



Resolution # 7

MOTION FORM

Date: **September 16, 2024**

Moved by: Lisa Coutu

Seconded by: Theresa Sabourin

That Council directs the Clerk to make the Code of Conduct Complaint Report public on the Town of Petawawa's website; and

That Council directs the Clerk to provide a copy of the Code of Conduct Policy to all members of Boards and Committees going forward and include all members of Boards and Committees in any training received by Council on the Code of Conduct.

Carried: gj ss

Recorded Vote: **For** **Against**

Mayor Serviss _____

Deputy Mayor Sabourin _____

Councillor Carmody _____

Councillor Coutu _____

Councillor Donovan _____

Councillor Driscoll _____

Councillor Rutz _____



Resolution # 8

MOTION FORM

Date:

Moved by:

Seconded by:

Theresa Sabourin
James Carmody

That Council ~~recommend~~^{quest} the member issue a public apology.

Carried:

g ss

Recorded Vote:

For

Against

Mayor Serviss

Deputy Mayor Sabourin

Councillor Carmody

Councillor Coutu

Councillor Donovan

Councillor Driscoll

Councillor Rutz



Tony E. Fleming
Direct Line: 613.546.8096
E-mail: tfleming@cswan.com

CONFIDENTIAL

August 15, 2024

SENT BY EMAIL TO: choward@petawawa.ca

Town of Petawawa
c/o Colin Howard, Director of Legislative Services/Clerk
1111 Victoria Street
Petawawa ON
K8H 2E6

Dear Mayor and Council:

**RE: Code of Conduct Complaint – Report
Our File No. 33268-3**

This public report of our investigation is being provided to Council in accordance with Section 223.6 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, 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.

{01382733.DOCX:}

TEL: 613-544-0211
FAX: 613-542-9814
EMAIL: INFO@cswan.com
WEB: WWW.CSWAN.COM

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 for this investigation are as follows:

- Complaint Received – March 12, 2024
- Preliminary Review – March 2024
- Complaint package sent to Member – March 28, 2024
- Member's Response Received – April 14, 2024
- Complainant's Response Received – April 30, 2024
- Member's Response Received – June 17, 2024
- Interviews – July 2024

Complaint Overview

A complaint (the “Complaint”) was received alleging that Richard McNish (the “Member”), the Chair of the Petawawa Business Advisory Network (the “PBAN”), posted insulting messages about a resident on a public Facebook comments page.

Specifically, it is alleged that the Member made several comments directed at the resident, which included the following specific comments:

- “I believe it was taken down because of all the useless crying going on by one individual who had plenty of opportunities to voice their opinions during the public consultations. But, he never showed up...”
- “Wow you certainly are a real piece of work...”
- “Let me educate your ignorant mind...”

Relevant Code of Conduct Provisions

The following provisions of the Code of Conduct were engaged by the Complaint:

4.1 Every Member has the duty and responsibility to treat members of the public, staff and each other in a respectful manner, without abuse, bullying, harassment or intimidation.

4.2 A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any Member of Staff, or any member of the public...

Jurisdiction

Our jurisdiction to conduct the investigation was considered as the Complaint alleged that a Member of the PBAN, and not Council, breached the Code of Conduct.

The Code of Conduct (By-law 1258/19) is titled “Being a By-law to Adopt a Code of Conduct for Members of Council, Local Boards and Committees of the Town of Petawawa”.

“Member” is defined in the Code as, “includes an elected member of the Municipal Council including the Head of Council and all members of Boards and Committees of the Municipality”.

“Local Board” and “Boards and Committees” is not defined in the Code. However, the *Municipal Conflict of Interest Act* defines “local board” as:

“local board” means...or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special act in respect of any of the affairs or purposes, including school purposes, of one or more municipalities or parts thereof...

It is our finding that the PBAN is a “local board” of the Town of Petawawa and the Member is considered to be a “Member” within the meaning of the Code of Conduct. The PBAN was created by resolution of Council and Council appoints the members of the Board, which includes one member of Council. As such, the Member is subject to the Code of Conduct and we have jurisdiction to conduct this investigation.

Factual Findings

No findings of fact were required in this investigation.

Copies of the Facebook posts containing the alleged comments were obtained and the Member confirmed during the interview process that he made the posts that were provided in the Complaint package.

Code of Conduct Findings

4.1 Every Member has the duty and responsibility to treat members of the public, staff and each other in a respectful manner, without abuse, bullying, harassment or intimidation.

The Member was found to have made the following comments on Facebook:

- “I believe it was taken down because of all the useless crying going on by one individual who had plenty of opportunities to voice their opinions during the public consultations. But, he never showed up...”
- “Wow you certainly are a real piece of work...”
- “Let me educate your ignorant mind...”

We find that the above comments are a breach of the Member’s obligations under Section 4.1 of the Code of Conduct with respect to the treatment of a member of the public. The Member in the posts identified himself as the Chair of the PBAN and was discussing a matter that pertained to the business of the PBAN. The comments were specifically directed at an identifiable member of the public.

Making comments of this nature in a public forum such as Facebook towards a member of the public is disrespectful and abusive. The comments were intended to insult and degrade the individual in a public manner. Comments of this nature are precisely the type of conduct that a member is prohibited from engaging in.

4.2 A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any Member of Staff, or any member of the public....

We find that the Member’s comments also breached Section 4.2 of the Code of Conduct. The Member made public remarks that were abusive and insulting. Specifically, the following emphasized portions of the comments made by the Member were a breach of Section 4.2:

- “I believe it was taken down because of **all the useless crying going on by one individual** who had plenty of opportunities to voice their opinions during the public consultations. But, he never showed up...”
- “Wow you **certainly are a real piece of work...**”
- “**Let me educate your ignorant mind...**”

These types of comments were intended to insult and discredit the resident and are not the types of communications that are acceptable for a Member to make when speaking with a resident. Context is also relevant in that the Member made these comments in a public forum which highlights the insulting nature of the comments and the lack of decorum and civility expected of a Member.

Recommendation

Sections 15.3 and 15.4 of the Code of Conduct govern the penalties and sanctions that we may recommend if a Member is found to be in breach of the Code of Conduct.

The conduct by the Member in this instance was inappropriate and fell far short of the decorum and civility that is expected of a Member of a Local Board communicating publicly with a Member of the public, particularly when that communication is in regards to a matter of the Local Board.

We recommend that Council issue a public reprimand to the Member and request a public apology.

The Member advised that he was not aware that he was bound by the Code of Conduct, that he was not informed of the Code of Conduct provisions and obligations and received no training about his obligations under the Code of Conduct.

We therefore further recommend that the Municipality provide a copy of the Code of Conduct to all Members of Boards and Committees going forward and include all members of boards and committees in any training received by Council on the Code of Conduct.

This concludes our investigation in this matter.

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:ls