



Cunningham Swan

LAWYERS

• EST 1894 •

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

CONFIDENTIAL

March 26, 2024

SENT BY EMAIL TO: clerk@Merrickville-wolford.ca

Mayor and Council
c/o J. McCaugherty-Jansman, Clerk
Village of Merrickville-Wolford
317 Brock Street West,
P.O. Box 340
Merrickville, Ontario, K0G 1N0

Dear Mayor and Council:

RE: Code of Conduct Complaint – Final Report
Our File No.: 30075-26

Please be advised that our investigation under the Code of Conduct is now complete. We attach the final report herewith and the report should now be circulated to members of the Council. We have provided a copy of the report to the Member and Complainant separately.

This investigation is hereby closed.

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:mg
Enclosures

{01206873.DOCX:}

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

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

CONFIDENTIAL

March 26, 2024

SENT BY EMAIL TO: mayor@Merrickville-wolford.ca

Mayor Micheal Cameron
Village of Merrickville-Wolford
317 Brock Street West
P.O. Box 340
Merrickville, Ontario
K0G 1N0

Dear Mayor Cameron:

**RE: Code of Conduct Complaint – Final Report
Our File No. 30075-26**

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.

{01209852.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

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

- Complaint received – July 17, 2023
- Preliminary Review conducted
- Original Complaint sent to Member – September 14, 2023
- Response from Member received – September 14, 2023
- Member's Response sent to Complainant – September 21, 2023
- Complainant's Response Received – September 21, 2023
- Interviews conducted – October 2023
- Additional interviews conducted – January 2023

Complaint Overview

A Complaint was received against Mayor Cameron (the "Member") alleging a breach of the *Municipal Conflict of Interest Act* ("MCLA") and the Code of Conduct.

Allegation (1)

It is alleged that at the Council Meeting on July 1, 2023, the Member verbally added an item to the agenda requesting that a \$600 surplus from Canada Day funds be donated to the Legion to go towards Veterans House Canada. It is alleged that the Member had a conflict of interest due to his involvement with the legion.

Allegation (2)

It was further alleged that on May 28, 2023, the Member breached the Code of Conduct by sending an email to staff requesting a response to a request for a patio extension for the Legion.

MCLA

The relevant sections of the *MCLA* are as follows:

2. For the purposes of this Act, a member has an indirect pecuniary interest in any matter in which the council or the local board, as the case may be, is concerned, if,

(a) The member of his or her nominee,

(iii) is a member of a body,

That has a pecuniary interest in the matter.

4. Sections 5, 5.2 and 5.3 do not apply to a pecuniary interest in any matter that a member may have,

(k) by reason only of an interest of the member which is so remote or insignificant in nature that it cannot reasonably be regarded as likely to influence the member.

Code of Conduct

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

The Member shall be respectful of the tradition that staff are expected to make recommendations to Committee and Council that reflect professional and corporate management, judgment and opinions and which are not unduly influenced by any single member of Council.

It is expected that Members of Council will discuss Municipality business with staff and the CAO. These discussions, however, should never involve any comments or action that would in any way threaten or intimidate staff in the conduct of their duties.

Investigation Process

In conducting the investigation, the Complaint and responses were reviewed. Interviews were also conducted and internal emails that were the subject of the Complaint were reviewed.

Factual Findings

No factual findings were required as part of this investigation.

Allegation (1)

Our investigation confirmed that the Member pays a membership fee and is a member of the legion that is the subject of the Complaint.

It is our finding that the Member would be considered to have an indirect pecuniary interest within the meaning of Section 2(a)(iii) of the *MCLA*.

However, it is our finding that Section 4(k) applies to this matter. Specifically, it is our finding that the membership fee that the Member pays is nominal and the amount of the surplus was also minimal such that the interest of the member was remote or insignificant in nature. Further, the surplus was not to be gifted to the legion specifically but was donated to the Legion to go towards Veterans House Canada. In all of the circumstances we consider that the interest of the member was so remote or insignificant in nature that it cannot reasonably be regarded as likely to have influenced the member.

As such, this ground of the Complaint is dismissed.

Allegation (2)

Our investigation reviewed the provided email and interviewed relevant witnesses.

It is our finding that the email in question constituted a breach of the Code of Conduct.

It is our finding the Member did not abide by the requirements of this section and, specifically, was not respectful of the tradition that decisions of staff should not be influenced by any single member of Council. While the email in question did not expressly instruct staff to approve the patio extension it is our view that the comment “there is a lot of planning and fundraising going into this event by the legion and it would be nice to have their patio extension considered asap” made the Member’s position clear and constituted an attempt to influence staff in the decision making process.

Member’s must be mindful at all times that staff of a Municipality take instruction from Council as a whole and not from any individual member. Member’s must be cautious of the effect of their status and role within the municipality has on staff members and must be mindful not to direct staff to such an extent that it is an attempt to influence or is threatening or intimidating.

We also considered the *MCLA* with respect to this allegation as it also concerned the Member’s indirect pecuniary interest within the meaning of Section 2(a)(iii) of the *MCLA*. We find, however, that our analysis with respect to Allegation (1) above applies and that Section 4(k) applies to any potential conflict of interest regarding this allegation and there is no breach of the *MCLA* requirements.

Recommendation

As detailed herein, we find that there was a breach of the Code of Conduct with respect to the email sent by the Member on May 28, 2023.

It is our recommendation that the penalty for this instance of breach of the Code of Conduct should be serious enough to deter further breaches and be reflective of the impact on staff that such direction can have.

In these circumstances, it is our recommendation that a reprimand is an appropriate penalty for the breach.

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:ls