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**INTEGRITY COMMISSIONER REPORT
CODE OF CONDUCT COMPLAINT 2024-01
and MCIA APPLICATION 2024-01**

**THE CORPORATION OF THE TOWNSHIP OF
CENTRE WELLINGTON**

**Laura Dean
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January 14, 2025

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**INTEGRITY COMMISSIONER REPORT
CODE OF CONDUCT COMPLAINT 2024-01
MCIA APPLICATION 2024-01**

I. INTRODUCTION

1. A formal complaint was filed with the Integrity Commissioner on October 1, 2024 (the “**Complaint**”) alleging that Mayor Shawn Watters (the “**Member**”) of The Corporation of the Township of Centre Wellington (the “**Township**”) contravened Section 6.2 of the Township’s *Code of Conduct for Members of Council & Local Boards* (the “**Code**”).

2. A related formal application was also filed on the same date with the Integrity Commissioner (the “**Application**”) alleging that the Member had contravened subsections 5.2(1) and 5.3(1) of the *Municipal Conflict of Interest Act*.¹ This Application was filed pursuant to section 223.4.1 of the *Municipal Act, 2001*.²

II. APPOINTMENT & JURISDICTION

3. Aird & Berlis LLP was appointed as Integrity Commissioner for the Township pursuant to subsection 223.3(1) of the *Municipal Act, 2001* in February 2023 by By-law No. 2023-14.

4. Council adopted the Code and its Complaint Protocol (the “**Complaint Protocol**”) in August 2023.

5. As Integrity Commissioner, we are appointed to act in an independent manner on the application and enforcement of the Code and sections 5, 5.1, 5.2 and 5.3 of the MCIA.

6. We are required to preserve secrecy in all matters that come to our knowledge as Integrity Commissioner during the course of our duties. At the same time, the Township is required to ensure that reports received from the Integrity Commissioner are made available to the public.

7. The Complaint and the Application were properly filed pursuant to Part B, Sections 5(1) and 5(3) of the Complaint Protocol and subsections 223.4(1) and 223.4.1 of the *Municipal Act, 2001*.

8. The allegations raised in the Complaint and the Application arise from similar circumstances and will be set out in greater detail below.

9. This is a report on the investigation of the Complaint made in accordance with Part B, Section 11 of the Complaint Protocol and subsection 223.6(2) of the *Municipal Act, 2001*. This is also a report on our decision related to the inquiry of the Application pursuant to subsection 223.4.1(17) of the *Municipal Act, 2001*.

¹ *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50 (the “**MCIA**”).

² *Municipal Act, 2001*, S.O. 2001, c. 25.

III. CODE OF CONDUCT PROVISIONS AT ISSUE

10. The Member is a director and part owner of the company (the “**Company**”) that runs Riverfest Elora, an annual music festival in the Township (“**Riverfest**”). On May 27, 2024, Council authorized Riverfest to use Bissell Park, a municipal property, for the purpose of hosting Riverfest.

11. The Complaint alleges that the Member contravened Section 6.2 of the Code by virtue of an “Open House” event held on June 27, 2024 (the “**Open House**”) which was intended to showcase volunteer opportunities with Riverfest.

12. Section 6.2 of the Code provides:

6.2 By virtue of their office or appointment, a Member must not use or permit the use of the Township’s property, including but not limited to land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Township, unless they are entitled to such use equally with any other resident and have paid fair market value for such use. No Member shall seek financial gain for themselves, family or friends from the use or sale of the Township’s intellectual property, computer programs, technological innovations, or other patent, trademarks, official marks or copyright held by the Township.

IV. MCIA PROVISIONS AT ISSUE

13. The Application alleges that the Member contravened subsection 5.2(1) of the MCIA which provides as follows:

Influence

5.2 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter.

14. The Application also alleges that the Member contravened subsection 5.3(1) of the MCIA which sets out the following:

Head of council

5.3 (1) Where a head of council of a municipality either on their own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter of the municipality and has a power or duty listed in subsection (2) with respect to the matter, the head of council,

- (a) shall, upon becoming aware of the interest in the matter, disclose the interest by filing a written statement of the interest and its general nature with the clerk of the municipality;
- (b) shall not use the power or exercise the duty with respect to the matter; and

- (c) shall not use their office in any way to attempt to influence any decision or recommendation of the municipality that results from consideration of the matter.

Same

(2) For the purposes of subsection (1), the powers and duties are the powers and duties of a head of council in Part VI.1 of the *Municipal Act, 2001* and Part VI.1 of the *City of Toronto Act, 2006* but do not include the power to delegate in section 284.13 of the *Municipal Act, 2001* and section 226.11 of the *City of Toronto Act, 2006*.

V. MATERIALS REVIEWED

15. In order to undertake our investigation and prepare this Report, we have reviewed and considered the following materials:

- Complaint 2024-01 and supporting evidence;
- Application 2024-01 an supporting evidence; and
- The Member's written submissions in response to the Complaint and Application.

VI. BACKGROUND AND FACTUAL CIRCUMSTANCES

16. The allegations underpinning the Complaint and the Application are as follows:

(a) Complaint

17. The Complaint alleges that the Member contravened Section 6.2 of the Code by virtue of an Open House organized and promoted by Township staff. The Open House which took place on June 27, 2024 was advertised as an opportunity "to learn more about the festival and see what it's like to volunteer with [Riverfest]".

18. The Complaint further alleges that the Township's supplies, services, staff, official marks etc. were used to promote the recruitment of volunteers for a for-profit organization without Council's approval. The Complaint further alleges that this use of resources would constitute financial gain to the Company which is alleged to make use of approximately 600 volunteers in support of Riverfest.

(b) Application

19. The allegations regarding subsections 5.2(1) and 5.3(1) of the MCIA are set out below.

20. In August 2024, the Complainant was informed by Township staff that "there had been intentions to provide power to the [Riverfest] event." On September 4, 2024, Centre Wellington Hydro ("**CW Hydro**") confirmed that it had installed four meters/panels at Bissell Park with one more to follow. Communications from CW Hydro to the Complainant, submitted in support of the Complaint, note that "CWH just tries to accommodate festival volunteer requests". The same email also noted that the metres/panels are owned by the Township.

21. The Application alleges that the electrical power infrastructure would benefit the Company by offsetting the costs of generator power and would give the Company “clear preference for future events, power location, etc.”

22. The Complaint alleges that because the request for the metres/panels came from individuals associated with Riverfest, the Member influenced the decision to install this electrical infrastructure.

23. The Application notes that the Complainant has not been able to locate any budgets/approved Council meeting minutes or agendas that would provide information regarding the installation of the metres/panels.

24. Similarly, the Complainant has not been able to obtain CW Hydro meeting minutes addressing the installation of the electrical infrastructure.

VII. MEMBER’S SUBMISSIONS

25. We notified the Member of the Complaint on October 24, 2024. We received a response from the Member on October 28, 2024 (the “**Member’s Submissions**”). We shared a final draft of this report with the Member. The Member did not provide any substantive comments in response to the draft.

(a) Complaint

26. The Member’s Submissions state that the Member was not aware the Township promoted Riverfest at a Township event and requested that we speak to Township staff regarding the Complaint.

(b) Application

27. With respect to the Application, the Member’s Submissions provide that:

- The Member has been involved in Riverfest for the last 14 years.
- The Member has not benefitted financially from Riverfest.
- The Company pays fair market value for the use of Bissell Park every year.
- The purpose of Riverfest is to celebrate Elora’s diversity, music and arts scene through a music festival.
- The Member has always declared a conflict of interest when Riverfest is brought up at Council or board meetings.
- Township staff do not engage with the Member concerning any conversations or decisions involving Riverfest.
- As a member of the board of directors of CW Hydro, the Member was not aware of any hydro upgrades to Bissell Park prior to the 2024 Riverfest event.

- The Member only became aware of electrical upgrades to Bissell Park the weekend of Riverfest when he witnessed the panels being installed.
- The Member was aware of past noise complaints regarding the generators used by Riverfest to run power to the stage and site and notes that the rationale for installing the electrical infrastructure was to alleviate noise.
- The electrical infrastructure upgrades were paid for by Riverfest and the Member understands they were installed by Riverfest volunteers in conjunction with Township Staff and CW Hydro staff.
- The upgraded electrical infrastructure has been left in place and is now part of Bissell Park's infrastructure.

VIII. INVESTIGATION

(a) Complaint

28. As part of the investigation, we interviewed the Township staff person responsible for coordinating the Open House. Through this interview, we were informed that the Open House was organized by the Town's Community Services Department as part of its Community Connect initiative. According to the Township's website, Community Connect is a multi-faceted program that "is all about connecting Centre Wellington residents to the services, businesses and ways to get involved, be active and feel engaged as our community grows."

29. Open houses are one element of Community Connect. The Township's website describes the open houses as follows:

Each month a different organization will open their doors to welcome people and learn more about their services. This is geared to people who might need their service or people who want to volunteer with the organization. There will be staff to answer your questions, volunteers to share their experiences and a chance for you to see what the space looks and feels like.

30. According to the Township staff person we interviewed, the Riverfest Open House was the first open house to be held under the Community Connect program. The first open house was treated as a "pilot" and Riverfest was asked to participate as a proof-of-concept, given its proven ability to attract volunteers.

31. We understand that all promotional materials developed for the Open House were developed as part of a resource "kit" prepared by Township staff, intended to be used in the future by any volunteer organization hosting an open house. The Open House was not held on Township property.

32. We were advised that Township staff did not have any contact whatsoever with the Member in the planning and execution of the Open House. A Riverfest employee (the Creative Director) was the Township's contact for the Open House. Township staff agreed that it was possible the Member did not know the Open House would be taking place.

(b) Application

33. As part of the investigation, we contacted individuals who are familiar with the relationship between Township staff and CW Hydro and the process for initiating electrical upgrades. Through these discussions, we learned that the Township has no formal process in place for considering requests from the public for installations or upgrades to electrical infrastructure on Township property.

34. We understand that requests for upgrades to the electrical infrastructure at Bissell Park would have been initiated through discussions between Company partners and/or volunteers and the Township's Parks and Recreation Department. We understand that CW Hydro would have become involved for the purposes of coordinating installation. No person that we contacted recalled the Member being involved in any aspect of the electrical upgrade. It was, however, noted that the Member is "hands off" when it comes to operational decisions involving the Township.

35. We were advised that the electrical upgrades at Bissell Park were not of the scope or scale that they would have been considered by the CW Hydro Board. We are also advised that the Company paid for the cost of the electrical upgrades.

IX. ANALYSIS

(a) Complaint

36. Based on our investigation, we find the Member did not contravene section 6.2 of the Code with respect to the Open House.

37. While it is clear that Township staff and resources were used for the Open House, to the potential benefit of the Company, we have found no evidence that the Member himself used or permitted the use of Township property for this purpose.

38. The Member's submission, that he was unaware that the Open House event was taking place, is consistent with information we received from Township staff during the investigation.

39. We also find that the Member did not seek financial gain for himself, family or friends from the use or sale of the Township's intellectual property, computer programs, technological innovations, or other patent, trademarks, official marks or copyright held by the Township.

40. Based on the above, we find the Member did not contravene Section 6.2 of the Code in relation to the advertising or holding of the Open House.

(b) Application

41. The purpose of subsection 5.2(1) of the MCIA is to safeguard the public interest by ensuring that members of council cannot utilize their office in any way to attempt to influence any decision or recommendation that results from consideration of a matter in which the member has a direct or indirect pecuniary interest. In this case, the "matter" at issue relates to upgrades to the electrical infrastructure at Bissell Park.

42. The courts have considered the term “pecuniary interest” as follows:

The term "pecuniary interest" as used in the MCIA (and specifically, in s. 5(1)) is not defined in the legislation; however, it has been held that a "pecuniary interest" must be a financial, monetary or economic interest. The pecuniary interest must be definable and real with the potential to affect the interests of the member and not simply a hypothetical or speculative interest. As such, "it is appropriate to strictly interpret the pecuniary interest threshold".³

43. Section 2 of the MCIA addresses the circumstances involving an “indirect pecuniary interest” and provides, in part, that such an interest exists if the member or his or her nominee is a shareholder in, or a director or senior officer of a corporation that does not offer its securities to the public.⁴

44. We find the Member had an indirect pecuniary interest in the “matter” due to his position as director of the Company. The Company would receive a financial benefit from the installation of the electrical infrastructure from the reduced costs achieved by eliminating generator use.

45. Although the Member has an indirect pecuniary interest in the matter, we have not found any evidence to demonstrate that he used his office to influence the installation of the electrical infrastructure.

46. Similarly, we find no evidence that the Member directed Riverfest employees or volunteers to engage with Township staff or CW Hydro with respect to the infrastructure upgrades. The fact of the Member’s involvement in Riverfest is, on its own, not sufficient to demonstrate that he influenced or attempted to influence the matter by virtue of his status as the head of council of the Township. There must be intentional action on a member’s part to influence a decision, and in this case, we are unable to identify any such action.

47. Subsection 5.3(1) of the MCIA applies where the powers or duties found in Part VI.1 of the *Municipal Act, 2001*, related to “strong mayor powers”, have been conferred upon a head of council by regulation.

48. Section 284.2 of the *Municipal Act, 2001* authorizes the Minister of Municipal Affairs and Housing to designate municipalities to which Part VI.1 of the statute applies (i.e. to designate “strong mayor” municipalities). O. Reg. 180/23: *Part VI.1 of the Act* designates the municipalities in which the head of council has been granted strong mayor powers. The Township has not been designated for the purpose of section 284.2 of the *Municipal Act, 2001* and, as a result, subsection 5.3(1) of the MCIA does not apply to the Member.

49. Based on the above, we conclude the Member did not contravene sections 5.2 and could not have contravened section 5.3 of the MCIA in relation to the electrical infrastructure upgrades at Bissell Park.

³ *Cauchi v. Marai*, 2019 ONSC 497, 87 M.P.L.R. (5th) 318 at para. 33, citing *Magder v. Ford*, 2013 ONSC 263, 7 M.P.L.R. (5th) 1, 113 O.R. (3d) 241 (Div. Ct.), leave to appeal to the S.C.C. refused, [2013] S.C.C.A. No. 117 (S.C.C.), at paras. 6, 42-43; *Darnley v. Thompson*, 2016 ONSC 746, 60 M.P.L.R. (5th) 325 (S.C.J.), at paras. 59-60; *Ferri v. Ontario (Ministry of Attorney General)*, 2015 ONCA 683, 127 O.R. (3d) 613 (C.A.), at paras. 9-10.

⁴ MCIA, s. 2(a)(i).

50. In accordance with subsection 223.4.1(16) of the *Municipal Act, 2001*, this Report serves as notice to the Applicant that we will not be making an application to a judge for a determination as to whether the Councillor contravened sections 5.2 and 5.3 of the MCIA.

X. CONCLUSIONS

51. For the reasons noted above, both the Complaint and the Application are dismissed.

52. This Report has been prepared for and is forwarded to Council solely for the purpose of reporting. Subsections 223.4.1(17) and 223.6(2) of the *Municipal Act, 2001* provide that this Report is to be made public.

Respectfully submitted,

AIRD & BERLIS LLP



Laura Dean

Integrity Commissioner for the Township of Centre Wellington

Dated this 14th day of January, 2025

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