



**Cunningham Swan**

LAWYERS

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**Tony E. Fleming**

**Direct Line: 613.546.8096**

**E-mail: [tfleming@cswan.com](mailto:tfleming@cswan.com)**

**CONFIDENTIAL**

October 10, 2024

**SENT BY EMAIL TO: [hmartin@pembroke.ca](mailto:hmartin@pembroke.ca)**

Council  
c/o Heidi Martin, Clerk  
City of Pembroke  
1 Pembroke Street East  
Pembroke, ON,  
K8A 3J5

Dear Council:

**RE: Code of Conduct Complaint – Final Report – Mayor Ron Gervais  
Our File No. 33136-26**

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

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 – September 23, 2024
- Conducting Preliminary Review – September 2024
- Complaint sent to Member requesting Response – October 2, 2024
- Member's Response received – October 7, 2024

### **Complaint Overview**

The complaint alleged two potential breaches of the Code of Conduct against Mayor Ron Gervais (the "Member") that were investigated. Other allegations were contained in the complaint that were dismissed after a preliminary review. Only allegations that are capable of constituting a breach of the Code of Conduct proceed to an investigation. In this instance, the following aspects of the complaint were investigated:

1. On July 16, 2024 Council voted to not sell City property to the Grind

The complaint alleges that the Member was in a conflict of interest pursuant to section 9 of the Code of Conduct by participating in that vote. The complaint is beyond the limitation period under the *Municipal Conflict of Interest Act* and as such is only being considered under section 9.3 of the Code of Conduct as a non-pecuniary conflict of interest.

The nature of the alleged conflict is that the Member was the lawyer for the Grind in 2017.

The complaint stated that if the Member is still representing the Grind his continued participation in Council matters involving the Grind would create a conflict.

2. Grind lease decisions

The complaint alleges that the Member has a conflict of interest because the lease with the Grind was drafted by the law firm that employs the Member. The complaint alleges the continued voting on matters that involve the Grind and any issues associated with the lease is a conflict and breaches sections 9.3(a), (e). The complaint alleges that the member is "advocating" for honouring the terms of the lease, "despite concerns raised by other

members and residents”. This, according to the complaint shows support for the Grind and a support for the Member’s law firm who drafted the lease.

### **Code of Conduct**

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

9.3 In addition to pecuniary interests, Members must perform their duties impartially, such that an objective, reasonable observer would conclude that the Member is exercising their duties objectively and without undue influence. Each Member shall govern their actions using the following as a guide:

- a) In making decisions, always place the interests of the taxpayers and the Municipality first and, in particular, place those interests before your personal interests and the interests of other Members, staff, friends, business colleagues or Family Members;
- b) Interpret the phrase “conflict of interest” broadly and with the objective of making decisions impartially and objectively;
- c) If there is doubt about whether or not a conflict exists, seek the advice of the Integrity Commissioner or legal counsel;
- d) Do not make decisions that create an obligation to any other person who will benefit from the decision;
- e) Do not make decisions or attempt to influence any other person for the purpose of benefitting yourself, other Members, Staff, friends, business colleagues, or Family Members, or any organization that might indirectly benefit such individuals; and
- f) Do not promise or hold out the prospect of future advantage through your influence in return for a direct or indirect personal benefit.

### **Factual Findings**

The conflict of interest allegation rests on an assertion that the Member continues to represent the Grind as its lawyer. The complaint included a letter from 2017 that confirmed, at that time, that the Member was representing the Grind for a specific matter. The Member confirmed that he was retained in 2017, but that specific matter has concluded and he no longer acts for the Grind. We accept the Member’s evidence and find that the Member does not have a solicitor client relationship with the Grind.

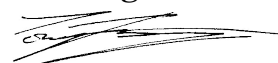
The second allegation requires a finding as to whether or not the firm that employs the Member drafted the lease for the building the Grind currently occupies. The Member advised that neither he nor anyone working for Sheppard and Gervais drafted the lease. We confirmed with the City that neither the Member nor the firm that employs him drafted the lease.

### **Investigation Findings**

The Member does not have a conflict of interest with the Grind. The evidence before the Integrity Commissioner is that the Member is not the lawyer for the Grind and that he has not acted for the Grind on the matter of the lease, which formed part of the complaint. The allegation that the lease for the Grind was drafted by the law firm that employs the Member is also unfounded. There is therefore no basis to find that the Member acted in breach of the Code of Conduct and the complaint is dismissed.

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  
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