



## **SPECIAL MEETING AGENDA**

### **MEETING OF COUNCIL TUESDAY, FEBRUARY 18, 2025 at 6:30 pm IN CIVIC CENTRE BOARDROOM**

#### **1.0 Call To Order**

#### **2.0 Approval of Agenda**

#### **3.0 Declaration of Conflict of Interest**

#### **4.0 Resolution**

#### **5.0 Training Session for Council and Staff**

##### **5.1 Introduction to Presenters: Antoinette Blunt, Integrity Commissioner and John Hart, Ritchie Ketcheson Hart & Biggart LLP**

###### John Hart:

- Role of Council
- Role of Mayor
- Role of Staff
- What is Conflict of Interest
- Who declares a Conflict of Interest
- How to Avoid COI in Bidding Processes
- What about sub-contractors

###### Antoinette Blunt

- How does Council provide direction to staff

##### **5.2 Questions from Staff and/or Council related to training session items**

#### **6.0 Confirmatory By-law**

#### **7.0 Adjournment**

## **Background Information on Antoinette Blunt and John R. Hart**

### **Antoinette Blunt, Integrity Commissioner, Township of Chapleau**

Ironside Consulting Services Inc. (ICS Inc.) is a company specializing in the provision of a variety of human resources, labour relations and management services for employers primarily in Northern Ontario, since 2000. ICS Inc. offers a variety of services including organizational review and design, governance review and strategic planning, workplace investigations, mediation, re-design and development of policies and procedures, compensation system review and design including pay equity services, early stage grievance management, collective bargaining for employers, performance management system design; coaching and training in numerous areas including relationship management, communication, bullying and harassment and workplace sexual harassment, team building and leadership.

Antoinette Blunt has extensive experience in undertaking workplace investigations related to allegations of violations of the Occupational Health and Safety Act (Bullying, Harassment, Sexual Harassment, and Violence in the Workplace), and allegations of violations of the Human Rights Code.

In 2018, Antoinette was appointed Integrity Commissioner for the Corporation of the Sault Ste. Marie and is responsible for investigating complaints and alleged breaches of the Code of Conduct of Council and Elected Boards. In this role Antoinette serves as an advisor and an educator for City Council, City Administration, and the Public. Since then, Antoinette has been appointed Integrity Commissioner for many other municipalities in the district of Algoma.

Antoinette's educational background includes a master's degree in public administration, B.A. and BScN. Antoinette also has over 22 years' experience providing consultative services to employers and over 20 years' experience in executive and senior management in the community health care sector.

From 2021 until 2023, Antoinette was a Director on the Sault Area Hospital Board of Directors. Antoinette also served as the Chair of the People and Culture Committee. Antoinette is also a Past Chair of the Board of Directors of the Human Resources Professional Association (HRPA), the provincial association for HR professionals (2010 to 2012). HRPA represents about 24,000 members across the province and internationally. While serving on this Board, Antoinette also chaired several committees including the Appeals Committee, Government Relations Committee and represented the provincial association on a national level serving as Chair of the Professional Standards Committee. Antoinette is also Past Chair of the Human Resources Research Institute (2009 to 2022).

From 2016 until 2019, Antoinette was a member of the Standards Council of Canada Human Resources Management Committee and as a Subject Matter expert to the Working Group: Harmonized Human Resources Professionals Competency Framework. Membership of the Working Group was from numerous countries around the world who were collaborating to develop common internationally accepted professional competencies.

In 2013, Antoinette was awarded the Fellow Designation by the Human Resources Professionals Association. This is considered to be *“a prestigious title and designation awarded within the human resources profession to an individual that promotes best practices and continually enhances the reputation of the profession.”* She was also awarded an Honorary Life Membership in the Human Resources Professionals Association *“Recognizing Extraordinary Volunteer and Leadership Contributions at HRPA”*.

In 2005, Antoinette was named by the Sault Ste. Marie Chamber of Commerce as the winner of the Athena Award, an internationally recognized award honouring exceptional women leaders who inspires others to achieve excellence in their professional and personal lives.

**Contact Information:**

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(she/her), MPA, CHRL, CHRE, FHRPA

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**John R. Hart, Ritchie Ketcheson Hart & Biggart LLP**

John R. Hart practices in both the private and public sector, focusing on general litigation in business and commercial matters, real estate transactions and estates disputes.

John has acted for various municipalities for more than 20 years, during which time he has been involved with virtually all aspects of municipal government, ranging from corporate governance to by-law enforcement. John has prepared and submitted reports to both Council and its committees and has appeared before Council and committees on numerous occasions.

John’s experience and versatility allows him to understand and respond to legal issues emanating from any municipal department. John has completed real estate transactions; commenced enforcement proceedings in connection with the responsibilities that are placed upon municipalities (including the Fire Code, the Building Code and Property Standards By-laws); and litigated as counsel both at all levels of court in Ontario and before various administrative tribunals.

John's cases have been reported in the Ontario Reports, the Municipal Planning Law Reports, the Estate Law Reports and the Business Law Reports.

John has spoken about enforcement matters at conferences held by the Municipal Prosecutors Association and the Municipal Fire Prevention Officers Association.

#### Education and Accreditations

- Called to the Ontario Bar in 1982
- Osgoode Hall Law School (LL.B.), 1980
- Queens University (B. Comm. (Honours)), 1977

#### Memberships

- Law Society of Upper Canada
- Toronto Lawyers Association

#### **Contact Information:**

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February 12, 2025

**VIA EMAIL**

Mayor Ryan Bignucolo and Members of Council  
Township of Chapleau  
20 Pine Street West  
PO Box 129 Chapleau, ON  
P0M 1K0

Dear Mayor Ryan Bignucolo and Members of Council:

**Re: Discussion of Municipal Conflict of Interest**

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Mayor Bignucolo has requested certain advice from us for presentation to Township Council regarding conflicts of interest under the *Municipal Conflict of Interest Act*, R.S.O 1990 (“*MCIA*”).

**LEGISLATION**

The purpose of the *MCIA* is to prohibit members of Council from engaging in the decision-making process of Council in respect of matters where they have a pecuniary interest as such interest may be in conflict with their public duties, unless a statutory exception applies. Those duties are governed by Sections 5 to 5.3 of the *MCIA*, as applicable, and the statutory exceptions are governed by Section 4 of the *MCIA*.

***MCIA* Section 5(1): Duty of a Member of Council**

Section 5(1) of the *MCIA* provides that where a member of Council (which includes Head of Council), either on his/her own behalf, or through another, has a *direct or indirect pecuniary interest* in any matter and is present at a meeting of Council at which the *matter is the subject of consideration*, then that member shall:

- disclose the interest prior to that meeting;
- not take part in any discussion, vote or question in relation to the matter; and
- not attempt to influence the voting either before, during or after the meeting.

If the meeting is a closed meeting, then that member with a pecuniary interest must forthwith leave the said closed meeting, or part of that meeting, during which the matter is under consideration.

### ***MCIA* Section 5.3: Duty of Head of Council**

In addition to the duty of a member of Council pursuant to Section 5(1) of the *MCIA*, a Head of Council has a further duty under Section 5.3 of the *MCIA*. This section provides that where a Head of Council, either on his/her own behalf, or through another, has a *direct or indirect pecuniary interest* in *any matter of the municipality* and has special legislated powers or duties with respect to the matter in question, that Head of Council shall:

- disclose the interest in writing to the clerk;
- shall not use its power to exercise the duty with respect to the matter; and
- not use its office to attempt to influence a decision or recommendation on that matter.

Accordingly, to establish whether a Head of Council has a conflict of interest, it must first be determined whether:

1. a duty under section 5(1) of the *MCIA* exists;
2. a duty under section 5.3 of the *MCIA* exists; and
3. the exceptions to those duties pursuant to Section 4 of the *MCIA* are applicable.

### **1. SECTION 5(1) ANALYSIS – DUTY OF A MEMBER**

To determine whether a member of Council has a conflict of interest, triggering its duty under Section 5(1) of the *MCIA*, the following questions must be answered:

- When does a member of Council's *pecuniary interest* crystalize?
- When does a *matter* discussed at a meeting of Council become a *matter that is the subject of consideration*?

#### **When Does a *Pecuniary Interest* Crystalize?**

To answer this question, the meaning of “pecuniary interest” and, by extension, the meaning of “indirect” and “deemed” pecuniary interest must be determined as it relates to a member of Council.

#### *Pecuniary Interest*

The *MCIA* does not provide for a definition of a pecuniary interest; however, caselaw has defined a pecuniary interest to mean a financial, monetary or economic interest.

#### *Indirect Pecuniary Interest*

Subsection 2(a) of the *MCIA* provides that that a member of Council has an indirect pecuniary interest in *any matter* in which Council is concerned if that member (i) is a shareholder, director or senior officer of a corporation that does not offer its securities to the public, or (ii) has a controlling interest in, or is a director or senior officer of a corporation that offers its securities to the public; or (iii) is a member of a body, that has a *pecuniary interest* in the matter.

### Deemed Pecuniary Interest

The *MCIA* also provides that where a member of Council's parent, spouse or child has a direct or indirect pecuniary interest in a matter in which Council is concerned, and if such interest is known to that member, then he or she is deemed to also have a pecuniary interest.

### Crystallization

To determine when a pecuniary interest crystallizes, it must be considered whether the matter before Council has the potential to affect a member of Council's pecuniary interest.

Caselaw suggests that the moment a member of Council realizes that he/she *may* have a potential interest in a subject matter that is before Council, crystallization has occurred and that member becomes a person with a pecuniary interest. Accordingly, when a member of Council examines a matter in the perspective of advancing his/her private interests that is when a pecuniary interest crystallizes, as their perspective on the matter in his/her capacity a member of Council *may* be jeopardized.

See Schedule "A" attached hereto for a case summary of *Mondoux v. Tuchenhagen* ("**Mondoux**"), which highlights when crystallization of a pecuniary interest occurs in a particular matter.

### **When does a Matter become a Matter that is the *Subject of Consideration*?**

Once it has been established that a member of Council's pecuniary interest in a matter has "crystallized", the next step a member must take is to determine if that matter is a matter that is the *subject of consideration* by Council.

Caselaw suggests that a matter that is discussed at a meeting of Council becomes a matter that is the *subject of consideration* when that matter is the *topic of meaningful discussions and there is some prospect of a decision being made* at that meeting. See Schedule "A" attached hereto for the case summary of *Mondoux*, which highlights when a matter is considered to be the subject of consideration at a meeting of Council.

Accordingly, if it is established that a member of Council has a pecuniary interest in a matter that is the subject matter of consideration at a council meeting, then that member's duty under section 5(1) has been triggered, unless a statutory exception to that duty is applicable pursuant to Section 4 of the *MCIA* (as discussed below).

## **2. ANALYSIS OF SECTION 5.3 OF THE MCIA – HEAD OF COUNCIL'S DUTY**

Generally speaking, a Mayor (being the Head of Council) will first engage in an analysis of Section 5(1) to determine whether a conflict exists in his/her capacity as a member of Council. However, whether or not it is determined that a conflict exists and the duty under Section 5(1) of the *MCIA* is triggered, a Head of Council must still engage in an analysis of his/her duty pursuant to Section 5.3 of the *MCIA*.



For this duty to be triggered, the Head of Council must determine whether he/she has:

- *pecuniary interest in any matter before the municipality*; and
- *any special legislated powers or duties with respect to the matter.*

### **Established Pecuniary Interest in Any Matter before the Municipality**

The scope of establishing whether a pecuniary interest exists under Section 5.3 of the *MCIA* is much broader than that of a pecuniary interest under Section 5(1) of the *MCIA*. A pecuniary interest under section 5.3 applies to any matter *before the municipality*. Whereas a pecuniary interest under section 5(1) applies to any matter that is the *subject matter of consideration* by Council.

As such, if it is established, through the analysis of Section 5(1) of the *MCIA*, that a pecuniary interest has crystalized, then this “branch” of the analysis of Section 5.3 has been satisfied as it has already been determined that a pecuniary interest exists with respect to the matter in question as such matter is before the municipality.

### **Established Legislated Powers or Duties**

Next, it must be determined whether a Head of Council has any special legislated powers or duties with respect to the matter in question. See Schedule “B” attached hereto for a list of the applicable special legislated powers and duties of a Head of Council pursuant to the *Municipal Act*.

Accordingly, if it is determined that a Head of Council has a pecuniary interest in any matter of the municipality and also has a special legislated power or duty with respect to the matter in question, then the duty under Section 5.3 has been triggered, unless a statutory exception to that duty is applicable pursuant to Section 4 of the *MCIA* (as discussed below).

### **3. EXCEPTIONS TO THE DUTIES PURSUANT TO SECTIONS 5(1) AND 5.3**

If it is determined that a pecuniary interested exists and, therefore, the duty under section 5(1) and/or 5.3 of the *MCIA* is triggered, it must then be determined whether a statutory exception applies to that duty. Section 4 of the *MCIA* provides for various exceptions to those duties which all members of Council should be familiar with. See Schedule “C” attached hereto for a full list of these statutory exceptions.

#### **Interest in Common with Electors Generally Exception**

Of particular importance is Subsection 4(j), being the “electors generally” exception. This exception is one of the two “general” exceptions under the *MCIA*. This section states that the duties set out in Section 5(1) and 5.3 of the *MCIA* do not apply to a pecuniary interest in any matter that a member of Council may have by reason of that member having such an interest in common with *electors generally*.

The *MCIA* defines an interest in common with *electors generally* to mean a pecuniary interest in common with electors within the area of jurisdiction and, where the matter under consideration



affects only part of that area, a pecuniary interest in common with electors within that partial area of jurisdiction.

Caselaw has elaborated on this statutory definition, and has accepted that “electors generally” refers to something other than “all electors”. The term “generally” means that the electors are to be regarded as part of a certain class or order; a significant number of electors that hold this interest in common; and such electors are affected by the matter.

Accordingly, the electors generally exception applies if the pecuniary interest is an interest that is also shared with electors generally, *by virtue of the breadth of those electors who share the interest*, exempting that member of Council from its duty contained in Section 5(1) and/or 5.3 of the *MCIA*.

See Schedule “A” attached hereto for the case summary of *Mondoux*, which applies an analysis of the electors generally exception.

### **Too Remote or Insignificant Exception**

Another subsection of particular importance is section 4(k), being the “too remote or insignificant” exception and also the second “general” exception relating to a member of Council pursuant to the *MCIA*. This exception arises when a pecuniary interest in any matter that a member of Council may have been so *remote* or *insignificant* in nature that it cannot reasonably be regarded as likely to influence that member and must be determined on each matter’s particular facts.

The *MCIA* does not provide definitions for the words “remote” or “insignificant” as they relate to an interest of a member of Council. However, caselaw states that a “remote” interest is one that is purely speculative in nature, and such caselaw is clear that the *MCIA* is not interested in speculative interests. Caselaw defines an “insignificant” interest as one that does not relate to the amount at stake, but rather it relates to the importance of the matter to the individual member.

Caselaw also sets out an objective test to determine whether a member of Council’s interest is too remote or insignificant. This test considers whether a *reasonable elector*, being apprised of *all the circumstances*, would think it *more likely than not* that the pecuniary interest would influence the member’s action and thus his/her decision on the matter in question.

This test consists of two-stages:

1. *Identify* the member’s pecuniary interest in the matter, whether that be direct, indirect or deemed.
2. *Apply* the “too remote or insignificant” exemption in subsection 4(k) in light of all the relevant factors that are established on the evidence. Good faith and motive are relevant to the question of whether a pecuniary interest is likely to influence a member, and are of central importance in this analysis.

Accordingly, the too remote or insignificant exception applies if a *reasonable elector* would determine that there is no present or prospective financial benefit or detriment that could result

with respect to that pecuniary interest of the member of Council, regardless of the decision made by Council, with respect to the matter before it.

In the case of *Whiteley v. Schnurr*,<sup>1</sup> the applicable test for determining whether a Member of Council's interests are remote or insignificant in nature is set out. The test is an objective one and considers whether a reasonable elector, being apprised of all the circumstances, would think it more likely than not that the pecuniary interest would influence the Member of Council's action and decision on the question.

This test consists of two-stages:

3. The first stage is to identify the Member of Council's pecuniary interest in the matter, whether that be direct, indirect or deemed.
4. The second stage is to then apply the exemption in Subsection 4(k) in light of all the relevant factors that are established on the evidence. The factors of good faith and motive are relevant to the question of whether a pecuniary interest is likely to influence a Member of Council, and such factors are of central importance in the analysis of whether a pecuniary interest is remote or insignificant.<sup>2</sup>

In the case of *Ferri*,<sup>3</sup> the litigant was a Member of Council who had a son that worked as an associate of a law firm which practised in the areas of municipal, development and land use planning law. Following the adoption of Vaughan's Official Plan 2010, the son's law firm was retained to appeal an aspect of the Official Plan and the son worked directly on this case. The evidence established that the son's compensation would not depend on the outcome or decision of Council in respect of these matters. Out of an abundance of caution, the Member of Council was in the practice of disclosing and declaring an interest under the MCI A in respect of any matter for which he knew that the law firm had been retained. However, given the importance of the matters related to the Official Plan, the Member of Council applied to Court for a determination as to whether he could participate in the Council meetings with respect to the appeal of the Official Plan.

This Court application was originally dismissed and that decision was appealed. On appeal, the Court determined that whether a Member of Council's pecuniary interest is so remote or insignificant to be reasonably regarded as unlikely to influence that Member of Council cannot be premised on the notion that, unless proven otherwise, the Member of Council is fixed with the same level of proximity and significance of his child.

Each circumstance is based on the particular set of facts and any review must commence afresh and focus on the proximity and significance of the Member of Council's pecuniary interest in the context of all of the circumstances. In the case of *Ferri*,<sup>4</sup> this review included the following:

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<sup>1</sup>1990 OSCJ 2575, at para 10.

<sup>2</sup> *Ferri v. Ontario (Ministry of Attorney General)* 2015 ONCA 683, at para 21 ("*Ferri*").

<sup>3</sup> *Ibid.*

<sup>4</sup> *Supra*, note 11.

1. the consideration of the Member of Council's years of faithful service to the municipality,
2. the Member of Council was acting in good faith and his motivation to participate in the issues related to the Official Plan was not incentivized by the potential pecuniary benefit,
3. the Member of Council's history of vigilantly declaring conflicts of interest under the MCIA,
4. the matters related to the Official Plan are of major public importance to his constituents, and
5. the compensation of Member of Council's son did not depend on the outcome of the appeal or a decision of Council respecting these matters.

After completing this review, the Court concluded that a reasonable elector, apprised of all these circumstances, would not conclude that the Member of Council's deemed interest (as a result of his son's involvement) in the Official Plan appeal would be likely to influence his participation in debate or voting on the matter before Council.

In the case of *Lorello v Meffe*,<sup>5</sup> the defendant was a Member of Council as well as an employee, shareholder, officer and director of Gridd, an electrical services company. Council dealt with issues that included land-use applications by developers, such as site development, approval of draft condo plans and zoning amendments, wherein Members of Council would review such applications and vote at meetings. Once Council gave its approval, and only after such approval was given, then developers would put the construction work out to tenders, receive bids and award the contracts to general contractors and/or various subtrades. Gridd had been awarded contracts by certain developers who submitted applications to Council. However, there was evidence given and accepted that Gridd did not have any special relationships with the developers and general contractors in question.

In essence, the complainant's argument was that with respect to any application to Council by any developer for which Gridd had worked or was working for, the Member of Council had an indirect pecuniary interest because there was a reasonable possibility that Gridd would be awarded a contract. The Member of Council argued that any potential interest of Gridd (and therefore the Member of Council), where work is only awarded after a competitive bidding process, is subject to a series of significant contingencies. Because of such contingencies, Gridd's interest in these projects lacked sufficient proximity to constitute an indirect pecuniary interest.

Here, it was agreed that if Gridd had been awarded all the electrical work for one or more of the developers, this would be clear evidence of an indirect pecuniary interest in favour of the Member of Council. Similarly, if Gridd had been awarded no work by such developers in the past, then this is clear evidence of a lack of an indirect pecuniary interest in favour of the Member of Council. In

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<sup>5</sup> 2010 ONSC 1976.

circumstances where Gridd was awarded only one contract in the past by a developer, the Court found that this was not sufficient to establish a business relationship.

Further, in situations where Gridd was awarded more than one contract by such developers and had been continuously asked to bid on past projects, the Court was of the opinion that the mere possibility of future work, in the context of competitive bidding, without any special or preferred relationship, does not make it probable that a vote on such project would affect the pecuniary interest of Gridd (and therefore the Member of Council). That opinion was based on the facts that the project may or may not proceed, may or may not involve electrical subcontracting work, and may or may not result in future work for Gridd.

In the Court's view, a reasonable elector, informed of all the facts as outlined above, would not think it likely that the Member of Council's vote would be influenced by whatever future contingent interest Gridd may have had, due to the remoteness of that interest.

A competitive bidding process is distinguishable from cases wherein an indirect pecuniary interest results from a non-contingent relationship. For example, in the case of *Campbell v. Dowdall*,<sup>6</sup> the Member of Council (a real estate agent) had a history of disclosing an interest when properties he was attempting to sell as an agent were the subject of severance applications. However, the Member of Council did not disclose an interest when an application for permission to remove topsoil from one of its building lots was made by a vendor whom the Member of Council was representing. One of the allegations that the complainant put forward was that the real estate agent would have a pecuniary interest in any proposals for change of permitted land uses in the municipality.

Here, it was determined that in order to find a pecuniary interest before Council involving land development or use, there would have had to be something to connect the Member of Council to the particular matter beyond a mere potential for future business. In this case, while it was difficult to say with certainty what monetary or money-related consequence the disposition of top soil removal could have for the Member of Council, he had a connection to the land in question, and it was a money-related connection. The Member of Council, at the time the matter came before Council, was an agent for a principal who was trying to sell the subject building lot and others. If the lot in question sold, the Member of Council or his employer would receive a direct financial benefit.

The Court concluded that there was a sufficient link between "matter" and "pecuniary interest" and that the Member of Council ought to have concluded that he had an indirect pecuniary interest in the subject building lot. Although topsoil applications are minor, routine matters, the reasonable elector would inevitably fear that a Member of Council's discretion concerning almost any public matter involving land would be fettered by a conflicting interest if that Member of Council was,

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<sup>6</sup> 1992 O.C.J. 499.

at the same time, the selling agent for such land. Therefore, the Member of Council should have declared his interest and refrained from participation.<sup>7</sup>

The Court determined that a statutorily attributed indirect pecuniary interest or a deemed pecuniary interest cannot necessarily be ascribed to the Member of Council at the same level of proximity or importance given to that Member of Council's employer (section 2 of the MCIA) or family member (Section 3 of the MCIA). The test must be to consider the Member of Council's own interests.

Remoteness and insignificance are both factually based. Thus, where a Member of Council has a pecuniary interest in a matter that is the subject of consideration, then the Member of Council, in determining whether such interest is too remote or insignificant, must look at all the circumstances and consider whether a reasonable elector would determine any present or prospective financial benefit or detriment that could result depending on the decision made by the Member of Council of the matter before him or her.

### **Conclusion**

Given the nature of how conflicts of interest may arise in municipal matters, there is no definitive answer to provide as when a conflict of interest may exist for a Head of Council or a member of Council. As the caselaw suggests, the more detached a Head of Council or a member is from the possibility of having a direct or indirect pecuniary interest in a matter, the more likely it is that a Head of Council or a member does not have a conflict of interest in that matter.

Yours very truly,

**RITCHIE, KETCHESON  
HART & BIGGART LLP**

John R. Hart  
JRH/

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<sup>7</sup> *Ibid*, at para 19 and 20.



## SCHEDULE "A"

### CASE SUMMARY OF *MONDOUX V. TUCHENHAGEN*

The City of Mondoux acquired surplus property. A report prepared by staff was presented to Council, recommending that the subject property be sold to an interested party but Council rejected that offer. This matter was subsequently discussed at two further Council meetings and another staff report was prepared and presented to Council, recommending that the subject property be advertised and sold through public tender. After this meeting, a member of Council sent an email to staff expressing that he "might have some interest" on bidding on the subject property through his own corporation.

#### Crystallization of Pecuniary Interest

The Court determined that the moment the member of Council saw himself as a potential buyer, he became a person who acquired a pecuniary interest, as that member was now examining the situation in the perspective of advancing his private interests and that member's perspective as a member of council *may* be jeopardized by his/her private interests.

#### Matter that is the Subject of Consideration

The member argued that the sale of the property was not considered a *subject of consideration* at the either of the two subsequent Council meetings, as those meetings did not raise any matter that was capable of affecting the ability of any Member to bid on the subject property and, rather, discussion of the matter was only "further notification" of the discussions that took place at the first meeting.

The Court disagreed with the member's position and determined that the matter, as presented at the further two meetings, was intended to be discussed with the expectation that staff recommendations would be made and voted upon by Council. These discussions, whatever their content, could have provided information of interest to anyone considering a bid to purchase the land and, as such, were considered *meaningful discussions with some prospect of a decision being made*.

#### Elector's Generally Exemption

In this case, it is acknowledged that the member of Council would share with electors generally an interest in whether the municipality obtained the best price for the subject property. The Court determined that it is not the nature of the interest, but the breadth of those who share the interest which triggers this exception. The consideration of whether to make a bid was not an interest the Member held in common with *electors generally*.

**SCHEDULE “B”**

***MUNICIPAL ACT – PART VI.1***  
**SPECIAL POWERS AND DUTIES OF THE HEAD OF COUNCIL**

**Section 284.3 - Directions to municipal employees**

The head of council may, in writing, direct municipal employees to:

- (a) perform research and provide advice on policies and programs of the municipality or head of council; and
- (b) carry out duties related the exercise of the power or performance of this duty.

**Section 284.5 - Powers re chief administrative officer**

The powers of a municipality under section 229 of the Municipal Act, with respect to the chief administrative officer, are assigned to the head of council.

**Section 284.6 Powers re organizational structure and employment matters**

Subject to the below limitations, the powers of the municipality with respect to determining the organizational structure of the municipality are assigned to the head of council. This includes the power to hire, dismiss or exercise any other prescribed employment powers with respect to the head of any division or the head of any other part of the organizational structure.

However, the powers assigned under this section do not include the power to hire, dismiss or exercise any other prescribed employment powers with respect to any of the following persons:

1. The clerk or deputy clerk.
2. A treasurer or deputy treasurer.
3. An Integrity Commissioner.
4. An Ombudsman.
5. An Auditor General.
6. A registrar, as described in section 223.11.
7. A chief building official, as defined in the *Building Code Act, 1992*.
8. A chief of police, as defined in the *Police Services Act*.
9. A fire chief, as defined in the *Fire Protection and Prevention Act, 1997*.
10. A medical officer of health, as defined in the *Health Protection and Promotion Act*.
11. Other officers or heads of divisions required to be appointed under this or any other Act.
12. Any other prescribed persons.



#### **Section 284.7 - Powers re local boards**

The power of the municipality to appoint chairs and vice-chairs of local boards is assigned to the head of council for any prescribed local board or local board within a prescribed class of local boards.

#### **Section 284.8 - Powers re committees**

Subject to the regulations, if any, the following powers of the municipality with respect to prescribed committees, or committees within a prescribed class of committees, are assigned to the head of council:

1. The power to establish or dissolve committees.
2. The power to appoint chairs and vice-chairs of committees.
3. The power to assign functions to committees.

#### **Section 284.9 - Provincial priorities**

The Lieutenant Governor in Council may, by regulation, prescribe provincial priorities for the purposes of sections 284.10, 284.11 and 284.11.1; however, these sections only apply if the Lieutenant Governor in Council prescribes provincial priorities.

#### **Section 284.10 - Powers re meetings**

Despite any procedure by-law passed by the municipality, if the head of council is of the opinion that considering a particular matter could potentially advance a prescribed provincial priority, the head of council may require the council to consider the matter at a meeting.

#### **Section 284.11 - Veto powers and By-law for Consideration**

This section applies with respect to by-laws under the *Municipal Act* and its regulations, the *Planning Act* and its Regulations and any other prescribed Act or regulation.

##### *By-law for Consideration*

Despite any procedure by-law passed by the municipality, if the head of council is of the opinion that all or part of a by-law that is subject to this section could potentially interfere with a prescribed provincial priority, the head of council may provide written notice to the council of the intent to consider vetoing the by-law on or before the earlier of two days after the day council voted in favour of the by-law or the prescribed deadline, if any.

##### *Veto powers*

If the head of council is of the opinion that all or part of the by-law could potentially interfere with a prescribed provincial priority, the head of council may veto the by-law by providing to the clerk, on the day of the veto, a written veto document that includes the veto and the reasons for the veto.

**Section 284.11.1 - Powers re by-laws**

This section applies with respect to by-laws under the *Municipal Act* and its regulations, the Planning Act and its regulations and any other prescribed Act and its regulations.

Despite any procedure by-law passed by the municipality, if the head of council is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law to the council and require the council to consider and vote on the proposed by-law and such by-law is passed if more than one third of the members of council vote in favour of the by-law.

For greater certainty, the head of council may vote as a member of council in a vote to pass a by-law.

**Section 284.12 - Vacancy, head of council**

If a vacancy occurs in the office of the head of council, the municipality shall require a by-election to be held, in accordance with the *Municipal Elections Act, 1996*, to fill the vacancy.

**Section 284.13 - Delegation**

Subject to the prescribed limitations, if any, the head of council may delegate their powers and duties under the following sections:

1. Section 284.5 (chief administrative officer).
2. Section 284.6 (organizational structure).
3. Section 284.7 (local boards).
4. Section 284.8 (committees).

**Section 284.14 - Immunity**

A decision made, or a veto power or other power exercised, legally and in good faith under this part shall not be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the decision or exercise of the veto power or other power.

**Section 284.15 - Transition**

A person who held one of the following positions immediately before the municipality was designated under this Part shall continue in that position unless they are dismissed or their appointment is revoked, as the case may be, by a head of council:

1. Chief administrative officer.
2. Chair or vice-chair of a local board.
3. Chair or vice-chair of a committee.

However, a head of council may dismiss or revoke the appointment of a person set out in subsection (1) regardless of when that person started in their position.

### **Section 284.16 - Powers and duties re. budget**

In accordance with this section and subject to the regulations, the powers and duties of a municipality with respect to proposing and adopting a budget are assigned to the head of council of the municipality.

The head of council shall prepare a proposed budget for the municipality and provide the proposed budget to the council for the council's consideration. After receiving the proposed budget, council may pass a resolution making an amendment to the proposed budget. However, head of council may veto said resolution but, in turn, council may, override that veto if two-thirds of the members of council vote to override the veto.

### **Section 284.17 - Regulations**

The Minister may make regulations for the purposes of this Part, including,

- requiring a head of council to make information and documents available to the council, the public and other persons or classes of persons and prescribing the information and documents to be made available;
- respecting procedures and rules a head of council, a council and the clerk are required to follow in connection with this Part;
- respecting the powers assigned to the head of council in connection with committees, for the purposes of section 284.8;
- governing by-elections with respect to the office of head of council for the purposes of section 284.12;
- providing that a head of council cannot use a power or perform a duty, assigning those powers and duties to a council and prescribing procedures, rules and other matters in connection with such circumstances;

### Budget

Pursuant to this section, the Minister may, for the purposes of section 284.16, make regulations:

- respecting the powers and duties of the head of council and of the council in connection with preparing and adopting a budget in a municipality;

**SCHEDULE “C”**  
**MCIA SECTION 4 - EXCEPTIONS**

- The duty under Sections 5(1), 5.2 and 5.3 of the *MCIA* do not apply to a pecuniary interest in any matter that a member may have:
  - (a) as a user of any public utility service supplied to the member by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;
  - (b) by reason of the member being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;
  - (c) by reason of the member purchasing or owning a debenture of the municipality or local board;
  - (d) by reason of the member having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to the member in like manner as such a deposit is or may be returnable to all other electors;
  - (e) by reason of having an interest in any property affected by a work under the *Drainage Act* or by a work under a regulation made under Part XII of the *Municipal Act, 2001* or Part IX of the *City of Toronto Act, 2006*, as the case may be, relating to local improvements;
  - (f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*;
  - (g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;
  - (h) by reason only of the member being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of the member being a member of a board, commission, or other body as an appointee of a council or local board;
  - (i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which the member may be entitled by reason of being a member or as a member of a volunteer fire brigade, as the case may be;
  - (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or
  - (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.