



Cunningham Swan

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CONFIDENTIAL

July 20, 2022

Delivered by email to: MLevesque@cornwall.ca

Mayor and Council Members
c/o Manon Levesque, City Clerk
City of Cornwall
P.O. Box 877
Cornwall, Ontario
K6H 5T9

Dear Mayor and Members of Council:

**RE: Complaint Pursuant to the Code of Conduct re: Mayor Glen Grant
Our File No. 28637-7**

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 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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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.

PRELIMINARY REVIEW

On June 12, 2022, a complaint was made to our office with respect to the conduct of Cornwall Mayor Glen Grant. The complaint alleged that Mayor Grant contravened the City of Cornwall's Code of Conduct for Members of Council and Local Boards, as well as several City policies, and the *Municipal Elections Act*. Specifically, the complaint alleges that Mayor Grant:

- Enlisted the help of City staff in preparing a press release regarding his election campaign;
- Used City computers and/or software in preparing a press release regarding his election campaign; and
- Used his City e-mail address, the City's symbols, a City-owned device, and the City's e-mail and computer networks to disseminate a press release regarding his election campaign.

During the preliminary review we assume that the facts as set out in the complaint are true. We do this not for purposes of finding a breach, but to test the merit of the complaint. In other words, if the alleged behaviour in fact occurred, would that amount to a breach of the Code of Conduct? If the behaviour would constitute a breach, we undertake a full investigation to determine whether the allegations are true. If the behaviour, even if true, would not constitute a breach there is no reason to undertake a full investigation. It is important to understand that we make no finding of fact during the preliminary review - we simply assume the facts are true as a method to assess the merit of the complaint at this stage.

After conducting the preliminary review, the Integrity Commissioner found that some or all of the behaviour complained of would, if the allegations are true, constitute a breach or breaches of the Code of Conduct. As a result, the Integrity Commissioner undertook an investigation of the allegations.

FACTS

On June 7th, 2022, Mayor Grant sent two e-mails from his City of Cornwall e-mail account to various local media. The first e-mail indicated a press release was attached; the second e-mail simply attached that press release. Both e-mails bore the Mayor's e-mail signature, which

includes the City's logo. The attached press release announced the Mayor's re-election campaign. The digital file itself indicated that it was produced by a member of City staff.

The Mayor did not deny the facts as alleged. He asserted that he had a press release drafted by a third party, which was then e-mailed to his City of Cornwall e-mail account. He wanted to convert the release to a PDF and, not knowing how, forwarded the document to a City staff member for assistance. Once the staff member had converted the file, he then sent it to various media outlets, again using his City email account.

CODE OF CONDUCT

12.0 Use of Municipal Property

12.1 No Member shall for personal purposes or profit, use or permit the use of any Municipal property, equipment, services, or supplies other than for purposes connected with the discharge of Municipal duties or associated community activities of which Council has been advised, unless the use is reasonable and incidental personal use of equipment such as computers, fax machines, cell phones, blackberries, etc., where the Municipality incurs no additional costs relating to such use, and the use is of limited duration and frequency.

12.4 Municipal property and resources, including facilities, purchasing provisions, equipment, supplies, Staff (during working hours), and services will not be used for any election campaign activities, before or after Nomination Day. This also prohibits a Member from using:

- a) City-owned electronic devices, including corporate information technology assets, infrastructure, or data (i.e. computers, wireless devices, portals, corporate email, web pages, social media – including Facebook, Twitter and Instagram and blogs), telephone, and voicemail;
- b) City symbols and trade-marks, including on printed and electronic campaign materials;
- c) Communications, publicity, photographic or video material, websites or domain names containing the name, photograph or identify of a registered candidate;
- d) Signs, election promotion in City owned buildings, unless the location is rented according to City procedures and fees, which have been paid from the candidate's election account.

12.5 Members will not undertake campaign-related activities on municipal property unless permitted by the Returning Officer or their designate.

12.6 Members will not use the services of Staff for election-related purposes during hours in which those persons receive compensation from the Municipality. For purposes only of this provision, Staff shall include any person under contract with the Municipality or receiving remuneration from the Municipality for any service.

ANALYSIS

It is clear that the above-noted sections of the Code of Conduct, and the related policies, prohibit the use of City resources, logos, and staff for an “election-related purpose”. There is good reason for this, as permitting members to use City resources for their re-election campaign would create an unfair advantage vis-à-vis electoral opponents, and politicizes staff and resources which are to remain politically neutral.

The only determination to be made, on the facts, is whether the Mayor’s actions constitute use of City resources, logos, and staff, for an “election-related purpose”. In my opinion, there can be no doubt that preparing and disseminating a press release regarding the Mayor’s re-election campaign is an “election-related purpose”.

Given that the Mayor has admitted he sent the press release using his City email account, and my conclusion that the conduct is prohibited by the Code, I have no difficulty finding that the Mayor breached the Code of Conduct.

The Complaint also raises concerns that the Mayor violated the *Municipal Elections Act* and various city policies, which violations would also ostensibly be covered under the Code. In my opinion, it is not necessary to consider these violations, as they are essentially another way to characterize the Code breaches which we have already found.

CONCLUSION AND RECOMMENDATIONS

Having found a breach of the Code of Conduct, I must now determine what recommendations to make to Council, who will ultimately decide what the penalty will be. The impact of the complained of conduct was relatively minor, in that it did not consume a large number of City resources or confer a significant advantage on the Member. Nonetheless, the matter strikes at the heart of the public’s confidence in the fairness of the election, and the neutrality of City staff and resources. Further, that the Mayor would, in his own words, not realize that his conduct violated the Code is concerning, given that such information is communicated to those seeking election, and is readily available on the City’s website.

In our opinion, the penalty must be sufficient to preserve public confidence in Council and the neutrality of the City’s administration during an election year and to serve as a deterrent, while also reflecting the actual scale of the infraction. The email was sent to media outlets and not members of the public, which mitigates somewhat the severity of the breach. There was no deliberate attempt to send campaign messages to the public using the prestige of the office

of the sitting Mayor. Nevertheless, the use of City staff and City resources for campaign purposes is conduct that cannot be ignored or accepted. In all of the circumstances we recommend that Council suspend the Mayor's pay for a period of two weeks and request a public apology.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



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