



Cunningham Swan

LAWYERS

• EST 1894 •

Tony E. Fleming
Direct Line: 613.546.8096
E-mail: tfleming@cswan.com

CONFIDENTIAL

November 5, 2025

SENT BY EMAIL TO: tgorgerat@khrtownship.ca

Mayor and Council
c/o Tammy Gorgerat, CAO/Clerk
1 John Street
P.O. Box 39
Killaloe, ON
K0J 2A0

Dear: Mayor and Council

**RE: Code of Conduct Complaint – Report – Mayor David Mayville
Our File No. 33209-7**

This public report of our investigation is being provided to Council in accordance with Section 223.6(1) of the *Municipal Act*. We note that Section 223.6(3) of the *Municipal Act* requires that Council make the report public. The Clerk should identify on the agenda for the next open session Council meeting that this report will be discussed. Staff should consider whether it is appropriate to place the full report on the agenda in advance of Council deciding how the report should otherwise be made public.

Should Council desire, the Integrity Commissioner is prepared to attend virtually at the open session meeting to present the report and answer any questions from Council.

At the meeting, Council must first receive the report for information. The only decision Council is afforded under the *Municipal Act* is to decide how the report will be made public, and whether to adopt any recommendations made by the Integrity Commissioner. Council does not have the authority to alter the findings of the report, only consider the recommendations.

00498072.DOCX:

TEL: 613-544-0211
FAX: 613-542-9814
EMAIL: [INFO@CSWAN.COM](mailto:info@cswan.com)
WEB: WWW.CSWAN.COM

The Integrity Commissioner has included only the information in this report that is necessary to understand the findings. In making decisions about what information to include, the Integrity Commissioner is guided by the duties set out in the *Municipal Act*. Members of Council are also reminded that Council has assigned to the Integrity Commissioner the duty to conduct investigations in response to complaints under the Code of Conduct, and that the Integrity Commissioner is bound by the statutory framework to undertake a thorough process in an independent manner. The findings of this report represent the Integrity Commissioner's final decision in this matter.

Timeline of Investigation

- October 7, 2025, Complaint received;
- October 14, 2025, conduct preliminary review;
- October 15, 2025, complaint package sent to Mayor;
- October 24, 2025, response received by the Mayor;
- October 28, 2025, further response received by the Mayor.

Complaint Summary

The complaint was related to a number of Directives issued by Mayor David Mayville on September 18, 2025 relying on the Strong Mayor Powers conferred on the Mayor by Part VI.1 of the *Municipal Act*.

The complaint alleged that the Mayor had misstated his authority as a Strong Mayor and that the Directives contradicted the Procedural By-law and placed undue pressure on staff.

Findings

The Directives are set out verbatim below. There is no dispute as to the language as the Mayor issued the Directives in writing – which is a requirement of exercising Strong Mayor powers.

What is in dispute is whether the Mayor had the legal authority to issue the Directives. We considered each Directive and assessed whether the *Municipal Act* granted the Mayor the authority to issue the Directive. If the authority to issue the Directive existed, then exercising that power cannot be a breach of the Code of Conduct. As will be seen below, our finding is that the Mayor did not have the legal authority to issue any of the Directives.

Subsequent to commencing our investigation, we became aware that Council had obtained an opinion from Aird & Berlis dated October 14, 2025. Our analysis of the Directives and whether those Directives were compliant with or authorized by Strong Mayor powers was done independently prior to reviewing the October 14 opinion. After conducting our own analysis, we compared our assessment with that of Aird & Berlis and note that we interpret the legislation similarly for all of the Directives that formed part of this complaint.

As noted below, the simple fact that the Mayor incorrectly interpreted the legislation was not the end of our analysis. We then considered the Code of Conduct – which is detailed below for each Directive.

Directives

Directive #2, dated September 18, 2025

1. Reporting Relationship
 - The CAO's primary reporting relationship is to the Mayor, consistent with s. 224(d.1) and s. 229, with respect to administration, staff management, and implementation of provincial priorities and Council-approved decisions.
 - For clarity: nothing in this directive alters Council's statutory role under s. 224 of the Municipal Act, 2001.
2. Correspondence and Communications
 - Pursuant to O.Reg. 530/22, s. 2(1), the CAO shall direct all formal correspondence and administrative updates through the Mayor.
 - The CAO shall not copy, blind-copy, or forward such correspondence to members of Council unless expressly authorized by the Mayor.
 - This requirement applies to internal communications (emails, memos, reports) and external communications (letters, notices, inquiries).
 - All Members of Council will continue to receive timely and complete information necessary to perform their statutory decision-making role, through agenda reports, committee discussions, and requests in accordance with the Procedural By-law and the Municipal Act, 2001.
 - These correspondence requirements shall be carried out in a manner consistent with s. 270, ensuring accountability and transparency.
3. Implementation of Directions
 - The CAO shall ensure the timely execution of Mayoral directives under O.Reg. 530/22, Council resolutions under the Municipal Act, 2001, and all other statutory responsibilities, subject to applicable laws and regulations.
4. Collaboration and Respectful Conduct
 - In keeping with s. 270 of the Municipal Act, 2001, the Mayor and CAO shall maintain open, professional and respectful dialogue to promote accountability and transparency.
 - Issues requiring policy direction are to be referred to Council; matters of administration remain within the CAO's authority under s. 229, subject to this directive.
5. Compliance
 - The CAO is expected to comply fully with this directive. Non-compliance may be addressed through measures available under the Municipal Act, 2001, and

O.Reg. 530/22, including the Mayor's authority to direct staff and manage administrative functions.

Analysis

Does the Directive comply with the *Municipal Act*?

The Mayor's statement contained in the directive that, "The CAO's primary reporting relationship is to the Mayor, consistent with s. 224(d.1) and s. 229, with respect to administration, staff management, and implementation of provincial priorities and Council-approved decisions" is incorrect. These sections of the *Municipal Act* do not establish the reporting relationship of the CAO; these sections do not confer upon any mayor the authority to direct that the CAO report only to them.

The Mayor's statement contained in the directive that, "Pursuant to O.Reg. 530/22, s. 2(1), the CAO shall direct all formal correspondence and administrative updates through the Mayor" is incorrect. The Strong Mayor powers do not confer upon any mayor the authority to have all correspondence and administrative updates directed through them.

The *Municipal Act* does confer upon a Strong Mayor the authority to appoint a Chief Administrative Officer (s. 284.5). The Act does not confer upon a Strong Mayor the right to direct the Chief Administrative Officer in all administrative tasks, or to assume the operational role of the Chief Administrative Officer.

There is no authority in the *Municipal Act* to confer upon the Mayor the power to direct that, "The CAO shall not copy, blind-copy, or forward such correspondence to members of Council unless expressly authorized by the Mayor".

The *Municipal Act* does provide:

284.3 For the purposes of exercising powers or performing duties under this Part, the head of council may, in writing, exercise the powers of the municipality to direct municipal employees to,

(a) undertake research and provide advice to the head of council and the municipality on policies and programs of the municipality or of the head of council as they relate to the powers and duties under this Part; and

(b) carry out duties related to the exercise of the power or performance of the duty, including implementing any decisions made by the head of council under this Part.

[we attach as Appendix A to this report excerpts of the Act, Code of Conduct and Procedural By-law we relied on during the investigation]

Therefore, the Mayor does have the power to direct staff to "undertake research and provide advice" and to carry out duties and implement decisions, but only to the extent that the direction to staff is related to authority conferred under the Strong Mayor powers. The

Mayor does not have the authority to direct staff to funnel all correspondence and administrative decisions through them. The powers addressed in Part VI.1 of the *Municipal Act* (Strong Mayor powers) are set out specifically in the Act; any power not found in the Act is not implicitly conferred upon a Strong Mayor. Directive #2 is not authorized by the Strong Mayor powers and the Mayor did not have the authority to enact this directive.

Code of Conduct Analysis

Notwithstanding our finding that Directive #2 was not within the Mayor's authority, we must consider the Code of Conduct and whether issuing the Directive was in breach of any provisions of the Code. If no Code of Conduct provision is engaged, the simple fact of misunderstanding Strong Mayor powers will not be sufficient to find a breach of the Code of Conduct.

Section 2 of the Code of Conduct requires that all members of Council comply with the *Municipal Act*. The Integrity Commissioner grants some flexibility to a member of Council when interpreting new legislation. In this case, the Mayor states that he was trying to interpret the Strong Mayor powers reasonably. However, it appears that the impetus for many of the Directives is personal to the mayor and events that have transpired prior to the introduction of Strong Mayor Powers in the Township. The Integrity Commissioner finds that that it is more likely than not that the Mayor interpreted the Strong Mayor powers in a manner that was intended to further his political agenda and to "correct" what he perceived as inadequate governance, rather than simply misreading the powers.

In the Mayor's written response to the investigation, he stated that he encouraged Council to get training on Strong Mayor powers, which they declined. He then commented that in the months that followed Strong Mayor powers being implemented, "... a number of governance challenges emerged — including procedural inconsistencies, closed-session topics that may not have met legislative criteria, and decisions occurring outside formal meetings. From my perspective, these practices risked undermining transparency, accountability, and compliance with the Municipal Act, 2001."

The Mayor then stated, "The directives were therefore developed in September 2025 to align Township practices with statutory requirements, clarify administrative responsibilities between the Mayor and the CAO, and ensure that Council's business is conducted openly and transparently for the public record."

The Mayor then candidly admitted that he did his best to interpret the law correctly, but he is open to making corrections as needed.

The Mayor's impetus for the Directives is best captured by this excerpt from his written response to the complaint:

"I would also respectfully note that the environment at the Council table has, at times, been difficult. During several meetings, discussions have become verbally aggressive

and personal in nature, with members of Council raising their voices, interrupting, or making remarks directed toward me in a manner that goes beyond the bounds of professional debate. While I understand that strong opinions are part of public service, I have consistently done my best to remain calm, respectful, and focused on the procedure and responsibilities set out under the Municipal Act, 2001 and O. Reg. 530/22. I include this context not to assign blame, but to assist the Integrity Commissioner in understanding the atmosphere in which these directives were issued and discussed.

This atmosphere has also had practical consequences for the administration of the Township. When meetings become adversarial and the Mayor's statutory role is routinely challenged or dismissed, staff are placed in an impossible position — uncertain whose direction to follow and concerned about potential repercussions from Council. As a result, all of the administrative directives I have issued under O. Reg. 530/22 have not been implemented. This is not due to unwillingness on the part of staff, but to the absence of clear and unified support from Council and the CAO. The strong-mayor framework requires cooperation and good faith from all parties in order to function effectively, and the current environment has unfortunately undermined that cooperative foundation.

Despite these challenges, my goal has always been to restore trust, consistency, and clarity in the Township's governance processes. I remain committed to working collaboratively with Council, the CAO, and staff to ensure that all actions taken under the strong-mayor framework are lawful, transparent, and respectful of everyone's role. My intention has never been to create division, but rather to bring the Township into alignment with current provincial legislation and to support a professional, respectful, and accountable municipal workplace. [emphasis added]

The Integrity Commissioner does acknowledge that the Strong Mayor powers are complicated, and some misinterpretation is to be expected as mayors learn their roles. Having said that, the Integrity Commissioner finds that the Mayor has fundamentally misunderstood the legislation and the authority conferred upon a Strong Mayor. Misinterpretation is not necessarily a breach of the obligation under the Code of Conduct to adhere to the *Municipal Act*. Some flexibility and grace must be given to allow elected officials to work through this new legislation.

The Integrity Commissioner finds that in this instance, the Mayor used what he saw as unlimited powers to correct governance issues that he personally disagreed with – agenda setting, closed meetings, livestreaming, how correspondence was received etc. All of the matters addressed in the Directives related to personal issues the Mayor had with Council and administrative processes, and had nothing to do with the provincial priorities of adding to the housing supply and supporting new housing with infrastructure.

On October 28, 2025, the Mayor made a further submission in his own defence. This submission was not directly related to the Directives, but rather was a further attempt by the Mayor to, “bring clarity, consistency, and accountability to the Township’s administrative reporting structure.” The submission enclosed a Directive and an organizational structure chart depicting the Mayor as the Chief Executive Officer of the Municipality who is responsible for administrative decisions along with the CAO.

This organizational chart and Directive were not submitted by the complainant and do not form part of the complaint. The Integrity Commissioner is relying on the submission as it was a formal submission by the Mayor in response to the complaint. The relevance of this new directive is that rather than reflecting on the opinion of Aird & Berlis that his interpretation of the Strong Mayor legislation was incorrect, the Mayor instead inserted himself into the organizational structure as the Chief Executive Officer and granted administrative authority to his new role.

The *Municipal Act* does not establish the position of Chief Executive Officer. Section 225 of the *Municipal Act* states that it is the role of the Head of Council to act as chief executive officer of the municipality. Section 226.1 then goes on to state what acting as Chief Executive Officer means – nowhere in the Act does it delegate to the Head of Council any administrative authority over the municipality or staff. Section 229 makes it clear that, once appointed, the CAO has full authority over the administration of the municipality.

Based on the animus demonstrated in the Directives and the response provided by the Mayor to this complaint, the Integrity Commissioner finds that the misinterpretation of the Act by the Mayor is a situation where he is being willfully blind to an interpretation that does not suit his purpose. In these circumstances, the Integrity Commissioner finds that Directive #2 breaches section 2 of the Code of Conduct.

Sections 13.2(a) and 13.6 of the Code of Conduct establish clear direction that no member of Council may individually direct staff. Directive #2 is a breach of this section of the Code of Conduct.

Directive #3, dated September 18, 2025

1. Agenda Management

- The Mayor retains the authority to determine the agenda of Council meetings pursuant to O.Reg. 530/22, s. 2(2).
- The CAO shall prepare and provide agendas to the Mayor for review, amendment (if required), and approval prior to circulation.
- ...
- For clarity, under O.Reg. 530/22, s. 2(2), the Mayor’s authority to determine the agenda of Council meetings is not subject to amendment or repeal by Council resolution or by-law.

- The CAO shall not seek or require Council's approval in matters of agenda preparation or correspondence handling, except as expressly dictated by the Mayor.

Directive #6 amended directive # 3 to delete how correspondence was handled at meetings, and replace that language with the following:

All correspondence received by the CAO/Clerk shall continue to be:

- Properly filed with the Clerk in accordance with Procedural By-law 16-2023, section 22.1.
- Included in the Council agenda package under the correspondence section as required by Procedural By-law sections 18.2(c) and 19.1 (11).
- Made part of the official public record, as provided in section 22.2 of the Procedural By-law.

At meetings, correspondence shall be:

- Noted as received into the record, without oral reading.
- Addressed as a single package under the correspondence section of the agenda, rather than reviewed or discussed item by item.

...

For clarity, should Council in the future adopt a procedural by-law requiring oral reading of correspondence, such a provision would be inoperative to the extent that it conflicts with this directive, which has been issued under O.Reg. 530/22 (Strong Mayor Powers).

...

Rationale

...

- Strong Mayor framework (ss. 226.1-226.16 and O.Reg. 530/22): the Mayor directs administrative practices, including how agenda items are presented and received.

...

Implementation and Clerk's Role

The CAO/Clerk shall:

- Ensure all correspondence is included in the agenda package, circulate to Council, and filed in the public.
- At meetings, simply note that correspondence has been received, without reading names, subject matter, or contents aloud.

- Present correspondence collectively as a package under the agenda, not item by item.
- Follow this process exclusively, notwithstanding any contrary request, motion, or direction from individual Councillors or Council collectively.

We assume that the following was not amended and remains in force as part of directive #3:

Safeguards

Correspondence shall not be read aloud if it:

- Contains defamatory, improper, or offensive content;
- Is repetitive or has already been addressed;
- Falls outside the jurisdiction of the Township.

2. Purpose

...

- To balance Council's right to receive and consider correspondence with the need to prevent misuse of meeting time for political purposes.

Analysis

Does the Directive comply with the Municipal Act?

The Mayor is incorrect that he has the authority to determine the agenda of Council meetings pursuant to O.Reg. 530/22, s. 2(2). There is no provision of the *Municipal Act* or the Regulation that confers this power on any Strong Mayor. The Act does provide:

284.10 (1) Despite any procedure by-law passed by the municipality under subsection 238 (2), 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.

284.11.1 (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than under any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

(2) Despite any procedure by-law passed by the municipality under subsection 238 (2) and subject to any prescribed requirements, 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 at a meeting.

The Mayor may introduce matters to any agenda, provided the matter relates to a provincial priority (currently prescribed as relating to increasing the housing supply or the infrastructure that will facilitate building new housing) and require Council to consider the matter. This power does not confer absolute control over all agendas and all agenda items to the Mayor.

The Directive then goes on to eliminate Council's role and the CAO/Clerk's role in the agenda setting process and states that Council is precluded from amending the Procedural By-law where doing so would interfere with the Directive. Further, the CAO/Clerk must follow the Directive despite any contrary request by Council collectively or by any individual member of Council. In other words, the Directive seeks to deprive Council of its statutory role in establishing its own procedural by-law.

The Directive is contrary to section 238 of the *Municipal Act* that requires every Council to pass a procedural By-law. What the Mayor is attempting to do is amend the Township's Procedural By-law unilaterally and prevent Council from passing any contrary amendments. This is contrary to the Act and outside the limited authority of a Strong Mayor.

The changes to the Procedural By-law set out in the Directive are also contrary to the established process in the in-force Procedure By-law.

Code of Conduct Analysis

The attempt to remove from Council its legislative authority to amend its own Procedural By-law is a breach of Section 2 of the Code of Conduct.

What the Mayor is attempting to achieve with this Directive is to eliminate Council's role in the agenda process and to direct the CAO/Clerk to ignore valid resolutions of Council or amendments to the Procedural By-law. This direction to staff is a breach of sections 13.2 and 13.6 of the Code of Conduct. The Integrity Commissioner also finds that this very specific direction is an attempt to circumvent the established procedures contained in the Procedural By-law and circumvent Council's legislative role, contrary to section 13.8 (a) of the Code of Conduct.

Council as a whole has the legislative right to establish its own process. Strong Mayor powers allow for certain rights to add to an agenda where a provincial priority is at issue, but those powers cannot be interpreted as extinguishing the right of Council to pass and amend its own procedural by-law.

The Integrity Commissioner finds it troubling that the Mayor stated that one of the purposes of the directive was to, "balance Council's right to receive and consider correspondence with the need to prevent misuse of meeting time for political purposes." The Mayor has no authority in law to determine what is or is not an appropriate "political purpose".

Directive #4, dated September 18, 2025

1. Mayor's Authority Over Closed Session Agendas
 - The Mayor shall determine the content of in camera (closed session) agendas, consistent with O.Reg. 530/22, s. 2(2).
 - Staff may recommend items for closed session consideration, but no item shall appear on the agenda without the Mayor's approval.
2. Compliance with the Municipal Act
 - Only matters falling within the permitted exceptions in s. 239 of the Municipal Act may be placed on a closed session agenda.
 - The specific subsection of s. 239 shall be cited for each closed session item.
3. Procedure for Entry into Closed Session
 - The CAO/Clerk shall prepare the necessary motion for Council to pass in open session before proceeding in camera.
 - The Mayor shall state the reason and relevant section of the Act before the vote.
4. Circulation and Confidentiality
 - Draft in camera agendas shall be circulated by the CAO/Clerk to Members of Council and the Mayor in accordance with the Township's Procedural By-law.
 - All closed session materials shall remain confidential and shall not be released to the public except as required by law.
5. Record Keeping and Reporting Back
 - The CAO/Clerk shall maintain accurate records of the time in and out of closed session and the general nature of the matter discussed.
 - Upon resumption of open session, the Mayor shall provide a report back to the public summarizing the general nature of the discussion and confirming whether any direction was given.

Does the Directive comply with the Municipal Act?

As with the discussion above for Directive #3, the Mayor has no authority to determine the contents of a closed session agenda. Section 239(4) of the *Municipal Act* states that before holding a closed session, Council must pass a resolution in the prescribed form. The Mayor has no legal authority to dictate what Council can or cannot deal with in closed session. As drafted, the directive seeks to eliminate Council's right to establish its own agenda. The authority cited by the Mayor to justify the Directive is incorrect.

The level of specificity of process set out in the Directive is something that Council as a whole can address in its Procedural by-law, but which the Mayor has no legal authority to prescribe.

Code of Conduct Analysis

The findings above with respect to directive #3 apply equally here.

The Directive is a breach of sections 2, 13.2 and 13.6 of the Code of Conduct. The Directive is also an attempt to circumvent the established procedures contained in the Procedural By-law/*Municipal Act* and circumvent Council's legislative role, contrary to section 13.8 (a) of the Code of Conduct.

Directive #5, dated September 18, 2025

Effective immediately and continuing until amended or revoked under O.Reg. 530/22:

1. Livestreaming of Open Meetings
 - All regular, special and Committee-or-the-Whole meetings of Council shall be livestreamed in their entirety on the Township's official YouTube channel and linked on the Township website.
2. Start/Stop Rules
 - The livestream shall begin at the official start of each meeting and continue until adjournment.
 - The livestream will be suspended immediately when Council resolves to enter closed session under s. 239 and shall resume when Council reconvenes in open session.
3. Recording of Closed Meetings (in Camera)
 - All closed meetings of Council held under s. 239 shall be audio recorded in full.
 - The Clerk shall be responsible for making and securely storing the recording as part of the Township's confidential records.
 - Access to closed-meeting recordings is strictly limited to the Clerk, the Head of Council, and Council as a body, and may only be released in accordance with law (e.g. Ontario Ombudsman, closed meeting investigator, Integrity Commissioner or Court order).
 - Video recording or closed meetings is not permitted.
 - Minutes prepared by the Clerk remain the official record; recordings are a confidential safeguard and do not replace minutes.
4. Preservation of Recordings
 - Livestream recordings and in-camera audio recordings shall be preserved by the Clerk as part of the Township's official records, in compliance with the Municipal Act, 2001, s. 254.
 - They shall be retained until such time as Council adopts a formal retention schedule.
5. Records Retention By-law

- If the Township does not currently have a Records Retention By-law enacted under s. 254 of the Municipal Act, the CAO/Clerk shall prepare a draft Records Retention By-law for Council's consideration.
- The draft shall include recommended retention periods for livestream recordings, audio recordings of closed meetings, minutes, correspondence, financial records, HR records, and other standard classes of municipal records.
- The draft shall be brought forward to Council no later than [insert date, e.g., 90 days from issuance].

...

Purpose

The purpose of this directive is to strengthen transparency and accountability by:

- Ensuring that open meetings are accessible to the public in real time and through archived recordings;
- Providing a confidential audio record of closed meetings to support accountability, oversight and integrity while safeguarding confidentiality under s. 239; and
- Ensuring that the Township has a lawful and comprehensive records retention framework that complies with s. 254 of the Municipal Act.

Does the Directive comply with the Municipal Act?

This Directive is purely procedural and is not authorized under the *Municipal Act* or the Regulation as part of Strong Mayor powers. This is simply an attempt by the Mayor to amend the Procedural By-law without a majority of Council. Additionally, the Mayor is directing staff to prepare a by-law that has nothing to do with Strong Mayor Powers.

Section 238(2) of the *Municipal Act* requires that every municipality pass a procedural by-law. This by-law can only be passed by a majority of Council. Amendments to the procedural by-law to allow for livestreaming can only be made by a majority of Council. This directive is contrary to the *Municipal Act*.

Code of Conduct Analysis

The findings above with respect to Directives #3 and #4 apply equally here. Specifically, directing staff to prepare a records retention by-law is contrary to sections 2, 13.2 and 13.6 of the Code of conduct, as are the specific directions related to how livestreaming will be undertaken.

The Directive is also an attempt to circumvent the established procedures contained in the Procedural By-law/*Municipal Act* and circumvent Council's legislative role, contrary to section 13.8 (a) of the Code of Conduct.

Conclusions/Recommendations

The Integrity Commissioner finds that the Directives are not authorized by the Strong Mayor powers or the *Municipal Act* generally, and in fact are an attempt to further a personal political agenda.

The Integrity Commissioner used the phrase "willful blindness" above deliberately when describing the Mayor's mis-interpretation of the legislation. We do not find that the Mayor deliberately set out to pass Directives that he knew were illegal. However, we do find that he selectively interpreted the legislation and did not seek direction that he himself asked Council to obtain as to how to properly interpret the new Strong Mayor powers.

Neither the Integrity Commissioner nor Council have the legal authority to restrict how the Mayor uses Strong Mayor powers, provided that those powers are used as authorized. However, it is clear that the Mayor requires training as to what the Strong Mayor powers include, and more importantly what the Strong Mayor powers do not include. The Integrity Commissioner recommends that Council direct the Mayor to obtain training on Strong Mayor powers from a provider approved by Council.

It is beyond the scope of this investigation to provide advice to Council as to what to do with the Directives. The Integrity Commissioner agrees with Council's decision to seek independent legal advice and encourages Council to continue to seek advice should that be required.

Appendix A

Code of Conduct

2. In addition to the Council Code of Conduct, Members are required to comply with existing provincial and federal legislation, including but not limited to:

a) Municipal Act, 2011 ...

...

7.3 Every Member shall abide by the following principles:

c) Members shall comply with all applicable legislation, by-laws and Municipal policies, including this Code of Conduct.

...

13.2 Members of Council will:

a) acknowledge that only Council as a whole has the capacity to direct staff members to carry out specific tasks and functions;

b) Refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others;

...

13.6 Municipal Council, acting as a body, can dictate that Staff perform such duties as are necessary for the efficient management of the affairs of the community, and/or research such matters as the Council deems necessary. Individual Council members do not have the authority to micromanage and/or direct Staff or the Chief Administrative Officer/Clerk. Full Council shall direct Staff collectively through the Chief Administrative Officer/Clerk or other department heads.

...

13.8a) Members will respect and adhere to the Policies set by Council, and will under no circumstances take it upon themselves, individually, to circumvent established policies.

Procedural By-law (16-2023)

18.1a) Prior to each regular meeting, the CAO/Clerk-Treasurer or designate shall prepare an agenda of all the business to be brought before such meeting.

b) Additional items not included in the agenda can be added for consideration by a majority vote.

...

18.3 Correspondence received pertaining to agenda items shall be circulated to Council Members by the CAO/Clerk-Treasurer or designate.

19.1 The CAO/Clerk-Treasurer shall have prepared and printed for the use of the Members at the regular meetings of Council, an agenda under the following headings:

...

19.3 The chair or designate of each committee submitting a report shall field questions regarding same during discussion of that report as may be required.

...

22.2 Correspondence, including names and addresses, addressed to Council or directed to a public meeting become part of the public record and may be published in a report, agenda or minutes.

Municipal Act, 2001

224 It is the role of council,

- (a) to represent the public and to consider the well-being and interests of the municipality;
- (b) to develop and evaluate the policies and programs of the municipality;
- (c) to determine which services the municipality provides;
- (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- (e) to maintain the financial integrity of the municipality; and
- (f) to carry out the duties of council under this or any other Act.

...

229 A municipality may appoint a chief administrative officer who shall be responsible for,

- (a) exercising general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality; and
- (b) performing such other duties as are assigned by the municipality.

...

238 (2) Every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings.

(2.1) The procedure by-law shall provide for public notice of meetings.

(3) The procedure by-law may provide that meetings be held and public offices be kept at a place outside the municipality within an adjacent municipality.

(3.1) The applicable procedure by-law may provide that a member of council, of a local board or of a committee of either of them, can participate electronically in a meeting to the extent and in the manner set out in the by-law.

(3.3) The applicable procedure by-law may provide that,

(a) a member of a council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and

(b) a member of a council, of a local board or of a committee of either of them can participate electronically in a meeting that is open or closed to the public.

(3.4) A municipality or local board may hold a special meeting to amend an applicable procedure by-law for the purposes of subsection (3.3).

(3.5) A member participating electronically in a special meeting described in subsection (3.4) may be counted in determining whether or not a quorum of members is present at any time during the meeting.

(4) The procedure by-law may, with the consent of the head of council, designate a member of council, other than the head of council, to preside at meetings of council.

(5) A presiding officer may be designated by secret ballot.

...

239(4) Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,

(a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or

(b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection.

...

270 (1) A municipality shall adopt and maintain policies with respect to the following matters:

1. Its sale and other disposition of land.

2. Its hiring of employees.

2.1 The relationship between members of council and the officers and employees of the municipality.

3. Its procurement of goods and services.

4. The circumstances in which the municipality shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given.

5. The manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.

6. The delegation of its powers and duties.

7. The manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.

8. Pregnancy leaves and parental leaves of members of council.

...

284.3 For the purposes of exercising powers or performing duties under this Part, the head of council may, in writing, exercise the powers of the municipality to direct municipal employees to,

(a) undertake research and provide advice to the head of council and the municipality on policies and programs of the municipality or of the head of council as they relate to the powers and duties under this Part; and

(b) carry out duties related to the exercise of the power or performance of the duty, including implementing any decisions made by the head of council under this Part.

284.4 (1) If the head of council exercises a power or performs a duty under this Part, the head of council shall do so in writing and in accordance with the regulations, if any.

(2) The head of council shall, in accordance with the regulations, make any prescribed information and documents available to the public and to any other prescribed persons or classes of persons.

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

284.6 (1) Subject to subsection (3), the powers of the municipality with respect to determining the organizational structure of the municipality are assigned to the head of council.

(2) Subject to subsection (3) and the regulations, subsection (1) 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.

...

284.9 (1) The Lieutenant Governor in Council may, by regulation, prescribe provincial priorities for the purposes of sections 284.10, 284.11 and 284.11.1.

(2) For greater certainty, sections 284.10, 284.11 and 284.11.1 only apply if the Lieutenant Governor in Council prescribes provincial priorities.

284.10 (1) Despite any procedure by-law passed by the municipality under subsection 238 (2), 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.

284.11.1 (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than under any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

(2) Despite any procedure by-law passed by the municipality under subsection 238 (2) and subject to any prescribed requirements, 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 at a meeting.

O.Reg. 530/22

The Mayor cited sections 2(1) and (2) of the Regulation in various directives. No such section exists in the Regulation.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



Tony E. Fleming, C.S.
LSO Certified Specialist in Municipal Law
(Local Government / Land Use Planning)
Anthony Fleming Professional Corporation
TEF