

**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
<b>Mayor:</b>	Ted Lojko	Shellee Fournier, CAO
<b>Councillors:</b>	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
		David Armstrong, Manager of Public Works
		Scott Gee, Chief of Police
		Andrew Dickson, Deputy Fire Chief
<b>Regrets:</b>	Mike Kench	Gord Howard, Fire Chief
	David Osmond	

<b>1. Call Meeting to Order</b>	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.
<b>2. Disclosure of Pecuniary Interest &amp; General Nature Thereof</b>	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.
<b>3. Closed Meeting of Council (Beginning at 5:00 PM)</b>	<p><b>Move into Closed Session</b></p> <p>Moved by Councillor O'Connor that the Council of the Town of Gananoque, in accordance with Section 239.2 of the <i>Municipal Act</i>, 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.</p> <p style="text-align: right;"><b>CARRIED – UNANIMOUS</b></p>
<b>4. Move Out of Closed Session at 5:24 PM</b>	<b>Council resumed the Open Session at 6:00 PM</b>
<b>5. Reporting Out of Closed Session – Matters Arising</b>	<p>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.</p> <p>Moved by Councillor Harper and seconded by Councillor Haird to amend the recommendation to remove in its entirety <b>“AND FURTHER THAT THE REMUNERATION PAID TO COUNCILLOR KENCH, IN THE AMOUNT OF \$3,605, BE SUSPENDED FOR NINETY (90) DAYS.”</b></p> <p style="text-align: right;"><b>CARRIED – 4 Ayes, 1 Nay</b></p>





	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
<b>14.</b>	<b>Unfinished Business</b>
	<b>Council-RDS-2022-15 – King Street Pedestrian Bridge – Structural Analysis Update</b>
	Moved by Councillor Harper and seconded by Councillor Haird to amend the recommendation in Council Report RDS-2022-15, to add <b>“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.”</b>  <b>CARRIED – UNANIMOUS</b>
	<b>Motion #22-128 – King Street Pedestrian Bridge – Structural Analysis Update</b> <b>Moved by:</b> Councillor Harper <b>Seconded by:</b> 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.  <b>CARRIED – UNANIMOUS, as amended</b>
<b>15.</b>	<b>Consent Agenda</b>
	<b>Moved by:</b> Councillor Harper <b>Seconded by:</b> Councillor O’Connor Be it resolved that the Motion and By-law listed on the Consent Agenda be passed accordingly:
	<b>MOTION:</b>
	<b>Motion #22-126 – Approval of Minutes – Tuesday, July 12, 2022</b> BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE HEREBY ADOPTS THE REGULAR MINUTES OF TUESDAY, JULY 12, 2022 MEETING.
	<b>BY-LAW:</b>
	<b>By-law No. 2022-088 – Cataraqui Region Conservation Authority (CRCA) Service Level Agreement</b> 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.  <b>CARRIED – UNANIMOUS</b>
<b>16.</b>	<b>Motions (Council Direction to Staff) – None</b>
<b>17.</b>	<b>Notice Required Under the Notice By-law – None</b>



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 (2<sup>nd</sup>) Quarter Report**

**Motion #22-135 – Fire Department – Second (2<sup>nd</sup>) 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.

**CARRIED – UNANIMOUS**



**Council-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<sup>TH</sup>, 2022, BE READ THREE TIMES AND FINALLY PASSED THIS 9<sup>TH</sup> DAY OF AUGUST 2022.

**CARRIED – UNANIMOUS**

**23. Next Meeting – Tuesday, September 6, 2022**

**24. Adjournment**

**Moved by:** Councillor Haird

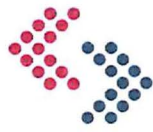
Be it resolved that Council hereby adjourns this regular meeting of Council at 8:36 PM.

**CARRIED – UNANIMOUS**

  
\_\_\_\_\_  
Ted Lojko, Mayor

  
\_\_\_\_\_  
Penny Kelly, Clerk / CEMC





**Cunningham Swan**

LAWYERS

• EST 1894 •

Tony E. Fleming  
Direct Line: 613.546.8096  
E-mail: [tfleming@cswan.com](mailto:tfleming@cswan.com)

**CONFIDENTIAL**

July 21, 2022

**SENT BY EMAIL TO: [SFournier@gananoque.ca](mailto: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

00766001.DOCX:

TEL: 613-544-0211  
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**CONFIDENTIAL**

July 21, 2022

**SENT BY EMAIL TO: [clerk@gananoque.ca](mailto: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.

00766067.DOCX:

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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.

### 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.

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*

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**



Tony E. Fleming, C.S.  
LSO Certified Specialist in Municipal Law  
(Local Government / Land Use Planning)  
Anthony Fleming Professional Corporation  
TEF:mj