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CONFIDENTIAL

February 5, 2024

SENT BY EMAIL TO: marmstrong@prescott.ca

Mayor and Council
c/o, Matthew Armstrong, CAO
Town of Prescott
360 Dibble Street West
Prescott, Ontario
K0E 1T0

Dear Council:

**RE: Code of Conduct Complaint – Final Report
Our File No. 23476-43**

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.

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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

The key dates and events during the course of this investigation are as follows:

- Original Complaint received – July 8, 2023
- Additional Complaint Details received – August 31, 2023
- Preliminary Review conducted
- Complaint package sent to Member – October 11, 2023
- Correspondence received from Member indicating he would not be providing response – November 1, 2023
- Interviews conducted – November 13, 2023 - November 20, 2023

Complaint Overview

A Complaint was received on July 18, 2023. The Complaint made a number of allegations of breaches of the Code of Conduct against Councillor McConnell with respect to comments that he made during Closed Meetings of Council on July 17, 2023 and August 14, 2023.

Code of Conduct

The following provision of the Code of Conduct is relevant to our findings in this investigation:

4.1 Every Member has the duty and responsibility to treat members of the public, staff, and each other in a respectful manner, without abuse, bullying, harassment, or intimidation.

4.2 A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any member of staff, or any member of the public.

5.0 Every Member shall conduct themselves with decorum and professionalism at all Council, Committee, Board, and other meetings in accordance with the provisions of the applicable Procedural by-law, this Code and other applicable law.

8.1 Members, when communicating with the public and media, will accurately and adequately communicate the attitudes and decisions of the Council, Board or Committee, even if a Member disagrees with a majority decision, so that there is respect for an integrity in the decision-making process.

Investigation Process

In conducting the investigation, the Complaint was reviewed. The Member declined to provide a written response to the Complaint so written materials were not exchanged. Interviews with the Complainant and the Member were conducted and video footage of the Council meetings was reviewed.

Factual Findings

No factual findings were required for this investigation as all comments that were alleged to have been made in breach of the Code of Conduct were video recorded.

Code of Conduct Findings

We have not reproduced the comments made by the Member in this report as they were made during a closed session meeting and revealing the specific comments that were made have the potential to reveal the contents of the closed meeting discussion.

We find that Councillor McConnell did not breach the above-noted sections of the Code of Conduct in making the impugned comments.

We note that disagreement or heated debate around the Council table does not necessarily result in a breach of the Code of Conduct. The Code of Conduct governs comments or behaviour that rises to such a level to be considered a breach of a Councillor's ethical obligations. That did not occur in this case.

We also note that some of the comments pertained to an indication that a breach may occur in the future. We note that a Councillor indicating that they may do something in the future which may be considered to be a breach of the Code of Conduct is not in and of itself a breach. As such, we found no breach of the above-noted sections as a result of this indication.

As a result of the foregoing, the Complaint is dismissed.

Recommendation

As the investigation revealed no breach of the Code of Conduct, the Complaint is dismissed and no further steps will be taken with respect to the investigation.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



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