
TOWN OF DEEP RIVER INTEGRITY COMMISSIONER, GUY GIORNO

Citation: Dumoulin v. Fitton and Myers, 2024 ONMIC 4

Date: April 29, 2024

REASONS FOR DECISION

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CONTEXT

1. Among their responsibilities, municipal Integrity Commissioners in Ontario conduct inquiries into applications alleging that council members or members of local boards have contravened the *Municipal Council of Interest Act*. At the end of such an inquiry, the Integrity Commissioner shall decide whether to apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of that Act, and shall publish reasons for the decision. Such decision is not subject to approval of the municipal council and does not take the form of a recommendation to council. There is, therefore, no municipal council resolution necessary to give effect to the decision.

THE APPLICATION

2. Section 223.4.1 of the *Municipal Act* allows an elector or a person demonstrably acting in the public interest to apply in writing to the Integrity Commissioner for an inquiry concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* (MCIA) by a member of council or a member of a local board.

3. Mr. Larry Dumoulin (the Applicant) alleges that Reeve Glenn Doncaster, Councillor Will Fitton (Respondent #2) and Councillor Terry Myers (Respondent #3) contravened the MCIA by failing to declare a pecuniary interest in relation to a matter, and failing to withdraw from discussing and from voting on the matter, at the September 20, 2023, meeting of Council.

4. The Application was received November 1, the last day it was possible, under the statute, to file it. I assigned it File No. 2023-04-MCIA.

5. I subsequently determined that I would conduct an inquiry only into one issue, related to Councillor Fitton and Councillor Myers, raised in the Application. I determined that the inquiry would not consider any of the allegations against Reeve Doncaster (referred to as Respondent #1 in early correspondence concerning this inquiry) and the remaining allegations against Councillor Fitton and Myers. The rationale for the scope of the inquiry is explained below.

DECISION

6. Subsection 223.4.1(15) of the *Municipal Act* states that, upon completion of an inquiry, the Integrity Commissioner may, if the Integrity Commissioner considers it appropriate, apply to a judge under section 8 of the MCIA for a determination whether the Member has contravened section 5, 5.1, or 5.2 of that Act.

7. At issue was whether the Respondents had a pecuniary interest in a Council resolution, setting out Council's instruction that a submission be made to Atomic Energy of Canada Limited and Canadian Nuclear Laboratories Ltd. concerning, among other topics, "Support for local businesses such as a reasonable Buy Local policy." All three Respondents have connections to local businesses.

8. After considering all the evidence and the positions of the parties, I have decided that I will not apply to a judge for a determination whether Councillor Fitton and Councillor Myers have contravened the MCIA. I have also decided not to apply to a judge concerning Reeve Doncaster.

9. I accept the Applicant's argument that subsequent discussions between the Town and AECL or CNL might involve issues in which a Council Member has a pecuniary interest. If that occurs, then the affected Member will be required to declare the interest and withdraw from decision-making. However, what might happen in future does not support a finding that the MCIA was contravened on September 20.

10. This inquiry did not address historic conflict-of-interest allegations related to the Town's procurement of services from Councillor Myers's company and Reeve Doncaster's company. The Applicant expressly stated that these allegations were not the subject of his request for an inquiry. Consequently, I make no finding on whether these allegations are founded or unfounded. Council Members should continue to abide by the MCIA and the Code of Conduct when the Town makes decisions that relate to their business interests.

11. The Application did not originally allege that Reeve Doncaster's printing business provides services to Canadian Nuclear Laboratories Ltd. I learned this only after I had determined that the inquiry would not focus on the allegations against him. I have considered the additional facts, and my decision not to apply to judge remains the same.

12. While I have concluded that the Respondents did not have a pecuniary interest in the September 20 resolution and have decided not to apply to a judge, the Application raised a genuine issue. The length of these reasons attests to that.

13. Subsection 223.4.1(17) of the *Municipal Act* requires me to publish written reasons for my decision. These are my reasons.

BACKGROUND

14. This inquiry arises from a Council resolution, adopted September 20, 2023, concerning an upcoming AECL procurement.

15. Atomic Energy of Canada Limited (AECL) was incorporated in 1952, under what was then called the *Atomic Energy Control Act, 1946*.¹

16. Canadian Nuclear Laboratories Ltd. (CNL) was incorporated under the *Canada Business Corporations Act*, May 30, 2014.

17. ACEL explains that it currently delivers its mandate through a “Government-owned, Contractor-operated” model, by which a private entity, CNL, is responsible for operating AECL’s sites.

18. It further explains, “Under the GoCo model, AECL owns the sites, facilities, assets, intellectual property and responsibility for environmental remediation and radioactive waste management. CNL is responsible for the day-to-day operations of the sites.”

19. Since September 2015, CNL has been managed by Canadian National Energy Alliance Ltd., which describes itself as a consortium of nuclear engineering and management firms. The contract with Canadian National Energy Alliance Ltd. will expire in September 2025.

20. On February 21, 2023, AECL officially announced that it was, “launching a competitive procurement process to renew the contract for the management of [CNL].” Maude-Émilie Pagé, AECL’s Director, Communications and Government Reporting, emailed the announcement to the Town’s Mayor, Reeve, and Chief Administrative Officer.

21. Item 6.1.8 on the agenda of the September 20 Council meeting consisted of the email from Ms Pagé and a proposed resolution that responded to AECL’s upcoming procurement.

22. The preamble to the resolution cited the following facts (which I am quoting verbatim from the resolution): AECL is the owner of the Chalk River Laboratories and is Deep River’s largest employer and taxpayer. As the Host Community for Chalk River Laboratories, the Town of Deep River signed a Memorandum of Understanding with AECL and CNL on December 4, 2017, regarding the value of strong relationships and the intent to maintain ongoing, proactive communication and cooperation on matters of mutual interest. Within the MOU, AECL, CNL and the Town of Deep River agreed to maintain dialogue on matters including but not limited to, strategic planning, investment in local communities, economic impact and emergency preparedness.

23. The resolution instructed the Mayor and Reeve to communicate to AECL and CNL, “for consideration” in AECL’s upcoming RFP, about “matters related to the well-being of the Town of Deep River and area residents.”

¹ 10 Geo. VI, c. 37.

24. The operative passages of the motion that appeared in the Council agenda read as follows:

THEREFORE BE IT RESOLVED THAT the Mayor and the Reeve for the Town of Deep River be authorized to approach, confer and negotiate on council's behalf, for consideration within the RFP, of support by AECL (the Owner) and CNL (the Operator), on matters related to the well-being of the Town of Deep River and area residents including but not limited to matters such as:

- Communications, including regular updates by AECL and CNL to Deep River Council;
- Support for local businesses such as a reasonable Buy Local policy;
- Identification of cooperative ventures of mutual benefit;
- Support for the arts, culture, and recreation of the local area;
- Support for aging municipal infrastructure such as through sharing of technical expertise;
- Actions of positive local environmental benefit;
- An objective to include measures to ensure the operation of CRL contributes to a strengthened, enhanced and enduring knowledge base for the benefit of both local residents and more broadly, all Canadians in the areas of Science, Technology, Security, Decommissioning & Waste Management;
- A focus on further developing Chalk River Laboratories, the Town of Deep River and the Upper Ottawa Valley as a hub for Canadian nuclear science;
- Continued commitment to engaging Deep River's municipal leadership in education and understanding of the benefits and risks of nuclear technology, nuclear operations and waste management so we can adequately advise inform and advise our community and where appropriate, promote nuclear science and technology to other stakeholders through our peer-to-peer network.

25. The final resolution, as adopted by Council, contains a different introductory paragraph:

THEREFORE BE IT RESOLVED THAT the Mayor and the Reeve for the Town of Deep River be instructed to make submissions on Council's behalf, for consideration within the RFP, by AECL (the Owner) and CNL (the Operator), on matters related to the well-being of the Town of Deep River and area residents including but not limited to matters such as ...

26. The difference between the original motion and the final resolution was a change in the mandate of the Mayor and Reeve. The original motion would have "authorized" them, and the final resolution "instructed" them. The original motion contemplated that they would "approach, confer and negotiate ... for consideration within the RFP, of

support ... on matters,” by AECL and CNL. The final resolution said they would “make submissions for consideration within the RFP ... on matters.”

27. The effect of the amendment to the resolution was to replace discretion with an instruction, and to remove the suggestion that the Town’s emissaries would negotiate with AECL and CNL. They would, instead, merely communicate the position of Council (“make submissions”).

28. The Application alleges that any local business has a pecuniary interest in the September 20 resolution. It further alleges that the Respondent Terry Myers co-owns a local business, Digest Media Inc., which publishes the *North Renfrew Times*. It also alleges that the Respondent Will Fitton is employed by a local business, namely the local Canadian Tire dealer. (I will address the Respondent Glenn Doncaster below, at paragraphs 45 and 46.)

PROCESS FOLLOWED

29. The *Municipal Act* does not direct the procedure that an Integrity Commissioner must follow in handling MCIA applications. I have chosen to follow a process that ensures fairness to both the individual making the application (Applicant) and the Council Members alleged to have contravened the MCIA (Respondents).

30. This fair and balanced process usually begins with me issuing to both parties a Notice of Inquiry that sets out the issues. The Notice of Inquiry includes a copy of the Application for an MCIA Inquiry. The Respondents are made aware of the Applicant’s name. I do, however, redact personal information such as phone numbers and email addresses.

31. The Respondents have an opportunity to respond. The Applicant receives the Respondents’ Responses, if any, and is given an opportunity to reply. I may accept supplementary communications and submissions from the parties, generally on the condition that parties get to see each other’s communications with me. I do this in the interest of transparency and fairness.

32. I typically set deadlines for the submission of a Response and a Reply, but give reasonable extensions when requested.

33. I received the Application on November 1.

34. Under section 223.4.1 of the *Municipal Act*, an inquiry is not automatic. Subsection (7) states, “The Commissioner may conduct such inquiry as he or she considers necessary.” Subsection (8) begins with the words, “If the Commissioner decides to conduct an inquiry ...”

35. After detailed and careful consideration of the Application and its materials, including a review of background information that I compiled on ACEL's "GoCo model" and its upcoming RFP, I determined that I would conduct a limited inquiry into one issue involving Councillor Fitton and Councillor Myers. I exercised my discretion not to conduct an inquiry into the remaining issues raised by the Application, including the allegations against Reeve Doncaster and any additional allegations against Councillor Fitton and Councillor Myers.

36. I issued a Notice of Inquiry that explained how I was exercising my discretion. According to the Notice, there would be just one issue in the inquiry:

Sole Issue in the Inquiry

...

I will conduct an inquiry into the following limited issue:

On September 20, did Digest Media Inc. (a company of Councillor Myers), and did the employer of Councillor Fitton, have a pecuniary interest in the above resolution, on the basis that it calls for making submissions to AECL and CNL, "on matters related to the well-being of the Town of Deep River and area residents including but not limited to matters such as: ...Support for local businesses such as a reasonable Buy Local policy"?

37. Having set out this issue, the Notice invited submissions from the Applicant and the Respondents Fitton and Myers:

I invite the Applicant, the Respondent Fitton and the Respondent Myers to address whether, on September 20, Digital Media Inc. (operating the *North Renfrew Times*) and the Deep River Canadian Tire store owned and operated by Mr. Mohamed Soffar had a pecuniary interest in Resolution 2023 297. Among other topics, I invite the parties to address:

- The impact, if any, of the resolution, given that CNL is already committed to supporting local businesses (and CNL defines "local" as Renfrew County and MRC Pontiac).
- The impact, if any, of the resolution, given that procurement by CNL and AECL is already highly structured and regulated.
- Whether any pecuniary interest in the resolution was "an interest in common with electors generally," considering the number of people in Deep River employed by or involved in local businesses, especially if "local" is interpreted to include all of Renfrew County and MRC Pontiac.
- Whether any pecuniary interest in the resolution was "an interest in common with electors generally," given that the resolution was aimed at, "matters related to the well-being of the Town of Deep River and area residents ..."
- Whether the resolution materially affects Digital Media Inc. and the Canadian Tire store.

38. I received submissions from the Respondent Will Fitton on January 17 and from the Applicant on January 19. The Respondent Terry Myers responded briefly on February 9.

39. On February 5, I issued a Supplementary Notice of Inquiry in which I reminded the parties that they remained free to send submissions to me at any time.

40. The Supplementary Notice also explained that under subsection 223.3(3) of the *Municipal Act*, I had issued a delegation to Kyle Morrow, a lawyer who works with me, enabling him to assist me. The delegation gave him powers under section 223.4.1 to examine witnesses (under oath if appropriate), to collect information and obtain access to Town records, and to issue summonses.

41. Together, Mr. Morrow and I interviewed Mayor Suzanne D'Eon, and we interviewed the Chief Administrative Officer, Sean Patterson.

42. I interviewed Mr. Mohamed (Mo) Soffar, who owns the Canadian Tire dealership in Deep River.

43. Mr. Morrow interviewed Mr. Doug McIntyre, CNL's Vice-President Legal & Insurance (and also its Corporate Secretary), and Mr. Khalil Ibrahim, CNL's Director, Supply Chain Program and Delivery Services.

44. In making my decision, I have taken into account all the submissions of the parties and all of the evidence obtained during the inquiry.

No Inquiry into Reeve Doncaster

45. The Application also alleges that Reeve Doncaster had a pecuniary interest in the September 20 resolution and should not have participated in the decision-making or voting. The Notice of Inquiry explained that I was exercising my discretion not to conduct an inquiry into the allegations against the Respondent Glenn Doncaster.

46. Because I did not conduct an inquiry into the allegations concerning Reeve Doncaster, once the Notice of Inquiry was issued I no longer treated him as a party to the inquiry and sent him no further communication regarding it.

47. The original allegations concerning Reeve Doncaster focused on his sales and services as a Xerox agent; they did not mention services provided to CNL by his printing business. Six days after I informed the parties that I would not inquire into the allegations (that is, the original allegations) against Reeve Doncaster, the Applicant informed me that he had subsequently learned that AECL and CNL were customers of the printing business. I have considered the additional facts (see paragraphs 147 to 151, below), and my decision not to apply to judge remains the same (see paragraph 172).

No Inquiry into Other Allegations

48. The Notice of Inquiry also explained that I was not conducting an inquiry into any of the additional issues raised in the Application.

49. I did not inquire into issues related to the Applicant's communications with the Clerk and the CAO, including a concern that the Applicant's correspondence was not placed before Council. An Integrity Commissioner has no jurisdiction over these matters.

50. I did not inquire into issues related to the amendment of the motion,² including the minuting of the amendment and Reeve Doncaster's role in the amendment. In my view the wording of the amendment did not affect the outcome of MCIA compliance.

51. I did not inquire into the Applicant's letter to the *North Renfrew Times*, into the newspaper's published "retraction," or into the relationship that anyone except Councillor Myers has with the *North Renfrew Times*. These matters, and the roles of these other individuals, were not relevant to MCIA compliance and fell outside an Integrity Commissioner's jurisdiction.

52. The Application suggests that the words "including but not limited to" in Resolution 2023 297 mean that Deep River could add additional items to the requests made to AECL and CNL. I agree with that interpretation, but I found that what the Mayor and Reeve *might do* with this wording did not warrant an inquiry at this time. When, pursuant to the resolution, "the Mayor and the Reeve for the Town of Deep River ... make submissions on Council's behalf," they will of course be subject to applicable law, including the MCIA. Should an MCIA issue arise from additional submissions that the Mayor and Reeve make, it can be addressed at that time.

53. I did not inquire into the content of any regular meetings between AECL (and/or CNL) and the Mayor or the Reeve. As raised in the Application, this issue is vague and open-ended. If anyone wishes to make a specific allegation related to such a communication then it may be raised through the appropriate channel.

54. I did not take into account the September 20 declarations of interest made by the CNL employees who serve on Council. CNL's interest, if any, in Resolution 2023 297 would be different than the interests of other entities.

² The September 20 motion was amended before it was adopted. Resolution 2023 296 was the amendment that Council adopted. Resolution 2023 297 was the amended motion adopted by Council.

No Inquiry into Purchasing by the Town from Council Members' Companies

55. As background to the allegation about the September 20 resolution, the Application also included historic allegations about advertising that the Town purchases from Councillor Myers's business (Digital Media Inc.) and services it buys from Reeve Doncaster's business (1146465 Ontario Ltd.³). Mr. Dumoulin did not make the historic allegations a formal part of his Application; in fact, he expressly stated that the allegations were not part of his request for an inquiry. He merely offered them as context relevant to what occurred on September 20.

56. While I understand that these allegations are offered merely as historic background, I have not taken them into account because of their age.⁴ Consequently, I make no findings concerning the Town's purchasing of advertising from Digital Media Inc. and print services from 1146465 Ontario Ltd. In particular, I make no finding about whether these historic allegations are founded or unfounded. They simply were not before the inquiry. All Council Members, including Reeve Doncaster and Councillor Myers, should continue to abide by the MCIA and the Code of Conduct when the Town makes decisions that relate to their business interests.

My 2017 Recusal No Longer Relevant

57. In 2017, I recused myself from a previous inquiry into three complaints, and delegated the matters to Professor Lorne Sossin, Dean of Osgoode Hall Law School (now Justice Lorne Sossin of the Court of Appeal for Ontario). At the time, I explained to Council that each complaint related in part to a relationship between a Council Member and a company, and that some other lawyers in my firm provided legal services to this company. I personally did not but, through my colleagues, the law firm in which I am a partner did.⁵

58. Years later, I have no ties to AECL or CNL that would affect my ability to consider this Application. My law firm has no such ties either. The relationship that caused me to recuse myself from the 2017 inquiry no longer exists, and has not existed for several years. I determined that I would conduct the inquiry directly and not delegate it to an acting integrity commissioner.

³ 1146465 Ontario Ltd. does business under two names: Vertex Consulting (see paragraphs 157 to 161, below) and Digital Copy Xpress.

⁴ An application concerning an alleged MCIA breach must be filed within six weeks after it comes to the Applicant's attention.

⁵ Integrity Commissioner Files 2017-02, 2017-03, 2017-04, Second Interim Report on Complaints (February 27, 2018), at 1.

POSITIONS OF THE PARTIES

Applicant's Position

59. The Applicant's submissions are lengthy. What follows is a summary of key points. It is not exhaustive. In making my decision, I have considered everything raised by the Applicant, not merely the summary below.

60. The Applicant believes that any Council Member who operated a "local business" or was employed by a "local business" had a pecuniary interest in Resolution 2023 297. He argues that the same was true of any Member who operated or was employed by a business that had an existing financial relationship with either AECL or CNL.

61. The Applicant submits that the Respondent Glenn Doncaster and the Respondent Terry Myers both operated "local businesses" in Deep River, and that their two businesses, along with the business that employs the Respondent Will Fitton, "have long been engaged in a financial relationship with both AECL and CNL, and the Town of Deep River."

62. According to the Applicant, an intent of the resolution was to secure benefits for local businesses in the form of an AECL and CNL preference for "local business." He argues that this would give local businesses a competitive advantage over non-local business and, consequently, would affect a local business's pecuniary interests.

63. The Applicant says that the number of local businesses (in his words, "businesses operating in the area") is "small." Consequently, the interest of a Council Member who owns or is employed by such a local business is not an interest in common with other electors and is not an interest that is remote and insignificant.

64. The Applicant observes that two Council Members who are CNL employees declared a pecuniary interest in agenda item 6.1.8 and did not participate in decision making on it.

65. The Applicant notes that, according to the resolution's wording, the matters to be communicated to AECL and CNL, by the Mayor and Reeve, are "not limited to" the list appearing in the resolution. (See bullets within the excerpt reproduced at paragraph 24 of the reasons.) This means the scope of issues to be discussed is unrestricted.

66. The Applicant observes that Reeve Doncaster is an experienced municipal official who has served on Town Council from the 1990s to present with the exception of one term. He also serves on County Council and is active in the Federation of Canadian Municipalities. According to the Applicant, the Reeve is or should be knowledgeable about his obligations under the MCIA.

67. The Applicant refers to Reeve Doncaster's relationship with Xerox (see paragraphs 158 to 160, below). He says this "leaves little doubt" that the Reeve has a financial relationship with Xerox and is an agent of Xerox in its own financial dealings with AECL and CNL. Accordingly, this gives the Reeve a pecuniary interest in both AECL and CNL.

68. The Applicant argues that Councillor Fitton's employer, the local Canadian Tire franchise, has long engaged in business with AECL and CNL.

69. The Applicant states that Councillor Myers is a four-term councillor who often declared pecuniary interests when (prior to 2017) he was an employee of the organization that owned the *North Renfrew Times*. The Applicant asserts that Councillor Myers knows or should know his MCIA obligations. He states that Digest Media Inc., the current publisher of the *North Renfrew Times* and a company co-owned by Councillor Myers, has a long-standing financial relationship with AECL and CNL.

70. The Applicant cites and relies on the Integrity Commissioner's Special Report (January 3, 2020), Attachment 1 to Report 2023-CAO-001 considered at the January 18, 2023, Council meeting.

Councillor Fitton's Position

71. Councillor Fitton states that his primary role at Canadian Tire is to work in the auto service centre, and he has no interaction with CNL.

72. According to him, the Deep River Canadian Tire store already has and has had a relationship for supplying various items to CNL. He states that the September 20 resolution would have no effect on that existing supply relationship.

73. He observes that CNL already is committed to supporting local businesses, "where capabilities exist," and CNL considers a large area as "local," including all of Renfrew County.

74. In his view, the September 20 resolution, when it used the words "buy local," was referring to the entire County.

75. Considering the number of people in Deep River employed by or involved in local businesses, he feels that any interest he possessed was "an interest in common with electors generally," and exempt under clause 4(j) of the MCIA.

Councillor Myers's Position

76. Councillor Myers submits that the resolution was directed to the well-being of all residents of Deep River and not to any particular business.

77. He also submits that the resolution has no impact on his business, beyond what is hypothetical and speculative.

Applicant's Reply

78. Mr. Dumoulin argues that the existence of current AECL or CNL buy-local policies does not remove concern about the Council resolution, which mentions, "Support for local businesses such as a reasonable Buy Local policy." In his view, use of the word "reasonable" implies that the current policies are inadequate or less than "reasonable." Otherwise, why would Council instruct the Mayor and Reeve to make submissions on the matter? In his words, "The resolution clearly seeks to make changes to current policies."

79. The Applicant also submits that anyone currently conducting business with AECL or CNL is, on the balance of probabilities, more aware of AECL/CNL procurement policies than the average elector, and aware of how the current policies affect existing business interests. Such person would also, the Applicant reasons, be more familiar with changes to policies which that would either benefit one's own business interests or adversely affect one's competitors' interests.

80. In summary on this point, the Applicant asserts that the only logical conclusion to be drawn from this portion of the resolution is that "there are potential benefits to be had" from a new or revised AECL or CNL buy-local policy.

81. The Applicant also observes that any outcome of discussions between the Town and AECL and/or CNL was, as of September 20, unknown. As the Applicant explains, it is one thing to present a motion to Council, and another to participate in private discussions. Items might be added, modified or dropped, with the result that what is communicated might significantly differ from what is in the resolution.

82. While the material effect of discussions between the Town and AECL and CNL might be difficult to quantify, it is also difficult to state that the resolution will have no material effect, the Applicant states. This is especially true because the resolution is "open ended" and leads, in his words, to "an ambiguous understanding of what is even on the table."

83. He also observes that the MCIA deals, not with subsequent outcomes, but with interests that exist at the time of a meeting. The issue is not what occurs at the end of any discussions that result from Resolution 2023 297; the issue is whether Council Members who voted on Resolution 2023 297 had a pecuniary interest in it when they voted.

84. I note that the Applicant's reply submissions make reference to the original motion language, which contemplated "negotiation" between the Town and AECL and/or CNL. The final resolution merely indicates that the Town, through the Mayor and Reeve, will

make submissions for the consideration of AECL and CNL. Even without their references to negotiation, the Applicant's arguments are relevant to the final Council resolution and I have considered them on that basis.

85. The Applicant points out that a business is not an "elector." Consequently, an interest in common *with other businesses* does not support application of the "interest in common with electors generally" exemption in clause 4(j) of the MCIA.

86. With specific reference to Councillor Fitton, who has an interest in resulting from employment by the Canadian Tire franchise, the Applicant submits that the store's workforce (though relatively large among Deep River employers) is not big enough to constitute or be representative of "electors generally."

87. With specific reference to Councillor Myers, who has an interest resulting from part ownership of Digest Media Inc., the Applicant argues that given the small number of shareholders of that company (three, including the Councillor), "it is inconceivable his interest ... [is] as an interest in common with electors."

FINDINGS OF FACT

88. In making my determination, I rely on the facts in the Background section of this report, and in this Findings of Fact section.

89. Findings of fact are made based on the standard of the balance of probabilities. The findings are based on interviews, information furnished by the parties, and the other evidence.

90. The site today called Chalk River Laboratories was opened in 1946. Chalk River Laboratories is its present name. Previously and successively, it was known as Division of Atomic Energy of the National Research Council, Atomic Energy of Canada Chalk River Project, and Chalk River Nuclear Laboratories.⁶ In 1946, the site was operated by the National Research Council. When AECL was established in 1952, it took over the Chalk River complex.

91. Starting in 1944, the community that is now the Town of Deep River was built by Fraser Brace Company for a federal Crown corporation called Defence Industries Limited. (Defence Industries Limited provided support to the National Research Council.) The National Research Council needed somewhere to house its scientists, engineers, and technicians, and their families. This planned, "model community" was a "company town"

⁶ AECL, *Canada Enters the Nuclear Age: A Technical History of Atomic Energy of Canada Limited as Seen from Its Research Laboratories*, McGill-Queen's University Press, 1997, p. 7.

of AECL and, before that, of Defence Industries Limited and the National Research Council.^{7 8 9}

92. Deep River was administered by AECL and its predecessors (including, for a year, Central Mortgage and Housing Corporation^{10 11}) until 1956, when it was made an improvement district, governed by a board of three trustees appointed by the Province.¹² Effective January 1, 1959, it was established as a Town, governed by an elected council.

93. The Town of Deep River is a founding member of the Canadian Association of Nuclear Host Communities. (The Mayor is the Town's primary representative.) It also participates in activities of the Canadian Nuclear Association and engages with the Nuclear Waste Management Organization. Two months ago, at CNA2024, the Canadian Nuclear Association conference, the Town was represented by the Mayor, the Reeve, and the CAO. The Reeve typically represents the Town in its engagement with the Nuclear Waste Management Organization.

94. Under its Government-owned, contractor-operated model, AECL owns the sites, facilities, assets, and intellectual property, and it is responsible for environmental remediation and radioactive waste management. CNL is responsible for the day-to-day operation of AECL's sites.

95. As mentioned, AECL has launched a competitive process to continue the management and operation of CNL beyond 2025. This is not a process to replace CNL. The competitive process will only determine who manages and operates CNL. CNL will remain responsible for the operation and management of AECL's sites. According to AECL:

This procurement process will not affect ongoing work, projects and priorities of Canadian Nuclear Laboratories. Canadian Nuclear Laboratories itself is not changing and continues to be responsible for managing and operating AECL's sites and assets. AECL's Government-owned, Contractor-operated model has been specifically set up to enable continuity in operations, having learned from experiences in other jurisdictions to create a unique, tailored-for-Canada contracting model.

⁷ *Canada Enters the Nuclear Age*, note 6, p. 33-34.

⁸ Peter C. Newman, *Maclean's*, "Deep River – Almost the Perfect Place to Live" (September 15, 1958).

⁹ Tania Amardeil, *Innovating Canada*, "Have You Heard of Deep River, Ont.? Learn the Once-Secret Town's Story."

¹⁰ R. J. Boivin, CMHC Corporate Profile (December 1987), pp. 22, 24.

¹¹ In 1979, Central Mortgage and Housing Corporation became Canada Mortgage and Housing Corporation. *Ibid.*, p. 90.

¹² S.O. 1954, c. 56, s. 36.

96. According to the Request for Pre-Qualification issued by AECL last year:

“Contract” refers to the agreement that AECL is anticipated to enter into with the Preferred Bidder and CNL at the end of the Contract Finalization Stage of this procurement process, subject to and in accordance with the terms and conditions of the RFP. Pursuant to the terms of the Contract, AECL will cause the transfer of shares of CNL to the Contractor and the Contractor will agree to cause CNL to enter into the CNL Agreement with AECL in the form of the CNL Agreement that is attached to the Contract.

97. CNL has a large workforce. It is the second largest employer in Renfrew County. (The largest is 4th Canadian Division Support Base Petawawa, also called Garrison Petawawa.) According to Mr. Ibrahim, CNL has nearly as many employees across the country (approximately 3000) as Deep River has residents (in 2021, 4175). Deep River’s Official Plan recognizes employment at CNL as “a key component” of the Town’s economy.

98. The Chalk River Laboratories complex, Ridge Campus, J.L. Gray Engineering Centre, and G.C. Laurence Hall are all located within the Town of Deep River. CNL is the principal employer of Town residents. Many other Town residents are AECL/CNL retirees, or are employed in occupations that depend on AECL/CNL.

99. Most of the land in the Town is owned by the Government of Canada and federal agencies, including AECL, and is not subject to taxation. Instead, federal agencies are required by federal law¹³ to make payments in lieu of tax (PILT).¹⁴ AECL and CNL are, through PILT, the Town’s largest ratepayer. In 2023, PILT and related revenue accounted for 44 per cent the Town’s revenue.

100. While this inquiry obtained no data that quantified the economic impact of AECL and CNL on the Town itself, the Mayor and CAO directed me to a 2021 study, by MDB Insight, prepared for the County of Renfrew. In 2021, the estimated economic impact of Chalk River Laboratories on the entire County was \$724 million in GDP and \$1.1 billion in revenue.¹⁵ The purchasing impact, measured across Eastern Ontario, was estimated to be \$115 million.¹⁶

¹³ *Crown Corporation Payments Regulations*, SOR/81-1030, under the *Payments in Lieu of Taxes Act*, R.S.C. 1985, c. M-13.

¹⁴ A Schedule III Crown corporation, including AECL, may voluntarily agree with a municipality to pay more PILT than the minimum established by federal law, but it may not pay less. *Crown Corporation Payments Regulations*, s. 3

¹⁵ MDB Insight, Delegation to Development & Property Committee, County of Renfrew, Socio/Economic/Environmental Impact Analysis and Report on Operations of CNL/CRL (April 13, 2021), p. 8.

¹⁶ *Ibid.*

101. The Town is party to several agreements with CNL, including a Memorandum of Understanding,¹⁷ a new PILT Agreement,¹⁸ and a Canadian Nuclear Laboratories Ltd. and Deep River Police Service Memorandum of Understanding. Until 2022, the Town and CNL were also parties to a Fire Protection Services Agreement.

102. According to the Memorandum of Understanding, “CNL is a major employer and contributor of socio-economic benefits to Deep River and it develops initiatives to bring benefits to host communities such as Deep River ...”

103. The Town’s Official Plan states that its goals include:

1. To support partnerships between the Town and developers, including CNL and Garrison Petawawa, to facilitate development and encourage investment.
2. To encourage new employees of Canadian Nuclear Laboratories and Garrison Petawawa to reside in the Town of Deep River.

104. CNL contributes in other ways to its host community, including through donations and sponsorships. In fact, CNL makes contributions across Renfrew County and the Algonquins of Pikwàkanagàn First Nation. In addition to CNL’s annual “Community Crowdfunding” campaign, CNL contributes to municipalities, hospitals, other public institutions and charities, near all its host communities.¹⁹

105. Mayor D’Eon explained that the September 20 resolution was partly intended to encourage CNL’s continued investment in the local community. This explains the reference to, “Support for the arts, culture, and recreation of the local area.”

106. Given the importance of the relationship between them, and the fact that the Memorandum of Understanding commits the parties to dialogue, the Town is in regular communication with CNL. Both the Mayor and the CAO confirmed this. Indeed, the CAO is in almost daily contact with CNL.

107. While the Mayor and the CAO are the Town’s primary points of contact with CNL and AECL, many Town employees engage regularly with their CNL and AECL counterparts. Often the Reeve is involved in communication. For example, the new PILT Agreement was negotiated by the Mayor, the Reeve, and the CAO.

108. The resolution that appeared on the September 20 meeting agenda was drafted by the Mayor. It was intended to convey a message about the importance of the relationship among AECL, CNL and the Town, and the importance to that relationship of continued dialogue.

¹⁷ AECL is also a party to the Memorandum of Understanding.

¹⁸ AECL is also a party to the PILT Agreement.

¹⁹ Some of the donations announced by CNL are made by Canadian National Energy Alliance Ltd.

109. I find that Resolution 2023 297 must be understood in the context of the historic ties between AECL (and now also CNL) and Deep River, the centrality of AECL (and CNL) to the local economy and to the municipality's finances, and the close relationship among them. In that context, and based on its text, it is clear that Resolution 2023 297 was not intended to accomplish anything specific. I find that the resolution was descriptive not normative, and theoretical not concrete.

110. Further, I find as a fact that Resolution 2023 297 was not primarily about buying local. The resolution as adopted was 468 words long. "Buy Local" was the subject of just 11 words. I find that the resolution was primarily about, "the well-being of the Town of Deep River and area residents." The details, of which buying local was but one, were merely illustrative of the basic theme of general well-being.²⁰

111. I find as a fact that the resolution was not intended to have an impact on the volume of business that any particular local company does with CNL.

112. As a federal Crown corporation, AECL must conduct its procurement in accordance with applicable trade agreements, including the Canada-European Union Comprehensive Economic and Trade Agreement, the Canadian Free Trade Agreement, the United States-Mexico-Canada Agreement, and the Agreement on Internal Trade.

113. According to AECL, it conducts procurement activities with due regard to applicable laws, internal policies and competitive procurement processes, and it is committed to fair, transparent, professional and ethical conduct in all aspects of procurement.

114. According to Mr. McIntyre, CNL procures roughly one-half billion dollars worth of goods and services each year.

115. Mr. Ibrahim explained that CNL employs a number of systems, policies and procedures to ensure the integrity of its procurement process.

116. Suppliers to CNL must comply with its Suppliers Code of Conduct.²¹

117. CNL relies on a series of standard terms and conditions for suppliers, including: Standard Terms & Conditions For Provision of Minor Works Construction Services,

²⁰ Other elements of the resolution included: identification of cooperative ventures of mutual benefit; support for the arts, culture, and recreation of the local area; support for aging municipal infrastructure such as through sharing of technical expertise; actions of positive local environmental benefit; measures to ensure the operation of Chalk River Laboratories contributes to a strengthened, enhanced and enduring knowledge base for the benefit of both local residents and more broadly, all Canadians in the areas of science, technology, security, decommissioning and waste management; and a focus on further developing Chalk River Laboratories, the Town of Deep River and the Upper Ottawa Valley as a hub for Canadian nuclear science.

²¹ Canadian Nuclear Laboratories, Suppliers Code of Conduct (undated), document 900-513700-STD-003 REV 1, online: <https://www.cnl.ca/wp-content/uploads/CNL-supplier-code-conduct.pdf>

124. CNL regularly hosts contractor awareness sessions to provide information about how to supply goods and services to CNL.

125. CNL encourages not just contracting but subcontracting. In 2019, CNL, together with Renfrew County, MRC Pontiac, and the Algonquins of Pikwàkanagàn First Nation, launched a new initiative to encourage Ottawa Valley companies to pursue commercial opportunities at the Chalk River through partnerships with CNL's major contractors. More than 70 local businesses participated in a half-day workshop.

126. According to Mr. Ibrahim, CNL is not bound to procure goods or services from a single geographic area or from a single supplier. When possible, the company attempts to be a "good citizen" by supporting local businesses. Many times, however, it is impossible for local businesses to provide goods and services at the volume and scale that CNL requires.

127. CNL tracks its local spending by the Forward Sortation Area portion (that is, the first three characters) of postal codes, not by municipality. The Forward Sortation Area code of Deep River, K0J, is shared with many other communities in Renfrew County, including Barry's Bay, Chalk River, Eganville, Griffith, and Golden Lake. Therefore, it is impossible to calculate the exact amount of money that CNL spends in the Town of Deep River.

128. Both Mr. McIntyre and Mr. Ibrahim were of the view that a Town of Deep River Council resolution saying "buy local" would not alter CNL's purchasing or its processes. They repeated the observation that many local businesses are unable to provide goods and services in the quantities required by CNL. In their opinion, a Town Council vote on buying local would be unlikely to change CNL's total local spending.

129. Prior to being interviewed in this inquiry, Mr. McIntyre and Mr. Ibrahim were unaware of Resolution 2023 297.

130. Reeve Doncaster has previously declared a pecuniary interest in a matter affecting his printing business. Councillor Myers has previously declared a pecuniary interest in a matter affecting his newspaper. In each case, the matter before Council involved supplying services to the Town.

131. On September 20, 2023, none of Reeve Doncaster, Councillor Fitton and Councillor Myers declared a pecuniary interest in agenda item 6.1.8. All of them participated in voting on the amendment (Resolution 2023 296) and on the amended motion (Resolution 2023 297).

132. Councillor Christina Giardini and Councillor Tom Vaughan are both CNL employees. At the same meeting, each declared a pecuniary interest in agenda item 6.1.8 and did not participate in discussion or voting.

133. On the day he voted on the resolution, Will Fitton was an employee of the Canadian Tire store in Deep River, which is owned and operated by associate dealer Mohamed (Mo) Soffar. Mr. Soffar appears to carry own business through MSoffar Holdings Ltd., incorporated under the *Canada Business Corporations Act*. Mr. Soffar is the sole director of MSoffar Holdings Ltd.

134. There are only two hardware stores in the Town of Deep River: the Canadian Tire store and Home Hardware.

135. Mr. Soffar confirmed that CNL is an occasional customer of his store and that Councillor Fitton does not have involvement in CNL's purchases.

136. While, as noted in paragraph 127, CNL does not precisely track its spending inside the Town, Mr. McIntyre estimated that that most of CNL's local spending relates to body shop services for company vehicles. Significantly, CNL does not get its vehicles serviced in the Deep River Canadian Tire auto service shop, which is the part of the establishment where Councillor Fitton works. CNL does purchase various supplies from the floor of the store.

137. Mr. Soffar believes that CNL prefers to purchase from his store in Deep River, as opposed to the Canadian Tire store in Pembroke, because his store is more responsive to CNL's "paperwork" requirement. He explained that CNL will send a purchase order to the store, and the store will be required to respond quickly with a price quotation. Once the purchase order is approved, a CNL employee will come to the store, pick up the item(s), and pay by credit card.

138. Mr. Ibrahim confirmed that CNL's procurement from hardware stores is generally made by purchase order. That said, sometimes it is necessary to make small purchases without a purchase order. For example, Mr. Ibrahim explained, if a CNL employee required cleaning supplies, such as wipes, to clean a spill in a company vehicle, those could be obtained without a formal purchase order; instead, the employee could buy them directly.

139. There is no CNL directive to prefer one hardware store over another.

140. Mr. Soffar was not aware that CNL has a "buy local" policy, and he had no idea whether that affected CNL's purchasing from his store.

141. On the day he voted on the resolution, Terry Myers was a director of Digest Media Inc., which is incorporated under the *Business Corporations Act* (Ontario). "North Renfrew Times" was and is an active business name registered by Digest Media Inc.

142. Each of AECL and CNL purchases a subscription to the *North Renfrew Times* at a cost of \$59 per year.

143. In addition, AECL and CNL occasionally place ads in the *North Renfrew Times*. The advertising consists of notices to the local community, such as information about community meetings and advisories about testing of CNL's emergency siren.

144. During his interview, Mr. Ibrahim said he was unaware of any internal CNL directive requiring advertisements to be purchased from particular media companies. CNL's communications group makes expert determinations based on specific advertising needs. Ad placements could include, but are not confined to, local print and radio.

145. During the ten months prior to February 2024, AECL and CNL collectively spent \$2100 to advertise in the *North Renfrew Times*. AECL and CNL advertising typically accounts for more than 0.5% but less than 1% of the revenue of Digest Media Inc. As I explain in paragraph 190, below, for purposes of clause 4(j) of the MCIA, I find this amount to be "significant" to Digest Media Inc.

146. At the same time, I find that AECL and CNL advertising in the *North Renfrew Times* is not affected by any consideration of "buying local." They advertise in that publication in order to communicate with the local community, that is, in circumstances when buying local is the only option. For example, when CNL needs to advertise concerning its monthly testing of the emergency siren, it is not going to use a non-local publication, such as the *Cornwall Standard-Freeholder* or the *National Post*. It advertises in a publication serving the geographic area within which the siren is audible.

147. After deciding, and communicating to the parties, that the inquiry would not cover Vertex Consulting, a business of Reeve Doncaster, operated by his company 1146465 Ontario Ltd., I confirmed that 1146465 Ontario Ltd. also does business under the name Digital Copy Xpress. Under the latter name, the company operates a retail store that provides three functions: a Service Ontario counter (offering services, such as driver's licence renewals, under contract to the Government of Ontario), a gift store, and a quick-copy centre.

148. The Service Ontario functions are compensated by the provincial government on a commission basis. For approximately 15 years, CNL has used the Service Ontario counter to process vehicle registration renewals and changes; Reeve Doncaster's company earns commission from the Province whenever CNL accesses this function.

149. CNL also uses the copy centre; in 2023, it completed 13 print jobs at a total cost of \$12,389. As I explain in paragraph 177, below, for purposes of clause 4(j) of the MCIA, I find this amount to be "significant" to 1146465 Ontario Ltd.

150. 1146465 Ontario Ltd. offers the only Service Ontario functions in Deep River. Its store is located 10 km from CNL's head office. The next closest Service Ontario locations are in Petawawa and Pembroke, and are, respectively, 17 km and 33 km from CNL.

151. 1146465 Ontario Ltd. offers the only copying service in Deep River, except for the photocopier inside the Deep River Public Library.

ISSUE AND ANALYSIS

152. The Notice of Inquiry explained that I had exercised my discretion not to conduct an inquiry into the allegations against the Respondent Glenn Doncaster. I explain that preliminary determination starting at paragraph 154.

153. For ease of understanding these reasons, I have separated the issue in this inquiry into the following questions:

- A. Did Digest Media Inc. (a company of Councillor Myers) have a pecuniary interest in the resolution?
- B. Did Councillor Fitton's employer have a pecuniary interest in the resolution?
- C. In either case, did an exemption apply?
- D. Should I make an application to a judge?

Preliminary Issue: No Inquiry into Reeve Doncaster

154. Subsection 223.1(2.1) of the *Municipal Act* requires that any request for advice from the Integrity Commissioner be made in writing. Subsection 223.1(2.2) requires that the Integrity Commissioner's responsive advice be in writing. On September 20, several hours before the meeting, Reeve Doncaster made a written request for my advice. Later that day, I responded in writing. The portion of my advice related to the MCIA was as follows:

Municipal Conflict of Interest Act

Under the MCIA, if you or your employer has a pecuniary interest in a matter before Council or a committee, then you have a pecuniary interest in the matter. The same is true if the pecuniary interest belongs to a corporation of which you are a senior officer or a director, or a private corporation of which you are a shareholder.

I understand that you are the sole director and a shareholder of 1146465 Ontario Ltd., which does business as Vertex Consulting. Consequently, a pecuniary interest of this company is, under the MCIA, a pecuniary interest of yours.

Vertex Consulting is listed as a Xerox authorized reseller. You have told me that your company sells Xerox equipment and that you have approximately 600 accounts in Ontario and several other provinces. CNL is your largest account.

In my view, CNL has a pecuniary interest in the proposed motion in agenda item 6.1.8. This is because several of the bullets at the bottom of the motion could reasonably be interpreted to affect a pecuniary interest of CNL.

That does not, however, mean that you or Vertex Consulting has a pecuniary interest in the matter. Just because you and Vertex Consulting sell Xerox equipment to CNL does not mean you have a pecuniary interest in every matter of pecuniary interest to CNL.

The jurisprudence suggests that, for you and Vertex Consulting to have a pecuniary interest in the matter, there must be something about your relationship with CNL that results in the matter before Council affecting a financial or economic interest of you or Vertex Consulting.

My understanding is that there is nothing about agenda item 6.1.8 that gives rise to such a pecuniary interest.

My advice is limited to this agenda item. The same cannot be aid of every staff report or Council motion that mentions CNL. You will need to examine each on a case-by-case basis to assess whether you or Vertex Consulting has a pecuniary interest. I am always available to provide guidance.

155. The *Municipal Act* prohibits me from disclosing written advice that I provide to a Member, except in narrow, defined circumstances. One exception allows me to disclose, in these reasons for decision on an MCIA application, all or a portion of my prior advice. I have done so because the prior advice is relevant to these reasons.

156. The following are the reasons why I did not conduct an inquiry into whether Reeve Doncaster complied with the MCIA.

157. On September 20, 2023, Glenn Doncaster was the sole director of 1146465 Ontario Ltd., a company incorporated under the *Business Corporations Act* (Ontario), which does business as Vertex Consulting. Consequently, a pecuniary interest of this company was, under the MCIA, a pecuniary interest of the Respondent Doncaster.

158. Mr. Doncaster's LinkedIn profile describes him as: "Agency Owner - Vertex Consulting / Xerox Sales Agency Reeve - Town of Deep River / Renfrew County Council."

159. His profile describes Vertex Consulting as: "Supplier of Printers, Multifunction Devices and Managed Print Services for Xerox Canada Ltd."

160. Xerox lists Vertex Consulting as a Xerox authorized reseller.²³ Vertex Consulting sells Xerox equipment, it has approximately 600 accounts in Ontario and several other provinces, and CNL is its largest account.

161. For these purposes, I *assumed* CNL had a pecuniary interest in the September 20 resolution. CNL possessing an interest in the resolution did not mean Vertex Consulting

²³ "Xerox Authorized Resellers," online: <https://www.xerox.ca/office/latest/GOVRL-01C.PDF>

had a pecuniary interest in the resolution. Just because Vertex Consulting sells Xerox equipment to CNL does not mean that it has a pecuniary interest in every matter of pecuniary interest to CNL.

162. Judicial precedents establish that, to trigger the MCIA's disclosure and recusal obligations, a pecuniary interest must be real and present, and not speculative or remote. Words used by courts in Ontario to describe a pecuniary interest include **actual**,²⁴ **definable**,²⁵ and **real**.²⁶ A pecuniary interest does not arise from speculation based on hypothetical circumstances.²⁷

163. A pecuniary interest must have crystalized by the time the matter is considered by Council or committee.²⁸ Possible and potential future happenings do not amount to a pecuniary interest.²⁹

164. For a matter before Council to relate to a pecuniary interest of Reeve Doncaster, including a pecuniary interest of his company, it must have some financial or economic connection to him or his company.³⁰ There must "be something to connect the individual to the particular matter beyond the mere potential" for pecuniary benefit applying broadly to people in the area.³¹ The specific nature of the connection might be different in each case, and it is impossible to catalogue all possibilities.³²

165. Consequently, the jurisprudence suggests that, for Vertex Consulting to have a pecuniary interest in the matter, there must be something about its relationship with CNL that results in the matter before Council affecting a financial or economic interest of Vertex Consulting.

166. In my view, nothing in Resolution 2023 297 gave rise to such a pecuniary interest.

167. Vertex Consulting already has a relationship with CNL. CNL already is committed to supporting local businesses, "where capabilities exist." CNL maintains a robust set of procurement policies and practices, and, because it is a current vendor, I conclude that Vertex Consulting has already satisfied those requirements. In this context, I see nothing

²⁴ *Bowers v. Delegarde*, 2005 CanLII 4439 (Ont. S.C.), at para. 78; *Darnley v. Thompson*, 2016 ONSC 7466 (CanLII), at para 59; *Rivett v. Braid*, 2018 ONSC 352 (CanLII), at para. 51.

²⁵ *Lorello v. Meffe*, 2010 ONSC 1976 (CanLII), at para. 59; *Darnley v. Thompson*, at para. 59.

²⁶ *Methuku v. Barrow*, 2014 ONSC 5277 (CanLII), at paras. 43, 48; *Lorello v. Meffe*, at para. 59; *Darnley v. Thompson*, at para. 59.

²⁷ *Gammie v. Turner*, 2013 ONSC 4563 (CanLII), at para. 57; *Darnley v. Thompson*, at para. 63.

²⁸ *Darnley v. Thompson*, at para. 59.

²⁹ *Bowers v. Delegarde*, at paras. 76, 78; *Rivett v. Braid*, at para. 51.

³⁰ *Campbell v. Dowdall*, [1992] O.J. No. 1841, 12 M.P.L.R. (2d) 27, at para. 19.

³¹ *Ibid.*, at para. 26.

³² *Ibid.*

in Resolution 2023 297 that would materially affect what Vertex Consulting already enjoys.

168. The above were sufficient reasons for me to exercise my discretion not to conduct an inquiry into the allegations concerning Reeve Doncaster.

169. In reaching this result, I am supported by my conclusions concerning Councillor Fitton (see paragraph 182) and Councillor Myers (see paragraph 178).

170. As explained above, the Application did not originally allege that Reeve Doncaster's printing business provided services to CNL or AECL. The Application's only mention of printing related to printing *for the Town*, and this mention was expressly stated not to be part of the request for an inquiry. After I had decided not to inquire into the allegations against Reeve Doncaster, the Applicant alleged, and I subsequently confirmed, that the Reeve's company provides occasional copying services to CNL. It also earns commission from the provincial government for Service Ontario functions performed for CNL.

171. My September 20 advice to Reeve Doncaster (reproduced at paragraph 154) did not address printing/copying services for CNL, because I was unaware of them.

172. If the November 1 Application had included the allegation about printing services to AECL/CNL, then I likely would have included that allegation in the inquiry. Nonetheless, I have considered the additional information about printing services and maintain my decision not to apply to a judge concerning Reeve Doncaster.

173. First, section 224.4.1 of the *Municipal Act* places strict restrictions on how an Integrity Commissioner must receive an allegation of an MCIA contravention. The new allegation was not presented in compliance with subsection 224.4.1(6).

174. Second, I am not satisfied that Resolution 2023 297 was intended to have an impact on the volume of business that any local company does with CNL. I also am not satisfied that the resolution could reasonably be expected to have such an impact. I base these conclusions on the documentary evidence and the evidence of witnesses. I also base them on my factual findings that Resolution 2023 297 was not intended to accomplish anything specific, that it was descriptive not normative, and that it was theoretical not concrete.

175. Third, in the specific context of the store operated by 1146465 Ontario Ltd. (Reeve Doncaster's company), it is not reasonable to conclude that Council's September 20 resolution would have any meaningful impact on CNL's purchases. The Service Ontario location closest to CNL is in Reeve Doncaster's store. If and when CNL chooses to renew a vehicle permit at that location, and not in Petawawa and Pembroke, then surely its decision is determined by practicalities and not by whether Town Council has minuted a

468-word resolution that contains 11 words about buying local. Similarly, when CNL chooses to obtain copies from the only print shop in Deep River, instead of standing at the library photocopier or driving to another municipality, it is reasonable to assume that CNL has decided based on practicalities, not a request of Town Council.³³

176. Fourth, even if I were wrong about his pecuniary interest – that is, even if Reeve Doncaster, through his company, had a pecuniary interest in Resolution 2023 297 – I would find that the resolution was primarily about the well-being of the Town of Deep River and area residents and, consequently, all electors had an interest in the resolution. This means the exception in clause 4(j) of the MCIA would apply.³⁴

177. On the other hand, the exception in clause 4(k) of the MCIA would not apply, because I have found that the impact of CNL’s purchasing (\$12,389 in 2023) is significant to Reeve Doncaster’s company.³⁵

A. *Did Digest Media Inc. (a company of Councillor Myers) have a pecuniary interest in the resolution?*

178. I find that, on September 20, Councillor Myers’s company did not have a pecuniary interest in the resolution. Consequently, neither did he.

179. I have found that the resolution was not intended to have an impact on the volume of business that any local company does with CNL. Resolution 2023 297 was not intended to accomplish anything specific, it was descriptive not normative, and it was theoretical not concrete. See paragraph 174 for additional explanation.

180. In the specific context of Councillor Myers’s newspaper, I have found as a fact that AECL and CNL advertising in the *North Renfrew Times* is not affected by any consideration of “buying local” (see paragraph 146). I have considered the evidence concerning CNL’s advertising. It is unreasonable to conclude that Council’s September 20 resolution would have any meaningful impact on CNL’s decisions to advertise locally.

181. I accept the Applicant’s argument that – despite the generality of the September 20 resolution – subsequent discussions between the Town and AECL or CNL might involve issues in which a Council Member has a pecuniary interest. If that occurs, then the affected Member will be required to declare the interest and withdraw from decision-

³³ Resolution 2023 297 did not actually request that CNL and AECL buy local. It instructed the Mayor and the Reeve to make submissions to AECL and CNL about many topics, including this one.

³⁴ “4. Sections 5, 5.2 and 5.3 do not apply to a pecuniary interest in any matter that a member may have ... (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally ...”

³⁵ “4. Sections 5, 5.2 and 5.3 do not apply to a pecuniary interest in any matter that a member may have ... (k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.”

making. However, what might happen in future is not relevant to what happened on September 20. What might happen in future did not give rise to a pecuniary interest that needed to be declared on September 20.

B. Did Councillor Fitton's employer have a pecuniary interest in the resolution?

182. I find that, on September 20, the Deep River Canadian Tire store did not have a pecuniary interest in the resolution, and neither did Councillor Fitton.

183. I have already noted my finding that the resolution was not intended to have an impact on the volume of business any local company does with CNL or to accomplish anything specific. It was descriptive not normative, and it was theoretical not concrete.

184. In the specific context of the Canadian Tire store, I have considered the evidence of CNL and the franchise owner and conclude that Council's September 20 resolution cannot reasonably be expected to have any meaningful impact on CNL's purchases.

C. In either case, did an exception apply?

185. Yes. If I am wrong in concluding that Councillor Fitton and Councillor Myers did not have a pecuniary interest, then I believe that, by virtue of clause 4(j), their interests were exempt from disclosure and recusal.

186. Section 4 of the MCIA sets out eleven exceptions to the requirement to declare a pecuniary interest and withdraw from decision-making and voting. Two exceptions are clause (j) and clause (k).

187. It should be noted that section 4, including clauses 4(j) and 4(k), does not negate the existence of a pecuniary interest. Section 4 merely provides that the pecuniary interest does not need to be declared and that the Member does not need to withdraw from decision-making, voting and attempting to influence others.

188. I agree with the Applicant that not everyone is a business owner, so an interest that arises from owning a business (or being employed by a business) is not an interest in common with electors generally. I do not agree that the resolution pertained to any particular business or to businesses generally. I do not even agree that the resolution pertained to all businesses. In my view, the resolution was about the interests of residents generally; its wording makes this clear.

189. Even if Councillor Fitton and Councillor Myers had pecuniary interests in Resolution 2023 297, I would find that the resolution was primarily about the well-being of the Town of Deep River and area residents and, consequently, all electors had an

interest in the resolution. In this case, the exception in clause 4(j) of the MCIA would apply.

190. On the other hand, the clause 4(k) exemption would not apply to Councillor Myers, because I have found that the impact of AECL and CNL advertising (more than 0.5% and less than 1% of revenue) is significant to Councillor Myers's company.

191. I am unsure whether the exemption in clause 4(k) would apply to Councillor Fitton, but this question is academic, given my conclusion on clause 4(j).

D. Should I make an application to a judge?

192. No.

193. The *Municipal Act* leaves this decision to the Integrity Commissioner, based on what the Integrity Commissioner feels is appropriate. Having found that no pecuniary interests existed, I should not commence a Court application.

194. Even if I am wrong about the existence of pecuniary interests, then I believe that the exemption in clause 4(j) would apply.

195. Consequently, I do not consider it appropriate for me to apply to a judge for a determination as to whether the Respondents contravened section 5 of the MCIA.

DECISION

196. I will not apply to a judge under section 8 of the MCIA for a determination as to whether Councillor Will Fitton, Councillor Terry Myers or Reeve Glenn Doncaster contravened the MCIA on September 20, 2023.

197. This decision is limited to the September 20, 2023, Council Meeting. The assessment of a conflict of interest must be made on a case-by-case basis. Just because the September 20 discussion and vote did not engage a pecuniary interest does not mean that a subsequent matter before Council or a committee – perhaps different in some material respect – will be similarly treated. An Integrity Commissioner is always available to give confidential advice to a Council Member prior to a meeting.

198. This decision does not relate to the interest that arises when a Council Member's business provides goods or services to the Town. Whenever that occurs, a Member must comply with the MCIA and the Code of Conduct. The Integrity Commissioner is always available to provide confidential advice.

PUBLICATION

199. The *Municipal Act* requires that, after deciding whether or not to apply to a judge, the Integrity Commissioner shall publish written reasons for the decision. This decision will be published by providing it to the Town to make public and by posting on the free, online CanLII database as decision 2024 ONMIC 4.

200. Subsection 223.5(2.3) of the *Municipal Act* states that I may disclose in these written reasons such information as in my opinion is necessary. All the content of these reasons is, in my opinion, necessary.



Guy Giorno
Integrity Commissioner
Town of Deep River

April 29, 2024