



MANITOBA
OMBUDSMAN

OMBUDSMAN ACT INVESTIGATION REPORT

Rural Municipality
of East St. Paul

Complaints on
Logo Use During
Campaign &
Conflict of Interest

Original Issue Date:
December 20, 2024

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REVISED REPORT

Amended Report: New Evidence Considered

This report has been re-issued following the receipt of new evidence related to issue #2, that was not obtained at the time the original report was finalized in December 2024. The information was deemed material to the matter under investigation. As a result, we gathered additional relevant records and conducted further interviews. We undertook a thorough assessment of the additional information and gave affected parties an opportunity to be heard.

The report has been updated to incorporate the new information, and our analysis reflects all available evidence provided to our office and is our most accurate and complete understanding of the matter. The updated content is found on pages nine to twelve.

Our key finding that the then-council member subject of the complaint was in an indirect conflict of interest remains unchanged.

THE COMPLAINT

The Manitoba Ombudsman received a complaint about the usage of the rural municipality (RM) of East St. Paul logo by a councillor, and subsequent mayoral candidate, (herein after referred to as the councillor) during the municipal council campaign in fall 2022. The complaint stated the councillor used municipal resources contrary to the provisions of By-Law 2022-04. The complainant also informed our office that when they initially approached the RM regarding the alleged use of the municipal logo, the Senior Election Official dismissed the concern, asserting the usage of the logo was permissible.

In addition, the complainant alleged a conflict of interest within the RM when the same councillor participated in a vote to refund approximately \$210,125 to a developer. At the time, the councillor's business was a contractor for the development in question.

MANITOBA OMBUDSMAN JURISDICTION

Under The Ombudsman Act, Manitoba Ombudsman investigates complaints about administrative actions and decisions made by any government departments and agencies, municipalities, and their officers and employees.

Investigations

15 The Ombudsman may, on a written complaint or on her own initiative, investigate:

...

(b) any decision or recommendation made, including any recommendation made to a council, or any act done or omitted, relating to a matter of administration in or by any municipality or by any officer or employee of a municipality, whereby any person is or may be aggrieved

Manitoba Ombudsman investigations obtain, review, and analyze relevant information to identify areas requiring administrative improvement. We carefully and independently consider the information provided by the complainant, the decision maker, and any witnesses we determine to be relevant to the case. Administrative investigations can involve an analysis of statute or by-law provisions, document reviews, interviews and site visits.

We will either support a complaint and identify the appropriate corrective or restorative action or provide a reasonable explanation for the conclusion that a complaint cannot be supported. If a complaint is supported, the Ombudsman may make recommendations to the public body pursuant to section 36 of The Ombudsman Act.

OUR INVESTIGATION

Our office initiated an investigation on November 9, 2023.

Our investigation included a review of the following:

- Information and documentation provided by the complainant
- Information and documentation from the RM of East St. Paul
- Information provided by the councillor subject of the complaint
- Information and documentation from other municipal representatives

- Statutes including The Ombudsman Act, The Municipal Act, and The Municipal Council Conflict of Interest Act
- Policies adopted by the RM of East St. Paul, including By-Law 2022-04, Use of Municipal Resources in an Election By-Law.

Key Issues

Our investigation examined the following issues:

1. Were municipal resources used for the council election contrary to the provisions of By-Law 2022-04?
2. Was there a conflict of interest, as identified by the complainant?

Issue #1: Were municipal resources used for the council election contrary to the provisions of By-Law 2022-04?

The Municipal Act stipulates the council is required to enact a by-law outlining regulations and protocols governing the utilization of municipal resources.

Municipal Elections and By-Law 2022-024

The RM adopted By-Law 2022-024 to establish rules and procedures for the use of municipal resources during municipal elections. This by-law outlines the rules and procedures regarding usage of municipal resources during the 42-day period preceding a general election or a by-election, as mandated by The Municipal Act. As per this by-law, municipal resources include the municipal logo, seal, and other identifying marks associated with the municipality, among other resources.

Any contravention of this by-law is enforced by the By-Law Enforcement Officer, pursuant to General Enforcement By-Law 2021-02. The officer may then provide notice to the individual who contravened the by-law.

In this case, it is not disputed that the councillor used the municipal logo for their election campaign.

The Senior Electoral Officer (SEO) is the person appointed by the municipality to exercise general direction and supervision over the conduct of municipal elections. The SEO is appointed by council resolution and reports directly to the Chief Administrative Officer (CAO). The SEO is accountable for overseeing the entire election process, including

ensuring that candidates are informed about relevant municipal by-laws, such as those governing the use of municipal resources during elections.

Municipality's Response

According to the CAO, the councillor's marketing team utilized the municipal logo without adequately confirming permissions with the councillor. By the time it came to the attention of the CAO, the materials were already distributed. The CAO explained it was an unintentional error on the part of the councillor, and when the issue was brought to the councillor's attention, they showed a willingness to comply with and destroy any remaining election materials. While they did not personally witness the disposal of the remaining materials, the RM expressed confidence that the candidate understood the seriousness of the issue and assured that the materials would be destroyed.

We asked the municipality why the Enforcement Officer had not issued a contravention notice for the improper use of the municipal logo, as required in By-Law 2021-02. The municipality explained that Section 7 of the by-law states the By-Law Enforcement Officer has the discretion to issue a notice of contravention, with no explicit requirement to do so. They further explained that given the councillor's unintentional mistake, the sincerity of their explanation and the actions they took to address the error, it was determined no additional measures were required.

Analysis

While the councillor's use of the municipal logo was in contravention of By-Law 2022-04, we accept it was an unintentional error, which is supported by the councillor taking steps to remedy the situation once it was brought to their attention. The municipality has discretion to decide whether the councillor's action warranted a Notice of Contravention, as stipulated in the General Enforcement By-Law 2021-02. Given the councillor's willingness to address the situation, we find it reasonable the municipality chose not to issue a Notice of Contravention.

However, we found the RM could make improvements to its process to ensure staff are aware of regulations and protocols governing the utilization of municipal resources within the 42-day period preceding a general election or a by-election. The complainant told us the SEO's initially inaccurate response and dismissal of the complainant's concerns caused them to lose trust in the municipality and the election process.

The election process is the foundation of democracy, playing a pivotal role in ensuring representation, accountability, and government legitimacy. Any allegation against the election process has the potential to jeopardize public confidence.

The CAO informed us they will be more vigilant in monitoring campaign materials to prevent similar oversights. To date, no actions have been taken for training or other professional education activities. However, the CAO assured our office that a thorough discussion with the SEO will be conducted to ensure they clearly communicate the requirements regarding campaign materials to all the candidates for the 2026 election.

We encourage the RM to develop a comprehensive communication plan prior to the 2026 municipal election that ensures a timely and effective distribution of all relevant information about the election process and the requirements of By-Law 2022-24.

Issue #2: Was there a conflict of interest, as identified by the complainant?

In this case, the developer, 1915 Hoddinott Developments Ltd., and the RM of East St. Paul had a development agreement for a 48-unit, multi-family development within the planned area at 1915 Hoddinott Road. The development agreement required the developer to pay \$210,125 to the municipality as a contribution towards future road upgrades at Raleigh Street and improvements at the intersection of Raleigh Street and Hoddinott Road.

As per sub-section 2(a) of the Amending Development Agreement dated December 9, 2021, the municipality eliminated the developer's access to the planned area from Raleigh Street. Consequently, the improvements to Raleigh Street were no longer necessary.

The developer sent a request to the municipality in December 2021 to refund the \$210,125 paid for Raleigh Street future road upgrades. This request came before the council for voting on February 8, 2022. All council members present participated in the decision-making process. No recusals were recorded in the meeting minutes. The complainant alleged the councillor's private business was the contractor for this development and they should not have participated in the council vote to refund money to the developer.

The RM shared it was an administrative oversight that brought the approval of the refund to council. The RM stated that ordinarily, such approvals are handled at the administrative level. Our office spoke to the Department of Municipal and Northern Relations, who

confirmed there is nothing legislatively that requires refunds to go to council for a vote. The RM said if they handled the refund administratively, as per their regular practice, any alleged conflict of interest would have been avoided. However, because the refund came before the council for voting, this office looked at the impacts of that process.

Conflict of Interest

The Municipal Council Conflict of Interest Act (MCCIA, or the Act), The Municipal Act Procedures Manual prepared by the Department of Municipal Relations, the Council Members Guide prepared by the Association of Manitoba Municipalities, and our office's Conflict of Interest for Municipalities Fact Sheet, and handbook, "Understanding Fairness: A Handbook on Fairness for Manitoba Municipal Leaders", all offer guidance on the criteria and standards concerning conflicts of interest.

The MCCIA outlines standards regarding conflicts of interest among municipal officeholders. Along with defining direct and indirect conflicts, the Act mandates the declaration of any conflicts and requires officeholders to abstain from participating in debates, discussions, or votes. The MCCIA specifically addresses conflicts related to financial interests, including pecuniary benefits for the officeholder, their spouse, and any dependent children.

According to clause 4(1)(b) of the MCCIA, an officeholder has an indirect pecuniary interest if they are employed by a person, corporation, partnership, or organization, or a subsidiary of a corporation, with a direct pecuniary interest in the matter. This provision clarifies that officeholders employed by a company are considered to have an indirect conflict of interest in any matter where that company has a financial interest.

It is important to declare the conflict of interest and withdraw from the discussion. Further, it is also important to record the declaration and recusal in the minutes each time a conflicted item is raised. It is important to note that the role of Manitoba Ombudsman with respect to conflict of interest matters is broader than the MCCIA and is not confined to the question of pecuniary interest. Conflict, or the perception of conflict, can also occur when there is no pecuniary interest, such as when a council member is seen to be too close to the parties on one side of a dispute or proposal.

Achieving procedural fairness in decision-making necessitates impartiality, lack of personal interest in the outcome, and an openness to persuasion on the merits of an issue on the part of the decision maker. In any scenario where a councillor possesses a personal interest in a matter that goes beyond the shared interest of other municipal

citizens, it could be inferred this interest might impact their duty as a public official to act in the best interests of the entire municipality.

The appearance or perception of a conflict of interest can be as damaging to public confidence as actual conflict as it can undermine the overall credibility of a municipal council. If a council member participates in discussions and votes where there is a conflict or perception of conflict, it could compromise the validity of the decision or the process through which it was made.

Analysis

Upon inquiry, the CAO confirmed the councillor's business was the contractor for the developer. Both the CAO and the councillor informed us that the councillor advised the mayor of this relationship prior to the alleged council meeting. The councillor said the mayor advised the councillor to vote as they had no pecuniary advantage from the developer.

Based on our initial interview with the councillor in August 2024, we understood that prior to the meeting of council, the councillor flagged a potential conflict to the mayor and the councillor said they offered to recuse themselves from the vote. According to the councillor, the mayor and other council members advised them to participate in the vote, asserting the councillor had no pecuniary interest in the matter. The councillor said they followed the mayor's advice and participated in the vote to refund money to the developer.

In September 2025, we interviewed the individual who was the mayor at the time of the February 8, 2022 meeting. They stated they did not advise the councillor to vote or advise the councillor they were not in a conflict of interest. They stated that, in their view, it was clear the councillor was in a conflict of interest and should have recused themselves from council decisions about 1915 Hoddinott Ltd.

The then-mayor provided us with documentation to illustrate their approach to conflict of interest during their time as mayor. The municipality was unable to provide us with records, handwritten notes, or other written documentation to verify what the then-mayor told us. However, we independently obtained municipal records which corroborate the then-mayor's statements to us about their general approach to conflict of interest. Included in the records was an email from the then-mayor to the councillor informing them 1915 Hoddinott Ltd., was on an upcoming November 2021 council meeting agenda. The then-mayor attached our office's two-page conflict of interest fact sheet and

indicated this was to assist the councillor in making their decision about whether to participate in the upcoming decision-making process on 1915 Hoddinott, Ltd.

In a September 2025 interview, the councillor who was the subject of the complaint clarified with us they:

- Did not discuss their participation in the February 8, 2022 vote with other council members,
- Did not recall seeking advice or guidance on their participation in the February 8, 2022 vote, including from legal counsel,
- Thought they had to vote on February 8, 2022 because they voted on a September 14, 2021 resolution to amend the development agreement,
- Were acting in the best interest of the municipality by voting in a manner that would avoid costly litigation.

The councillor also told us they had previously declared a conflict of interest and recused themselves from council's May 26, 2020 decision on the original 1915 Hoddinott Ltd. development agreement. This declaration and recusal are recorded in the public meeting minutes. They told us they declared a conflict of interest in council's September 14, 2021 decision to amend the same development agreement but ultimately decided to participate following a discussion among council members during the council meeting. In this case, they voted against the motion because they knew they should have recused themselves. There is no record of this September 14, 2021 declaration or discussion among council in the minutes, or elsewhere.

We interviewed other municipal representatives with direct knowledge of the September 14, 2021 meeting. There were contradictory statements from the individuals interviewed and inconsistent recollection of events. There is no written or documented evidence to verify what occurred at this meeting in relation to this matter.

Our review of this matter confirmed municipal representatives interviewed understood when a conflict of interest ought to be declared, and an individual's responsibility to assess and make this determination on their own.

Although the councillor had an ongoing business relationship with the developer and their business was the contractor for the development that was the subject of the vote, we were not presented with any evidence the councillor had a direct pecuniary interest in the decision to refund money to the developer.

Our review determined the councillor did have an indirect pecuniary interest, as well as a personal relationship with the developer, and in these circumstances, we find the

councillor had a personal interest in the vote. In our view, the councillor believed there was a reasonable likelihood members of the public may see their personal interest in conflict with public duties, and it was possible the public may perceive their participation in discussions or decisions as influencing the council's actions in favor of those with direct financial interests.

We find the councillor was correct to assess the presence of a conflict of interest in relation to the matter before council on May 26, 2020. However, their actions in relation to the February 8, 2022 meeting were inconsistent with conflict of interest procedures under subsection 5(1) of The Municipal Council Conflict of Interest Act which would require the councillor to withdraw from the meeting without voting and the disclosure and withdrawal be recorded in the minutes.

Our original report found the then-mayor advised the councillor to participate in the February 8, 2022 decision of council because they did not have a pecuniary interest in the matter. However, our further interviews confirmed that no such conversation occurred prior to the vote on that date. Based on this and other information subsequently obtained following the release of our initial report, the finding that the then-mayor's actions were inconsistent with conflict of interest procedures under subsection 5(1) of The Municipal Council Conflict of Interest Act was incorrect.

It is ultimately the responsibility of each council member to identify and declare conflicts on matters before council, for each decision they make. This is not a one-time evaluation – it must be done independently for every matter that comes before council. While disclosure can be made orally, it is best practice to provide disclosures in writing. A written disclosure, signed by the RM's CAO, would serve as official documentation and provides an opportunity for the CAO to discuss the issue of conflict with council members, ensuring proper procedures required by The Municipal Council Conflict of Interest Act are followed. In many cases, the appearance or perception of conflict can be as harmful to public trust and confidence as an actual conflict. Once a connection between the personal and the public interest has been made, it can be very difficult to demonstrate a decision was not unduly influenced and remained procedurally fair. Procedural fairness requires decision makers to be seen as unbiased, without a personal interest in the outcome of a decision, and open to persuasion.

By disclosing interests in writing, and by documenting these disclosures (including oral disclosures) and withdrawals in meeting minutes, the conflict of interest process becomes clearer to all council members, ratepayers and members of the general public. This will not only provide a verifiable record of how conflict was managed, but it will also

reinforce the integrity of the decision-making process and promote openness and transparency that helps to build public trust in the governance process.

CONCLUSION

Throughout the entirety of this investigation, there were inconsistencies in the councillor's treatment of conflict of interest on the matter of 1915 Hoddinott Ltd., and a lack of documentation kept and maintained by the municipality on decisions made. On May 26, 2020, the councillor's declaration and recusal is documented. On September 14, 2021, the councillor told us they initially declared a conflict then changed their mind and voted against the resolution. The municipality did not keep records of this conflict declaration. Then, in February 2022, the councillor did not declare a conflict, did not recuse themselves, and voted in favour of the resolution at hand. Had they declared a conflict and recused themselves, the resolution would have been defeated.

Inconsistent approaches to declaring and managing conflicts of interest among municipal officials can undermine the integrity of decision-making processes. These inconsistencies may contribute to perceptions of bias, erode public trust, and expose municipalities to reputational risks. Ensuring a consistent and transparent approach for conflict of interest declarations is essential to support fair and accountable decision-making processes, and good governance.

Because of the Ombudsman's involvement and suggestions to strengthen compliance with The Municipal Council Conflict of Interest Act and improve administration, council members and the CAO reviewed the requirements and procedures outlined in the act. This was accomplished at the December 17, 2024 council meeting. The RM also reported to our office that they have a central record of all disclosures, which will be maintained moving forward and is available to the public upon request, in keeping with Section 6 of the act. The Ombudsman is satisfied with the action taken by the RM.

This report concludes Manitoba Ombudsman's review.