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CONFIDENTIAL

January 22, 2025

SENT BY EMAIL TO: kcostello@smithsfalls.ca

Mayor and Council
c/o Kerry Costello, Clerk
Town of Smiths Falls
77 Beckwith Street North
Smiths Falls, ON, K7A 2B8

Dear Ms. Costello:

**RE: Code of Conduct Complaint – Report
Our File No. 24529-41**

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.

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

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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

- Complaint received October 3, 2024
- Complaint packages sent to all of Council October 16, 2024
- November, 2024, interviews conducted
- December, 2024, preliminary verbal report to Council
- January, 2025, Report prepared

Complaint Overview

The complaint alleged that a member of Council divulged confidential information to a member of the public. Specifically:

- On July 22, 2024, Council met in closed session to discuss confidential information.
- On July 23rd, 2024, the Mayor was contacted by a member of the public. The message contained confidential information from the July 22, 2024, closed session meeting.
- On July 23, 2024, a member of Council received an email from a member of the public containing confidential information from the July 22, 2024 closed session meeting.

Council engaged in an internal process to determine the source of the leaked information. When this process did not result in the identification of the source, Council resolved to bring a complaint to allow the Integrity Commissioner to conduct an investigation.

The Code of Conduct

The Complaint engaged the following provisions of the Code of Conduct:

Section 6

Every Member must hold in strict confidence all Confidential Information acquired as a direct or indirect result of the Member's role with the Municipality. Confidential information shall not be disclosed except when required by law, or when authorized by Council or the Chief Administrative Officer.

Section 7

Every Member shall keep confidential any information:

- a) Disclosed or discussed at a meeting of Council, Committee of the Whole or Committee, Board meeting or part thereof, that was closed to the public;

Factual Findings

We interviewed all members of Council and asked them the same question at the beginning of the interview, “were you directly or indirectly the source of the leaked information”?

All members of Council, with one exception, answered this question the same way, “no”.

Councillor Dawn Quinn answered this question with, “I don’t think I was”. Councillor Quinn then went on to explain that she did not recall speaking to anyone and then gave a chronological recounting of how she spent July 23, 2024, with the implication that she was too busy to have time to spread a rumour.

The Integrity Commissioner then interviewed members of the public who had been involved in the discussion of the information. No member of the public admitted to having been told any confidential information. We cannot disclose the identities of those involved or interviewed.

Of the four individuals who formed part of the “chain” of people who were part of the spread of the information (ultimately leading to disclosure of the information to members of Council) the person in the middle of the chain claimed not to have heard of the information and therefore they could not have been part of spreading it. The person in the middle of the chain was however named by both people below and above them in the chain as the person who they told and who told them respectively.

Councillor Quinn had contact with the first person in the “chain” the day after the Council meeting.

Although both Councillor Quinn and the first person in the chain deny that Councillor Quinn was the source of the information, the Integrity Commissioner finds that it is more likely than not that Councillor Quinn was the source. There is no direct evidence to support this finding, but based on the whole of the evidence, on a balance of probabilities it is more likely than not that the source was Councillor Quinn.

The Councillor did not deny being the source, but rather said they didn’t think they were. This equivocal statement, in combination with her direct contact with the person responsible for starting the rumour leads the Integrity Commissioner to this finding.

Code of Conduct Findings

Based on the finding that it is more likely than not that Councillor Quinn was the source of the leak, the Integrity Commissioner finds that this amounted to a breach of sections 6 and 7(a) of the Code of Conduct.

Recommendations

The Integrity Commissioner is not prepared to make a recommendation for a sanction in this case because of the circumstantial evidence that led to the finding.

It is however open to Council to impose a sanction should the majority feel that would be an appropriate response.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP

A handwritten signature in black ink, appearing to read 'C.S.', with several horizontal strokes extending to the right.

Tony E. Fleming, C.S.
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