



Cunningham Swan

LAWYERS

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May 6, 2026

SENT BY EMAIL TO: clerk@gananoque.ca

Mayor and Council
c/o Penny Kelly, Clerk
Town of Gananoque

Dear Mayor and Council:

**RE: Code of Conduct Complaint – Final Report – Councillor Osmond
Our File No.: 16418-181**

This public report of our investigation is being provided to Council in accordance with Section 223.6(2) 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 decisions 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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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:

- April 13, 2026, complaint received
- April 14, 2026, complaint sent to Member
- April 14, 2026, response from Member received
- April 15, 2026, forward Member's response to complainant
- April 23, 2026, response from complainant received

Complaint

This investigation addressed a series of emails from Councillor Dave Osmond (the "Member") to a resident in April of 2026.

The exchange began with an email from the resident to all of Council dated April 8, 2026, requesting that Council consider a by-law to update the animal control by-law to include cats. The Member responded by email dated the same day and copied all of Council. In his email, the Member explained his position about including cats in the by-law, and the basis for his view. The email set out a number of points in support of the Member's position and was a detailed consideration of the issue. The Member ended the email with, "Sorry, long answer and possibly not exactly what you wanted to hear. Please bring any ideas or solutions to the meeting or contact by-law."

On April 9, 2026, the resident responded to the Member, copying the Mayor, stating, "I have neither the time nor interest in your personal opinion screeds. I would appreciate your discontinuing them."

The Member responded within an hour, writing:

"You have the time to look out the window, and witness one of the four marauding neighbourhood cats defecating in another neighbour's front garden and time to email me about [a reference to the resident's original email which prompted the request to include cats in the by-law]. I do appreciate the email.

You had the time to google how many birds are killed. [another reference to the initial email]

You had time to send me a rude reply.

I had the time (almost an hour) to respond to you at 11:41 pm after a 4.5 hour council meeting.

I took the time to google “screeds”. You must be a good scrabble player.

Have a great day!”

On April 10, 2026, the resident wrote to the Member, copying the Mayor and all of Council, to state that she would be making a complaint to the Integrity Commissioner for the following reasons:

“the public is entitled to expect the highest standards of conduct from members that are elected or appointed to serve their local government.”

“Members shall at all times serve and be seen to serve the interests of their constituents and the Town in a conscientious and diligent manner and shall approach decision-making with an open mind.”

The complaint that was filed also included a series of emails from January of 2026, primarily about speed limits, which was not relevant to the complaint and was not considered, except for context.

The resident then forwarded an addendum to the complaint which contained an April 11, 2026 email from the Member to the resident, copying Council and the Clerk, in response to the resident’s statement that a complaint was being commenced. In his email, the Member set out his position as to why his emails were not a breach of the Code of Conduct. The Member also stated that the resident’s comment that his initial response was a “screed” (long, tedious, boring):

“borders on harassment, bullying, and intimidation. I will continue to stand up for myself, other members of council and staff while in this role. ... Apparently, we may not agree on all the issues and as stated above that is ok. Council often doesn’t agree on the issues, but it would never be ok for me to respond to another councillor, staff or a resident saying their comments or opinions were screed and that I don’t have time for them, especially after initiating the discussion.”

The complainant alleges that the written comments of the Member breach the following sections of the Code of Conduct:

2. Purpose

Maintaining a high quality of public administration and governance can be achieved in part by encouraging high standards of conduct on the part of Town officials. The public is entitled to expect the highest standards of conduct from members that are elected or appointed to serve their local government.

4. General Integrity

Members shall at all times serve and be seen to serve the interests of their constituents and the Town in a conscientious and diligent manner and shall approach decision-making with an open mind.

The Integrity Commissioner also considered section 8, which reads as follows:

8. All members have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies and, where applicable, the Town's *Workplace Violence & Workplace Harassment Policy*.

Findings / Analysis

Section 2 of the Code of Conduct is the purpose section. This section sets out general principles as an aid to interpretation of the Code of Conduct; it is a section which cannot be the subject of a complaint as it does not establish a prohibition. This section was considered, but no breach of this section was found.

Section 4 requires that all members of Council approach decision making with an open mind. This does not mean that members of Council cannot think about issues in advance of a meeting, nor does it mean that members of Council cannot have opinions about issues in advance. What the Member set out in his emails to the resident were his thoughts about including cats in the animal control by-law and the basis for those thoughts. He ended his email with the statement, "Please bring any ideas or solutions to the meeting or contact by-law". The Member encouraged the resident to continue to consider solutions; solutions that might have swayed the Member to change his position.

So long as a member of Council remains open to the possibility of being persuaded of another view, they have not closed their minds. There is no evidence that the Member would not have approached the issue with an open mind – no breach of the Code of Conduct is found.

Section 8 obligates members of Council to treat members of the public with respect and without abuse, bullying or intimidation. On the facts set out in the series of emails there is no evidence of abuse, bullying or intimidation.

The remaining question is whether the Member treated the resident disrespectfully? While there was a lack of respect shown by the resident, that does not excuse a member of Council from responding in kind. What an Integrity Commissioner must also consider is the purpose of the Code of Conduct – which is, among other things, to expect the highest standards of conduct from members.

This does not require a standard of perfection.

This does not establish a subjective standard where any offense found by anyone equates to a breach of the Code of Conduct.

The standard is an objective one; would a reasonable person apprised of the relevant facts find that a member of Council had been disrespectful?

Based on the written record, the Integrity Commissioner finds that the Member did not use offensive language and did not insult the resident. Commenting that the resident must be a good scrabble player because they used a word that the member needed to look up is not disrespectful. In the circumstances, the Member responded politely while still expressing that he did not appreciate the dismissive tone of the resident. The sarcasm evident in the response is not sufficient to breach the Code of Conduct.

When faced with a threat of a Code of Conduct complaint, the Member accused the resident of improperly resorting to a complaint in circumstances where he believed he had been polite and had taken the time to provide his position and views on a topic of importance to the resident. The Integrity Commissioner finds that the language used was not inappropriate and was not disrespectful. The Member is entitled to his opinion that the threat of a complaint in the circumstances was not appropriate – this is not disrespectful and is not a breach of the Code of Conduct.

Whenever a Councillor is accused of breaching the Code of Conduct related to verbal or written communications, the courts direct Integrity Commissioners to consider the Charter of Rights and Freedoms and to balance the member of Council's right to express themselves against the purpose of the Code of Conduct to ensure the member's freedom to express themselves is not unreasonably restricted. Expecting the highest standards of behaviour in the Code of Conduct cannot override councillors' rights to express themselves at a certain level.

The Integrity Commissioner balances these factors in these circumstances by considering the reasonable person threshold for behaviour and ensuring that not every instance of impolite behaviour, however slight, triggers a breach of the Code of Conduct. Based on the analysis

above, there were no statements made by the Member that rose to the level where a reasonable person would find that the resident had been treated disrespectfully.

Recommendations

The complaint is dismissed. As there were no breaches of the Code of Conduct, no recommendation is necessary.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP

A handwritten signature in black ink, appearing to read 'Tony E. Fleming', with several horizontal strokes underneath.

Tony E. Fleming,
Anthony Fleming Professional Corporation