



**Cunningham Swan**  
LAWYERS  
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**CONFIDENTIAL**

October 17, 2024

**SENT BY EMAIL TO: [llee@mcnabbraeside.com](mailto:llee@mcnabbraeside.com)**

Council  
c/o Lindsey Lee  
Township of McNab/Braeside  
2473 Russett Drive  
Arnprior, ON  
K7S 3G8

Dear Ms. Lee:

**RE: Code of Conduct Complaint – Report  
Our File No. 33392-11**

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**

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**SENT BY EMAIL TO: [llee@mcnabbraeside.com](mailto:llee@mcnabbraeside.com)**

Mayor and Council  
c/o Lindsay Lee, CAO/Clerk  
Township of McNab/Braeside  
2473 Russett Drive  
Arnprior, Ontario  
K7S 3G8

Dear Mayor and Council:

**RE: Code of Conduct Complaint – Final Report – Mayor Mackenzie  
Our File No.: 33392-11**

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:

- June 20, 2024 complaint received
- August 2024 complaint package provided to Member
- August and September, 2024 procedural arguments received from Member
- September, 2024 respond to procedural arguments from the Member
- September, 2024 interviews

### **Factual Findings**

The allegations that formed the basis of this investigation required limited findings of fact to be able to determine if there was a breach of the Code of Conduct by Mayor Mackenzie (the "Member"). The complaint related to a June 18, 2024 Council meeting and statements made by the Member at that meeting. As the meeting was recorded, there is no dispute as to what the Member said.

We offered the Member the opportunity to submit a written response to the complaint as is our normal practice. The Member did not avail himself of that opportunity. We also offered to interview the Member, which was also declined. The Member did however argue in writing that the Integrity Commissioner was outside of his jurisdiction as the complaint alleged bullying. The Member's position was that any workplace bullying allegation can only be investigated under the *Occupational Health and Safety Act*. The Integrity Commissioner considered the arguments presented and disagrees that this is an instance where the complaint must be referred to another agency for investigation.

The Member is found to have made the following statements at the June 18, 2024 meeting in response to a motion to disband the finance committee (this meeting was recorded and therefore no interviews were necessary to establish what was said):

- Accountability of senior staff to Council is generally very low;
- In my opinion Council is not effectively governed by its 5 elected representatives on major issues such as finance. It is rather controlled by senior staff who are more accountable to the provincial bureaucracy than to this Council. All they need is enough council members to support what is often nontransparent governance;
- I get the impression that the last thing that those who are running this Township want is citizens attending more meetings to see how this Township is actually run or to make suggestions on how to improve it;
- Municipal Act policies and Procedural By-law are selectively cited to maintain backroom control of the Township disregarding the clauses when inconvenient. I could provide numerous examples [no examples were provided];
- Reinstating me to the committee wouldn't hurt. The April motion to remove me from all committees had no valid reasons and is a tactic when a colleague asks inconvenient questions about improving accountability to the public and why we are short millions in cash from what we are supposed to have and why staff are asking to pay for this building [Township office] twice;
- Something else is going on and I think we are being pushed to tax more and more. I don't have my finger on it but it does not make any sense;
- I reiterate the call for an independent auditor to clarify what the financial situation is, starting with this building;
- Still millions short in cash.

In our December 2023 investigation report we found that the Member had acted in breach of the Code of Conduct with respect to his statements related to the 2022 financial statements and his intent to “make the financial statements for 2022 look as bad as possible”. In our August 2024 investigation report we found the Member had breached the Code of Conduct related to his accusations against staff that they were falsifying financial records – with no evidence.

Now in October of 2024 we are presenting a further report to Council where the Member is attacking staff because of his continuing belief that the Township is “short millions of dollars”, that staff are “asking to pay for the building twice” and reiterating his call for an independent auditor.

We reviewed the Council meeting recording of March 2, 2023 where the Township's auditor was questioned by the Mayor about where reserves were spent. The Municipal building was used as an example. The auditor answered the questions posed and explained the difference between reserves and unfinanced amounts and how some expenses would be paid with debentures. No information that we have reviewed substantiates the Member's continued claims that millions of dollars are missing.

## **Code of Conduct Findings**

The sections of the Code of Conduct engaged by this allegation include:

15.6 Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the Township.

16.1 All members of Council have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All members of Council shall ensure that their work environment is free from discrimination and of personal and sexual harassment.

We find that the speech given by the Member in open session falsely injured the professional and ethical reputation of staff contrary to Section 15.6. The Member's comments excerpted above are also malicious in that they were premeditated and accused staff of acting improperly in their professional capacity.

The comments collectively imply unscrupulous behaviour from staff, with no evidence.

The Member continues to disseminate his theory of financial mis-management, without evidence, and blames staff publicly for the shortfall of "millions of dollars".

The comments are a breach of section 16.1 as they are abusive. Even though no staff member is identified, the Member does refer to senior staff and in a small municipality such as McNab/Braeside there are a limited number of senior staff.

## **Recommendations**

The offensive behaviour found in this investigation is similar to findings from the December 18, 2023 and August 19, 2024 reports with respect to the treatment of staff by the Member. While the breach addressed in this report relates to one incident, it appears that the Member has not altered his behaviour as a result of the penalties imposed by Council as a consequence of the previous report.

Consistent with the recommendation in our August report, the Integrity Commissioner in this case recommends a financial penalty to ensure that Council is sending a strong message to staff that they respect their efforts and appreciate their professionalism.

We recommend that Council suspend the pay of the Mayor for a period of 60 days.

This is a longer suspension than that recommend in the August 2024 report, but one that the Integrity Commissioner believes is necessary to reflect the fact that the speech was

premeditated and demonstrated that the Mayor appears unwilling to modify his behaviour. A further aggravating factor warranting a suspension for 60 days is that this is not the first incident where the Mayor has made statements that injure the professional reputation of staff, it follows a previous investigation and penalty for similar behaviour and the statements demonstrate a pattern of behaviour.

Sincerely,

**Cunningham, Swan, Carty, Little & Bonham LLP**



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