

Principles *Integrity*

Grey County

Integrity Commissioner's Recommendation Report

Complaint against Mayor Paul McQueen

June 17, 2022

Introductory Comments

- [1] Principles *Integrity* was appointed the Integrity Commissioner for Grey County in January 2018. We are also privileged to serve as Integrity Commissioner for 8 of the 9 lower-tier municipalities in Grey County including the Township of Grey Highlands, where Paul McQueen is Mayor. The operating philosophy which guides us in our work with all of our client municipalities is this:

The perception that a community's elected representatives are operating with integrity is the glue which sustains local democracy. We live in a time when citizens are skeptical of their elected representatives at all levels. The overarching objective in appointing an integrity commissioner is to ensure the existence of robust and effective policies, procedures, and mechanisms that enhance the citizen's perception that their Council (and local boards) meet established ethical standards and where they do not, there exists a review mechanism that serves the public interest.

- [2] The County has as part of its ethical framework a Code of Conduct which is the policy touchstone underlying the assessments conducted in this report. It represents the standard of conduct against which all members of Council are to be measured when there is an allegation of breach of the ethical responsibilities established under the Code of Conduct.
- [3] Integrity commissioners carry out a range of functions for municipalities (and their local boards). They assist in the development of the ethical framework, for example by suggesting content or commentary for codes of conduct. They conduct education and training for members of council and outreach for members of the community. One of the most important functions is the provision of advice and guidance to members to help sort out ethical grey areas or to confirm activities that support compliance. And finally, they investigate complaints that a Member has fallen short of compliance with the municipality's ethical framework and where appropriate they submit public reports on their findings, and make recommendations, including recommending sanctions, that council for the municipality may consider imposing in giving consideration to that report.
- [4] It is important that this broad range of functions be mentioned at the outset of this investigation report. Our goal, as stated in our operating philosophy, is to help the community, indeed the broader municipal sector, to appreciate that elected and appointed representatives generally carry out their functions with integrity. In cases where they do not, there is a proper process in place to make fair assessments. In every case, including this one, the highest objective is to make recommendations that serve the public interest, if there are recommendations to be made.

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The Complaint

- [5] On March 21, 2022 we received a complaint filed by County Council member Deputy Mayor Brian O’Leary, requesting an investigation into whether alleged conduct by Mayor McQueen contravened the Council Code of Conduct of Grey County or Grey Highlands.
- [6] The particulars of the complaint can be summarized as follows:
- on March 17, 2022 Mayor McQueen appeared to be participating simultaneously in two electronic meetings; when confronted, he demurred rather than answer directly.
 - receiving *per diems* for both of the meetings would not be ethical.
 - attending simultaneous meetings was a practice that Mayor McQueen had engaged in on other occasions.

Avoiding multiplicity of proceedings

- [7] The Complainant referenced the Mayor’s obligations under both the County and the Township Codes of Conduct.
- [8] In circumstances where a member who sits on both the Township and County Councils, it is often the case that the facts alleged in a complaint make it abundantly clear which Code of Conduct is engaged.
- [9] However, where there is conduct and behaviour by a member which impacts the member’s obligations at both bodies, or where, as here, the complaint references both Codes of Conduct, it is important for the Integrity Commissioner to turn their mind to determining which is the more appropriate municipal level for review, to reduce duplication and multiplicity, and identify the appropriate body which should consider the Recommendation Report of the Integrity Commissioner, if any.
- [10] Because we serve as Integrity Commissioner for both Grey County and Grey Highlands, there was no potential multiplicity of proceedings.
- [11] Given that the complaint arose out of proceedings during a County committee meeting at which both the complainant and respondent were present, we have determined that the closer nexus lies with Grey County, despite reference in the complaint to the respondent’s obligations under the Grey Highlands Code of Conduct.
- [12] However, we have determined it appropriate to report to Grey Highlands Council in regard to our findings herein, and to indicate that the matter is, in our view, properly dealt with by County Council.

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[13] In the circumstances of this complaint we are of the view that a sanction is not warranted. However, where a sanction might be recommended, it is our view that only the Council to whom the Recommendation Report is provided at first instance by the Integrity Commissioner has jurisdiction to impose a sanction. Put another way, there is no 'additional sanction' which can be imposed by the other (upper- or lower-tier) municipal council on which the member sits. A respondent should not be at jeopardy for the imposition of sanctions at two bodies for the same concern.

Relevant Code of Conduct Provisions

[14] The relevant provisions of the County Code of Conduct are as follows:

A. General Introduction

Members of Grey County Council recognize their obligation to serve their constituents and the public in a conscientious and diligent manner understanding that as leaders of the community, they are held to a higher standard of behaviour and conduct.

Members recognize that ethics and integrity are at the core of public confidence in government and in the political process; that elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real. They recognize the need to uphold both the letter and the spirit of the law including policies adopted by Council.

Rule No. 9 Member Conduct

3. Members will make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the County or by virtue of being an elected official.

Process Followed for the Investigation

[15] In conducting this investigation, Principles *Integrity* applied the tenets of procedural fairness. This fair and balanced process includes the following elements:

- Reviewing the complaint to determine whether it is within scope and jurisdiction and in the public interest to pursue, including giving consideration to whether the complaint should be restated or narrowed, where this better reflects the public interest
- Notifying the respondent Mayor McQueen of the complaint and seeking his response
- Reviewing the Grey County Code of Conduct
- Reviewing all relevant documentation and interviewing witnesses including members of Council and senior administrative staff at both Grey Highlands and Grey County
- Providing the respondent with an opportunity to review and provide comments regarding the draft findings of the Integrity Commissioner.

Background and Context:

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- [16] Members of Council are appointed to a variety of committees and task forces, on which they serve as representatives deliberating on matters destined for Council's consideration and decision-making function, and sometimes bringing the municipality's perspective to another deliberative body's decision-making function. The Grey County Affordable Housing Task Force falls in the former category, whereas the Niagara Escarpment Commission falls into the latter.
- [17] Mayor McQueen was appointed to the Affordable Housing Task Force and the Niagara Escarpment Commission by Grey County Council.
- [18] Mayor McQueen serves as Chair to the Affordable Housing Task Force, a position to which he was appointed by the Task Force members.
- [19] Meetings of the various bodies on which members of Council serve are often established months in advance. The Niagara Escarpment Commission, for example, sets its meeting schedule before the start of each year.
- [20] Where committees are supported by staff at the municipality, staff endeavour to avoid scheduling conflicts. They can set meeting dates with an eye to members' other meeting commitments.
- [21] For busy members of Council, however, scheduling conflicts are at times unavoidable, and members are expected to manage their own calendar accordingly.
- [22] With the eruption of the Covid-19 pandemic, the Province enacted legislation authorizing municipal councils to convene meetings electronically. The advent of electronic council and committee meetings in the spring of 2020 was a game-changer, enabling municipalities to continue to carry on the vital work of local government.
- [23] In a multitude of other ways, electronic meetings have been a game-changer on many levels. Meetings can be attended without ever leaving home and consecutive meetings can be attended without lost travel time.
- [24] For many, electronic meetings provide an efficient means of managing a busy schedule.
- [25] For those with multiple devices (computer, ipad, iphone), electronic meetings provide a means of participating in multiple meetings simultaneously.
- [26] On March 17, 2022 there was a regular meeting of the Affordable Housing Task Force which was scheduled for 9:30 a.m.
- [27] Right at the very start of the Affordable Housing Task Force meeting, Mayor McQueen asked to hand off his role as Chair of the meeting to the Warden, and was advised that he could hand it off to the Vice Chair.

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- [28] It was apparent nothing had been pre-arranged, and no reason was given for the hand-off.
- [29] As the meeting progressed, some participants noticed that from time to time Mayor McQueen turned off his camera for short periods of time.
- [30] Towards the end of the meeting, he was asked directly whether he was participating in another meeting.
- [31] During the exchange, which occurred at approximately 1:12:20 into the archived recording of the meeting, voices from another device are clearly audible when Mayor McQueen unmuted to speak.
- [32] Mayor McQueen was asked *'are you participating in another meeting, or why are you not chairing the meeting?'*, to which he replied that he was not feeling that great.
- [33] The question was repeated as a statement: *'So you are not in another meeting...'*
- [34] Following several seconds of silence, the acting chair responded *'I think his answer is no'*.
- [35] During the course of our investigation, Mayor McQueen admitted that on March 17, 2022 he participated in the County's Affordable Housing Task Force meeting, while simultaneously 'attending' the Niagara Escarpment Commission meeting.
- [36] Mayor McQueen advised us that he passed the role of the Chair to the Vice Chair because he was suffering from a minor illness at the time. He felt that he could not as a result carry out the role of Chair though he was able to attend.
- [37] We note that his attendance and participation are reflected in the records of both meetings.
- [38] We also note that several individuals we interviewed observed that there is a pattern of what could be characterized as divided attention exhibited by Mayor McQueen.
- [39] While electronic meetings have provided an opportunity for greater efficiencies through eliminating travel time, it has opened up new and uncharted territory for 'multi-tasking'.
- [40] The notion that a participant, physically sitting in a meeting, may momentarily shift their focus to check emails or send a text message is not considered problematic. However, the idea of participation, which engages active listening and thoughtful deliberation, in more than one meeting simultaneously throws into question meaningful participation in either meeting.
- [41] Particularly where rights of individuals, or property owners, are the subject of deliberations, members of the deliberative body owe a duty of undivided attention to consideration of matters before them.
- [42] The Code of Conduct admonishes members of Council to participate diligently in their responsibilities serving on committees and other bodies to which they are appointed.

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- [43] Coincidentally, just 3 minutes before the exchange where Mayor McQueen was confronted with participating in another meeting, one of the of the other members of the County Task Force had been commenting on the complicated and complex issues which they are challenged to understand in order to find solutions.
- [44] The obligation to participate diligently precludes participating in multiple meetings simultaneously. Even where it is technically possible, it fails to meet the standard expected by the public of its municipal representatives.
- [45] In those unavoidable circumstances where a participant must re-direct their attention elsewhere, the more transparent approach would be to indicate this to others on the body.
- [46] Grey County does not provide members with a *per diem*. Members are compensated through an annual salary.
- [47] The Township of Grey Highlands Council remuneration policy provides a modest base salary, supplemented by *per diems* for half- and full-day meetings. Mayor McQueen's attendance at the Grey County Affordable Task Force is eligible for a half *per diem*.
- [48] The Niagara Escarpment Commission provides *per diems* directly to its members. Members are compensated a half per diem to review meeting reports and a full *per diem* for participation in a meeting.
- [49] The record of the NEC meeting of March 17, 2022 notes that the meeting started at 10 a.m., and that Mayor McQueen was in attendance until 11 a.m. The meeting adjourned at 12:30 pm.
- [50] At 8:15 a.m. the next morning, March 18, 2022, Mayor McQueen emailed NEC staff to decline the *per diem*.
- [51] We find that Mayor McQueen participated in both meetings simultaneously. We find that this fails to meet the standard expected of participating diligently.
- [52] We note that on at least 3 occasions during the course of the pandemic, Mayor McQueen received a per diem from the Niagara Escarpment Commission (NEC) for dates on which he claimed and received per diems from Grey Highlands for other meetings attended:

June 17, 2021: Full day per diem for NEC meeting 12:00 pm – 5:20 pm

½ day per diem from Grey Highlands for Westway Beaver Valley meeting

November 17, 2021: Full day per diem for NEC meeting 9:30 am – 3:00 pm

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½ day per diem from Grey Highlands for Budget 2 open houses: 10:00 am and 4:00 pm

November 18, 2021: Full day per diem for NEC meeting 9:30 am – 3:15 pm

½ day per diem from Grey Highlands for Museum and Heritage Advisory Committee meeting 1:00 - 2:30 pm

½ day per diem from Grey Highlands for Chamber of Commerce Annual Meeting

[53] The Grey Highlands Council Remuneration Policy contains the following definitions:

Half day per diem as a meeting/attendance from 9:00 am - 12:00 noon;
or 1:00 - 4:00 pm; or 7:00 – 10:00 pm.

Full day per diem as a meeting/attendance from 10:00 am – 6:00 pm;
or 4:00 – 10:00 pm.

Two meetings held consecutively at the same location would equal a full day per diem, however, two consecutive meetings held in different locations may equal two half days.

[54] While the propriety of participating in two meetings simultaneously might appear to fall into a 'grey area', in fact Council at Grey Highlands grappled with this very issue in September of 2020 when disciplinary action was taken regarding an employee participating in meetings of another body during his regular work hours.

[55] Having had the recent deliberations dealing with the issue at Council, Mayor McQueen knew, or ought to have known, the problematic optics created by participating in more than one meeting simultaneously.

[56] Even if no per diem were available, members of Council are expected to prepare for and diligently participate in meetings of Council, committees, and other bodies on which they serve.

[57] Participating virtually in proceedings at two different meetings – watching and listening on an electronic device – necessitates divided attention and results in diminished focus for both meetings. In our view, subject to exceptional circumstances, participating in two simultaneous meetings concurrently reflects a lack of diligent participation and fails to meet the high standards expected of members.

[58] We find that Mayor McQueen failed to meet ethical standards of diligent participation on the occasions when he participated simultaneously in virtual meetings which were proceeding concurrently.

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- [59] While he declined a per diem for the March 17, 2022 NEC meeting (by email March 18 to the NEC), it is evident as noted above that he has received per diems for virtual meetings occurring concurrently, on at least 3 separate occasions in 2021.
- [60] We find that claiming and accepting multiple per diems under such circumstances raises an ethical concern beyond simply failing to diligently participate in the simultaneously occurring meetings. The receipt of a per diem under such circumstances reflects an improper 'double-dipping', whereby the member is twice compensated for the time spent.

Findings:

- [61] We find that Mayor McQueen participated in two meetings simultaneously. We find that this fails to meet the standard expected of participating diligently.
- [62] We find that Mayor McQueen failed to meet ethical standards of diligent participation on the occasions when he participated simultaneously in virtual meetings which were proceeding concurrently.
- [63] We find that claiming and accepting multiple per diems under such circumstances raises an ethical concern.

Recommendations and Concluding Remarks:

- [64] An Integrity Commissioner's investigation report is not simply the conclusion of a technical exercise to determine whether there has been a breach of codified standards of behaviour. As noted at the outset, we see as our highest objective in concluding an investigation to be the making of recommendations that serve the public interest.
- [65] We find that the claiming of multiple per diems by Mayor McQueen reflects a practice which is contrary to the ethical standards expected of Members of Council.
- [66] We also observe that, when asked directly about whether he was participating in another meeting on March 17, 2022, he appeared to be less than forthcoming.
- [67] It is an open question whether his decision to decline the NEC per diem on March 18 flowed from the fact of being 'called out' at the conclusion of the meeting.
- [68] As noted in this investigation, electronic meetings provide an opportunity for greater efficiencies, eliminating travel time, but have also opened up fertile ground for 'multi-tasking'.
- [69] However, the concept of meaningful participation engages active listening and thoughtful deliberation. Engaging in multiple meetings simultaneously fails to meet the Code of Conduct obligation on members of Council to participate diligently in their responsibilities serving on committees and other bodies to which they are appointed.

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- [70] Claiming multiple per diems under such circumstances raises an additional ethical concern beyond simply failing to diligently participate in the simultaneously occurring meetings: under such circumstances, multiple per diems reflects an improper 'double-dipping'. While the amounts may not be significant, the principle ought to be respected.
- [71] In the course of our investigation the Respondent has demonstrated his intention to more diligently manage his own practice of claiming per diems.
- [72] In addition, the likelihood of repetition will disappear when, effective 2023, Grey Highlands moves towards salaries and away from per diems for Council compensation.
- [73] Therefore, it is our view that no monetary sanction need be imposed in this instance.
- [74] However, given the potential for electronic participation in meetings to be permanently available going forward, our recommendation is that where municipalities or other bodies pay a per diem to members, attention be given to policy language to guide members regarding proper principles of compensation and reimbursement.
- [75] We wish to conclude by publicly thanking everyone who was asked to participate in our investigation. We will be pleased to be in attendance when this report is considered to assist you in understanding its contents.