the residents I served, and to get things done, as I was elected to do.

As Deputy Mayor, I also felt it was my responsibility to assist the mayor in communicating council's goals to the community. Since neither of us are the best when it comes to preparing a polished and professional statement, I believed it was appropriate to use whatever resources were available to make sure our communications were the best, the clearest and the most effective. At that time, the town did not have any internal staff resources such as a communications officer we could turn to for such help.

TOC119889.1 This is the email I sent to Mayor Cooper on Saturday, March 10, 2012, that mentioned my frustration about my relations with the CAO, Ms. Wingrove. I also included Mr. Bonwick in the email.

The date for the previous performance review of the CAO conducted by Mayor Cooper was April 1, 2011, and I reasonably expected another review was coming very soon. In her capacity to review the CAO's performance, the mayor acted as a liaison between council and the CAO. At that time, only the mayor conducted the review, and council did not participate. It was appropriate for members of council to express any concerns or issues to the mayor so she could raise them as appropriate during the review. It was only later that a recommendation was made to council for annual performance reviews of the CAO to be made by all of council, not just the mayor.

Mr. Bonwick was included in the email because I knew he often helped his sister with her communications. In a sensitive HR issue, I felt it was important to have the mayor's comments well-crafted in a way that were effective and not confrontational. I believed Mr. Bonwick could help word them appropriately and could advise the mayor how to present them diplomatically, without having the emotional involvement the email shows I was feeling.

No confidential information was included in the email, only a comment about my personal frustration. I did not suggest any particular action be taken. It was a request for a conversation that could have helped resolve or at least calm my concerns. It was not for public consumption or council's or staff's action. The requested meeting did not take place because Mr. Bonwick was out of town (as per his response, Mar. 11, 2012). Nothing further came of this.

Para. 297, Foundation Document, TOC0061079 and TOC0061382. This is a record of my efforts to help a friend and former Collingwood resident deal with a difficult situation regarding his relocated business in Barrie.

Mr. Beggs said he was experiencing problems getting the local (Barrie) utility to move ahead with installing a new transformer so he could re-open his business, the date for which was near. Mr. Beggs knew I was the Deputy Mayor, that I had a seat on county council, and that I had a wide range of contacts throughout the province to which I might be able to turn. He said he felt his previous attempts to resolve it had not accomplished anything.

As I said in my testimony, May 1, 2019, Mr. Beggs believed he was dealing with Barrie Hydro. Since that utility had been purchased by PowerStream, I turned to the local person who I knew was working for PowerStream, Mr. Bonwick, and asked if he could help. In my testimony, I also referred to being contacted for help many times in my term on council by people both inside and outside the town who knew of my political role and contacts.

Mr. Beggs called me for advice and assistance coincidentally the day after Collingwood council decided to release the RFP for the proposed share sale of Collus and before any bids had been received. While I was aware of Mr. Bonwick's relationship with PowerStream, I was unaware of the details of his work for them or whether he was involved with the bid process. I reached out to him because I assumed he would know the appropriate person(s) to contact and would forward Mr. Beggs' concerns to them.

I received no personal benefit from doing this, and was not paid for or received any gratuity for helping. As the subsequent email chain (**TOC0061382**) shows, the issue was dealt with by the utility without any further involvement from me. Also please note that while Mr. Beggs was known to me, his issue did not concern Collingwood or its utilities and no confidential information was exchanged or shared. There was no mention in any of the emails about the RFP, about PowerStream's bid or about Collingwood's share sale proposal. It was resolved a month before any bids were even received.

TOC0061763. This is an email from Mr. Bonwick in response to my request for him to craft an appropriate thank you letter to PowerStream regarding the issue mentioned above. As I have noted above, and in my testimony, my strength is not in formal communication, and I often asked for help from others to craft something appropriate and correct in both language and spelling.

This was Oct. 10, 2011, only a week after council had approved sending out an RFP for the share sale, and as yet no bids had been received. The Strategic Partnership Task Team did not meet again until late November, 2011, to examine the bids. In early October, 2011, there was no direct evidence PowerStream even intended to submit a bid.

Under the Municipal Conflict of Interest Act, I had neither a direct nor indirect pecuniary interest, nor was I related by family or marriage to either Mr. Beggs or Mr. Bonwick or anyone at PowerStream. As to whether there was a "perceived" conflict, I do not agree. I simply acted as a go-between; the matter was in another community, handled there. I received no financial or business benefit from helping.

I did not publicly mention this issue, my role, Mr. Bonwick's or PowerStream's involvement to anyone on staff, the SPTT or council during the RFP process, or during council's Dec. 5, 2011, in-camera meeting to examine the bids or council's vote Jan. 23, 2012, vote to ratify the Dec. 5 decision. I do not see how there could be a "perceived conflict" when there was nothing mentioned, and it was resolved before any bids had even been received. The issue was not even brought to the public's attention until this inquiry, seven years later.

According to the Municipal Conflict of Interest Act, I did not have a pecuniary or family conflict. I have always been leery of interpreting the law beyond what it says. That's for judges, not politicians to do, because we are not trained in the law. I believe that, for politicians, interpreting a law to suit a political interest or cater to public perception is entirely too self-serving. A "perceived conflict" depends on who is perceiving it. Declaring a "perceived" conflict may be used as an excuse to avoid commitment in a divided or controversial issue. Elected officials are in office to act, to make decisions, not to avoid them.

Because there is no one on staff to whom a politician can turn to for advice or opinion on conflict of interest, I believe it is much clearer to stick to the letter of the law so as not to appear to be interpreting it for one's own advantage.

Foundation document 5.32. This is about Mr. Bonwick's involvement in helping craft bylaw 2012-011 to ratify the purchase agreement between Powerstream and the Town of Collingwood, as approved by council on Dec. 5, 2011, and ratified Jan. 23, 2012.

I believe Mr. Bonwick was involved as a representative of our potential partner to ensure the bylaw also met his client's intended goals and legal requirements, not simply the town's, and thus avoid any later complications. The intent of the process since the first was to create a strategic partnership, not simply a sale. Since the actual decision to select a partner had been made by council on Dec. 5, 2011, and Collus and town staff had been in communication with PowerStream representatives since then to ensure the process went smoothly and met everyone's expectations, it seemed logical and appropriate to bring in the other partner to comment at this point.

Further, the town used the legal services of Aird & Berlis, plus its own clerk and CAO to oversee the writing of the bylaw and ensure it met all legal and ethical standards, and procedural requirements.

In **CPS0009063_00001** Mr. Bonwick himself recommended involving in the discussions about the bylaw Leo Longo (of Aird & Berlis), Mr. Houghton of Collus, the CAO, the mayor and deputy mayor.

ALE0001529 makes it clear Mr. Bonwick was in communication with staff at PowerStream to keep the partner company informed about the progress.

There was no confidential information exchanged or requested and the bylaw did not disclose anything confidential or sensitive. The selected strategic partner (PowerStream) was aware that the bylaw was forthcoming.

If there were any issues of which council should have been made aware stemming from the involvement of other parties in the process of crafting the bylaw, it would have been the responsibility of the CAO to keep council informed.

I do not see any real or perceived conflict with having a representative of our proposed strategic partner included in these discussions, given the involvement of the town's staff and legal team to protect the town's interests. Nor, it seems, did the others who were also involved at the time. I do not recall anyone on council or staff commenting on or complaining about Mr. Bonwick's involvement as a representative of PowerStream. It was a collaborative process, not confidential.

In my 25 years as an elected official, I believe I served my time in office faithfully, ethically, responsibly and to the best of my ability to serve the needs of our community and all of its residents.

Respectfully submitted

Rick Lloyd

Judge F. Marocco
c/o Inquiry Counsel Kate McGrann
Without prejudice.
Re: the inquiry's letter of June 28, 2019.

In your letter you again refer to my sharing "confidential information." As the evidence shows, there was no confidential information shared by me.

Par. 278 of the Foundation Document notes that Mr. Bonwicky said that PowerStream's presentation was "well received" without identifying a source. This sounds to me like a generic and non-committal comment made to a bidder rather than anything confidential.

These interviews were to determine both the interests of the potential bidders and their qualifications, but were not bids. All the information presented in them by the potential bidders was publicly available. This was not confidential. All of the potential bidders were fully aware of the process and the schedule of events as explained to them in these meetings by the SPTT.

The September, 2011, SPTT interviews were held a full month before council even approved sending out an RFP to the potential bidders. Council assessed the bidders based on the RFPs, not on their SPTT interviews.

You suggest it was my responsibility to, "ensure that the Town retained appropriate and independent legal counsel to advise it on the share sale transaction." That is not the responsibility of the Deputy Mayor's position, or that of any elected official, but rather lies within the domain of the CAO.

According to the CAO job description (attached) prepared by Ray & Berndston in April 2009 for the CAO recruitment process of that council (emphasis added),

"The position is responsible to Council for **administration and coordination of the delivery of services** to the municipality's residents and businesses in a manner that will ensure the sustainable utilization of human, financial and physical resources of the municipality." (p. 5)

The duties of the CAO included, but were not limited to (emphasis added):

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"Making and authorizing expenditures and **entering into contacts on behalf of the municipality.**"

"**Monitoring the delivery of municipal services** through the various department heads to ensure that [they meet] Council's approved business plans and budget."

"**Monitoring purchasing and tendering procedures** to ensure that the policies of Council are followed."

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"**Developing appropriate communications procedures** to ensure that all members of staff are informed regarding policies and directions of council."

"Developing and maintaining liaison with officials, groups, agencies and government departments as is necessary to **secure information and advice that will assist Council and promote the interests of the municipality.**"

"Ensuring that [C]ouncil receives **staff reports on agenda items that provide a background, technical analysis, sustainable analysis and a recommendation sufficient for Council to make an informed decision.**"

"Providing advice to the Mayor and Council on agenda items during Council and Committee meetings."

I also recommend you read the April, 2011 performance evaluation of the CAO position conducted by Mayor Cooper with her comments on the CAO's improving the working relationship with council, the understanding of council's direction, and communications skills.

Further, as the evidence has shown and witnesses have testified, the town DID have its own legal counsel: Aird & Berlis was the town's legal firm. Three lawyers from that firm were involved in advising council, making presentations and drawing up the documents during the entire sale process. At no point were they not involved.

Since the town was the sole shareholder of the Collus Corporation, the council of the day did not believe that the interests of the town were separate or distinct from those of the utility. Collus had always acted in a cooperative, complementary manner for the best interests of the town, with town approval. The town had political representation on the Collus board to raise any issues about divergent interests. Council also had to approve the utility's business plan in public every year, offering an opportunity to discern and debate whether the interests of the utility were the same as those of the town.

I cannot recall any concerns raised by any member of council or staff during any meetings that there was any difference of opinion about the business goals of Collus and the town. Everyone appeared to believe the interests of the town and the utility were aligned and complementary.

It was up to the CAO and the town's legal firm to ensure that the town's interests were represented in any negotiations, not the responsibility of elected representatives. I cannot recall the administration suggesting that the town's interests were not fully represented by Aird & Berlis.

Please refer to my previous letter for my response on the remainder of the contents of your letter.

Respectfully,
Rick Lloyd