

REGULAR COUNCIL MEETING MINUTES

Held on Tuesday, August 9, 2022 at 5:00PM Closed Session and 6:00PM Open Session Held via WebEx Video, Teleconference and; In-Person

COUNCIL MEMBERS PRESENT		STAFF PRESENT
Mayor:	Ted Lojko	Shellee Fournier, CAO
Councillors:	Dave Anderson	Penny Kelly, Clerk/CEMC
	Adrian Haird	Melanie Kirkby, Treasurer
	Matt Harper (5:13 PM)	Brenda Guy, Manager of Planning and Development
	Dennis O'Connor	Doug Wark, Manager of Community Services
la V		David Armstrong, Manager of Public Works
	*	Scott Gee, Chief of Police
		Andrew Dickson, Deputy Fire Chief
Regrets:	Mike Kench	Gord Howard, Fire Chief
	David Osmond	

1. Call Meeting to Order

Mayor Lojko called the meeting to order at 5:00 PM, with the following Council Members present: Deputy Mayor Anderson, Councillor Haird, and Councillor O'Connor.

2. Disclosure of Pecuniary Interest & General Nature Thereof

- 1. Mayor Lojko declared a Pecuniary Interest with respect to the Public Meeting and Council Report-PD-2022-15, as he is a co-owner of a Bed & Breakfast.
- 3. Closed Meeting of Council (Beginning at 5:00 PM)

Move into Closed Session

Moved by Councillor O'Connor that the Council of the Town of Gananoque, in accordance with Section 239.2 of the *Municipal Act*, moves into Closed Session at 5:00 PM for the purpose of discussing one (1) item under Personal Matters Concerning an Identifiable Individual, Including Municipal or Board Employees, with respect to an Integrity Commissioners Report.

CARRIED - UNANIMOUS

4. Move Out of Closed Session at 5:24 PM

Council resumed the Open Session at 6:00 PM

5. Reporting Out of Closed Session – Matters Arising

A Closed Meeting was held. Council discussed item one (1) under Personal Matters Concerning an Identifiable Individual, Including Municipal or Board Employees regarding an Integrity Commissions report. The following was considered.

Moved by Councillor Harper and seconded by Councillor Haird to amend the recommendation to remove in its entirety "AND FURTHER THAT THE REMUNERATION PAID TO COUNCILLOR KENCH, IN THE AMOUNT OF \$3,605, BE SUSPENDED FOR NINETY (90) DAYS."

CARRIED - 4 Ayes, 1 Nay

Motion #22-141 – Integrity Commissioner Report – Councillor Mike Kench Moved by: Councillor Haird Seconded by: Councillor Harper BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE RECEIVES THE INTEGRITY COMMISSIONER REPORT REGARDING COUNCILLOR MIKE KENCH AND AUTHORIZES, AS PER SECTION 223.6 (3) OF THE MUNICIPAL ACT, THAT THE REPORT BE MADE PUBLIC, 2006, C. 32, SCHED. A. S. 98, AS AN ATTACHMENT TO THE COUNCIL MINUTES OF AUGUST 9, 2022.

CARRIED - 4 Ayes, 1 Abstain, as amended

- 6. Land Acknowledgement Statement
 - Mayor Lojko read the Land Acknowledgement Statement.
- 7. Public Question / Comment (Only Addressing Notice of Motion(s) or Reports on the Agenda)
 - Members of the public addressed Reports on the Agenda.
- 8. Disclosure of Additional Items
- 9. Delegations
 - 1. Scoolpt Project Nhung Nguyen and Michal Trpak
 - Nhung Nguyen and Michal Trpak appeared before Council and presented a PowerPoint explaining the concept of a potential 3D Print Concrete Structure on the waterfront (Joel Stone Park).
 - Nhung advised that this project would be donated to the Town by Horizon Legacy, with the 3D Print Structure being designed by Scoolpt. The Town would be responsible for the cement base and lighting.
 - Council considered the following recommendation.

Motion #22-142 – Scoolpt Project – 3D Printed Concrete Structure

Moved by: Councillor O'Connor Seconded by: Councillor Harper

BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE

SUPPORTS, IN PRINCIPLE, A 3D PRINTED CONCRETE SCULPTURE,

DEVELOPED BY SCOOLPT, THAT FOCUSES ON NATURE, THE ENVIRONMENT,

AND WATER ELEMENTS, TO BE LOCATED NEAR THE ST. LAWRENCE RIVER

(JOEL STONE PARK).

- 10. Presentations / Awards / Deputations None
- 11. Mayor's Declaration None
- ***At this point the Chair requested that Joanne van Dreumel come forward to provide an overview of the Artefact Oversight Committee's Recommendations for the Civic Collection.
- ***Joanne provided an overview.
- *** At this point, Council considered the recommendation contained in Council Report CAO-2022-12.
- 12. Public Meeting
- ***Mayor Lojko declared a pecuniary interest and requested that Deputy Mayor
 Anderson take the Chair.
- ***Deputy Mayor Anderson took the Chair.
 - Development Permit Application Class III DP2022-13 107-113 King Street East – Short-Term Accommodation with Three (3) Guest Rooms (+Council Report PD-2022-15 – Brenda Guy, Manager of Planning and Development)
 - A Public Meeting was held with respect to a Proposed Class III Development Application received from the Applicant / Owner, known as 873174 ONTARIO LTD., requesting to permit a Short-Term Accommodation containing three (3) guest rooms above a commercial store-front business in the Commercial Traditional Core.
 - Brenda Guy, Manager of Planning and Development provided an overview of Council Report PD-2022-15.
 - The Chair asked the Applicant/Owner if they had anything to add to the Staff overview – The Applicant / Owner was not in attendance.

- The Chair asked if any member of Council had any questions or comments None.
- The Chair advised that under the Development Permit By-law, comments may be made by the public, however, once a Permit has been approved the only party able to appeal to the Ontario Land Tribunal is the Applicant.

The Chair asked if any member of the public had any questions or comments – None.

- The Chair asked if the Applicant / Owner had any additional questions or comments – The Applicant / Owner was not in attendance.
- Council considered the following recommendation.

Motion #22-127 - Development Permit Application - DP2022-13 - 107-113 King Street East

Moved by: Councillor Harper Seconded by: Councillor Haird BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE APPROVES DP2022-13 (107-113 KING STREET E) TO PERMIT A SHORT-TERM ACCOMMODATION CONTAINING THREE (3) GUEST ROOMS ON THE SECOND STOREY OF THE SUBJECT PROPERTY, WITH THREE (3) DEDICATED PARKING SPACES IN THE REAR FOR THE USE, PROVIDED:

- THAT ADEQUATE LIGHTING BE PROVIDED AT THE REAR PARKING LOT IN ACCORDANCE WITH THE BUILDING CODE ACT,
- THAT THE OWNER ENTER INTO AN AGREEMENT WITHIN ONE (1) YEAR OF THE NOTICE OF DECISION, AND;
- THAT ALL COSTS ASSOCIATED WITH FULFILLING THE CONDITIONS OF THIS DECISION ARE BORNE BY THE OWNER,

AS PRESENTED IN COUNCIL REPORT PD-2022-15.

CARRIED - UNANIMOUS

**At this point, Mayor Lojko resumed the Chair.

13. Correspondence

- 1. Accounts Payable July 5 to July 29, 2022
- Gananoque Public Library Adding a Lift to Second Floor Request for Approval

Motion #22-143 – Gananoque Public Library – Adding a Lift to Second Floor – Request for Approval

Moved by: Councillor Harper Seconded by: Mayor Lojko BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE APPROVES THE GANANOQUE PUBLIC LIBRARY BOARD'S REQUEST TO ALLOW THE ARCHITECTURAL FIRM OF SHOALTS AND ZABACK ARCHITECTS LTD., TO CONDUCT A REVIEW OF GANANOQUE PUBLIC LIBRARY ACCESSIBILITY AND THE VIABILITY OF ADDING A LIFT THAT GOES TO THE SECOND FLOOR, IN THE AMOUNT OF \$3,200,

AND FURTHER, THAT THIS AMOUNT SHALL BE DRAWN FROM THE LIBRARY RESERVES.

- 3. Request(s) for Early Ice:
 - a. Gananoque Girls Hockey Association
 - b. Gananoque SR Islanders
 - c. Gananoque Minor Hockey
- 4. Winifred McGowan Request for Long-Term Parking at Marina
- 5. Chris McDonald My Concerns Raised at the Council Meeting of 12th July 2022
- 6. Ministry of Infrastructure Accelerated High Speed Internet Program (AHSIP) Update

- 7. Ministry of Tourism Culture & Sport Reconnect Ontario 2022 Program Funding Approval
- 8. United Counties of Leeds & Grenville Media Release Highlight from Counties Council July 21, 2022 Meeting
- 9. United Counties of Leeds & Grenville Media Release Maple View Lodge Tender Announced
- 10. Emergency Management Ontario (EMO) Organizational Updates
- 11. Unadopted Minutes Heritage Advisory Panel May 31, 2022
- 12. Unadopted Minutes Kinsmen Building Advisory Panel July 11, 2022

14. Unfinished Business

Council-RDS-2022-15 – King Street Pedestrian Bridge – Structural Analysis Update

Moved by Councillor Harper and seconded by Councillor Haird to amend the recommendation in Council Report RDS-2022-15, to add "AND FURTHER THAT A DETAILED STAFF REPORT BE BROUGHT BACK FOR COUNCIL'S CONSIDERATION OUTLINING THE COST TO REPAIR VS. THE REMOVAL OF THE BRIDGE IN ITS ENTIRETY."

CARRIED - UNANIMOUS

Motion #22-128 – King Street Pedestrian Bridge – Structural Analysis Update
Moved by: Councillor Harper Seconded by: Councillor Haird
BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE
RECEIVES THE KING STREET PEDESTRIAN BRIDGE STRUCTURAL ANALYSIS
UPDATE REPORT FOR INFORMATION AND APPROVES OPTION #1, LEAVE THE
BRIDGE CLOSED AND LOOK TO FUND THE REPAIRS OR REPLACEMENT IN THE
2023 BUDGET, AS OUTLINED AND PRESENTED IN COUNCIL REPORT
RDS-2022-15,

AND FURTHER THAT A DETAILED STAFF REPORT BE BROUGHT BACK FOR COUNCIL'S CONSIDERATION OUTLINING THE COST TO REPAIR VS. THE REMOVAL OF THE BRIDGE IN ITS ENTIRETY.

CARRIED - UNANIMOUS, as amended

15. Consent Agenda

Moved by: Councillor Harper Seconded by: Councillor O'Connor Be it resolved that the Motion and By-law listed on the Consent Agenda be passed accordingly:

MOTION:

Motion #22-126 – Approval of Minutes – Tuesday, July 12, 2022
BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE HEREBY ADOPTS THE REGULAR MINUTES OF TUESDAY, JULY 12, 2022 MEETING.

BY-LAW:

By-law No. 2022-088 – Cataraqui Region Conservation Authority (CRCA) Service Level Agreement

BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE PASS BY-LAW NO. 2022-088, BEING A BY-LAW TO AUTHORIZE THE MAYOR AND CLERK TO SIGN A SERVICE LEVEL AGREEMENT WITH CATARAQUI REGION CONSERVATION AUTHORITY (CRCA) FOR LAND USE PLAN INPUT AND REVIEW SERVICES.

- **16. Motions** (Council Direction to Staff) None
- 17. Notice Required Under the Notice By-law None

- 18. Committee Updates (Council Reps)
 - Councillors provided their updates.
- 19. Discussion of Additional Items None
- 20. Staff Reports

Council-CAO-2022-11 – Notice of Intention to Amend Three (3) Municipal Heritage Designations – 11 Church Street, 120 King Street West, 145 Stone Street South

Motion #22-129 – Notice of Intention to Amend Three (3) Municipal Heritage
Designations – 11 Church Street, 120 King Street West, 145
Stone Street South

Moved by: Deputy Mayor Anderson **Seconded by:** Councillor Harper BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE AUTHORIZE STAFF TO PUBLISH THE NOTICE OF INTENTION TO AMEND THE FOLLOWING MUNICIPALLY DESIGNATED HERITAGE PROPERTIES AS PER SECTION 30.1 (1) OF THE ONTARIO HERITAGE ACT:

- 1. 11 CHURCH STREET, PART LOTS 1043, 1044, AND 1045 (VS. 1047), PART 3, PLAN 28R1096, TOWN OF GANANOQUE, BY-LAW NO. 1992-40;
- 2. 120 KING STREET WEST, LOT A, PLAN 170, WEST OF THE GANANOQUE RIVER, TOWN OF GANANOQUE, BY-LAW NO. 1993-41;
- 3. 145 STONE STREET SOUTH BY-LAW NO. 1992-032;

AS PRESENTED IN COUNCIL REPORT CAO-2022-11.

CARRIED - UNANIMOUS

Council-CAO-2022-12 – Artefact Oversight Committee Recommendations for Civic Collection

Motion #22-130 – Artefact Oversight Committee Recommendations for Civic Collection

Moved by: Councillor Harper Seconded by: Councillor Haird BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE APPROVES THE FOLLOWING ADDITIONS TO THE TOWN'S CIVIC COLLECTION:

- 1. WWII RED CROSS QUILT;
- 2. GANANOQUE CLOCK TOWER WINDOW;
- 3. SHEET MUSIC HANDWRITTEN BY WILLIAM REES;
- 4. PHOTOGRAPHS OF THE THOUSAND ISLANDS BRIDGE, AND;
- 5. LINKLATER PUBLIC SCHOOL OBJECTS,

AS PRESENTED IN COUNCIL REPORT CAO-2022-12.

CARRIED - UNANIMOUS

Council-CAO-2022-13 – Kinsmen Building Advisory Panel – Request to Hire a
Contractor

Motion #22-131 – Kinsmen Building Advisory Panel – Request to Hire a Contractor

Moved by: Deputy Mayor Anderson Seconded by: Councillor Haird BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE APPROVES THE HIRING OF A LICENSED CONTRACTOR TO REVIEW THE BUILDING CONDITION ASSESSMENT (INCLUDING A SITE INSPECTION) TO PROVIDE A REALISTIC AMOUNT FOR CAPITAL IMPROVEMENTS ON THE KINSMEN BUILDING AT A COST NOT TO EXCEED \$5,000;

AND FURTHER, THAT THE CONTRACTOR INCLUDE BUILDING CODE COMPLIANCE AS IT RELATES TO ACCESSIBILITY IN THE RECOMMENDATION;

AND FURTHER, THAT THE FUNDS FROM THE 2022 CAPITAL BUDGET HVAC WORK FOR THE BUILDING IN THE AMOUNT OF \$5,000 BE APPROVED TO COVER THIS COST IN LIEU OF REPLACING THE HVAC UNIT,

AS PRESENTED IN COUNCIL REPORT CAO-2022-13.

CARRIED - 3 Ayes, 2 Nays

Council-FIN-2022-29 - Capital Matters Pending

Motion #22-132 - Capital Matters Pending

Moved by: Councillor Harper Seconded by: Deputy Mayor Anderson BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE RECEIVES THE CAPITAL MATTERS PENDING UPDATE, AS PRESENTED IN COUNCIL REPORT FIN-2022-29.

CARRIED - UNANIMOUS

Council-FIN-2022-30 – 2022 Second Quarter Operating Income Statement

Motion #22-133 – 2022 Second Quarter Operating Income Statement

Moved by: Councillor Harper Seconded by: Deputy Mayor Anderson

BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE

RECEIVES THE 2022 SECOND QUARTER OPERATING INCOME STATEMENT

AT JUNE 30, 2022, AS PRESENTED IN COUNCIL REPORT FIN-2022-30.

CARRIED - UNANIMOUS

Council-FIN-2022-31 - 2023 Budget Deliberations

Motion #22-134 – 2023 Budget Deliberations

Moved by: Councillor Harper Seconded by: Councillor Haird BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE RECEIVES FOR INFORMATION THE 2023 BUDGET DELIBERATIONS, AS PRESENTED IN COUNCIL REPORT FIN-2022-31.

CARRIED - UNANIMOUS

Council-CSC-2022-05 – Joint Leeds and Grenville Election Compliance Audit

Committee Appointments and Terms of Reference

***In light of new information, Council Report-CSC-2022-05, was withdrawn.

Naming of Corporate Assets – Naming of Band Shell (30 King Street East)

By-law No. 2022-090 – Naming of Corporate Assets – Naming of Band Shell (30 King Street East)

Moved by: Deputy Mayor Anderson Seconded by: Councillor Harper BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE PASS BY-LAW NO. 2022-090, BEING A BY-LAW TO NAME THE BAND SHELL, LOCATED AT 30 KING STREET EAST, AS THE "WILLIAM "BILL" REES BAND SHELL", AS RECOMMENDED BY THE HERITAGE ADVISORY PANEL MOTION #2022-12, AND AS PRESENTED IN COUNCIL REPORT CSC-2022-06.

CARRIED - UNANIMOUS

Council-FIRE-2022-05 – Fire Department – Second (2nd) Quarter Report

Motion #22-135 – Fire Department – Second (2nd) Quarter Report
Moved by: Councillor Harper Seconded by: Councillor Haird
BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE
RECEIVES THE 2022 SECOND QUARTER FIRE DEPARTMENT REPORT FOR INFORMATION PURPOSES, AS PRESENTED IN THE COUNCIL REPORT FIRE-2022-05.

Council-RDS-2022-16 – Award of Contract – Comprehensive Roads Needs Study – Request for Proposal (RFP)

By-law No. 2022-091 – Award of Contract – Comprehensive Roads Needs Study – Request for Proposal (RFP)

Moved by: Councillor Harper Seconded by: Councillor O'Connor BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE PASS BY-LAW NO. 2022-091, BEING A BY-LAW TO AUTHORIZE THE MAYOR AND THE CLERK TO SIGN AN AGREEMENT WITH GREER GALLOWAY GROUP INC., FOR THE PROCUREMENT OF SERVICES TO COMPLETE A COMPREHENSIVE ROADS NEEDS STUDY, TO AN UPSET LIMIT OF \$28,430.00 (EXCLUDING HST), AS PRESCRIBED IN TENDER RDS-2022-06, AND AS PRESENTED IN COUNCIL REPORT RDS-2022-16.

CARRIED - UNANIMOUS

Council-UTIL-2022-07 – Water and Wastewater Second (2nd) Quarter Report

Motion #22-136 – Water and Wastewater Second (2nd) Quarter Report

Moved by: Councillor Harper Seconded by: Deputy Mayor Anderson
BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE
RECEIVES THE WATER AND WASTEWATER SECOND (2ND) QUARTER
REPORT FOR INFORMATION, AS PRESENTED IN COUNCIL REPORT UTIL
-2022-07.

CARRIED - UNANIMOUS

Council-CS-2022-22 - Market Kiosks - Festival of Lights Request

Motion #22-137 - Market Kiosks - Festival of Lights Request

Moved by: Councillor Harper Seconded by: Councillor Haird BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE APPROVES OPTION #2, APPROVE THE PURCHASE OF FOUR (4) KIOSKS AND FUND THE 2022 OPERATIONAL COSTS FROM THE COMMUNITY GRANTS BUDGET.

AND FURTHER THAT THE 2023 COSTS BE ADDED TO THE 2023 BUDGET AS A NEW INITIATIVE REGARDING THE MARKET KIOSKS, AS PRESENTED IN COUNCIL REPORT CS-2022-22.

DEFEATED - 2 Ayes, 3 Nays

Motion #22-138 – Market Kiosks – Festival of Lights Request – Refer to 2023 Budget Deliberations

Moved by: Councillor Harper Seconded by: Mayor Lojko BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE APPROVES OPTION #1, REFER TO THE 2023 BUDGET DELIBERATIONS, TO INCLUDE INSURANCE AND LABOUR COSTS, REGARDING THE MARKET KIOSKS, AS PRESENTED IN COUNCIL REPORT CS-2022-22.

CARRIED - 3 Ayes, 2 Nays

Motion #22-139 – Market Kiosks – Festival of Lights Request – Reassign Tourism Advisory Panel (TAP) Funding

Moved by: Councillor Harper Seconded by: Mayor Lojko BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE ADVISES THE TOURISM ADVISORY PANEL (TAP) THAT THE FUNDING APPROVED BY THE PANEL FOR THE MARKET KIOSKS WITH RESPECT TO THE FESTIVAL LIGHTS REQUEST, IN THE AMOUNT OF \$15,000, CAN BE REASSIGNED TO OTHER TAP PROJECTS/EVENTS, AS THIS MATTER HAS BEEN REFERRED TO THE 2023 BUDGET DELIBERATIONS FOR COUNCIL'S CONSIDERATION.

Cou	ncil-LIB-2022-03 – Gananoque Public Library Quarterly Report		
	Motion #22-140 – Gananoque Public Library Quarterly Report Moved by: Councillor Harper Seconded by: Councillor Haird BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE RECEIVES THE GANANOQUE PUBLIC LIBRARY QUARTERLY REPORT AS PRESENTED IN COUNCIL REPORT LIB-2022-03.		
	CARRIED – UNANIMOUS		
	Questions from the Media – None		
22.	Confirmation By-law		
	By-law No. 2022-087 – Confirming By-law – August 9, 2022 (3 Readings) Moved by: Councillor Haird Seconded by: Councillor Harper BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE PASS BY-LAW NO. 2022-087, BEING A BY-LAW TO CONFIRM THE PROCEEDINGS OF COUNCIL AT ITS REGULAR MEETING HELD ON TUESDAY, AUGUST 9 TH , 2022, BE READ THREE TIMES AND FINALLY PASSED THIS 9 TH DAY OF AUGUST 2022. CARRIED – UNANIMOUS		
23.	Next Meeting – Tuesday, September 6, 2022		
24.	Adjournment Moved by: Councillor Haird Be it resolved that Council hereby adjourns this regular meeting of Council at 8:36 PM. CARRIED – UNANIMOU		
Ted I	Lojko, Mayor Penny Kelly, Clerk / CEMC		



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

CONFIDENTIAL

July 21, 2022

SENT BY EMAIL TO: SFournier@gananoque.ca

Shellee Fournier, CAO Town of Gananoque 30 King Street East P.O. Box 100 Gananoque, Ontario K7G 1E9

Dear Ms. Fournier:

RE: Code of Conduct Complaint Our File No. 16418-160

Please be advised that this investigation into the complaint is now complete. We attach a copy of the report for your records. The report shall remain confidential until it is released to the Council, and must be treated as such.

This investigation is hereby closed, and no further steps will be taken by the Integrity Commissioner in this regard.

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:mj

Enclosure

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T E L : 6 1 3 - 5 4 4 - 0 2 1 1 F A X : 6 1 3 - 5 4 2 - 9 8 1 4 E M A I L : I N F O @ C S W A N . C O M W E B : W W W . C S W A N . C O M



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

CONFIDENTIAL

July 21, 2022

\$ENT BY EMAIL TO: clerk@gananoque.ca

Mayor and Members of Council c/o Penny Kelly, Clerk
Town of Gananoque
30 King Street East
P.O. Box 100
Gananoque, Ontario
K7G 1E9

Dear Mayor and Members of Council:

RE: Code of Conduct Complaint Our File No. 16418-160

This public report of our investigation is being provided to Council in accordance with Section 223.6(1) of the *Municipal Act*. I 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 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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T E L : 6 1 3 - 5 4 4 - 0 2 1 1 F A X : 6 1 3 - 5 4 2 - 9 8 1 4 E M A I L : I N F O @ C S W A N . C O M W E B : W W W . C S W A N . C O M 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.

Investigation

On March 8, 2022, a complaint was received against Councillor Kench (the "Complaint") under the Code of Conduct. It was alleged that Councillor Kench breached the Code of Conduct in a series of emails sent to staff challenging the Public Health recommendations that were being implemented at the Municipality with respect to masking and vaccination. Specifically, on December 21, 2021, Councillor Kench emailed the "All Staff" distribution list stating his beliefs that getting vaccinated and wearing a mask does not stop the spread of COVID-19. This email was sent as a direct reply to policy sent out to staff by the CAO regarding COVID-19 safety measures.

Further, on March 4, 2022, Councillor Kench again emailed the "All Staff" distribution list as well as the CAO, Mayor and the Medical Officer of Health reiterating his beliefs regarding masking and vaccination and stating, "instead of thanking me for helping clarify the advice from the health unit, the Mayor and the CAO discouraged that I share the truth about the situation". It is alleged by the Complainant that this conduct constitutes a breach of the Code of Conduct.

This complaint was investigated under the Code of Conduct only as it does not engage the *Municipal Conflict of Interest Act*.

The Complaint was provided to the Integrity Commissioner on March 8, 2022. A summary of the Complaint was provided to Councillor Kench on March 25, 2022. No response was received from Councillor Kench in response to the Complaint. A follow-up email to Councillor Kench regarding the Complaint was sent on May 9, 2022. No response was received from Councillor Kench in response to this follow-up email.

An interview was conducted with the Complainant. Councillor Kench was contacted regarding scheduling an interview but failed to respond. As such, this investigation was conducted without interviewing Councillor Kench.

Cunningham Swan Carty Little & Bonham LLP

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The Complaint engages the following sections of the Code of Conduct:

11. Conduct Respecting Staff

Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual Member or group of members.

Members should not:

- Maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff;
- Compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or
- Use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties.

Findings

Councillor Kench did Maliciously or Falsely Injure the Professional or Ethical Reputation, or the Prospects or Practice of Staff

On December 21, 2021, Councillor Kench sent an email to all staff at the Municipality stating his beliefs that getting vaccinated and wearing a mask does not stop the spread of COVID-19. This email was sent as a reply to policy sent out to all staff by the CAO. On March 4, 2022, Councillor Kench again emailed all staff as well as Public Health promoting his beliefs and stating "instead of thanking me for helping clarify the advice from the health unit, the Mayor and the CAO discouraged that I share the science and truth about the situation", among other comments about the validity of the Municipality's policies regarding masking and vaccination.

I find that Councillor Kench's comments in this email directly imply that the Mayor and CAO lied to staff and were attempting to suppress the "truth" by implementing policy regarding masking and vaccination. This commentary directed at the Mayor and CAO constitutes an attempt by Councillor Kench to undermine the professional and ethical reputations of both the Mayor and CAO as well as the practices of staff with respect to COVID-19 measures.

As such, Councillor Kench is in breach of this section of the Code of Conduct.

Councillor Kench did Use, or Attempt to Use, his Authority or Influence for the Purpose of Intimidating, Threatening, Coercing, Commanding or Influencing Staff Members with the Intent of Interfering in Staff's Duties

00766067.DOCX: Cunningham Swan Carty Little & Bonham LLP

The emails sent by Councillor Kench reflect a serious attempt to use his authority or influence as a Member of Council to intimidate, coerce, command, and influence the CAO and the other staff members to whom the emails were sent with the express intent of interfering with their duties regarding practicing and implementing the recommended COVID-19 protection measures. The emails sent were of the Councillor's own initiative and done without any support from Council as a whole.

As such, Councillor Kench is in breach of this section of the Code of Conduct.

Recommendation

The incidents investigated in this report followed closely the incidents investigated in the report of the Integrity Commissioner submitted to Council on December 17, 2021. In the December 2021 report the Integrity Commissioner found that Councillor Kench was advocating his beliefs regarding COVID in a manner that amounted to bullying and intimidation. In this earlier report the Integrity Commissioner found that the Councillor was not remorseful and recommended that his pay be suspended for a period of 90 days.

Instead of recognizing that his behaviour was inappropriate, Councillor Kench ignored the previous report and decision of Council and continues to act in a manner that is disrespectful of staff. He appears to rely on the strength of his personal beliefs as a justification for his inappropriate behaviour.

This finding and recommendation is not about whether Councillor Kench's personal views are correct or not. His personal views are not shared by Council and the Corporation of the Town of Gananoque. The Town has chosen to follow Provincial and Public Health guidance to protect residents and employees. This decision must be respected by its elected officials even if they do not personally believe in the efficacy of the protection measures. An elected member of Council cannot undermine Council and staff and expect that the public will have confidence in their decisions.

Councillor Kench has chosen to place his personal views above those of the public interest, and for that reason the Integrity Commissioner is recommending the maximum penalty of a suspension of pay for 90 days.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP

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