

Justice F. Marrocco

cc: Kate McGrann, John Mather, Shelley Fuhre

Nov. 12, 2019

Without prejudice

Justice Marrocco:

With regard to your letter of Oct. 18, 2019 about a possible finding of misconduct, I would like to make the following comments. I believe any finding of misconduct both arbitrary and undeserved.

*“You inserted yourself into the work staff was doing to respond to Council’s July 16 direction to prepare Staff Report EMC 2012-01, including but not limited to providing editorial comments intended to advocate for the Sprung structures.”*

I was the member of council who asked for staff to investigate and report on the suitability of Sprung structures to solve our decades-old recreational facilities deficit. This request was supported by council in an open vote. From the wording of the motion, everyone (including councillors) was aware that staff was meant to look at Sprung structures as a primary focus of their report.

It was also common practice for staff to communicate with and engage the council member(s) who made requests or motions to ensure that their efforts met the council member’s intentions. Staff and council had a good working relationship that term and communicated well.

Sprung was present in a trade show booth at an FCM convention in spring, 2012, during which I encountered them and picked up their literature. I brought back their literature because I thought it worth looking into. As far as I recall, there were no competing firms offering similar structures or services at this or any similar municipal events – if there had been, I would have included them in my request. I do not recall anyone on council or staff suggesting an alternative company or manufacturer when I made the motion or when the report was presented.

*“You pressured Staff to carry out Council’s July 16, 2012 direction on an unreasonably short timeline.”*

The motion as approved by council gave staff 45 days to do their research and report back. This was also in a time when council was on summer meetings, with fewer meetings scheduled during the intervening time, which gave staff more time to work without needing to attend to council-related business.

As in any other council request, staff have always been able to request more time (and have done so in the past). Since staff did not request extra time, and were able to produce a comprehensive report, and no one on council complained at the time about the timeframe, it is unclear why this appears to be an alleged *“unreasonably short timeline.”*

I also wish to point out that council was collectively under pressure to come up with a viable and economic solution to create more recreational space and time for residents who wanted to use the water and ice facilities. For more than three decades, councils had deferred making any decision about new facilities and our council wanted to be the one that finally did something positive and effective. Staff also felt that pressure in lobbying from user groups, associations and parents.

Unfortunately, the only previous option offered that term was the \$35 million project to build the YMCA a new facility at Central Park, which the majority of council rejected both for cost and for political reasons. The Central Park report had been presented in March, four months earlier, and since then this was the first initiative to find an alternative solution. It was also the first solution that could be

constructed within the term of council, and not require residents to wait five or more years for completion.

*“You failed to respond appropriately to the information available to you indicating that Mr. Bonwick was working for Sprung or BLT, including your conversation with Tom Lloyd and your conversation with Wasaga Mayor Cal Patterson.”*

I did not learn of Mr. Bonwick’s involvement until after the motion had been tabled and approved by council, July 16, 2012. Nor did I learn at any time the details of his involvement with either company except that he was planning a presentation to Wasaga Beach Council. To the best of my knowledge, Mr. Bonwick did not raise the issue with or lobby any members of Collingwood Council or its town staff, nor identify his role with these companies to them. Nor at that time was I aware of BLT’s role in the local construction of Sprung structures.

I am not aware of any provincial legislation or policy, or any municipal policy or bylaw, that required me or anyone else to report to council on a subcontractor doing legitimate and legal business with any company. I had no conflict of interest with his involvement and at the time I learned of his involvement, council had not received the staff report, let alone entered into any contractual agreement with any company. I have not seen any evidence in this inquiry to suggest Mr. Bonwick’s work was in any way illegal or in violation of provincial or town policies.

*“You advised Councillor Dale West that Mr. Bonwick was not working with BLT or Sprung without making inquiries that you ought to have made, or making any inquiries at all.”*

Again, I am unaware of any provincial or municipal legislation or policy that makes it the responsibility of the Deputy Mayor or anyone else to inform on the legal and legitimate business interests of a resident. Nor am I aware of any responsibility for the Deputy Mayor to investigate whether Mr. Bonwick or any other legitimate businessperson is doing business with a company that the town has not entered into any contractual agreement with. Nothing prevented Councillor West from contacting Mr. Bonwick himself to get that information.

*“You recommended to Tom Lloyd that Sprung retain Paul Bonwick to assist its efforts to sell Sprung structures to the town. You failed to disclose this recommendation to the Town while promoting Sprung structures.”*

I did not “promote” Sprung structures: asking for staff to investigate them and determine the viability and cost-effectiveness of their structures is not promoting; it is simply requesting more information relevant to council’s goals vis-à-vis improved recreational facilities.

Mr. Bonwick, to the best of my knowledge, neither contacted staff nor council members to promote or lobby for Sprung or BLT at any time in the process. I have no pecuniary interest in Mr. Bonwick’s business or am I related to him. It would seem to me to be one of council’s roles to promote local businesses and encourage their services be used by other companies. Mr. Bonwick’s business was only one of many Collingwood businesses I have recommended during my time in office.

Again, I am unaware of any provincial or municipal legislation that would require such disclosure of another person’s legitimate, legal business involvement.

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

As just one of nine members of council, my actions were only a small part of the overall termination of her contract. Clearly the majority of council had issues with her performance, her relationship with council and/or them personally because it took a majority of council votes to agree to the termination.

I was not part of Ms. Wingrove’s performance evaluation, which the Mayor alone conducted. However, in that evaluation, Ms. Wingrove’s communication skills, and her relationship with, and understanding of the role of council were areas highlighted as weak and in need of improvement.

My communications about Ms. Wingrove to the Mayor followed protocol by expressing my concerns privately to the Mayor, who was doing the performance evaluation. The mayor would only be able to do her evaluation effectively with input from council members about their views and concerns. I had no other input into that evaluation except to express my personal opinion.

The appointment of Mr. Houghton as Acting CAO was temporary (for a year), not indefinitely, as his title suggests. And the appointment was agreed on by the majority of council as a means to continue doing town business effectively while council and town prepared the process of recruiting a new, permanent CAO. However, it should also be noted that council chose to replace Mr. Houghton when he resigned after his year in the role, with another acting/temporary CAO (John Brown – who remained in the position for two years).

The appointment of a temporary (“acting”) CAO is not uncommon. In fact, the Municipal Act requires a municipality have a CAO. Given that it can take many months to recruit one, a temporary CAO is an expedient choice for meeting the legal requirements of the Act.

During his time as Acting CAO, Mr. Houghton also implemented the innovative Executive Management Team (EMT) structure that engaged top town staff in a cooperative and collaborative management model that was so successful and effective that council contemplated implementing it as a permanent model for its executive staff. Unfortunately, Mr. Houghton’s replacement did not choose to follow that example of leadership.

I should like to add that the appointment of Mr. Houghton was also a cost-saving measure that saved the town \$200,000 or more in salaries in the year that he held the position because he did not take a salary or additional payment for doing so.

I am unaware of any town business that was affected by Mr. Houghton’s appointment and have heard no evidence during this inquiry nor during my time on council that it did so. Instead, I suggest that because of the collaborative EMT system, and the working relationship it created between our utilities and town hall bureaucracy, the town was *more* able to conduct business effectively.

Sincerely,

Rick Lloyd