



Transparency and the Public Trust

Report of the Collingwood Judicial Inquiry

VOLUME IV

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

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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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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.
- 252 Holburn & Fremeth at 11; Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 17.20–18.3.
- 253 Holburn & Fremeth at 11, 26, citing Office of the Auditor General Manitoba, *Study of Board Governance in Crown Organizations* (Winnipeg: Office of the Auditor General, 2009) at 7 [Auditor General Manitoba].
- 254 Holburn & Fremeth at 11.
- 255 See Holburn & Fremeth at 8.
- 256 Holburn & Fremeth at 12, 28, citing The Independent Commission on Good Governance in Public Services, *The Good Governance Standard for Public Services* (London, UK: Office for Public Management Ltd and The Chartered Institute of Public Finance and Accountancy, 2004) at 11 [Commission on Good Governance]; Treasury Board of Canada Secretariat, *Review of the Governance Framework for Canada's Crown Corporations* (Ottawa: Treasury Board of Canada Secretariat, 2005) at 23 [Treasury Board of Canada Secretariat]; Auditor General Manitoba at 8; and Canadian Coalition for Good Governance, *Building High Performance Boards* (Toronto: Canadian Coalition for Good Governance, 2013) at 8.
- 257 Holburn & Fremeth at 6, 17, 34, citing Auditor General Manitoba at 84.
- 258 Holburn & Fremeth at 17, 34, citing Auditor General Manitoba at 87.
- 259 Holburn & Fremeth at 18, 36, citing Auditor General Manitoba at 72; and Office of the Auditor General of British Columbia, *Making the Right Decisions: Information Use by the Boards of Public Sector Organizations* (Victoria: Office of the Auditor General of British Columbia, 2009/2010) at 12.
- 260 Holburn & Fremeth at 17, 35, citing Auditor General Manitoba at 31.
- 261 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 17.20–18.3; Wendy Walberg, Municipally-Owned Corporations Panel, November 29, 2019, 20.4–20.11; Holburn & Fremeth at 11.
- 262 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 17.20–18.3, 24.23–25.17; Wendy Walberg, Municipally-Owned Corporations Panel, November 29, 2019, 20.4–20.11; Holburn & Fremeth at 11, 26, citing Crown Agencies

- and Board Resourcing Office, *Best Practice Guidelines: Governance and Disclosure Guidelines for Governing Boards of British Columbia Public Sector Organizations* (Victoria: Crown Agencies and Board Resourcing Office, 2005) at 28–30.
- 263 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 24.23–25.17.
- 264 Wendy Walberg, Municipally-Owned Corporations Panel, November 29, 2019, 20.4–20.11.
- 265 Holburn & Fremeth at 13, 29, citing Auditor General Manitoba at 30.
- 266 Holburn & Fremeth at 13.
- 267 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 24.23–25.17; Wendy Walberg, Municipally-Owned Corporations Panel, November 29, 2019, 25.19–25.22.
- 268 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 13.6–13.9, 21.3–21.23; Wendy Walberg, Municipally-Owned Corporations Panel, 23.12–23.17.
- 269 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 31.16–31.25.
- 270 See Holburn & Fremeth at 18, 37, citing Auditor General Manitoba at 103–104; Treasury Board of Canada Secretariat at 34; and Commission on Good Governance at 24.
- 271 Mary Ellen Bench, Municipally-Owned Corporations Panel, November 29, 2019, 46.2–46.25.
- 272 Mary Ellen Bench and Wendy Walberg, Municipally-Owned Corporations Panel, November 29, 2019, 47.7–47.18.
- 273 *Municipal Act, 2001*, SO 2001 c 25 [*Municipal Act*].
- 274 *Municipal Conflict of Interest Act*, RSO 1990, c M50.
- 275 See *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 35 [*TCLI/TECI Report*].
- 276 *TCLI/TECI Report* at Recommendation 35.
- 277 *TCLI/TECI Report* at Recommendation 51.
- 278 *Municipal Act, 2001*, SO 2001 c 25 [*Municipal Act*].
- 279 Anna Kinastowski, Good Governance Panel, November 27, 2019, 93.10–93.16, 124.14–124.18.
- 280 See *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 95.

The Inquiry Process

The Inquiry Process

Establishment of the Collingwood Public Inquiry Under the *Municipal Act, 2001*¹

The *Municipal Act* of Ontario empowers a municipality to request by resolution that a judge of the Superior Court of Justice conduct a judicial investigation into specific affairs of the local government. The Superior Court of Justice must assign a judge to conduct the investigation, and the municipality is required to pay for the costs of the inquiry.² Section 274 of the *Municipal Act* provides explicitly that

- 274 (1) If a municipality so requests by resolution, a judge of the Superior Court of Justice shall,
- a. investigate any supposed breach of trust or other misconduct of a member of council, an employee of the municipality or a person having a contract with the municipality in relation to the duties or obligations of that person to the municipality;
 - b. inquire into any matter connected with the good government of the municipality; or
 - c. inquire into the conduct of any part of the public business of the municipality, including business conducted by a commission appointed by the council or elected by the electors.
- (2) Section 33 of the *Public Inquiries Act, 2009* applies to the investigation or inquiry by the judge.
- (3) The judge shall report the results of the investigation or inquiry to the council as soon as practicable.

- (4) The council may hire counsel to represent the municipality and pay fees for witnesses who are summoned to give evidence at the investigation or inquiry.
- (5) Any person whose conduct is called into question in the investigation or inquiry may be represented by counsel.
- (6) The judge may engage counsel and other persons to assist in the investigation or inquiry and the costs of engaging those persons and any incidental expenses shall be paid by the municipality.

This power of Ontario municipalities dates back before Confederation. Apart from a few minor amendments, section 274 of the *Municipal Act* remains substantially unchanged from its predecessor section in 1866.³ Justice Binnie of the Supreme Court of Canada observed in a decision that this extensive history of inquiries in Canada “reflects a recognition through the decades that good government depends in part on the availability of good information.”⁴ It has been remarked that “much of the history of Canada could be interpreted through the work of commissions of inquiry.”⁵ Justice Binnie also wrote that “[t]he power to authorize a judicial inquiry is an important safeguard of the public interest” and that a “municipality, like senior levels of government, needs from time to time to get to the bottom of matters and events within its bailiwick.”⁶

Municipal inquiries are not uncommon. At present, the Red Hill Valley Parkway Inquiry, established by the City of Hamilton in 2019, is conducting an inquiry into several issues surrounding the low friction levels of a municipal expressway.⁷ In 2009, the City of Mississauga established the Mississauga Judicial Inquiry, which investigated problems related to the shareholders’ agreement with Enersource Hydro Mississauga and the acquisition by the municipality of land in the city centre.⁸ In 2002, the City of Toronto created the Toronto Computer Leasing Inquiry and Toronto External Contracts Inquiry to investigate information technology (IT) transactions between outside suppliers and the City of Toronto.⁹ In 2002, the City of Waterloo established the RIM Park Financing Judicial Inquiry to inquire into a local park’s financing arrangements.¹⁰

In establishing this Inquiry, the Town of Collingwood stated that it “hope[d] that this process will provide necessary answers and strengthen the

Town's accountability and transparency provisions.”¹¹ Resolution 042-2018 (Appendix B) of its request for an inquiry specifically provides that

WHEREAS, under s. 274 of the *Municipal Act, 2001* S.O. 2001, c. 25, the Council of a Municipality may, by resolution, request a judge of the Superior Court of Justice to inquire into or concerning any matter connected with the good government of the municipality, or the conduct of any part of its public business;

AND WHEREAS any judge so requested shall make inquiry and shall report the results of the investigation or inquiry to the Council as soon as practicable;

AND WHEREAS the Town of Collingwood concluded a Share Purchase Agreement on March 6, 2012 in which it sold 50% of Collingwood Utility Services Corporation to PowerStream Inc. (“the Transaction”; “PowerStream”);

AND WHEREAS concerns have been raised about the wisdom and reasons for the Transaction;

NOW THEREFORE the Council of the Town of Collingwood does hereby resolve that:

1. An inquiry is hereby requested to be conducted pursuant to s. 274 of the *Municipal Act* which authorizes the Commissioner to inquire into, or concerning, any matter related to a supposed malfeasance, breach of trust, or other misconduct on the part of a member of Council, or an officer or employee of the Town or of any person having a contract with it, in regards to the duties or obligations of the member, officer, or other person to the corporation, or to any matter connected with the good government of the municipality, or the conduct of any part of its public business; and
2. The Honourable Chief Justice Smith, Chief Justice of the Superior Court of Ontario, be requested to designate a judge of the Superior Court of Ontario as Commissioner for the inquiry and the judge so designated as Commissioner hereby authorized to conduct the inquiry in two stages:

- a. To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to understand the following:
- i. the sequence of events leading to the Transaction, including the Request for Proposal process commissioned by the Town of Collingwood;
 - ii. the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
 - iii. any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream and any other Collus company;
 - iv. Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the transaction;
 - v. The commercial relationship between PowerStream, Collus PowerStream and any other Collus entity and the Town of Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;
 - vi. The salaries, benefits and emoluments of any kind paid to any employee of Collus PowerStream and any other Collus company;
 - vii. The allocation of the proceeds of the transaction to the construction of the recreational facility at Central Park and Heritage Park.
 - viii. The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility.
- b. Having conducted the documentary review to determine what, if any, public hearings ought to be held into the matters designated for the inquiry herein;

AND IT IS FURTHER RESOLVED THAT the Terms of Reference of the Inquiry shall be: to inquire into all aspects of the above matters, their history and their impact on the ratepayers of the Town of Collingwood as they relate to the good government of the municipality, or the conduct

of its public business, and to make any recommendations which the Commissioner may deem appropriate and in the public interest as a result of the inquiry.

AND IT IS FURTHER RESOLVED THAT the Commissioner, in conduct [*sic*] the inquiry into the transactions in question to which the Town of Collingwood is a party, is empowered to ask any questions which he or she may consider as necessarily incidental or ancillary to a complete understanding of these transactions, and for the purpose of providing fair notice to those individuals who may be required to attend and give evidence, without infringing on the Commissioner's discretion in conducting the inquiry in accordance with the Terms of Reference stated herein, it is anticipated that the inquiry may include the following:

- a. Was there adequate Council oversight of the transactions listed above?
- b. Was Council's delegation of authority in relation to the transaction appropriate?
- c. Did council receive sufficient independent professional advice prior to delegating its authority to conduct the RFP negotiate or finalize the Transaction?
- d. Where the criteria developed to assess the proposals received during the RFP process appropriate and did the criteria serve the interests of the ratepayers of Collingwood?

Resolution 042-2018 requested the Honourable Heather Smith, Chief Justice of the Superior Court of Justice, to designate a judge to conduct this inquiry. On April 6, 2018, I was appointed by Chief Justice Smith as Commissioner to the Collingwood Judicial Inquiry.¹²

Before I turn to the organization of the Collingwood Judicial Inquiry, its Rules of Procedure and other matters related to the process of the Inquiry, I discuss the purposes of public inquiries and how public inquiries differ from civil trials and criminal prosecutions.

Purposes of Public Inquiries

Public inquiries owe their popularity and extensive use throughout Canada's history to their many virtues and the purposes they fulfill. Some of these benefits are clear and apparent, but others are less obvious.

Public inquiries are highly effective fact-finding processes. Governments convene public inquiries to inquire independently into the facts or matters that are the subject of the inquiry and to make recommendations. They are established by federal, provincial, or municipal governments in the aftermath of a scandal, an accident, or other matters of public concern. They often follow closely in the wake of public suspicion, fear, disillusionment, or distress to uncover the truth of what has happened.¹³

To that end, public inquiries are well positioned for this fact-finding exercise. They have extensive investigative powers, including the ability to summon any person to produce documents and materials relevant to the subject matter of the inquiry and to summon any individual to testify under oath at an inquiry.¹⁴ In addition, they also educate the public. They do so by investigating their mandate in a genuinely public fashion. Matters of public interest are investigated in full public view, with the presentation of evidence publicly.¹⁵

Public inquiries do not examine issues in private but in a public forum, with the participation of the public who are most afflicted by these issues. The observations of Justice Grange, Commissioner of the Inquiry into Certain Deaths at the Hospital for Sick Children in Toronto, are of note in this regard.¹⁶ After the publication of his report, Justice Grange recalled how, at the beginning of the process, he thought that all the evidence presented at the inquiry had the exclusive purpose of convincing him of the facts as he prepared to write his final report. But he came to realize "there was another purpose to the inquiry just as important as one man's solution to the mystery, and that was to inform the public. Merely presenting the evidence in public, evidence which had hitherto been given only in private, served that purpose. The public has a special interest, a right to know, and a right to form its opinion as it goes along."¹⁷

The opinion the public forms, however, is not restricted to appreciating

the facts of the particular controversy. It extends to understanding the complex systemic issues in the community underlying the problem. The combination of the fact-finding and public education processes of public inquiries allows them to be the means for the public and governments to understand systemic issues and prevent past mistakes from reoccurring.

Public inquiries also consider matters of governance and public policy. The independence of inquiries provides them with the “objectivity and freedom from time constraints not often found in the legislature.”¹⁸ Public inquiries are vehicles of neutrality and institutional freedom. They complement conventional government institutions and focus on the systemic issues afflicting our communities, taking a long-term view of the problems presented.

Public inquiries provide members of the community with an opportunity to voice their grievances about the subject of the inquiry. They are often the first such opportunity for some members of the community.¹⁹ The fact-finding process of the inquiry further contributes to the community by uncovering evidence of public interest. This process is strengthened by the public policy recommendations aimed at preventing the reoccurrence of the events that led to the inquiry.

Policy hearings, the recommendations borne from them, and the hope of changes to prevent other similar occurrences all help to restore public confidence in the institutions or the processes investigated.²⁰ Public inquiries accomplish this end by isolating the root cause of the problem, separating it from government’s non-problematic functions, and formulating recommendations to treat it. Public inquiries also restore public confidence by contributing to a unique process of dealing with a community problem, one that entrenches the inquiry in an ongoing social process to address the problem. Justice Le Dain of the Supreme Court of Canada described the unique social function of public inquiries as follows:

What gives an inquiry of this kind its social function is that it becomes, whether it likes it or not, part of this ongoing social process. There is action and interaction ... Thus this instrument, supposedly merely an extension of Parliament, may have a dimension which passes beyond the political process into the social sphere. The phenomenon is changing

even while the inquiry is in progress. The decision to institute an inquiry of this kind is a decision not only to release an investigative technique but a form of social influence as well.²¹

To summarize briefly, public inquiries serve several purposes. They are highly effective mechanisms to get to the truth of a matter. They educate the public by incorporating them in the inquiry process. They allow for the community and the government to understand and resolve systemic issues, and they restore public confidence in the investigated organizations and institutions. I trust that the Collingwood Judicial Inquiry will satisfy all these purposes.

The public hearings were designed to get to the truth of how 50 percent of the Collus Power Corporation shares came to be sold, and how the proceeds from that sale were allocated to the construction of the recreational facilities in Central Park and Heritage Park. The accessibility of the Inquiry, with hearings held in Council chambers in Collingwood to facilitate attendance of the public and streamed by a local TV broadcaster for those who could not attend physically, as well as the publication of our Foundation Documents, exhibits, and transcripts on our website, all allowed the public to come to their own conclusions. In the public policy part of the Inquiry, we had presentations from experts in municipal governance to address the systemic issues that arose from our Terms of Reference. Early in the life of the Inquiry, we organized a community meeting to inform the community about our process. I hope, as a result, that public confidence is restored and that publication of this Report adds to the ongoing public discourse about what is expected from municipal government.

Types of Public Inquiries

There are generally two different types of public inquiries: investigative inquiries and policy inquiries.

Investigative inquiries are, as the name suggests, investigative. They are usually called in the wake of public controversy. Their mandate is to conduct an independent, transparent, and comprehensive review of the events

underlying the controversy and to report what happened.²² One way the commissioner fulfills this mandate is by hearing evidence from witnesses and compelling individuals to produce documents.²³

Whereas investigative inquiries look back, seeking to find out what happened, policy inquiries look forward to propose policy reforms in an area of public concern. They are established to prevent a reoccurrence of undesirable events and to address and rectify systemic problems.²⁴ Policy inquiries are completed through research, consulting with experts and community members, and developing policy options to be considered by government.²⁵

Public inquiries as such can be opportunities to look back or to look forward. They can also be both.²⁶ Inquiries have had dual mandates to investigate an event and to propose policy reform to prevent its reoccurrence. For instance, the Toronto Computer Leasing Inquiry and Toronto External Contracts Inquiry examined IT transactions between outside suppliers and the City of Toronto. They made recommendations under the broad themes of ethics, lobbying, procurement, and governance.²⁷

The Town of Collingwood Inquiry also had a dual mandate, both looking back to uncover the truth of what happened and looking forward to make policy recommendations to prevent the reoccurrence of these events.

Difference Between Public Inquiries and Civil and Criminal Proceedings

People observing public inquiries sometimes mistakenly believe that public inquiries are the same or similar to civil or criminal trials. The public hearings are often held in spaces resembling a court, the commissioner is frequently a judge, and witnesses are usually examined and cross-examined by lawyers.²⁸ However, it is important to understand that public inquiries are neither criminal nor civil trials. An inquiry does not find anyone guilty of a crime and cannot punish anyone with penal consequences.²⁹ An inquiry also cannot hold anyone civilly liable or order anyone to pay monetary damages.

The differences in results among these three proceedings are best understood by contrasting their distinctive purposes. The purpose of a criminal

trial is to identify whether the person accused of a crime is guilty of that offence. Similarly, civil trials are focused on the relationship between the plaintiff and the defendant and whether the defendant harmed the plaintiff in such a way that monetary compensation is owing. In contrast, the purpose of public inquiries is to understand holistically how an event transpired or a condition emerged as well as all the contributing factors and circumstances that facilitated their materialization. The hearings unfold in public view, with participation by the public and the parties who have been granted the right to participate.³⁰ With this comprehensive understanding, a public inquiry can make meaningful recommendations to alleviate a particular problem or to prevent its reoccurrence.

Role of the Commissioner and Commission Counsel

The difference in purposes and results between a trial and a public inquiry presents unique roles for a judge acting as commissioner of a public inquiry and the lawyers who assume commission counsel positions. Unlike a trial, which is adversarial in nature, public inquiries are inquisitorial.

In a public inquiry, the commissioner is not removed from the investigation. Rather, the commissioner conducts the investigation and is tasked with inquiring into the matters that form the terms of reference and reporting on them.³¹ The commissioner determines the process of the inquiry through rules of procedure and also decides which witnesses to interview and which to call for examination at the public hearings. The commissioner also determines who will have rights of participation at the inquiry and the extent of that participation. To help discharge these responsibilities, the commissioner has the assistance of commission counsel.

The lawyers who act as commission counsel similarly play a different role than they do at a trial. This distinction results from the different relationship between a judge and a lawyer and between a commissioner and commission counsel. In a trial, the lawyers are selected by the parties who appear before a judge. The lawyers develop their cases privately and then lead evidence at a hearing before a judge in an effort to persuade the judge to agree with their theory of the case. In a public inquiry, however, the commissioner

appoints commission counsel to assist in investigating the subject matter of the inquiry and also to lead evidence at the hearings. Throughout the inquiry, commission counsel act on behalf of and under the instruction of the commissioner.³²

The primary responsibility of commission counsel is to ensure that all the evidence, all the issues, and all perspectives bearing on the inquiry are brought to the commissioner's attention.³³ Commission counsel go through a rigorous cycle of investigating, testing, and verifying the evidence. This process ensures that the commissioner will hear all the relevant evidence undistorted by the perspective of a party with a vested interest in a specific outcome of the inquiry.³⁴

In addition to leading and probing the testimony of witnesses at public hearings, commission counsel also interview witnesses, prepare summaries of anticipated testimony at hearings, and draft affidavits to be used in lieu of some or all of a witness's testimony. Commission counsel consult with the commissioner about which witnesses to call, the order of calling those witnesses, and whether expert witnesses are required. Commission counsel act as the intermediaries between the commission and the participants, providing them with information about the rules of procedure and the scheduling of witnesses, and liaising with them when concerns arise to ensure that the public hearings proceed in an orderly fashion. Commission counsel assist the commissioner in designing the inquiry itself and in helping to draft rules of procedure, rules of evidence, and rules governing participation.

Principles by Which the Collingwood Public Inquiry Were Governed

Public inquiries can develop their own rules and procedures to fulfill their mandate. At the beginning of my mandate, Commission counsel and I reviewed the rules and procedures developed by previous inquiries. We circulated draft rules to the participants for their comment before the rules were finalized. Five principles guided both our approach to the Rules of

Procedure and the Inquiry more generally: thoroughness, proportionality, expediency, fairness, and accessibility.

Thoroughness

As I discuss above, a dominant feature of a public inquiry is that it investigates in order to learn the truth regarding the subject matter of its mandate. It is of great importance that every inquiry be, and appear to be, impartial and independent.³⁵ To that end, an inquiry must explore all relevant issues thoroughly and carefully.³⁶

In practice, this principle led the Collingwood Judicial Inquiry to collect more than 440,000 documents. Commission counsel conducted many confidential witness interviews, speaking to people who had information or documents related to the Inquiry's subject matter. The Inquiry received evidence from 57 witnesses, including expert witnesses, along with presentations from the Hon. Denise Bellamy, a retired justice of the Superior Court of Justice, and the Town of Collingwood's chief administrative officer, over 61 days.

When Commission counsel questioned witnesses during the hearings, they probed them for the truth. I also allowed participants with standing to propose witnesses to be called. The Commission's rules provided a process for participants to apply for permission to call a witness if Commission counsel elected not to call that person.³⁷ My Commission counsel did not oppose calling any witnesses whom the participants requested.

Proportionality

The thoroughness principle was balanced by the principle of proportionality. That meant I had to decide carefully which issues related to the Inquiry's mandate were to be explored and to what extent. I had to ensure that a proposed line of investigation was sufficiently relevant to the Inquiry and would advance the Inquiry appropriately to justify the expenditure of resources and time on it. The principle of proportionality dictated that our focus remained on what was significant and important to our Terms of Reference.³⁸

Expediency

We implemented a number of mechanisms to ensure that this Inquiry was completed promptly. For instance, Commission counsel worked with some witnesses to prepare sworn affidavits in place of part or all of that individual's oral testimony.³⁹ We produced two Foundation Documents, one for each of the first two parts of the Inquiry. The Foundation Documents summarized the materially relevant information from the documents collected. One of the reasons we produced the Foundation Documents was to expedite examinations at the hearings. On one occasion, multiple witnesses were examined at the same time.⁴⁰

When granting participants the right to participate in the Inquiry, I confined that participation only to those portions of the Inquiry related to their particular interest or perspective.⁴¹ Even with these specified participatory rights, participants were encouraged and did co-operate with Commission counsel to avoid unnecessarily prolonging the proceedings.

Fairness

The public interest in uncovering the truth must be balanced with the right of those involved in the process to be treated fairly, particularly those parties that may be implicated negatively in the process.⁴² To that end, Commission counsel and I took measures to ensure that participants with standing had notice of the evidence we anticipated witnesses would provide at the Inquiry. For example, after conducting confidential witness interviews, Commission counsel prepared confidential summaries of the witness's anticipated evidence and circulated it first to the witness for review and then to the parties with participation rights.⁴³ The participants and their counsel received these summaries after signing an undertaking that stated:

I undertake to the Town of Collingwood Judicial Inquiry (the "Inquiry") that all documents and information disclosed to me, either inadvertently or otherwise, in connection with the Inquiry (the "Information") will not be disclosed to anyone and will not be used by me for any purpose other than the Inquiry's proceedings. I will not disclose the Information to

anyone and I shall continue to treat the Information as confidential after the completion of the Inquiry.

I did not make a finding of misconduct on the part of any person unless that person had reasonable notice of the substance of the alleged misconduct and was allowed the opportunity to be heard and to respond.⁴⁴ Notices of potential misconduct findings were delivered on a confidential basis to the person to whom the allegations of misconduct referred.⁴⁵ Recipients of these notices could call witnesses in response.

Accessibility

Records introduced into evidence at the Inquiry were available to the public to examine, and witness testimony was available for the community to hear. The public has a right to know what happened and a right to form its opinion as the process of an inquiry unfolds. More than just hearing the evidence, the public also has a right to examine the process of the inquiry itself and to measure whether the inquiry is proceeding thoroughly, proportionately, expeditiously, and fairly.⁴⁶ Openness and accessibility are linked to public confidence. Transparency functions to instill public confidence in the inquiry and to restore public confidence in the institutions investigated. In short, a public inquiry should be public as much as that is practicable.⁴⁷

To that end, shortly after the Inquiry was established, it set up a website with information about its mandate, the Commissioner, Commission counsel, Commission staff, and other relevant information.

To introduce ourselves to the residents of the Town of Collingwood and also to hear from those residents, the Inquiry held a community meeting on August 13, 2018.⁴⁸

We uploaded both Foundation Documents and the documents they referred to on our website for public access. We also uploaded transcripts of the proceedings as soon as practicable in addition to the exhibits that the witnesses referred to in oral evidence for Part One and Part Two of the Inquiry. For Part Three of the Inquiry, we uploaded transcripts of the hearings and the slide decks used in the experts' presentations.

As to the public hearings, we decided early on to hold them in

Collingwood, to allow the residents of the Town easy access to attend.⁴⁹ In addition, the hearings were live streamed on the local cable network, and later uploaded on the network's website for those people who were unable to attend in person.

Using the website and live streaming the hearings on the internet meant that residents of the Town of Collingwood could read the same documents we read, see the exhibits referred to in oral testimony as we saw them, and watch the witnesses testify in the public hearings.

Division of the Mandate

The Terms of Reference (Appendix A) provided me with a mandate that I divided into three interconnected parts. As I discuss above, Part One concerned the sale of shares of a municipal asset; Part Two concerned the use of proceeds from that sale to construct recreational facilities; and Part Three focused on policy issues related to the first two parts of the Inquiry.

Part One: The 2012 Sale of the Collingwood Utility Services Corporation Shares

Part One of the Inquiry dealt with the sale of an interest in a municipal asset: it investigated the sequence of events that led the Town of Collingwood to conclude a share purchase agreement for the sale of shares of the Collingwood Utility Services Corporation to PowerStream Incorporated on March 6, 2012.⁵⁰

The Commission was asked in its Terms of Reference to inquire into

- the request for proposal process used by the Town of Collingwood for the purposes of this transaction;
- the nature and extent of the delegation of authority by Council to those who negotiated;
- any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream, and any other Collus company;

- any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the transaction;
- the commercial relationship between PowerStream, Collus PowerStream, and any other Collus entity and the Town of Collingwood before 2017, and in particular, any agreement entered into between or among any of these parties; and
- the salaries, benefits, and emoluments of any kind paid in relation to the transaction to any employee of Collus PowerStream and any other Collus company.⁵¹

Part Two: Funding the Recreational Facilities at Central Park and Heritage Park

Part Two of the Inquiry focused on the use of the funds from the sale in Part One. Specifically, it investigated the allocation of the proceeds of the sale of shares in Collus Power to the construction of the arena and the pool at Central Park and Heritage Park, respectively. It was also concerned with the payment of any fee or benefit of any kind on behalf of any person involved in the creation or construction of the recreational facility at Central Park and Heritage Park.⁵²

Part Three: Issues of Policy and Good Governance

In Part Three of the Inquiry, I focused on policy issues raised by the events of Part One and Part Two. I examined the impact of Part One and Part Two on the Town of Collingwood as they related to the good governance of the municipality. Part Three of the Inquiry was of great assistance in helping me to formulate my recommendations to the Town of Collingwood and the public.

Unlike the first two parts of the Inquiry, I did not hear from fact witnesses during Part Three of the mandate. Rather, public hearings were held between November 27 and December 2, 2019, when I heard panel presentations from experts. The panellists had significant breadth of municipal and provincial expertise, including in good governance, conflict of interest, ethics in government, municipally owned corporations, procurement, and

lobbying. We also heard evidence from the Hon. Denise Bellamy, a retired justice of the Superior Court of Justice in Ontario who served as commissioner of two municipal judicial inquiries involving the City of Toronto: the Toronto Computer Leasing Inquiry and the Toronto External Contracts Inquiry. Commission counsel, counsel for the Town of Collingwood, and I had the opportunity to ask the Hon. Denise Bellamy about her views concerning the subject matters listed above. The purpose of these presentations was to inform the Inquiry about public policy matters in relation to the systemic issues at this Inquiry. The expert evidence in Part Three was invaluable.

Participation and Funding

Participation

On August 20, 2018, I announced my first decision on who would receive standing to participate in the Inquiry and to what extent the parties would be able to participate (Appendix J). In preparation for this decision, we published a “Call for Applications for Participation at the Inquiry’s Public Hearings” in relevant newspapers and through radio advertising (Appendix E). The Inquiry website also posted the Call for Applications. The notice invited applications from any person or group

- a. with a substantial and direct interest in the subject matter of the Inquiry;
- b. who is likely to be notified of a possible finding of misconduct;
- c. whose participation would further the conduct of the Inquiry; or,
- d. whose participation would contribute to the openness and fairness of the Inquiry.⁵³

We produced an application form (Appendix F) that asked potential participants to identify under which of the above-mentioned criteria they were seeking to participate and to explain how they satisfied the criteria. Applicants were also asked about the extent of the participation they sought.⁵⁴ Options for participation included delivering written submissions, a seat at counsel table, making an opening statement, leading evidence, leading

expert evidence, cross-examining witnesses, making closing submissions, or other participatory rights as the applicant identified.⁵⁵

In the interest of efficiency, the form also requested applicants to identify whether they had a common interest with any other party that wanted to participate and, if so, the applicant's position on shared participation.⁵⁶ Applicants were asked to submit a completed application form, either electronically or in writing, no later than 4:00 p.m. on July 20, 2018.⁵⁷ In some cases, additional correspondence or information was requested from applicants to participate concerning their interest and the nature of participation sought.⁵⁸

Parallel to this process, the Inquiry identified several parties as having presumptive interests in the subject matter of the Inquiry. These parties included the Corporation of the Town of Collingwood, Mayor Sandra Cooper, Alectra Utilities Corporation (as the successor corporation to PowerStream), Collus PowerStream Corporation, and Paul Bonwick. For efficiency and expediency purposes, the Inquiry adopted an expedited process for these parties whereby they were not required to make formal applications for participation but, rather, were asked to confirm whether they wanted participation rights and, if so, to advise which level of participation they sought.⁵⁹

I asked the parties applying to participate to identify the issues they believed affected them substantially and directly and to provide a brief statement indicating how their participation would enhance the Inquiry's work. The identification of a presumptive interest did not automatically allow for participation in all phases of the Inquiry. The Inquiry reserved the right to set appropriate limits on participation rights for those with presumptive interests.⁶⁰

After the receipt of the written applications, I held a hearing on August 14, 2018, in the Council Chambers located at 97 Hurontario Street.⁶¹ Although not all applicants made oral submissions, in total eight parties sought participation rights.⁶²

On August 20, 2018, I released my decision concerning participation. In addressing the question of participation, I balanced the principles of thoroughness, proportionality, and expedition. I also applied the following principles:

- the participation of those with a substantial and direct interest will assist the Inquiry in being thorough and complete;
- there is a benefit to having a variety of perspectives available to the Inquiry;
- applicants will be granted the right to participate only on those portions of the Inquiry that relate to their particular interest or perspective;
- Commission Counsel are present and will participate throughout the Inquiry. They represent the public interest. Their role is not adversarial or partisan;
- witnesses may have counsel present during their evidence;
- where participants have the same interest, they will be expected to cooperate with Commission Counsel to avoid the unnecessary expense of prolonged proceedings; and,
- where participants have standing in specific areas, they will stay within the permitted areas.⁶³

In my reasons, I granted all eight applicants participation rights, though in varying degrees and only for the portions of the Terms of Reference for which they had a direct and substantial interest.⁶⁴ I also made it clear that participation carries the obligation to assist the Inquiry in carrying out its mandate. Participants who were not discharging this obligation or otherwise not complying with the Inquiry's procedures could find their participation curtailed.⁶⁵

After the conclusion of the Part One hearings, I received an application for participation in Part Two of the hearings. I granted this applicant standing on July 26, 2019 (Appendix O). In total, there were nine participants with participation rights in the Inquiry (Appendix H).

Funding

Parties with standing were entitled, but not required, to participate in the Inquiry through the representation of a lawyer.⁶⁶ The Terms of Reference did not grant me the ability to order the Town of Collingwood to provide legal counsel funding. However, I could make non-binding recommendations to the Town to fund the legal representation of a participant.⁶⁷

For me to recommend to the Town that it fund a party's legal representation, I requested that the party concerned identify in the written application for participation rights whether it was seeking a recommendation for funding.⁶⁸ The Inquiry explained that a recommendation for funding would occur if I was of the view that a party would not otherwise be able to participate in the Inquiry without funding (Appendix G).⁶⁹ Other considerations for a recommendation included

- the applicant had a unique perspective that would not be presented to the Inquiry if the applicant did not participate;
- the applicant had an established record of concern for and a demonstrated commitment to the interest he or she sought to represent;
- the applicant had a special experience or expertise in respect of the Inquiry's mandate;
- the applicant had a proposal concerning the use of funds and how the applicant would account for funds; and
- the applicant could be part of a group with similar interests.⁷⁰

The application for participation form asked the applicants to identify which of these criteria applied to them and to explain how they satisfied them.⁷¹ Those seeking funding were also required to attend the August 14, 2018, Hearing on Standing to Participate.

Applicants required an affidavit outlining financial circumstances and explaining why they would not otherwise be able to participate in the Inquiry without funding.⁷² Supporting documents were required to substantiate the statements made in the affidavits.⁷³ These documents could include tax returns, bank or other financial information, and statements of expenses that could support the funding application.⁷⁴

In total, four participants sought funding to participate in the Inquiry.⁷⁵ Some of those requesting funding made further requests for additional funding as the Inquiry was underway and their funding already exhausted.⁷⁶ In some instances, I recommended that the Town supply the necessary funds. In other instances, I was not satisfied with the applicant's evidence, and I suggested that the Town of Collingwood act under several principles

that had guided other inquiries. I explained these principles before considering requests for funding.⁷⁷ They included the following:

- it is not in the public interest to have open-ended funding;
- it is not in the public interest to provide individuals with their lawyer of choice at that lawyer's regular hourly rate;
- the Town should establish compensation for counsel for the purposes of this Inquiry, which should include reasonable time for preparation by counsel as well as for attendance at the hearings. Limits should be set on preparation time;
- attendance of counsel at the hearings should be limited to attending when the client's interests are engaged;
- counsel should be entitled to compensation for their reasonable disbursements;
- where appropriate, disbursement rates should be set;
- funding available from third party sources, such as directors' and officers' liability insurance, should be applied first, before public funds are made available;
- no fees incurred before the date of Council's decision to hold a public Inquiry should be paid;
- no fees related to interlocutory proceedings, appeals, judicial reviews or any other matters (e.g., civil litigation) should be paid by the Town; and,
- accounts should be subject to review by an independent third party.

Rules of Procedure

In order to ensure the fair and efficient operation of the Inquiry, Rules of Procedure (Appendix C) were established to guide the participants throughout the process. The Rules governed the conduct of the hearings and outlined responsibilities and expectations for the parties participating in these public hearings.

The Rules addressed matters such as the mandate of the Inquiry; the inclusion of Inquiry material in the public record; the date, time, and

location of the public hearings; and the Inquiry's commitment to a fair process. The Rules also contained a procedure, at my discretion, for potential amendments to the Rules.⁷⁸

Preparation of Evidence

DOCUMENTARY EVIDENCE

To accomplish the Inquiry's mandate effectively, the Inquiry established processes to collect documents that were relevant to the subject matter of the Inquiry.

As soon as possible following the granting of participation rights, I required participants to produce all the documents in their possession, power, or control that had any bearing on the subject matter of the Inquiry. Participants were also required to provide a plan to the Inquiry setting out how they would produce these documents. In addition, they provided the Inquiry with a list of the witnesses they believed should be heard. All documents received by the Inquiry were treated as confidential until they were made part of the public record. Commission counsel were also able to transmit submitted documents to potential witnesses.⁷⁹

Issues of Privilege

The Inquiry was not entitled to the production of privileged documents. As a result, the Rules included protocols for handling documents that were subject to claims of privilege.

IDENTIFYING AND PREPARING WITNESSES

Evidence provided by witnesses formed an essential part of the Inquiry. Before the first public hearing of the Inquiry, Commission counsel spent a considerable amount of time reviewing documents and compiling lists of witnesses for the hearings. The Inquiry received evidence from 57 witnesses, including expert witnesses, along with presentations from the Hon. Denise Bellamy, a retired justice of the Superior Court of Justice, and the Town of Collingwood's chief administrative officer, over 61 days. Certain witnesses gave evidence in part or wholly via affidavit. Receiving evidence

by way of affidavit reduced hearing time while ensuring that the evidence was heard.

Witness Interviews

Before testifying at the hearings, potential witnesses were confidentially interviewed by Commission counsel, with the opportunity to have legal counsel present, to determine if the witness had information or documents that helped to fulfill the Inquiry's mandate. If Commission counsel decided to call the witness to testify, they prepared a confidential summary of each witness's anticipated evidence which was shared with the witness and participants before the witness testified.⁸⁰

Expert Witnesses

In Part Three of the Inquiry, I heard from 13 expert witnesses on matters concerning good governance, conflict of interest, ethics in government, municipally owned corporations, procurement, and lobbying. I received the evidence of the expert witnesses in panels using a conversational format. The Hon. Denise Bellamy, a retired justice of the Superior Court of Justice in Ontario, also presented. Justice Bellamy served as commissioner of two municipal judicial inquiries involving the City of Toronto: the Toronto Computer Leasing Inquiry and the Toronto External Contracts Inquiry. Fareed Amin, then Collingwood's chief administrative officer, also presented.

Inquiry Evidence

I had the discretion to receive evidence that I considered helpful in fulfilling the mandate of the Inquiry. Since the process of a judicial inquiry differs from a regular court proceeding, as I discuss above, I was able to receive evidence that might not be admissible in a court of law. In addition, throughout the Inquiry, I was able to rely on the Foundation Documents.⁸¹

FOUNDATION DOCUMENTS

Following the collection of documentary evidence and before the hearing of oral evidence, I relied on Commission counsel to prepare a set of Foundation Documents. Foundation Documents 1 and 2, corresponding respectively to

Part One and Part Two of the Inquiry, summarized the materially relevant information from the documents collected. These Foundation Documents proved to be extremely valuable because they provided notice to the participants of the issues, organized the results of a mass collection of documents, and provided an effective resource document for counsel and witnesses to reference during oral testimony and cross-examination. The Foundation Documents were posted on the Inquiry's website and were available to the general public.

ORAL EVIDENCE

In addition to documentary evidence, I also heard oral evidence from witnesses and experts at the Inquiry. Witnesses were served a summons by Commission counsel to testify.⁸² Witnesses were entitled to have their own legal counsel present while testifying.⁸³

The order of examination of each witness began with direct examination by Commission counsel. The only exception was one witness who asked to be led by his own counsel, which I allowed. In their examination, Commission counsel were entitled to ask both leading and non-leading questions. Each participant had the opportunity to cross-examine the witness.⁸⁴ Counsel for the witness was then able to examine their client, before Commission counsel had the opportunity for re-examination.*

RIGHT TO COUNSEL

All witnesses and participants were provided with the right, but not the obligation, to have counsel present while they were being interviewed or during their testimony. They were responsible for retaining counsel at their own expense, though, as I discuss above, they had the ability to apply to me for a recommendation for funding from the Town.⁸⁵

NOTICES OF MISCONDUCT

As Commissioner of a Judicial Inquiry, I could make a finding of misconduct. The Rules provided I would not make such a finding against an individual unless the individual had reasonable notice of the alleged

* In the case of the witness who was led by his own counsel, that counsel was provided with the right to conclude the testimony.

misconduct and had the opportunity to be heard in person or by counsel. Any such notices were provided on a confidential basis. The recipients of a notice of misconduct had the opportunity to present evidence in response.⁸⁶

Amendment of the Rules

Public inquiries are dynamic processes that sometimes require their Rules to be amended to adapt to changing circumstances and provide clarification. I had the ability to amend the Rules of Procedure and add new Rules.⁸⁷ After the publication of the initial Rules of Procedure, I decided to make some amendments on October 4, 2018. These amendments clarified what constituted the “public record”; clarified the hearing times; clarified what we would do with documents produced that were deemed irrelevant or privileged; and how we would dispose of the database of documents following the Inquiry’s conclusion.⁸⁸ The participants were informed of these amendments, and the website was updated accordingly.

Community Meeting

We advertised and held a community meeting (Appendix D) at the Collingwood Public Library on August 13, 2018, before any of the Inquiry’s public hearings were held. In the first part of the meeting, I introduced myself and explained the Inquiry to those in attendance. I described public inquiries, their purposes, their recommendations, and why the Collingwood Public Inquiry was established. I went through the Terms of Reference and the division of the mandate. I provided a brief overview of the investigative process, including document collection and review and the ability of the parties granted standing to participate in the process. I took the opportunity to introduce Commission counsel and Commission staff. I also informed the community that they could attend the public hearings, watch them on the local cable network, and visit our website for more information.

Next we asked to hear from the community. We invited anybody interested to make brief remarks. We indicated that this meeting was not a

formalized process, and we encouraged everybody to share their thoughts and ideas. A number of community members took to the podium, and I appreciated their comments. I found their remarks helpful, providing real context to what I had to do.

Location of the Hearings

My decision to hold the Inquiry hearings in Collingwood was straightforward and not difficult to make. In line with the guiding principle of accessibility, the hearings needed to be held in a location where members of the community affected by the Inquiry's mandate could readily attend with minimal cost, effort, and disruption of their daily lives. The fairness principle also dictated that we should not overburden witnesses and participants with unnecessary travel and expense. As such, it was natural to hold the hearings in a location connected to the Inquiry's Terms of Reference.

Hearing Schedule

Public hearings for the Inquiry took place Monday through Friday. On Tuesdays, Wednesdays, and Thursdays, they went from 10:00 a.m. to 4:30 p.m.; on Mondays, from 1:00 p.m. to 6:00 p.m.; and on Fridays, from 10:00 a.m. to 1:00 p.m., unless otherwise directed.⁸⁹ The later starts on Monday and early endings on Friday were designed to accommodate the witnesses, participants, and counsel who had to commute to Collingwood from other areas of Ontario. In practice, and with the participants' and their counsel's co-operation, I often commenced the hearing day at 9:00 a.m. and regularly sat beyond 1:00 p.m. on Fridays.

The scheduling of the public hearings for Part One and Part Two of the Inquiry required flexibility and continued co-operation with all counsel and participants. Scheduling the public hearings became a test of balancing the principles of proportionality and expedition with thoroughness. Although we tried to expedite the proceedings as much as possible, we were

determined not to let timing detract from the Inquiry's thoroughness. In effect, the scheduling of the hearings was a rolling process that required flexibility from all participants.

Conduct of the Hearings

The purpose of hearings in a public inquiry is to elicit evidence from witnesses relevant to the inquiry's mandate. As such, for Part One and Part Two of the Inquiry, Commission counsel issued and served summons to witness those individuals who had knowledge relevant to the mandate of the Inquiry.⁹⁰ The witnesses were required to testify under oath or affirmation with regard to the matters described in the Terms of Reference.⁹¹

The Inquiry almost always called one witness at a time during Part One and Part Two. In one instance in Part One, three witnesses were called to testify in a panel.⁹² Witnesses at the hearings were entitled to have their own counsel present during their testimony.⁹³ A witness could also be called more than once.⁹⁴

Guided by the principle of thoroughness, if Commission counsel elected not to call a witness or file a document, the Rules allowed anyone with standing to apply for an Order directing Commission counsel to do so.⁹⁵ Transcripts and evidence from the hearings were made available as soon as possible for public viewing.⁹⁶

Part Three of the Inquiry consisted of expert witnesses who testified in panels. The panellists first made a presentation on their topic, and Commission counsel then asked the panellists questions. Counsel for the Town of Collingwood – the only participant granted status in Part Three – could also ask questions at this time.

Submissions for Part One and Part Two

Before the start of public hearings for Part One and Part Two of the Inquiry, participants were invited to make opening submissions in writing. The

Inquiry received six such submissions in Part One and two in Part Two. We uploaded each of these opening submissions to our website for access by the public.

Closing submissions provided the participants with an opportunity at the end of the hearings to suggest how the evidence presented at the Inquiry should be interpreted. The public hearings for Part One of the Inquiry concluded on June 28, 2019. The participants had until August 31, 2019, to deliver their closing written submissions. After these closing submissions were delivered, they were posted online on September 5, 2019. A similar process took place with Part Two of the Inquiry. The public hearings for Part Two concluded on October 24, 2019, and closing submissions of the participants were due by January 10, 2020. The submissions were then uploaded to the website on January 16, 2020.

Website

To maximize engagement from the public, increase accessibility, and allow the community to follow the Inquiry, it was important to establish a website that would allow us to share information and be in constant communication with the public. Early on in the Inquiry we did so at the domain name <collingwoodinquiry.ca>.

The website allowed us to introduce the Inquiry, its mandate, the Commissioner, Commission counsel, and Commission staff. It also gave the public access to many procedurally important documents, including the Council resolution establishing the Inquiry, the Terms of Reference, the Inquiry's Rules of Procedure, material related to the process of seeking participation and funding, and the decisions on those applications. The website contained affidavits, the two Foundation Documents, and all the exhibits and materials referred to in terms of evidence.

When the hearings commenced, transcripts of the hearings were uploaded; exhibits referred to in oral testimony were also organized in an easily accessible format on the website. Visitors to the website could access the opening and closing submissions of the various participants in Parts One and Two of the Inquiry and view the presentation materials for Part

Three. The website also served the more traditional role of allowing us to communicate information of the Inquiry's progress, the hearing dates, and the schedule to both the community and the wider public.

Conclusion

Public inquiries enjoy a rich history in Canadian social and political development. They are unique mechanisms through which we can uncover the truth behind an event or a condition of public significance and formulate recommendations to prevent a reoccurrence of that event or to address a systemic issue.

At the start of a public inquiry, the commissioner tries to put together a jigsaw puzzle, not knowing what the final picture will be. The commissioner cannot leave out a puzzle piece, or the image will be incomplete. Assembling the puzzle requires attention to detail, a fair process, and a small dedicated team committed to completing the puzzle. I trust we have met all these criteria in the Collingwood Judicial Inquiry.

Notes

- 1 *Municipal Act, 2001*, SO 2001, c 25 [*Municipal Act*].
- 2 *Municipal Act*, s 274(6).
- 3 *Consortium Developments (Clearwater) Ltd. v Sarnia (City)*, [1998] 3 SCR 3 at para 26; *An Act Respecting the Municipal Institutions of Upper Canada*, 29-30 Vic c 51 (1866), s 380.
- 4 *Consortium Developments (Clearwater) Ltd. v Sarnia (City)*, [1998] 3 SCR 3 at para 26.
- 5 Law Reform Commission of Canada, “Administrative Law: Commissions of Inquiry” (1977) Law Reform Commission of Canada Working Paper 17 at 11, as cited in R. A. Macdonald, “The Commission of Inquiry in the Perspective of Administrative Law” (1980) 18:3 *Alberta Law Review* 366 at 369.
- 6 *Consortium Developments (Clearwater) Ltd. v Sarnia (City)*, [1998] 3 SCR 3 at para 26.
- 7 City of Hamilton, City Council, General Issue Committee, “Appendix ‘B’ to Item 12(a) of GIC Report 19-008,” in *City Council Agenda*, 19-008 (April 24, 2019).
- 8 *Report of the Mississauga Judicial Inquiry: Updating the Ethical Infrastructure* (Mississauga, ON: City of Mississauga, 2011) (Commissioner J. Douglas Cunningham) at 1.
- 9 *Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry Report, Volume 3: Inquiry Process* (Toronto: City of Toronto Publications, 2005) (Commissioner Denise E. Bellamy) at 33–35.
- 10 *Report of the Waterloo RIM Park Inquiry* (Waterloo, ON: Waterloo City Centre, 2003) (Commissioner Ronald C. Sills) at Appendix A.
- 11 Town of Collingwood, *Judicial Inquiry*, online: <collingwood.ca/council-government/town-council/judicial-inquiry>.
- 12 Appendix A, Terms of Reference.
- 13 *Phillips v Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97 at para 62.
- 14 *Public Inquires Act, 2009*, SO 2009, c 33, Sched 6, s 33(3).
- 15 *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process* (Toronto: Ministry of the Attorney General, 2007) (Commissioner Sidney B. Linden) at 3-4.
- 16 The Inquiry into Certain Deaths at the Hospital for Sick Children investigated the deaths of 32 babies and children between July 1980 and March 1981 at the Hospital for Sick Children, Toronto. See *Report of the Royal Commission of Inquiry into Certain Deaths at the Hospital for Sick Children and Related Matters* (Toronto: Ontario Ministry of the Attorney General, 1984) (Commissioner S.G.M. Grange) at 1–2.
- 17 The Honourable Justice S.G.M. Grange, “How Should Lawyers and the Legal Profession Adapt?” (1990) 12:3 *Dalhousie Law Journal* 151 at 154–55.
- 18 Law Reform Commission of Canada, “Administrative Law: Commissions of Inquiry” (1977) Law Reform Commission of Canada Working Paper 17 at 20, as cited in *Starr*

- v Houlden*, [1990] 1 SCR 1366 at p 1411. See also *Phillips v Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97 at para 62.
- 19 Ronda Bessner, "Introduction to Public Inquiries in Canada," in Ronda Bessner and Susan Lightstone (eds.), *Public Inquiries in Canada: Law and Practice* (Toronto: Thomson Reuters, 2017) 1 at 15.
 - 20 *Phillips v Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97 at para 62.
 - 21 Gerald E. Le Dain, "The Role of the Public Inquiry in Our Constitutional System," in Jacob S. Ziegel (ed.), *Law and Social Change* (Toronto: Osgoode Hall Law School, 1973), 79 at 85, cited by Justice Cory in *Phillips v Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97 at para 64.
 - 22 *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process*, 2-4.
 - 23 Bessner, "Introduction to Public Inquiries in Canada," 6.
 - 24 *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process*, 2-4.
 - 25 Bessner, "Introduction to Public Inquiries in Canada," 6.
 - 26 *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process*, 2-4.
 - 27 *Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry Report, Volume 3: Inquiry Process*, 5-6.
 - 28 *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process*, 4-6.
 - 29 *Di Iorio v. Warden of the Montreal Jail*, [1978] 1 SCR 152 at p 201.
 - 30 *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process*, 4.
 - 31 *Beno v Canada (Commissioner and Chairperson, Commission of Inquiry into the Deployment of Canadian Forces to Somalia)*, [1997] 2 FC 527 at para 23.
 - 32 Justice Dennis O'Connor, "The Role of Commission Counsel in a Public Inquiry" (Summer 2003) 22 (1) *Advocates' Society Journal* 9-11.
 - 33 *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process*, 18.
 - 34 *Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry Report, Volume 3: Inquiry Process* at 42-43.
 - 35 *Phillips v Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97 at para 175.
 - 36 *Part One: Report of the Walkerton Inquiry: The Events of May 2000 and Related Issues* (Toronto: Ministry of the Attorney General, 2002) (Commissioner Dennis R. O'Connor) at 472; *Report of the Ipperwash Inquiry, Volume 3: Inquiry Process*, 13; *Report of the Events Relating to Maher Arar: Analysis and Recommendations* (Ottawa: Gilmore Print Group, 2006) (Commissioner Dennis R. O'Connor) at 282.
 - 37 Appendix C, Amended Rules of Procedure, Rule 28.
 - 38 *Inquiry into Pediatric Forensic Pathology in Ontario, Report: Volume 4: Inquiry Process* (Toronto: Ministry of the Attorney General, 2008) (Commissioner Stephen T. Goudge) at 636-637.
 - 39 Appendix C, Amended Rules of Procedure, Rule 24.

- 40 Michael Angemeer, Neil Freeman, and Kristina Gaspar, Part One, May 29, 2019.
- 41 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018), 5.
- 42 *Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System, Report: Volume 4: The Inquiry Process* (Toronto: Ministry of the Attorney General, 2019) (Commissioner Eileen E. Gillese) at 6.
- 43 Appendix C, Amended Rules of Procedure, Rules 22–23.
- 44 Appendix C, Amended Rules of Procedure, Rule 42.
- 45 Appendix C, Amended Rules of Procedure, Rule 43.
- 46 The Honourable Justice S.G.M. Grange, “How Should Lawyers and the Legal Profession Adapt?” (1990) 12:3 *Dalhousie Law Journal* 151 at 154–55.
- 47 *Report of the Walkerton Inquiry: Part One*, 473.
- 48 Appendix D, Notice of Community Meeting.
- 49 Appendix C, Amended Rules of Procedure, Rule 3.
- 50 Appendix A, Terms of Reference 3(a)(i).
- 51 Appendix A, Terms of Reference 3(a)(ii)–(vi).
- 52 Appendix C, Amended Rules of Procedure, Rule 1(vii)–(viii).
- 53 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at para 6.
- 54 Appendix F, Application Form – Request for Standing to Participate, p 2.
- 55 Appendix F, Application Form – Request for Standing to Participate, p 2.
- 56 Appendix F, Application Form – Request for Standing to Participate, p 3.
- 57 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at para 7.
- 58 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at para 7.
- 59 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at paras 8–9.
- 60 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at para 9.
- 61 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at para 12.
- 62 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at paras 20–54.
- 63 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at para 13.
- 64 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at paras 20–54.
- 65 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at para 14.

- 66 Appendix C, Amended Rules of Procedure, Rule 40.
- 67 Appendix C, Amended Rules of Procedure, Rule 41.
- 68 Appendix F, Application Form – Request for Standing to Participate, p 3.
- 69 Appendix G, Information about Seeking Funding to Participate, p 1.
- 70 Appendix G, Information about Seeking Funding to Participate, p 1; Appendix F, Application Form – Request for Standing to Participate, p 3.
- 71 Appendix F, Application Form – Request for Standing to Participate, p 3.
- 72 Appendix G, Information about Seeking Funding to Participate, p 1.
- 73 Appendix G, Information about Seeking Funding to Participate, p 1.
- 74 Appendix G, Information about Seeking Funding to Participate, p 1.
- 75 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at paras 29–30, 40–41, 46–47, 52.
- 76 Appendix M, Response to Request for Further Funding Recommendations from Sandra Cooper (May 8, 2019).
- 77 Appendix J, Reasons and Decision Concerning Participation and Funding (August 20, 2018) at paras 55–56; Appendix G, Information about Seeking Funding to Participate, p 2.
- 78 Appendix C, Amended Rules of Procedure, Rules 1–5, 45.
- 79 Appendix C, Amended Rules of Procedure, Rules 14–15, 17.
- 80 Appendix C, Amended Rules of Procedure, Rules 21–22.
- 81 Appendix C, Amended Rules of Procedure, Rule 27.
- 82 Appendix C, Amended Rules of Procedure, Rules 29–30.
- 83 Appendix C, Amended Rules of Procedure, Rule 31.
- 84 Appendix C, Amended Rules of Procedure, Rule 34(a)–(b).
- 85 Appendix C, Amended Rules of Procedure, Rules 40–41.
- 86 Appendix C, Amended Rules of Procedure, Rule 44.
- 87 Appendix C, Amended Rules of Procedure, Rule 45.
- 88 Appendix C, Amended Rules of Procedure, Rules 2, 4, 16A, 16B, and 16C.
- 89 Appendix C, Amended Rules of Procedure, Rule 4.
- 90 Appendix C, Amended Rules of Procedure, Rule 30.
- 91 Appendix C, Amended Rules of Procedure, Rules 29–30.
- 92 Appendix C, Amended Rules of Procedure, Rule 29.
- 93 Appendix C, Amended Rules of Procedure, Rule 31.
- 94 Appendix C, Amended Rules of Procedure, Rule 32.
- 95 Appendix C, Amended Rules of Procedure, Rule 35.
- 96 Appendix C, Amended Rules of Procedure, Rule 38.

Appendices



APPENDIX A

Commission of Inquiry Town of Collingwood Terms of Reference

WHEREAS on February 26, 2018, the Council of the Town of Collingwood passed Resolution 042-18 (the "Resolution") asking the Honourable Heather Smith, Chief Justice of the Superior Court of Justice, to designate a judge of the Superior Court of Justice to conduct an Inquiry in relation to the Town of Collingwood concluding a Share Purchase Agreement for the sale of Collingwood Utility Services Corporation to PowerStream Inc. on March 6, 2012 (the "Transaction"). The Resolution requesting the Inquiry was made pursuant to s. 274 of the *Municipal Act, 2001* and is attached as **Annex 1**.

AND WHEREAS on April 6, 2018, Chief Justice Smith designated the Honourable Frank Marrocco, Associate Chief Justice of the Superior Court of Justice, to serve as Commissioner to this Inquiry.

NOW THEREFORE, the Council of the Town of Collingwood does hereby resolve that:

the Terms of Reference of the Inquiry shall be to inquire into all aspects of the Transaction, including the history, the price at which the shares were sold and the impact on the Ratepayers of the Town of Collingwood, as it relates to the good government of the Municipality, or the conduct of its public business, and to make any recommendations that the Commissioner may deem appropriate and in the public interest as a result of the Inquiry.

AND IT IS FURTHER RESOLVED that pursuant to s. 274 of the *Municipal Act, 2001*, and s. 33 of the *Public Inquiries Act*, the Commissioner, in conducting the Inquiry into the Transaction to which the Town of Collingwood is a party, is empowered to ask any question or cause an investigation into any matter which the Commissioner may consider necessary, incidental or ancillary to a complete understanding of the Transaction. In particular, the Commissioner may inquire into:

- i) Was there adequate Town Council oversight over the Transaction?
- ii) Was Town Council's delegation of authority in relation to the Transaction appropriate?
- iii) Did Town Council receive sufficient independent professional advice prior to delegating its authority to conduct the RFP negotiate or finalize the Transaction?
- iv) Were the criteria developed to assess the proposals received during the RFP process appropriate and did the criteria serve the interests of the Ratepayers of Collingwood?

And, for the purpose of providing fair notice to the Town of Collingwood and those individuals who may be required to attend and give evidence, and without infringing on the Commissioner's authority in conducting the Inquiry in accordance with the Resolution and the Commissioner's statutory authority, it is anticipated that the Inquiry may include:

1. An investigation and inquiry into all relevant circumstances pertaining to the Transaction referred to in the recitals to the Resolution, including the relevant facts pertaining to the Transaction, the basis of and reasons for making the recommendations for entering into the Transaction, and the basis of the decisions taken in respect of the Transaction;
2. An investigation and inquiry into the relationships, if any, between the existing and former elected and administrative representatives of the Town of Collingwood, Collingwood Utility Services Corporation and PowerStream Inc.; and,
3. A two-stage process consisting of a document review and public hearings as follows:

Document Review

- (a) To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to understand the following:
 - i. the sequence of events leading to the Transaction, including the Request for Proposal process commissioned by the Town of Collingwood;
 - ii. the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
 - iii. any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream and any other Collus company;
 - iv. Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the Transaction;
 - v. The commercial relationship between PowerStream, Collus PowerStream and any other Collus entity and the Town of Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;

- vi. The salaries, benefits and emoluments of any kind paid in relation to the Transaction to any employee of Collus PowerStream and any other Collus company;
- vii. The allocation of the proceeds of the transaction to the construction of the recreational facility at Central Park and Heritage Park.
- viii. The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility at Central Park and Heritage Park;

Public Hearings

- (b) To conduct public hearings into the matters designated in accordance with the principles of fairness, thoroughness, efficiency and accessibility.
4. The Commissioner may engage counsel and other persons to assist in the Inquiry and the costs of engaging those persons and any incidental expenses shall be paid by the Town of Collingwood.

RES-042-2018

Moved by Deputy Mayor Saunderson
Seconded by Councillor Madigan

WHEREAS, under s. 274 of the *Municipal Act*, 2001 S.O. 2001, c. 25, the Council of a Municipality may, by resolution, request a judge of the Superior Court of Justice to inquire into or concerning any matter connected with the good government of the municipality, or the conduct of any part of its public business;

AND WHEREAS any judge so requested shall make inquiry and shall report the results of the investigation or inquiry to the Council as soon as practicable;

AND WHEREAS the Town of Collingwood concluded a Share Purchase Agreement on March 6, 2012 in which it sold 50% of Collingwood Utility Services Corporation to PowerStream Inc. (“the Transaction”; “PowerStream”);

AND WHEREAS concerns have been raised about the wisdom and reasons for the Transaction;

NOW THEREFORE the Council of the Town of Collingwood does hereby resolve that:

1. An inquiry is hereby requested to be conducted pursuant to s. 274 of the *Municipal Act* which authorizes the Commissioner to inquire into, or concerning, any matter related to a supposed malfeasance, breach of trust, or other misconduct on the part of a member of Council, or an officer or employee of the Town or of any person having a contract with it, in regards to the duties or obligations of the member, officer, or other person to the corporation, or to any matter connected with the good government of the municipality, or the conduct of any part of its public business; and
2. The Honourable Chief Justice Smith, Chief Justice of the Superior Court of Ontario, be requested to designate a judge of the Superior Court of Ontario as Commissioner for the inquiry and the judge so designated as Commissioner hereby authorized to conduct the inquiry in two stages:
 - (a) To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to understand the following:
 - (i) the sequence of events leading to the Transaction, including the Request for Proposal process commissioned by the Town of Collingwood;
 - (ii) the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
 - (iii) any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream and any other Collus company;
 - (iv) Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the transaction;
 - (v) The commercial relationship between PowerStream, Collus PowerStream and any other Collus entity and the Town of Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;

- (vi) The salaries, benefits and emoluments of any kind paid to any employee of Collus PowerStream and any other Collus company;
- (vii) The allocation of the proceeds of the transaction to the construction of the recreational facility at Central Park and Heritage Park.
- (viii) The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility.

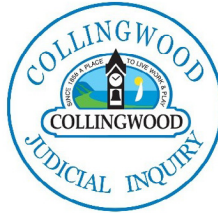
(b) Having conducted the documentary review to determine what, if any, public hearings ought to be held into the matters designated for the inquiry herein;

AND IT IS FURTHER RESOLVED THAT the Terms of Reference of the Inquiry shall be: to inquire into all aspects of the above matters, their history and their impact on the ratepayers of the Town of Collingwood as they relate to the good government of the municipality, or the conduct of its public business, and to make any recommendations which the Commissioner may deem appropriate and in the public interest as a result of the inquiry.

AND IT IS FURTHER RESOLVED THAT the Commissioner, in conduct the inquiry into the transactions in question to which the Town of Collingwood is a party, is empowered to ask any questions which he or she may consider as necessarily incidental or ancillary to a complete understanding of these transactions, and for the purpose of providing fair notice to those individuals who may be required to attend and give evidence, without infringing on the Commissioner's discretion in conducting the inquiry in accordance with the Terms of Reference stated herein, it is anticipated that the inquiry may include the following:

- (c) Was there adequate Council oversight of the transactions listed above?
- (d) Was Council's delegation of authority in relation to the transaction appropriate?
- (e) Did council receive sufficient independent professional advice prior to delegating its authority to conduct the RFP negotiate or finalize the Transaction?
- (f) Where the criteria developed to assess the proposals received during the RFP process appropriate and did the criteria serve the interests of the ratepayers of Collingwood?

<i>COUNCIL</i>	<i>Yea</i>	<i>Nay</i>
<i>Cooper</i>		x
<i>Saunderson</i>	x	
<i>Fryer (absent)</i>		
<i>Edwards (absent)</i>		
<i>Ecclestone</i>	x	
<i>Jeffery</i>	x	
<i>Doherty</i>	x	
<i>Madigan</i>	x	
<i>Lloyd (absent)</i>		
<i>TOTAL</i>	5	1



TOWN OF COLLINGWOOD JUDICIAL INQUIRY

AMENDED RULES OF PROCEDURE

Purpose

1. The Town of Collingwood Judicial Inquiry is an independent Inquiry established pursuant to section 274(1) of the *Municipal Act 2001*, SO 2001, c 25, pursuant to a majority vote of the Council of the Town of Collingwood with specific terms of reference to inquire into to the matters set out in Resolution 042-2018 adopted by the Council of the Town of Collingwood on February 26, 2018.

The Inquiry's mandate includes an investigation and inquiry into:

- i. the sequence of events leading to the Town of Collingwood concluding a Share Purchase Agreement for the sale of shares of Collingwood Utility Services Corporation to PowerStream Inc. on March 6, 2012 (the "Transaction"), including the Request for Proposal process commissioned by the Town of Collingwood;
- ii. the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
- iii. any subsequent contracts entered between or among the Town of Collingwood and PowerStream Inc., Collus PowerStream and any other Collus company;
- iv. Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream Inc. to any person in relation to the Transaction;
- v. the commercial relationship between PowerStream Inc., Collus PowerStream and any other Collus entity and the Town of Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;
- vi. the salaries, benefits and emoluments of any kind paid in relation to the Transaction to any employee of Collus PowerStream and any other Collus company;
- vii. the allocation of the proceeds of the Transaction to the construction of the recreational facility at Central Park and Heritage Park; and
- viii. the payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility at Central Park and Heritage Park.

Town of Collingwood Judicial Inquiry
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The Inquiry will examine the impact of the events described in the terms of reference on the ratepayers of the Town of Collingwood as they relate to the good governance of the municipality. When the hearings are complete, the Judge will make any recommendations he deems appropriate and that are in the public interest.

General

2. Throughout these Rules of Procedure, the word "Inquiry" refers to the Town of Collingwood Judicial Inquiry. The "Judge" refers to Associate Chief Justice Frank Marrocco who has been appointed to conduct the Inquiry. The "public record" will include:
 - (a) information about the administration of the Inquiry, including the Judge, Inquiry Counsel and Staff, the participants and the witnesses;
 - (b) all written rulings by the Judge;
 - (c) witness statements;
 - (d) the transcripts of all portions of the hearings;
 - (e) all documents marked as exhibits in the hearings or agreed to by the participants as forming part of the record of the Inquiry, and all documents put to witnesses during the hearing; and
 - (f) any interim report, and the final report, of the Inquiry.
3. Public hearings will be held at the Council Chambers, 97 Hurontario Street, 2nd Floor of the Town Hall in Collingwood.
4. The Judge will set the dates for the hearings. Those hearings will take place on Monday through Friday from 10:00 a.m. to 4:30 p.m. each week, except that on Mondays the hearings will begin at 1:00 p.m. and end at 6:00 p.m. and on Fridays the hearings will start at 10:00 a.m. and end at 1:00 p.m., unless otherwise directed by the Judge.
5. The Inquiry is committed to a process of fairness, including public hearings and public access to evidence and documents used at the hearings, subject to Rule 36.
6. The Inquiry encourages anyone who may have information that may be helpful to the Inquiry, including documents and the names of witnesses, to provide this information as soon as possible to Inquiry Counsel, Janet Leiper, at jleiper@collingwoodinquiry.ca or to Associate Inquiry Counsel, Kirsten Thoreson at kthoreson@collingwoodinquiry.ca.
7. People are advised that the law offers protection to witnesses to encourage them to come forward and give full and forthright evidence to an inquiry.

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Applications to Participate (Standing)

8. Persons, groups of persons, organizations or corporations ("people") who wish to participate may seek standing before the Inquiry.
9. The Judge may grant standing to people who satisfy him that they have a substantial and direct interest in the subject matter of the Inquiry or whose participation may be helpful to the Inquiry in fulfilling its mandate. The Judge will determine on what terms standing may be granted.
10. People who are granted standing are deemed to undertake to follow these Rules of Procedure.
11. People who apply for standing will first be required to provide written submissions explaining why they wish to have standing.
12. People who apply for standing will also be given an opportunity to appear in person before the Inquiry to explain their reasons for requesting standing. In-person applications for standing will be heard starting at 10:00 a.m. on August 14, 2018 at 97 Hurontario Street, 2nd Floor of the Town Hall in Collingwood.
13. The Judge has appointed Inquiry Counsel to represent his and the public's interests. Inquiry Counsel will ensure that all matters that bear on the public interest are brought to the attention of the Judge. Inquiry Counsel will have standing throughout the Inquiry.

Preparation of Documentary Evidence

14. As soon as possible following the granting of standing, people with standing will produce to the Inquiry all documents in their possession, power or control that have any bearing on the subject matter of the Inquiry. People with standing must advise Inquiry Counsel of the names, addresses and telephone numbers of all witnesses they feel should be heard and, if possible, provide summaries of the information the witnesses may have.
15. Within 15 days after the granting of standing, people with standing will provide to the Inquiry a plan setting out how they will identify, locate and produce the documents that have any bearing on the subject matter of the Inquiry.
16. Where a person objects to the production of any document, or part thereof, on the grounds of privilege, including any documents the person has already provided to the Inquiry in redacted form, the following procedures will apply:
 - (a) the person shall deliver to Inquiry Counsel a list of the documents or parts thereof over which privilege is being asserted (the "Claimed Privilege List"). The Claimed Privilege List shall include the date, author, recipient, the nature of the privilege claimed and a brief description of the documents, and may have attached to it additional material, such as an affidavit, to support the claim for privilege;
 - (b) Inquiry Counsel shall review the Claimed Privilege List and decide whether to recommend to the Judge that he accept the claim for privilege;

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- (c) if Inquiry Counsel is not prepared to recommend to the Judge that he accept the claim for privilege, the Claimed Privilege List and any further material filed shall be submitted forthwith, together with Inquiry Counsel's written submissions, to the Judge or, at the Judge's option, to another adjudicator designated by the Judge, for determination. If the Judge or designated adjudicator is unable to make a determination based on the record before them, they may request a copy of the disputed documents for inspection; and
- (d) if the claim for privilege is dismissed, the documents shall be produced to the Inquiry forthwith.

16A. Data and documents received by the Inquiry from participants withstanding that the Inquiry concludes are irrelevant shall be tagged as such and segregated in a secure data archive separate and apart from the data to be used by the Inquiry. Irrelevant data and documents will not be available for review by any other participants. Upon issuance of the Inquiry's final report, all irrelevant documents provided to the Inquiry will be destroyed and a Certificate of Destruction issued.

16B. Documents which the Inquiry determines are privileged will be dealt with in a similar manner. There may be documents that are highly relevant and presumptively privileged over which participants may consider waiving privilege in the public interest or in responding to a suggestion of misconduct. Identifying such documents will ensure that relevant material is not overlooked.

16C. Upon issuance of the Inquiry's final report, all relevant data and documents that have not become part of the public record will be archived for a period of one year. At the end of this one-year period, all documents and data in this database will be destroyed and a Certificate of Destruction issued unless a court of competent jurisdiction orders otherwise.

Documents and data that have been made part of the public record of the Inquiry will become the property of the Town of Collingwood.

- 17. All documents received by the Inquiry will be treated as confidential, unless and until they are made part of the public record or the Inquiry otherwise directs. Inquiry Counsel are permitted to produce such documents to potential witnesses.
- 18. Inquiry Counsel will make best efforts to provide, both to witnesses and people with standing, those documents that will likely be referred to during a witness's testimony at least five days before the witness commences his or her testimony, unless the Judge directs otherwise. Before being provided with such documents, witnesses and people with standing will be required to sign an undertaking that they will use the documents only for the purposes of the Inquiry.
- 19. No document will be used in cross-examination or otherwise unless Inquiry Counsel and the people with standing have been advised in advance and the document has been provided to Inquiry Counsel, the witness, and people with standing, unless the Judge directs otherwise.

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Expert Witnesses

20. A copy of an expert witness's report shall, at least 14 days before the expert witness's appearance, be served on the people with standing.

Witness Interviews

21. Inquiry Counsel, or others designated by Inquiry Counsel for this purpose, will interview people who have information or documents that relate to the subject matter of the Inquiry and may be helpful in fulfilling the Inquiry's mandate. People who are interviewed are welcome, but not required, to have legal counsel present.
22. Following the interview, Inquiry Counsel or the person acting as Inquiry Counsel's agent for the purpose of the interview will prepare a summary of the witness's anticipated evidence. Before the witness testifies before the Inquiry, Inquiry Counsel will provide a copy of the summary to the witness for his or her review.
23. The witness summary, after being provided to the witness, will be shared with people with standing at least five days before the witness commences his or her testimony, unless the Judge directs otherwise. Before being given a copy of the witness summary, people with standing will be required to sign an undertaking that they will use the witness summary only for the purposes of the Inquiry.
24. Inquiry Counsel and the witness may prepare a sworn affidavit of the witness's evidence. At the Judge's discretion, this sworn affidavit can be admitted into evidence in place of part or all of that individual's oral testimony.
25. Witnesses are advised that the *Public Inquiries Act, 2009*, SO 2009, c 33, provides that no adverse employment action shall be taken against any employee because that employee, acting in good faith, has given information to a person conducting an inquiry.

Evidence

26. The Judge may receive any evidence that he considers to be helpful in fulfilling the mandate of the Inquiry. The Judge is entitled to receive evidence that might not be admissible in a court of law.
27. Subject to the Judge's discretion, the Judge may, as much as practicable and appropriate for a fair hearing, refer to and rely upon:
- (a) any existing records or reports that have any bearing on the subject matter of the Inquiry;
 - (b) any agreed statement of facts prepared by Inquiry Counsel;
 - (c) the testimony of a representative witness of a participant in a public inquiry; and
 - (d) any summary of background facts prepared by Inquiry Counsel.

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28. Inquiry Counsel may prepare and rely on summaries of background facts and documents that have any bearing on the subject matter of the Inquiry. Inquiry Counsel shall provide each person with standing an opportunity to review a summary before it is introduced as evidence. A person with standing may submit written comments and propose witnesses to Inquiry Counsel for the purpose of supporting, challenging, commenting upon or supplementing a summary.
29. Witnesses who testify will give their evidence under oath or upon affirmation. Witnesses may be called upon to testify in panels.
30. The Judge may set time allocations for the conduct of examinations and cross-examinations. It will be the practice of Inquiry Counsel to issue and serve a summons to witness upon every witness before he or she testifies.
31. Witnesses are entitled to have their own counsel present while they testify. Counsel for a witness will have standing for that witness's testimony.
32. Witnesses may be called more than once.
33. In the ordinary course, Inquiry Counsel will call and question witnesses who testify at the Inquiry. Counsel for a witness may apply to the Judge to lead a particular witness's evidence-in-chief. If counsel is granted the right to do so, counsel shall be confined to the normal rules governing the examination of one's own witness in court proceedings, so that counsel can only lead the witness on non-essential matters, unless otherwise directed by the Judge.
34. The order of examination will be as follows:
 - (a) Inquiry Counsel will lead evidence from each witness. Except as otherwise directed by the Judge, Inquiry Counsel is entitled to ask both leading and non-leading questions and to challenge the witness's evidence;
 - (b) People with standing will then have an opportunity to cross-examine the witness to the extent of their interest. The order of cross-examination of each witness will be determined by agreement of the people with standing or, if they are unable to reach agreement, by the Judge;
 - (c) Counsel for the witness will examine next, unless he or she has questioned the witness-in-chief, in which case there will be a right to re-examine the witness; and
 - (d) Inquiry Counsel will have the right to conclude the examination of the witness.
35. If Inquiry Counsel elects not to call a witness or file a document, anyone with standing may apply to the Judge to do so or for an Order directing Inquiry Counsel to do so.
36. All hearings are open to the public. However, where the Judge is of the opinion that:
 - (a) matters involving public security may be disclosed at the hearing; or

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- (b) intimate financial or personal matters, or any other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearing be open to the public,

the Judge may hold the portion of the hearings concerning any such matters or receive documents in the absence of the public on such terms as he may direct.

37. Applications from witnesses or people with standing to hold any part of the hearing in the absence of the public should be made in writing to the Judge at the earliest possible opportunity.
38. Subject to Rule 36, the transcripts and evidence from the hearing will be made available as soon as possible for public viewing. If any part of the hearing is held in the absence of the public, the transcripts and exhibits from that part of the hearing will only be made available for public viewing on such terms as the Judge may direct.
39. Permission is required to use recording or photographic equipment in the hearing room. The use of such equipment shall be subject to the directions of the Judge and must not disrupt or detract from the hearing.

Right to Counsel

40. Witnesses and people with standing are entitled, but not required, to have counsel present while Inquiry Counsel interview them and also while they testify.
41. Counsel will be retained at the expense of the witness and people with standing. The terms of reference do not grant the Judge jurisdiction to order the Town of Collingwood to provide funding for legal counsel. However, requests for funding may be made to the Judge at the hearing on standing and the Judge may make recommendations to the Town of Collingwood.

Notices Regarding Misconduct

42. The Judge will not make a finding of misconduct on the part of any person unless that person has had reasonable notice of the substance of the alleged misconduct and was allowed the opportunity during the Inquiry to be heard in person or by counsel.
43. All notices of alleged misconduct will be delivered on a confidential basis to the person to whom the allegations of misconduct refer.
44. If a notice of alleged misconduct is delivered, the recipient may apply to the Judge for leave to call evidence that the recipient believes may be helpful to respond to the alleged misconduct.

Amendment to the Rules

45. These Rules of Procedure may be amended, and new Rules may be added if the Judge finds it is helpful to do so.



**Notice of Community Meeting
Town of Collingwood Judicial Inquiry**

At the Town of Collingwood Council Meeting held February 26, 2018 the Town Council passed Resolution 042-2018, requesting a judicial inquiry into the matter of the 50% share sale of Collingwood Utility Services Corporation to PowerStream Inc., in 2012. I have been appointed to conduct this Inquiry.

A Community Meeting will be held on Monday, August 13, 2018, from 6:00 PM – 8:00 PM., at the Collingwood Public Library in the Community Meeting Rooms B & C | 3rd Floor, located at 55 Ste. Marie Street | Collingwood, ON. It is open to anyone wishing to attend.

The purpose of the Community Meeting is to introduce the Inquiry team and provide an introduction for interested members of the community to the anticipated work and process of the Inquiry.

If you wish to speak at the Community Meeting, advance notice is appreciated. Please contact the Town of Collingwood Judicial Inquiry Office via email at info@collingwoodinquiry.ca, by telephone at 705-445-1030 extension 3800, or by writing to the Town of Collingwood Judicial Inquiry | 97 Hurontario Street, Box 275 | Collingwood, ON | L9Y 3Z5

Further information may be found on the Town of Collingwood Judicial Inquiry website at www.collingwoodinquiry.ca

Associate Chief Justice Frank N Marrocco
Justice of the Town of Collingwood Judicial Inquiry

APPENDIX E **Call for Applications to Participate at Inquiry's
Public Hearings (Standing)**



Town of Collingwood Judicial Inquiry into the 50% share sale of Collingwood Utility Services Corporation to PowerStream Inc.

CALL FOR APPLICATIONS TO PARTICIPATE AT THE INQUIRY'S PUBLIC HEARINGS (STANDING)

An Inquiry into the 50% share sale of Collingwood Utility Services Corporation to PowerStream Inc. was requested by the Town of Collingwood by Resolution 042-2018.

The Honourable Mr. Justice Frank Marrocco, Associate Chief Justice of the Superior Court of Justice has been appointed to conduct this this Inquiry.

The Inquiry's mandate is to inquire into the sequence of events leading to the sale transaction, the Request for Proposal (RFP) process, fees and benefits paid to anyone in relation to the sale transaction, contracts entered into among the parties. The Inquiry will also look into the allocation of proceeds of the transaction for recreational facilities at Central Park and Heritage Park and any fees or benefits paid to any person of the entity involved in the creation of the recreational facilities. The Inquiry will examine the impact of these events on the ratepayers of the Town of Collingwood as they relate to the good governance of the municipality and make any recommendations the Judge may deem appropriate and in the public interest.

Applications to participate at the Inquiry's public hearings are invited from any person: (a) with a substantial and direct interest in the subject matter of the Inquiry; (b) who is likely to be notified of a possible finding of misconduct; (c) whose participation would further the conduct of the Inquiry; or, (d) whose participation would contribute to the openness and fairness of the Inquiry. The manner of participation of those persons given the right to participate shall be determined by the Judge.

Further information to **Request Standing to Participate** and application form may be found on the Inquiry's website: www.collingwoodinquiry.ca

Any person or group of persons wishing to apply to participate must submit a completed application form, electronically or in writing, to the Inquiry offices no later than 4:00 PM on Friday, July 20, 2018.

Hearings on the **Standing to Participate** are open to the public and will take place on Tuesday, August 14, 2018, starting at 10:00 AM until 4:00 PM., in the Council Chambers, located at 97 Hurontario Street, 2nd Floor of the Town Hall.



Application Form | Request for Standing to Participate

Town of Collingwood Judicial Inquiry into the 50% share sale of Collingwood Utility Services Corporation to PowerStream Inc.

Note: This application form must be submitted electronically to info@collingwoodinquiry.ca or in writing to the Town of Collingwood Judicial Inquiry Office located at Town of Collingwood | 97 Hurontario Street | PO Box 275 | Collingwood, ON | L9Y 3Z5

All applications must be received by the Inquiry no later than 4:00 PM on Friday, July 20, 2018

THE APPLICANT:

I. Individual *

Name: _____

Email Address: _____

Mailing Address: _____

Telephone Number: _____

II. Corporation or Organization *

Name: _____

Contact Person [name and position] _____

Email Address: _____

Mailing Address: _____

Telephone Number: _____

*** IF REPRESENTED BY COUNSEL:**

Name: _____

Firm: _____

Email Address: _____

Mailing Address: _____

Telephone Number: _____

CRITERIA FOR PARTICIPATION [STANDING]

Participation is based on the following criteria. Check that all apply to you.

- a) I have a substantial and direct interest in the subject matter of the inquiry.
- b) I am likely to be notified of a possible finding of misconduct.
- c) My participation would further the conduct of the Inquiry.
- d) My participation would contribute to the openness and fairness of the Inquiry.

Explain below how you satisfy the criteria you checked off:

TYPES OF PARTICIPATION SOUGHT:

If given the right to participate in the Public Hearings, which of the following types of participation do you seek? Check all that apply.

- Deliver written submissions
- Seat at Counsel table
- Make an opening statement
- Lead evidence
- Lead expert evidence
- Cross-examine witnesses
- Make closing submissions
- Other _____

The Inquiry aims to avoid duplication and to encourage efficiency. Please indicate if you have a common interest with any other individual or company that may be seeking standing. If so, specify their name and indicate your position on whether the Inquiry should grant you shared standing.

Common interest with individual(s) _____

Common interest with company(ies) _____

Indicate below your position on whether the Inquiry should grant shared standing to you and those with whom you have a common interest.

FUNDING

Will you be seeking a recommendation for funding for legal counsel from the Town of Collingwood in order to be able to participate in the Town of Collingwood Judicial Inquiry?

Yes

No

If you checked yes, complete the next questions.

Recommendations for funding will consider the following criteria. Check that all apply to you.

- a) I will not be able to participate in the Inquiry without funding.
- b) I have a unique perspective that will not be presented to the Inquiry if I do not participate.
- c) I have an established record of concern for and a demonstrated commitment to the interest I seek to represent.
- d) I have a special experience or expertise in respect of the Inquiry’s mandate.
- e) I have a proposal as to the use of funds and how I will account for funds.
- f) I can be part of a group with similar interests.

Explain below how you satisfy the funding criteria you checked off:

Signature

Date (month/day/year)



Information about Seeking Funding to Participate

Town of Collingwood Judicial Inquiry

What do I need to do for the Judge to recommend that I receive funding?

The Judge of the Judicial Inquiry may recommend that you receive funding only if he is of the view that you would not otherwise be able to participate in the Inquiry without funding. Recommendations for funding will consider whether:

- you will be able to participate in the Inquiry without funding;
- you have a unique perspective that will not be presented to the Inquiry if you do not participate;
- you have an established record of concern for and a demonstrated commitment to the interest you seek to represent;
- you have a special experience or expertise in respect of the Inquiry's mandate;
- you have a proposal as to the use of funds and how you will account for funds; and
- you can be part of a group with similar interests.

Therefore, you will need to come to the Hearing on Standing to Participate on Tuesday, August 14, 2018, and, in advance, provide evidence to show the Judge which of the above considerations apply to you.

What kind of evidence will I need to provide?

If you are seeking funding, you will need to provide an affidavit **on or before August 3, 2018**, outlining your financial circumstances and explaining why you would not otherwise be able to participate in the Inquiry without funding. You will also need to provide documents to support the statements in your affidavit.

Please send your affidavit and supporting documentation to the Town of Collingwood Judicial Inquiry Office, either electronically to info@collingwoodinquiry.ca or in writing to the Judicial Inquiry Office located at 97 Hurontario Street | PO Box 275 | Collingwood, ON | L9Y 3Z5. Submissions must be received by the Inquiry no later than 4:00 p.m. on Friday, August 3, 2018.

In your affidavit, you should refer to any relevant financial circumstances, including alternative sources of funding. For example, you may want to provide evidence of your annual net income, the number of dependents you have and the expenses associated with supporting those dependents. Examples of documents you may wish to attach to your affidavit in support of your application for funding include:

- Tax returns;
- Bank or financial statements; and
- Other financial documentation that support your application for funding, such as a statement of expenses.

What is an affidavit?

An affidavit is a sworn written statement that outlines the facts and/or attaches documents to support those statements.

What limits will be placed on funding for legal fees?

In making any recommendation for funding, the Judge will recommend to the Town of Collingwood that it apply these principles and formulate guidelines in deciding on funding for legal fees for witnesses or participants:

1. It is not in the public interest to have open-ended funding.
2. It is not in the public interest for public funds to provide individuals their lawyer of choice at that lawyer's regular hourly rate.
3. The Town should establish reasonable hourly rates for senior and junior counsel for the purposes of this inquiry.
4. Whatever hourly rate or scale of compensation the Town selects, it should include reasonable time for preparation by counsel as well as for attendance at the hearings.
5. The Town should either limit the number of counsel or specify the use that would be made of junior counsel.
6. Counsel should be entitled to compensation for their reasonable and necessary disbursements.
7. Where appropriate, disbursement rates should be set.
8. Limits should be set on preparation time.
9. Time spent at the hearings should be limited to a reasonable number of hours.
10. Attendance of counsel at the hearings should be limited to attending when the client's interests are engaged.
11. No fees incurred before the date of Council's decision to hold a public inquiry should be paid.
12. No fees related to any other matters (e.g., civil litigation) should be paid.
13. Accounts should be subject to assessment.

APPENDIX H **List of Participants with Standing**

Participant	Counsel
Alectra Utilities Corporation (Part One)	<i>Gowling WLG LLP</i> Michael Watson Belinda Bain Heather Fisher
BLT Construction Services Inc. (Part Two)	<i>William Trudell Professional Corporation</i> William Trudell <i>Neubauer Law</i> Eric Neubauer
EPCOR (Part One)	<i>McCarthy Tétrault</i> Patrick Gajos Julie Parla <i>EPCOR</i> Marcus Ostrowerka
Edwin Houghton (Parts One and Two)	Frederick Chenoweth
Ian Chadwick (*Limited Standing for Part One)	Self-represented
Paul Bonwick (Parts One and Two)	Self-represented
Sandra Cooper (Parts One and Two)	George Marron
Timothy Fryer (Part One)	Self-represented
Town of Collingwood (Parts One, Two, and Three)	<i>Lenczner Slaght Royce Smith Griffin LLP</i> William McDowell Andrea Wheeler <i>Breedon Litigation</i> Ryan Breedon

*Mr. Chadwick was granted limited standing to “participate by providing a written comprehensive timeline of events and activities.”

APPENDIX I **List of Witnesses for Part One and Part Two**

Witnesses, Part One		
<i>Witness Name and Position during 2010–2014</i>	<i>Counsel</i>	<i>Date</i>
Sara Almas Clerk, Town of Collingwood	<i>Lenczner Slaght Royce Smith Griffin LLP William McDowell Andrea Wheeler Breedon Litigation Ryan Breedon</i>	April 15 and 16, 2019
Kimberly Wingrove Chief Administrative Officer, Town of Collingwood (Until 2012)		April 16 and 18, and May 17, 2019
Sandra Cooper Mayor, Town of Collingwood	George Marron	April 23, 24, and 25, 2019
Richard Lloyd Deputy Mayor, Town of Collingwood		April 30, and May 1 and 2, 2019
Ian Chadwick Councillor, Town of Collingwood		May 1 and 3, 2019
Jonathan Erling Managing Director, KPMG	<i>Dentons Canada Norm Emblem</i>	May 3 and 13, 2019
Cynthia Chaplin Appeared as an expert witness regarding the Ontario Energy Board		May 13, 2019
Timothy Fryer Chief Financial Officer, Collus/Collus PowerStream Corporations (Until September 2012) Chief Financial Officer, Collingwood Public Utilities Service Board (Until September 2012)		May 13, 14, and 15, 2019
Ralph Neate Auditor, Gaviller & Company LLP	<i>Baulke Stahr McNabb LLP Ryan Baulke</i>	May 15, 2019 Provided Affidavit
David McFadden Independent Director, Collus Power Corp. Until July 2012 Director, Collus PowerStream Corporations (August 2012 onwards)		May 15 and 16, 2019

Witnesses, Part One		
<i>Witness Name and Position during 2010–2014</i>	<i>Counsel</i>	<i>Date</i>
Cindy Shuttleworth Controller, Collingwood Public Utilities Service Board (June 2011–September 2012) Chief Financial Officer, Collingwood Public Utilities Service Board (October 2012 onwards) Controller, Collus/Collus PowerStream Corporations (June 2011–September 2012) Chief Financial Officer, Collus/Collus PowerStream Corporations (October 2012 onwards)	<i>McCarthy Tétrault</i> Patrick Gajos <i>EPCOR</i> Marcus Ostrowerka	May 16 and 17, 2019 Provided Affidavit
Pamela Hogg Executive Assistant to Ed Houghton; Manager, Human Resources and Board Secretary, Collus/Collus PowerStream Corporations	<i>McCarthy Tétrault</i> Patrick Gajos <i>EPCOR</i> Marcus Ostrowerka	May 17, 2019 Provided Affidavit
John Herhalt Global Leader of Government and Infrastructure Services, KPMG	<i>Dentons Canada</i> Norm Emblem	May 22 and 23, 2019
Marcus Firman Manager, Water and Wastewater Services, Collingwood Public Utilities Service Board		May 23, 2019 Provided Affidavit
Kris Menzies Partner, MHBC (Current)		May 23, 2019 Provided Affidavit
Brian MacDonald Manager of Engineering Services, Town of Collingwood	<i>Lenczner Slaght Royce</i> <i>Smith Griffin LLP</i> William McDowell Andrea Wheeler <i>Breedon Litigation</i> Ryan Breedon	May 23, 2019 Provided Affidavit
Ron Clark Partner, Aird & Berlis LLP	<i>Stockwoods Barristers</i> Luisa Ritacca	May 24, 2019
Leo Longo Partner, Aird & Berlis LLP	<i>Stockwoods Barristers</i> Luisa Ritacca	May 27, and 28, 2019

Witnesses, Part One		
<i>Witness Name and Position during 2010–2014</i>	<i>Counsel</i>	<i>Date</i>
Dennis Nolan Corporate Counsel, Executive Vice-President Corporate Services and Secretary, PowerStream Inc.	<i>Gowling WLG LLP</i> Michael Watson Belinda Bain Heather Fisher	May 28, 29, and 30, 2019
Michael Angemeer President & CEO, Veridian Corp.	<i>Borden Ladner Gervais LLP</i> Ewa Krajewska	May 29, 2019
Neil Freeman Vice President, Business Development and Corporate Relations, Horizon Utilities Corp.		May 29, 2019
Kristina Gaspar Manager of Strategy and Risk, Hydro One Inc.		May 29, 2019
Brian Bentz President & CEO, PowerStream Inc.	<i>Gowling WLG LLP</i> Michael Watson Belinda Bain Heather Fisher	May 30, 31, June 3, 2019
John Glicksman CFO, PowerStream Inc.	<i>Gowling WLG LLP</i> Michael Watson Belinda Bain Heather Fisher	June 3 and 4, 2019 Provided Affidavit
Edwin Houghton President & CEO, Collus/Collus PowerStream Corporations Executive Director, Engineering and Public Works, Town of Collingwood (until April 2013) Acting CAO, Town of Collingwood (April 2012–April 2013) President & CEO, Collingwood Public Utilities Service Board	Frederick Chenoweth	June 4, 7, 10, 11, and 12, 2019
Paul Bonwick Principal and Founder, Compenso Communications Inc.		June 12, 13, and 14, 2019
Shirley Houghton	Frederick Chenoweth	June 14, 2019 Provided Affidavit
John Rockx Partner, KPMG	<i>Dentons Canada</i> Norm Emblem	June 17 and 18, 2019 Provided Affidavit

<i>Witnesses, Part One</i>		
<i>Witness Name and Position during 2010–2014</i>	<i>Counsel</i>	<i>Date</i>
Peter Budd International Solar Solutions Inc.		June 18, 2019
John Brown Chief Administrative Officer, Town of Collingwood (2013 onwards)	<i>Heller, Rubel Barristers</i> Howard Rubel	June 26 and 27, 2019
Kevin Lloyd Councillor, Town of Collingwood		June 28, 2019
Robert Hull Partner, Gowling WLG LLP		Affidavit Only
Tom Bushey International Solar Solutions Inc.		Affidavit Only
Doug Garbutt Board Member, Collus Corporations (Until July 2012) Board Member, Collingwood Public Utilities Service Board (Until July 2012)		Affidavit Only

Witnesses, Part Two		
<i>Witness Name and Position during 2010–2014</i>	<i>Counsel</i>	<i>Date</i>
Abigail Stec President & CEO, Green Leaf Distribution Inc.		September 11, 2019
Sara Almas Clerk, Town of Collingwood	<i>Lenczner Slaght Royce Smith Griffin LLP William McDowell Andrea Wheeler Breedon Litigation Ryan Breedon</i>	September 12, 2019 Provided Affidavit
Ron Martin Deputy Chief Building Official, Town of Collingwood	<i>Lenczner Slaght Royce Smith Griffin LLP William McDowell Andrea Wheeler Breedon Litigation Ryan Breedon</i>	September 13, 2019
Marta Proctor Director of Parks, Recreation, Culture, Town of Collingwood		September 23 and 24, 2019
Dave McNalty Manager of Fleet, Facilities, Purchasing, Town of Collingwood	<i>Lenczner Slaght Royce Smith Griffin LLP William McDowell Andrea Wheeler Breedon Litigation Ryan Breedon</i>	September 24, 26, and 30, 2019
Tom Lloyd Regional Sales Manager, Sprung Instant Structures Ltd.	<i>Embry Dann LLP Dean Embry</i>	October 1, 2019
David Barrow Executive Vice President, BLT Construction Services Inc.	<i>William Trudell Professional Corporation William Trudell Neubauer Law Eric Neubauer</i>	October 3, 2019
Richard Dabrus Principal in Charge, WGD Architects		October 4 and 9, 2019
Sandra Cooper Mayor, Town of Collingwood	George Marron	October 4 and 7, 2019
Richard Lloyd Deputy Mayor, Town of Collingwood		October 7 and 8, 2019

<i>Witnesses, Part Two</i>		
<i>Witness Name and Position during 2010–2014</i>	<i>Counsel</i>	<i>Date</i>
Marjory Leonard Treasurer, Town of Collingwood	<i>Lenczner Slaght Royce Smith Griffin LLP William McDowell Andrea Wheeler Breedon Litigation Ryan Breedon</i>	October 15 and 16, 2019
Edwin Houghton President & CEO, Collus/Collus PowerStream Corporations Executive Director, Engineering and Public Works, Town of Collingwood (until April 2013) Acting CAO, Town of Collingwood (April 2012–April 2013) President & CEO, Collingwood Public Utilities Service Board	Fredrick Chenoweth	October 16, 17, 18, 21 and 22, 2019
John Scott Called by Edwin Houghton as an expert witness regarding design-build construction		October 17, 2019
Paul Bonwick Principal and Founder, Compenso Communications Inc. Majority Shareholder, Green Leaf Distribution Inc.		October 23 and 24, 2019
Mel Milanovic Manager of Recreation Facilities, Town of Collingwood (Current)	<i>Lenczner Slaght Royce Smith Griffin LLP William McDowell Andrea Wheeler Breedon Litigation Ryan Breedon</i>	Affidavit only

APPENDIX J **Reasons and Decision Concerning Participation and Funding
(August 20, 2018)**



Town of Collingwood Judicial Inquiry

August 20, 2018

REASONS AND DECISION CONCERNING PARTICIPATION AND FUNDING

MARROCCO A.C.J.S.C.:

BACKGROUND

1. On February 26, 2018, the Council of the Town of Collingwood voted to request an independent judicial inquiry under s. 274 of the *Municipal Act, 2001* to inquire into all aspects of the Town's sale of shares of Collingwood Utility Services Corporation to PowerStream Inc. (defined as the "Transaction" in the Terms of Reference) and into the allocation of the proceeds of that transaction to the construction of the recreational facility at Central Park and Heritage Park in Collingwood.
2. The Terms of Reference are found on the Inquiry's website located at: www.CollingwoodInquiry.ca. The operative terms are as follows:

NOW THEREFORE, the Council of the Town of Collingwood does hereby resolve that:

the Terms of Reference of the Inquiry shall be to inquire into all aspects of the Transaction, including the history, the price at which the shares were sold and the impact on the Ratepayers of the Town of Collingwood, as it relates to the good government of the Municipality, or the conduct of its public business, and to make any recommendations that the Commissioner may deem appropriate and in the public interest as a result of the Inquiry.

AND IT IS FURTHER RESOLVED that pursuant to s. 274 of the *Municipal Act, 2001*, and s.33 of the *Public Inquiries Act*, the Commissioner, in conducting the Inquiry into the Transaction to which the Town of Collingwood is a party, is empowered to ask any question or cause an investigation into any matter which the Commissioner may consider necessary, incidental or ancillary to a complete understanding of the Transaction. In particular, the Commissioner may inquire into:

- i) Was there adequate Town Council oversight over the Transaction?
- ii) Was Town Council's delegation of authority in relation to the Transaction appropriate?

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- iii) Did Town Council receive sufficient independent professional advice prior to delegating its authority to conduct the RFP negotiate or finalize the Transaction?
- iv) Were the criteria developed to assess the proposals received during the RFP process appropriate and did the criteria serve the interests of the Ratepayers of Collingwood?

And, for the purpose of providing fair notice to the Town of Collingwood and those individuals who may be required to attend and give evidence, and without infringing on the Commissioner's authority in conducting the Inquiry in accordance with the Resolution and the Commissioner's statutory authority, it is anticipated that the Inquiry may include:

1. An investigation and inquiry into all relevant circumstances pertaining to the Transaction referred to in the recitals to the Resolution, including the relevant facts pertaining to the Transaction, the basis of and reasons for making the recommendations for entering into the Transaction, and the basis of the decisions taken in respect of the Transaction;
2. An investigation and inquiry into the relationships, if any, between the existing and former elected and administrative representatives of the Town of Collingwood, Collingwood Utility Services Corporation and PowerStream Inc.; and,
3. A two-stage process consisting of a document review and public hearings as follows:

Document Review

- (a) To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to understand the following:
 - i. the sequence of events leading to the Transaction, including the Request for Proposal process commissioned by the Town of Collingwood;
 - ii. the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
 - iii. any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream and any other Collus company;
 - iv. Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the Transaction;
 - v. The commercial relationship between PowerStream, Collus PowerStream and any other Collus entity and the Town of

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Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;

- vi. The salaries, benefits and emoluments of any kind paid in relation to the Transaction to any employee of Collus PowerStream and any other Collus company;
- vii. The allocation of the proceeds of the transaction to the construction of the recreational facility at Central Park and Heritage Park;
- viii. The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility at Central Park and Heritage Park;

Public Hearings

- (b) To conduct public hearings into the matters designated in accordance with the principles of fairness, thoroughness, efficiency and accessibility.

INQUIRY PROCESS

3. The Inquiry will be divided into three parts. Part I will deal with the sequence of events leading to the transaction, the corporate relationships and the impact of the Town's 50% share sale of Collingwood Utility Services Corporation to PowerStream Inc.
4. Part II will consider the sequence of events leading to the allocation of the proceeds, the payment of fees or benefits and the impact of the recreational facility construction.
5. Part III will consider broader policy and good governance issues arising from the findings related to both transactions.

CALL FOR APPLICATIONS FOR PARTICIPATION (STANDING) AND FUNDING RECOMMENDATIONS

6. The Inquiry published a Call for Applications for Participation at the Inquiry's Public Hearings (Standing) in relevant newspapers and via radio advertising. The Inquiry website also posted the Call for Applications. The notice invited applications from any person or group:
 - (a) with a substantial and direct interest in the subject matter of the Inquiry;
 - (b) who is likely to be notified of a possible finding of misconduct;
 - (c) whose participation would further the conduct of the Inquiry; or,
 - (d) whose participation would contribute to the openness and fairness of the Inquiry.
7. Persons or groups of persons wishing to participate were asked to submit a completed application form, electronically or in writing, to the Inquiry offices no later than 4:00 pm on July 20, 2018. In some cases, additional correspondence or information was

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requested from applicants to participate concerning their interest and the nature of participation sought.

8. In addition, the Inquiry identified several persons as having presumptive interests in the subject matter of the Inquiry:
 - Corporation of the Town of Collingwood;
 - Mayor Sandra Cooper;
 - Alectra Utilities Corporation (as the successor corporation to PowerStream Inc.);
 - Collus PowerStream Corp.; and
 - Paul Bonwick.
9. For purposes of efficiency and expediency, the Inquiry adopted an expedited process for these people, in which they were not required to make formal applications for standing. Rather, they were asked to confirm whether they wanted standing and, if so, to advise of the level of participation sought. They were also asked to identify the issues believed to substantially and directly affect them and provide a brief statement indicating how their participation would enhance the Inquiry's work, taking note of the Terms of Reference. The identification of a presumptive interest did not automatically allow for participation in all phases of the Inquiry. The Inquiry reserved the right to set appropriate limits on participation rights for those with presumptive interests.
10. Applicants requesting recommendations for funding were asked to provide personal financial information. This personal financial information was received on a confidential basis because it is desirable to have complete financial disclosure to assess the funding applications and to avoid the indiscriminate disclosure of personal financial information.
11. Some personal financial information was delivered to the Inquiry immediately before the commencement of the hearing and could not be fully reviewed until after the hearing ended. Having now had the opportunity to review all personal financial information and to deliberate, I have decided that confidentiality should be maintained over the personal financial information provided. It may be that participants seeking funding will be asked to provide similar information directly to the Town, but I leave that matter for the Town to address in making its decisions around funding.
12. The Participation (Standing) Hearing, including the submissions on the funding applications, was open to the public and took place on August 14, 2018, in the Council Chambers, located at 97 Hurontario Street, 2nd Floor of the Town Hall.

Principles Applied to the Determination of Participation

13. In addressing the question of participation, I have applied the following principles:
 - The participation of those with a substantial and direct interest will assist the Inquiry in being thorough and complete.
 - There is a benefit to having a variety of perspectives available to the Inquiry.

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- Applicants will be granted the right to participate only on those portions of the Inquiry that relate to their particular interest or perspective.
 - Inquiry counsel are present and will participate throughout the Inquiry. They represent the public interest. Their role is not adversarial or partisan.
 - Witnesses may have counsel present during their evidence.
 - Where participants have the same interest, they will be expected to cooperate with Inquiry counsel to avoid the unnecessary expense of prolonged proceedings.
 - Where participants have standing in specific areas, they will stay within the permitted areas.
14. Participation carries with it the obligation to assist the Inquiry in carrying out its mandate. Participants who are not discharging this obligation, or otherwise complying with the Inquiry's procedures, may very well find their participation curtailed.

Principles Applied to the Determination of Funding Recommendations

15. Rule 41 of the Inquiry's Rules of Procedure address funding issues. It provides:
- Counsel will be retained at the expense of the witness and people with standing. The terms of reference do not grant the Judge jurisdiction to order the Town of Collingwood to provide funding for legal counsel. However, requests for funding may be made to the Judge at the hearing on standing and the Judge may make recommendations to the Town of Collingwood.
16. In the course of submissions on funding, applicants' counsel referred me to a report to Town Council from Staff dated April 30, 2018, which provides cost estimates for the Town's funding of "Counsel for Parties, Council Members and Staff". It reads:
- Legal Counsel retained to represent the Town cannot represent the interests of individual employees or Members of Council. The Commissioner cannot order the Town to provide funding however, in order to ensure that all parties, staff and Council Members are treated in a fair and unbiased manner, the Town should consider funding these costs. Staff can only guess at the potential costs and are assuming these costs would be similar to the costs for Town counsel: \$240,000.
17. To determine my recommendations for funding, I considered whether each applicant had:
- demonstrated an inability to participate in the Inquiry without funding for representation;
 - a unique perspective that will not be presented to the Inquiry if the applicant does not participate;

Page: 6

- an established record of concern for and demonstrated commitment to the interest the applicant seeks to represent;
- any special experience or expertise which the applicant may provide in respect of the Inquiry's mandate; and
- a proposal as to the use of the funds and how the funds will be accounted for.

THE APPLICATIONS FOR PARTICIPATION (STANDING)

18. For the purposes of this Inquiry, the right to participate may include:
- consistent with Rules 17 and 18 of the Inquiry's Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry's Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;
 - the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to the participant's interest; and
 - the opportunity to make closing submissions, either orally, in writing or both.
19. I turn to the individual applications for participation. I will address each of the applicants in alphabetical order. Where applicants included a request for a recommendation for funding along with the request to participate, I have addressed the requests at the same time.

Alectra Utilities Corporation (represented by Mr. Michael Watson and Ms. Belinda Bain)

20. Alectra Utilities Corporation is the successor corporation to PowerStream Inc., which was the purchaser of 50% of the shares of Collingwood Utility Services Corporation from the Town of Collingwood. As one of the two primary parties concerned with the transaction, Alectra is likely to be directly affected and as a purchaser of the shares, it can provide substantial documentation and context into the transaction.
21. Alectra has identified the portions of the Terms of Reference in which it has an interest. These are sections 1, 2, 3 (a) (i), (iii), (iv), (v) and (vi), which relate to the 50% share sale transaction that will fall into Part I of the Inquiry.
22. Alectra also identified the portions of the Terms of Reference in which it does not have a direct interest, which are found at Questions (i) through (iv) and the issues described in sections 3 (a) (vii) and (viii) in the Terms of Reference.
23. I grant Alectra the right to participate in Part I of the Inquiry, specifically those aspects of the Inquiry dealing with the issues described by sections 1, 2, 3 (a) (i), (iii), (iv), (v) and (vi) of the Terms of Reference, to the extent that they concern Alectra's interests and perspective. Alectra may participate in the following ways:

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- consistent with Rules 17 and 18 of the Inquiry’s Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry’s Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;
 - the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to Alectra’s interests; and
 - the opportunity to make closing submissions, either orally, in writing or both.
24. Alectra did not apply for funding.

Paul Bonwick (represented by Mr. David O’Connor)

25. Mr. Bonwick of Compenso Communications Inc. has identified an interest in the Inquiry arising from his ownership of a company known as Green Leaf Distribution Inc., which provided consulting services to corporate entities involved in the Town purchase of recreational facilities in 2012. Mr. Bonwick also submits that he has unique involvement and detailed knowledge relating to the 50% share sale of Collingwood Utility Services Corporation to PowerStream in 2012.
26. Mr. Bonwick seeks to further the conduct of the Inquiry and states that his participation would contribute to the openness and fairness of the Inquiry. Mr. Bonwick also identified a genuine reputational interest in the Inquiry.
27. The material provided connects Mr. Bonwick and his companies, Compenso and Greenleaf, to aspects of Part I and Part II of the Inquiry, and the issues described in sections 3(a) (i), (ii), (iii), (iv), (vii) and (viii) of the Terms of Reference.
28. I grant Mr. Bonwick the right to participate in these portions of the Terms of Reference, to the extent that they concern his interest and perspective. He may participate in the following ways:
- consistent with Rules 17 and 18 of the Inquiry’s Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry’s Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;
 - the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to Mr. Bonwick’s interests; and
 - the opportunity to make closing submissions, either orally, in writing or both.

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29. Mr. Bonwick also applied for funding and provided an affidavit concerning his personal financial information in support of his request.
30. Aspects of Mr. Bonwick's available personal financial information support a recommendation for funding. However, he has not provided details of the assets and liabilities of his companies. We recommend that the Town obtain this information prior to deciding whether to provide Mr. Bonwick with funding.

Ian Chadwick

31. Mr. Chadwick was a member of the Town's council from 2010-2014, during the events described in the Terms of Reference. He participated in several of the decisions and has documented the process on-line. He identified interests in common with other members of Council. He is willing to testify if called upon.
32. Mr. Chadwick seeks to be able to provide the Inquiry with a comprehensive timeline of events and activities.
33. Mr. Chadwick will be permitted to participate by providing a written comprehensive timeline of events and activities.
34. Mr. Chadwick did not apply for funding.

Collus PowerStream Corp. (represented by Mr. George Vegh and Ms. Julie Parla)

35. Collus PowerStream Corp. seeks standing to participate on the basis that it is the successor to Collingwood Utility Services Corporation, the entity that was the subject of the share-purchase transaction. Collus PowerStream has relevant documents and information concerning the Transaction, and relevant communications with Town Council members. Collus PowerStream has also identified an interest in being allowed to participate to ensure the accuracy of information concerning the share sale.
36. Collus PowerStream has established a substantial and direct interest in Part I of the Inquiry and I grant it the right to participate in Part I with respect to the issues described by sections 1, 2, 3 (a) (i), (ii), (iii), (iv), (v) and (vi) of the Terms of Reference, to the extent that they concern Collus PowerStream's interests and perspective. It may participate in the following ways:
 - consistent with Rules 17 and 18 of the Inquiry's Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry's Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;
 - the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to Collus PowerStream's interest; and
 - the opportunity to make closing submissions, either orally, in writing or both.

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37. Collus PowerStream made no request for funding.

Mayor Sandra Cooper (represented by Mr. George Marron)

38. Mayor Cooper was the Mayor of Collingwood during the share sale transaction and the recreational facility purchase decision. Mayor Cooper has a substantial and direct interest in the subject matter of the Inquiry and an ability to further the conduct of the Inquiry.
39. I find that Mayor Cooper has a right to participate in the subject matter of the Inquiry in relation to the issues to be considered in Parts I and II of the Inquiry, to the extent that they concern her interests and perspective. In her role as the head of Council, Mayor Cooper's interests and ability to participate relate to sections 1, 2 and 3 of the Terms of Reference, and the questions outlined in the first part of Council's resolution. She may participate in the following ways:
- consistent with Rules 17 and 18 of the Inquiry's Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry's Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;
 - the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to Mayor Cooper's interests; and
 - the opportunity to make closing submissions, either orally, in writing or both.
40. Mayor Cooper has also applied for funding and provided an affidavit concerning her personal financial information in support of her request.
41. I recommend that the Town favorably consider the Mayor's request for funding, based on my review of her financial information and because she was the Mayor at the relevant times.

Councillor Tim Fryer (represented by Mr. Raivo Uukkivi and Ms. Adrianna Pilkington)

42. Councillor Fryer is a member of Council for the Town of Collingwood.
43. Mr Fryer has a substantial and direct interest in the subject matters of the Inquiry, arising from his long-time employment at Collingwood Utility Services Corporation and his role as its Chief Financial Officer at the time of the transaction.
44. Councillor Fryer has identified an interest in financial and public accountability, including an interest in the oversight of utility operations. Councillor Fryer has identified this issue as being important to the scope of the Inquiry.
45. I grant Councillor Fryer the right to participate in Part I of the Inquiry with respect to the issues described by sections 1, 2, 3 (a) (i), (ii), (iii), (iv), (v) and (vi) of the Terms of

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Reference, up to September 2012 and to the extent that they concern his interests and perspective. He may participate in the following ways:

- consistent with Rules 17 and 18 of the Inquiry’s Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry’s Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;
 - the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to Councillor Fryer’s interests; and
 - the opportunity to make closing submissions, either orally, in writing or both.
46. Councillor Fryer has also applied for funding and provided an affidavit concerning his personal financial information.
47. I recommend that the Town favorably consider Mr. Fryer’s request for funding based on my review of his financial information.

Edwin Houghton (represented by Mr. Fred Chenoweth)

48. Mr. Houghton seeks to participate because of his extensive involvement with the share sale transaction, given his prior role as Chief Executive Officer of Collingwood Utility Services Corporation. He also seeks to participate because of his involvement with the Town of Collingwood recreational facility transaction, at the time of which Mr. Houghton was the Town’s acting Chief Administrative Officer. In those capacities, he had direct personal involvement in both transactions.
49. Mr. Houghton cites his substantial and direct involvement, issues of fairness and his ability to assist the Inquiry in its work.
50. The material provided establishes that Mr. Houghton has a substantial and direct interest in the issues that will be addressed during Part I and Part II of the Inquiry, and the issues described in sections 3(a) (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) of the Terms of Reference.
51. I grant Mr. Houghton the right to participate for those portions of the Inquiry, to the extent that they concern his interests and perspective. He may participate in the following ways:
- consistent with Rules 17 and 18 of the Inquiry’s Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry’s Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;

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- the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to Mr. Houghton’s interests; and
 - the opportunity to make closing submissions, either orally, in writing or both.
52. Mr. Houghton applied for funding and provided an affidavit with some general information about his financial situation. Mr. Houghton did not provide details concerning his financial situation. His counsel did indicate that Mr. Houghton may have access to an alternative source of funding. As a result, I recommend that the Town’s consideration of funding for Mr. Houghton be made after production of this information to the Town and with the provision that the Town consider whether funding from other sources could be applied first.

Town of Collingwood (represented by Mr. Will McDowell and Mr. Ryan Breedon)

53. The Corporation of the Town of Collingwood will be directly and substantially affected by all aspects of the Inquiry. The Town called for the Inquiry and the Terms of Reference involve Town transactions, entities and elected representatives. The Town is financially responsible for the costs of the Inquiry. Finally, the recommendations that are requested from the Inquiry relate to the good governance of the Town.
54. I grant the Corporation of the Town of Collingwood the right to participate in the Inquiry in the following ways for Parts I, II and III of the Inquiry, to the extent that its interests and perspective are concerned:
- consistent with Rules 17 and 18 of the Inquiry’s Rules of Procedure, access to documents collected by the Inquiry;
 - consistent with the Inquiry’s Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence;
 - a seat at counsel table;
 - the opportunity to suggest witnesses to be called by Inquiry counsel;
 - the opportunity to cross-examine witnesses on matters that bear on the subject matter of the Inquiry and are relevant to the Town’s interests;
 - the opportunity to make closing submissions, either orally, in writing or both; and
 - the opportunity to make submissions on any interlocutory applications of other participants.

GENERAL RECOMMENDATIONS AS TO FUNDING PRINCIPLES FOR THE TOWN OF COLLINGWOOD

55. As with other public inquiries, there is a necessary balance between providing funding for counsel to ensure the process is fair and using public funds prudently.

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56. In making these recommendations for funding, I suggest that the Town of Collingwood act in accordance with principles that have guided other inquiries:
- It is not in the public interest to have open-ended funding.
 - It is not in the public interest to provide individuals with their lawyer of choice at that lawyer's regular hourly rate.
 - The Town should establish compensation for counsel for the purposes of this Inquiry, which should include reasonable time for preparation by counsel as well as for attendance at the hearings. Limits should be set on preparation time.
 - Attendance of counsel at the hearings should be limited to attending when the client's interests are engaged.
 - Counsel should be entitled to compensation for their reasonable disbursements. Where appropriate, disbursement rates should be set.
 - Funding available from third party sources, such as directors' and officers' liability insurance, should be applied first, before public funds are made available.
 - No fees incurred before the date of Council's decision to hold a public Inquiry should be paid.
 - No fees related to interlocutory proceedings, appeals, judicial reviews or any other matters (*e.g.*, civil litigation) should be paid by the Town.
 - Accounts should be subject to review by an independent third party.

CONCLUSION

57. Persons who have been granted rights of participation are required to file a plan setting out how they will identify, locate and produce the documents that have any bearing on the subject matter of the Inquiry. They must do so within 15 days of this decision. By the same date, they may also provide any suggestions for amendment to the Inquiry's Rules of Procedure.
58. I thank counsel for their submissions and assistance in this stage of the Inquiry.


Associate Chief Justice Frank N. Marrocco

Applications for Standing & Funding heard on August 14, 2018

Reasons released on August 20, 2018

Town of Collingwood Judicial Inquiry
97 Hurontario Street, Box 275, Collingwood, ON, L9Y 3Z5
info@collingwoodinquiry.ca



Town of Collingwood Judicial Inquiry

October 30, 2018

**REASONS AND DECISION ON TWO APPLICATIONS FOR ADDITIONAL FUNDING
RECOMMENDATIONS FOR PAUL BONWICK AND MAYOR SANDRA COOPER**

MARROCCO A.C.J.S.C.

INTRODUCTION

1. On February 26, 2018, the Council of the Town of Collingwood voted to request an independent judicial inquiry under s. 274 of the Municipal Act, 2001 to inquire into all aspects of the Town's sale of shares of Collingwood Utility Services Corporation to PowerStream Inc. (defined as the "Transaction" in the Terms of Reference) and into the allocation of the proceeds of that transaction to the construction of the recreational facility at Central Park and Heritage Park in Collingwood.
2. On August 14, 2018, the Inquiry heard applications for recommendations that the Town fund legal expenses for four participants in the Inquiry.
3. On October 29, 2018, two individuals who were granted participation rights at the Inquiry, Paul Bonwick and Mayor Sandra Cooper, brought applications to request amendments to the funding recommendations.
4. Mr. Bonwick asks that I review my recommendation for funding and direct the Town to reconsider its refusal to pay his legal fees.
5. Mayor Cooper asks for a recommendation or a direction to the Town to apply the criteria set out in the Reasons and Decision Concerning Participation and Funding and increase the amount of funding granted for her.

BACKGROUND TO THE APPLICATIONS

6. Mr. Bonwick, in his application for funding, provided an affidavit concerning his personal financial information in support of his request.
7. I recommended that the Town obtain further information concerning the assets and liabilities of his companies prior to deciding whether to provide Mr. Bonwick with funding.
8. Mayor Cooper, also originally supplied an affidavit concerning her personal financial information in support of her funding request.

9. I recommended that the Town favorably consider Mayor Cooper's request for funding, based on my review of her financial information and because she was the Mayor at the relevant times.
10. The materials filed on the latest applications indicate that Mayor Cooper has been offered funding for legal expenses and Mr. Bonwick's application for funding has been declined.

THE LATEST APPLICATIONS

11. In the latest applications, both applicants asked that the Chief Administrative Officer (CAO) for the Town of Collingwood be called as a witness. At the hearing of these applications, Mayor Cooper's counsel withdrew this request. Counsel for Mr. Bonwick did not.

A. The Town's CAO Cannot be Compelled to Testify

12. In his written response to the applications, counsel for the Town of Collingwood submits that the CAO was exercising delegated authority on behalf of the Council for the Town, and by making a statutory power of decision he is not compellable as a witness concerning the exercise of that authority.
13. I agree. No summons will issue for the CAO.
14. Decisions made by a legislative body composed of numerous persons are "unknowable"; the motives for decision-making by members of such bodies are not relevant to the validity of the decision [*Consortium Developments (Clearwater) Ltd v Sarnia (City)*, [1998] 3 SCR 3 (the "Clearwater rule")].
15. Even if I thought that the *Clearwater* rule did not apply to the funding decisions made by the CAO on behalf of the members of Town Council, I would have found that deliberative secrecy/privilege applies and that, as a result, the CAO is not compellable. [See *Cherubini Metal Works Ltd v Nova Scotia (Attorney General)*, 2007 NSCA 37; *Taylor v Ontario (Workplace Safety & Insurance Board)*, 2017 ONSC 1223; *Commission scolaire de Laval v Syndicat de l'enseignement de la région de Laval*, 2016 SCC 8.]
16. In addition, I am satisfied that there is nothing in the material before me that justifies lifting this privilege.

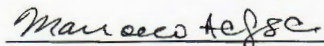
B. Mayor Cooper's Application

17. At the hearing, Mayor Cooper withdrew her application for a further funding recommendation. She did so without prejudice to her right to renew this application and without prejudice to her right to apply to the Town for additional funding in the future.

C. Mr. Bonwick's Application

18. Mr. Bonwick provided no additional affidavit evidence in support of his application because he expected to be able to cross-examine the Town's CAO. Counsel did, however, read from portions of email correspondence with the CAO.

19. During submissions, counsel for the Town advised that during the City of Mississauga Judicial Inquiry, a similar funding issue arose, which was resolved by cross-examination of the person concerned upon a detailed financial affidavit. Counsel for Mr. Bonwick indicated that this was not an acceptable course of action for his client. He did however offer to produce his client for an interview with the CAO.
20. Having regard to the material filed and the submissions made, I decline to make any additional recommendations for funding concerning Mr. Bonwick.


Associate Chief Justice Frank N. Marrocco

Reasons and Decision on Two Applications for Additional Funding Recommendations for Paul Bonwick and Sandra Cooper

Reasons released on October 30, 2018

APPENDIX L **Reasons and Decision on Application for Additional Funding
Recommendation for Paul Bonwick (March 27, 2019)**



Town of Collingwood Judicial Inquiry

March 27, 2019

**REASONS AND DECISION ON AN APPLICATION FOR ADDITIONAL FUNDING
RECOMMENDATION FOR PAUL BONWICK**

1. On February 26, 2018, the Council of the Town of Collingwood voted to request an independent judicial inquiry under s. 274 of the Municipal Act, 2001 to inquire into all aspects of the Town's sale of shares of Collingwood Utility Services Corporation to PowerStream Inc. (defined as the "Transaction" in the Terms of Reference) and into the allocation of the proceeds of that Transaction to the construction of the recreational facility at Central Park and Heritage Park in Collingwood.
2. On August 14, 2018, the Inquiry heard applications for recommendations that the Town fund legal expenses for four participants in the Inquiry.
3. On October 29, 2018, two individuals who were granted participation rights at the Inquiry, Paul Bonwick and Mayor Sandra Cooper, brought applications to request amendments to the funding recommendations.
4. On March 11, 2019, Mr. Bonwick brought a further application to request amendments to the funding recommendations. Mr. Bonwick asks that I review my recommendation for funding and direct the Town to reconsider its refusal to pay his legal fees.

August 2018 Application for Funding

5. Mr. Bonwick, in his original application for funding, provided an affidavit concerning his personal financial information in support of his request. 1.
6. On August 20, 2018 I made the following observation and recommendation concerning Mr. Bonwick's application for funding:

Aspects of Mr. Bonwick's available personal financial information support a recommendation for funding. However, he has not provided details of the assets and liabilities of his companies. We recommend that the town obtain this information prior to deciding whether to provide Mr. Bonwick with funding.

October 2018 Application for Funding

7. Materials Mr. Bonwick supplied in October indicated that Mr. Bonwick's application to the Town for funding was declined.

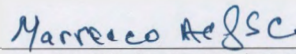
8. During submissions, counsel for the Town advised that the funding impasse might be resolved if Mr. Bonwick were to provide a more detailed financial affidavit and subject himself to cross examination.
9. At the time, counsel for Mr. Bonwick indicated that this was not an acceptable course of action for his client. He did however offer to produce his client for an interview with the CAO.

MR. BONWICK'S APPLICATION

10. On March 11, 2019 Mr. Bonwick made a further application for funding. In his application he asked that I review my recommendation for funding and direct the Town to reconsider its refusal to pay his legal fees.
11. A recommendation that the Town fund Mr. Bonwick is not possible based on the material provided and accordingly I have directed my Counsel not to cross-examine Mr. Bonwick on his affidavit in support of this application.
12. Inquiry Counsel has sent Mr. Bonwick's counsel a letter listing the deficiencies apparent on the face of the material provided and identifying additional information that would be required to understand his current financial situation.

RECOMMENDATION

13. My recommendation to the Town is that it engage directly with Mr. Bonwick to determine whether the identified deficiencies apparent on the face of the material provided have been addressed and whether it should reverse its decision to decline funding his participation in the Inquiry


Associate Chief Justice Frank N. Marrocco

Reasons and Decision on an Application for Additional Funding Recommendation for Paul Bonwick

Reasons released on March 27, 2019

APPENDIX M **Response to Request for Further Funding Recommendations from Sandra Cooper (May 8, 2019)**

97 Hurontario Street | Box 275
Collingwood, ON | L9Y 3Z5



PH: 705-445-1030 EXT 3800 | Fax: 705-445-2448
Email: kmcgrann@collingwoodinquiry.ca

May 8, 2019

DELIVERED VIA EMAIL

Lenczner Slaght Royce Smith Griffin, LLP
Attention: Mr. William McDowell, Partner
Suite 2600-130 Adelaide Street West
Toronto, ON M5H 3P5
wilmcdowell@litigate.com

Breedon Litigation Professional Corporation
Attention: Mr. Ryan Breedon
86 Worsley Street
Barrie, ON L4M 1L8
ryan@breedon.ca

Dear Mr. McDowell and Mr. Breedon:

The Inquiry has received a request for a further funding recommendation from Ms. Cooper.

Provided the Town is satisfied with the accounts rendered to date and provided that Ms. Cooper's financial circumstances remain materially unchanged those described in her affidavit dated August 7, 2018, I recommend that the Town favorably consider continuing to provide funding until the completion of Part I. This recommendation is made without prejudice to any request that Ms. Cooper may make with respect to the hearings for Part II of the Inquiry.

A copy of this letter will be published to the Inquiry's website at www.collingwoodinquiry.ca

If you have any questions, please do not hesitate to contact Kate McGrann, Inquiry Counsel, at kmcgrann@collingwoodinquiry.ca

Yours truly,

A handwritten signature in blue ink that reads "Frank Marrocco".

The Honourable Frank N. Marrocco
Inquiry Judge, Associate Chief Justice of Ontario

c. George Marron, Barrister & Solicitor
Kate McGrann, Inquiry Counsel
John Mather, Associate Inquiry Counsel

Inquiry Judge
Associate Chief Justice Frank Marrocco

Inquiry Counsel
Kate McGrann

Associate Inquiry Counsel
John Mather

Director of Communications
Peter Rehak

Executive Director
Shelley Fuhré

APPENDIX N **Order Concerning Production of List of Privileged Documents
(May 25, 2019)**



Town of Collingwood Judicial Inquiry

May 25, 2019

ORDER CONCERNING PRODUCTION OF LIST OF PRIVILEGED DOCUMENTS

MARROCCO A.C.J.S.C.

It is ordered that:

1. EPCOR Utilities Inc. is ordered to produce the list of documents over which it maintains a claim of privilege in the Town of Collingwood Judicial Inquiry to the Corporation of the Town of Collingwood forthwith.

A handwritten signature in black ink, appearing to read "Marrocco Frank N.", is written over a horizontal line.

Associate Chief Justice Frank N. Marrocco

Town of Collingwood Judicial Inquiry
97 Hurontario Street, Box 275
Collingwood, ON, L9Y 3Z5
info@collingwoodinquiry.ca

APPENDIX O **Reasons and Decision Concerning BLT Application for Standing to Participate (July 26, 2019)**



Town of Collingwood Judicial Inquiry

July 26, 2019

REASONS AND DECISION CONCERNING APPLICATION FOR STANDING TO PARTICIPATE

MARROCCO A.C.J.S.C.

BACKGROUND

1. On February 26, 2018, the Council of the Town of Collingwood voted to request an independent judicial inquiry under s. 274 of the Municipal Act, 2001 to inquire into all aspects of the Town's sale of shares of Collingwood Utility Services Corporation to PowerStream Inc. (defined as the "Transaction" in the Terms of Reference) and into the allocation of the proceeds of that transaction to the construction of the recreational facility at Central Park and Heritage Park in Collingwood.
2. The Terms of Reference are found on the Inquiry's website located at: www.collingwoodinquiry.ca. The operative terms are as follows:

NOW THEREFORE, the Council of the Town of Collingwood does hereby resolve that:

the Terms of Reference of the Inquiry shall be to inquire into all aspects of the Transaction, including the history, the price at which the shares were sold and the impact on the Ratepayers of the Town of Collingwood, as it relates to the good government of the Municipality, or the conduct of its public business, and to make any recommendations that the Commissioner may deem appropriate and in the public interest as a result of the Inquiry.

AND IT IS FURTHER RESOLVED that pursuant to s. 274 of the Municipal Act, 2001, and s.33 of the Public Inquiries Act, the Commissioner, in conducting the Inquiry into the Transaction to which the Town of Collingwood is a party, is empowered to ask any question or cause an investigation into any matter which the Commissioner may consider necessary, incidental or ancillary to a complete understanding of the Transaction. In particular, the Commissioner may inquire into:

- i) Was there adequate Town Council oversight over the Transaction?
- ii) Was Town Council's delegation of authority in relation to the Transaction appropriate?

- iii) Did Town Council receive sufficient independent professional advice prior to delegating its authority to conduct the RFP negotiate or finalize the Transaction?
- iv) Were the criteria developed to assess the proposals received during the RFP process appropriate and did the criteria serve the interests of the Ratepayers of Collingwood?

And, for the purpose of providing fair notice to the Town of Collingwood and those individuals who may be required to attend and give evidence, and without infringing on the Commissioner's authority in conducting the Inquiry in accordance with the Resolution and the Commissioner's statutory authority, it is anticipated that the Inquiry may include:

1. An investigation and inquiry into all relevant circumstances pertaining to the Transaction referred to in the recitals to the Resolution, including the relevant facts pertaining to the Transaction, the basis of and reasons for making the recommendations for entering into the Transaction, and the basis of the decisions taken in respect of the Transaction;
2. An investigation and inquiry into the relationships, if any, between the existing and former elected and administrative representatives of the Town of Collingwood, Collingwood Utility Services Corporation and PowerStream Inc.; and,
3. A two-stage process consisting of a document review and public hearings as follows:

Document Review

- (a) To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to understand the following:
 - i. the sequence of events leading to the Transaction, including the Request for Proposal process commissioned by the Town of Collingwood;
 - ii. the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
 - iii. any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream and any other Collus company;
 - iv. Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the Transaction;

- v. The commercial relationship between PowerStream, Collus PowerStream and any other Collus entity and the Town of Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;
- vi. The salaries, benefits and emoluments of any kind paid in relation to the Transaction to any employee of Collus PowerStream and any other Collus company;
- vii. The allocation of the proceeds of the transaction to the construction of the recreational facility at Central Park and Heritage Park;
- viii. The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility at Central Park and Heritage Park;

Public Hearings

- (b) To conduct public hearings into the matters designated in accordance with the principles of fairness, thoroughness, efficiency and accessibility.
3. The public hearings have been divided into two parts. The Inquiry conducted the Part 1 hearings from April to June 2019. The Part 1 hearings addressed the issues described in paragraphs 1, 2 and 3(a)(i), (ii), (iii), (iv), (v) and (vi) of the Terms of Reference. The public evidentiary hearings for Part 2 will address the issues described in paragraphs 3(a)(vii) and (viii) of the Terms of Reference: the sequence of events leading to the allocation of the proceeds, the payment of fees or benefits and the impact of the recreational facility construction. The public hearings for Part 2 are scheduled to proceed in September and October 2019.

Process and Principles Applied to the Determination of Participation

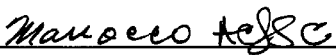
4. The Inquiry adopted an expedited process for those wishing to participate. That process and the principles applied to requests for standing to participate are described in detail in my Reasons and Decision Concerning Participation and Funding dated August 20, 2018.
5. Participation carries with it the obligation to assist the Inquiry in carrying out its mandate. Participants who are not discharging this obligation, or otherwise complying with the Inquiry's procedures, may very well find their participation curtailed.

BLT CONSTRUCTION'S APPLICATION FOR STANDING

6. BLT Construction ("BLT") is a construction company that built the recreational facilities that are the subject of Part 2 of the Inquiry.
7. BLT monitored Part 1 and concluded that its participation will advance the goals of the Inquiry and contribute to the openness, fairness and thoroughness of the Inquiry.
8. BLT has indicated that its interest is in the issues described in paragraphs 3(a)(vii) and (viii) of the Terms of Reference.
9. I grant BLT a limited right to participate in those portions of the Inquiry described in sections 3(a)(vii) and (viii) of the Terms of Reference, and which will be the subject of the Part 2 public hearings. BLT will have:
 - a. Consistent with Rules 17 and 18 of the Inquiry's Amended Rules of Procedure, access to documents collected by the Inquiry related to matters described in sections 3(a)(vii) and 3(a)(viii) of the Terms of Reference;
 - b. Consistent with the Inquiry's Rules of Procedure, advance notice of documents proposed to be entered and statements of anticipated evidence related to matters described in sections 3(a)(vii) and 3(a)(viii) of the Terms of Reference;
 - c. A seat at the counsel table for Part 2 of the public hearings;
 - d. The opportunity to suggest witnesses to be called by Inquiry counsel on matters described in sections 3(a)(vii) and 3(a)(viii) of the Terms of Reference;
 - e. The opportunity to cross-examine witnesses on matters described in sections 3(a)(vii) and (viii) of the Terms of Reference; and
 - f. The opportunity to make closing submissions in writing on matters described in sections 3(a)(ii) and (iii) of the Terms of Reference.

CONCLUSION

10. Persons who have been granted rights of participation are required to file a plan setting out how they will identify, locate and produce documents that have any bearing on the subject matter of the Inquiry. BLT must do so within 15 days of this decision.



Associate Chief Justice Frank N. Marrocco

APPENDIX P **Response to Request for Funding Recommendation from Sandra Cooper for Part II (July 29, 2019)**



97 Hurontario Street | Box 275
Collingwood, ON | L9Y 3Z5

PH: 705-445-1030 EXT 3800 | Fax: 705-445-2448
Email: kmcgrann@collingwoodinquiry.ca

July 29, 2019

DELIVERED VIA EMAIL

Lenczner Slaght Royce Smith Griffin, LLP
Attention: Mr. William McDowell, Partner
Suite 2600-130 Adelaide Street West
Toronto, ON M5H 3P5

willmcdowell@litigate.com

Breedon Litigation Professional Corporation
Attention: Mr. Ryan Breedon
86 Worsley Street
Barrie, ON L4M 1L8

ryan@breedon.ca

Dear Mr. McDowell and Mr. Breedon:

The Inquiry has received a request for a further funding recommendation from Ms. Cooper for Part II of the Inquiry.

Provided the Town is satisfied with the accounts rendered to date and provided that Ms. Cooper's financial circumstances remain materially unchanged from those described in her affidavit dated August 7, 2018, I recommend that the Town favorably consider continuing to provide funding until the completion of Part II.

A copy of this letter will be published to the Inquiry's website at www.collingwoodinquiry.ca

If you have any questions, please do not hesitate to contact Kate McGrann, Inquiry Counsel, at kmcgrann@collingwoodinquiry.ca

Yours truly,

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

The Honourable Frank N. Marrocco
Inquiry Judge, Associate Chief Justice of Ontario

c. George Marron, Barrister & Solicitor
Kate McGrann, Inquiry Counsel

Inquiry Judge
Associate Chief Justice Frank Marrocco

Inquiry Counsel
Kate McGrann

Associate Inquiry Counsel
John Mather

Director of Communications
Peter Rehak

Executive Director
Shelley Fuhré

APPENDIX Q **Response to Request for Further Funding Recommendation from Sandra Cooper (November 27, 2019)**



97 Hurontario Street | Box 275
Collingwood, ON | L9Y 3Z5

PH: 705-445-1030 EXT 3800 | Fax: 705-445-2448
Email: kmcgrann@collingwoodinquiry.ca

November 27, 2019

DELIVERED VIA EMAIL

George Marron, Q.C.
Barrister
59 Chamberlain Crescent
Collingwood, Ontario L9Y 0C9

Dear Mr. Marron:

I write in response to your request for a further recommendation for continued funding for the legal representation of Ms. Cooper. Your request is addressed by my letter dated July 29, 2019, in which I wrote:

Provided that the Town is satisfied with the accounts rendered to date and provided that Ms. Cooper's financial circumstances remain materially unchanged from those described in her affidavit dated August 7, 2018, I recommend that the Town favorably consider continuing to provide funding until the completion of Part II.

A copy of this letter will be published to the Inquiry's website at www.collingwoodinquiry.ca.

If you have any questions, please do not hesitate to contact Kate McGrann, Inquiry Counsel, at kmcgrann@collingwoodinquiry.ca.

Yours truly,

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

The Honourable Frank N. Marrocco
Inquiry Judge, Associate Chief Justice of Ontario

c. William McDowell, Lenczner Slaght Royce Smith Griffin, LLP
Ryan Breedon, Breedon Litigation Professional Corporation
Kate McGrann, Inquiry Counsel

Inquiry Judge
Associate Chief Justice Frank Marrocco

Inquiry Counsel
Kate McGrann

Associate Inquiry Counsel
John Mather

Director of Communications
Peter Rehak

Executive Director
Shelley Fuhré

APPENDIX R **Key Events and Statistics**

Key Events	Date
At the regular meeting of Council, resolution 042-2018 calling for a Judicial Inquiry into the 2012 Collus Share Sale to Power-Stream was passed. Staff were directed to forward the resolution to the Chief Justice of the Superior Court of Justice.	Monday, February 26, 2018
A letter is sent from the Town of Collingwood to The Honourable Heather J. Smith, Chief Justice of the Superior Court of Justice, seeking the appointment of a Commissioner, pursuant to the <i>Municipal Act, 2001</i> , to conduct a Judicial Inquiry.	Tuesday, March 06, 2018
The Honourable Heather J. Smith, Chief Justice of the Superior Court of Justice, appoints The Honourable Frank N. Marrocco, Associate Chief Justice of the Superior Court of Justice, as Commissioner to the Collingwood Judicial Inquiry.	Friday, April 06, 2018
Community Meeting	Monday, August 13, 2018
Hearing: Participation and Funding	Tuesday, August 14, 2018
Hearing: Status Hearings (Production of Documents / Discussion on Funding)	Monday, October 29, 2018
First Day of Part I Hearings (Collus Share Sale)	Monday, April 15, 2019
Last Day of Part I Hearings	Friday, June 28, 2019
First Day of Part II Hearings (Allocation of Share Sale Proceeds)	Wednesday, September 11, 2019
Last Day of Part II Hearings	Thursday, October 24, 2019
First Day of Part III Hearings (Policy Panels)	Wednesday, November 27, 2019
Last Day of Part III Hearings	Monday, December 02, 2019
Closing to Mark End of Hearings	Monday, December 02, 2019

Statistics	
Total Number of Parties with Standing	9
Part I: Limited Standing	1
Part I: Full Standing	7
Part II: Limited Standing	0
Part II: Full Standing	5
Number of Opening Submissions (Part I)	6
Number of Closing Submissions (Part I)	10
Number of Opening Submissions (Part II)	2
Number of Closing Submissions (Part II)	6
Number of Affidavits (Part I)	12
Number of Affidavits (Part II)	2
Number of Documents	469,031
Number of Pages of Foundation Documents	910
Number of Exhibits	2,988
Number of Pages of Transcripts	18,946
Number of Hearing Days	63
Part I: Number of Witnesses	33
Part I: Number of Expert Witnesses	1
Part II: Number of Witnesses	14
Part II: Number of Expert Witnesses	1
Total Number of Witnesses	42
Total Number of Expert Witnesses	2
Part III: Number of Panels	5
Part III: Number of Presenters	15

APPENDIX S **Part III Panellists and Presenters**

Part 3 Panellists		
<i>Panel Topic</i>	<i>Names and Positions</i>	<i>Date</i>
Roles and Responsibilities in Municipal Government	John Fleming Integrity Commissioner, Town of Caledon	Wednesday, November 27, 2019
	Anna Kinastowski City Solicitor, City of Toronto (retired)	
	Greg Levine Barrister and Solicitor	
Conflict of Interest in the Municipal Context and the <i>Municipal Conflict of Interest Act</i>	Valerie Jepson Integrity Commissioner, City of Toronto	Thursday, November 28, 2019
	Rick O'Connor City Solicitor, City of Ottawa	
	The Honourable J. David Wake Ontario Integrity Commissioner	
Municipal Boards and Corporations: Roles, Responsibilities and Accountability	Mary Ellen Bench City Solicitor, City of Mississauga (retired)	Friday, November 29, 2019
	Wendy Walberg City Solicitor, City of Toronto	
Procurement and Best Practices	Marian MacDonald Assistant Deputy Minister, Supply Chain Ontario (retired)	Friday, November 29, 2019
	Mike Pacholok Chief Purchasing Officer, City of Toronto	

Part 3 Panellists		
<i>Panel Topic</i>	<i>Names and Positions</i>	<i>Date</i>
Lobbying	Suzanne Craig Integrity Commissioner, City of Vaughan	Monday, December 02, 2019
	Linda Gehrke Lobbyist Registrar, City of Toronto (2008–2016)	
	Robert Marleau Integrity Commissioner, City of Ottawa	

Part 3 Presenters	
<i>Names and Positions</i>	<i>Date</i>
The Honourable Denise Bellamy Superior Court of Justice (retired)	Wednesday, November 27, 2019
Fareed Amin Former Chief Administrative Officer, Town of Collingwood	Monday, December 02, 2019

Commissioner and Inquiry Staff

COMMISSIONER

The Honourable Frank N. Marrocco
Associate Chief Justice of the Superior Court of Justice

LEAD INQUIRY COUNSEL

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Janet Leiper (2018–2019)

ASSOCIATE INQUIRY COUNSEL

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Kate McGrann (2018–2019)
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