



Cunningham Swan

LAWYERS

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CONFIDENTIAL

September 11, 2025

SENT BY EMAIL TO: kcostello@smithsfalls.ca

Mayor and Council
c/o Kerry Costello, Town Clerk
Town of Smiths Falls
77 Beckwith Street North
PO Box 695
Smiths Falls, Ontario K7A 2B8

Dear Ms. Costello:

**RE: Conflict of Interest Complaint – Report – Councillor
Quinn Our File No. 24529-52**

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, 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

- May 28, 2025, complaint received
- May 29, 2025, complaint sent to Member
- June 19, 2025, Member confirms they will be responding
- July 3, 2025, Member requests extension
- July 11, 2025, response received from Member
- July 12, 2025, response forwarded to complainant
- July 24, 2025, complainant confirms no further response forthcoming
- July 29, 2025, request further details from Member
- July 31, 2025 receive answers from Member
- August 5, 2025 submit additional questions to Member
- August 13, 2025, Additional responses from Member provided

Complaint Overview

On March 3, 2025, funding for community grant applications came before the Committee of the Whole. Councillor Quinn (the "Member") assumed the chair for the discussion.

Staff Report # 2025-17 recommended a number of recipients receive grant funding. Davidson Courtyard Shops was recommended for funding in the amount of \$4,665, "to assist with the cost of hosting live music on "Industry Night" every Monday evening from June 9th through October 6th".

Committee of the Whole recommended approval of the three additional grant recipients, including the Davidson Courtyard Shops.

The same evening, Council passed Resolution 2025-03-044 to adopt the recommendation of the Committee of the Whole and approve a grant to Davidson Courtyard Shops, among other recipients. Councillor Quinn moved the resolution and voted on the resolution.

Only Councillor Miller declared a conflict of interest in this item.

It was alleged that Councillor Quinn has a retail shop in Davidson Courtyard Shops and therefore participated and voted in this matter while having a conflict of interest.

Relevant Policy Provisions

The sections of the Code of Conduct that is engaged by this complaint are:

16. 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;
- f) do not put yourself in the position where a decision would give preferential treatment to other Members, Staff, friends, business colleagues or Family Members, or any organization that might indirectly benefit such individuals; and
- g) do not promise or hold out the prospect of future advantage through your influence in return for a direct or indirect personal interest.

17. Direct or indirect personal interests do not include:

- a) a benefit that is of general application across the Municipality;
- b) a benefit that affects a Member or his or her Family Members, friends or business colleagues as one of a broad class of persons; or
- c) the remuneration of Council, a Member or benefits available to Council or Members.

18. Every Member has the following obligations:

- a) To make reasonable inquiries when there is reason to believe that a conflict of interest may exist;
- b) To make Council or the Board or Committee aware of the potential conflict of interest and where appropriate declare the interest;
- c) To refuse to participate in the discussion of Council, the Board or Committee and to not vote on the matter or seek to influence the vote of any other Member where a conflict of interest exists;
- d) To refuse to be involved in any way in the matter once the conflict is identified, including without limitation participating in meetings, facilitating meetings or introductions to Staff or Members or providing advice to any person that would materially advance the matter; and
- e) If the matter which creates the conflict of interest is discussed in closed session, the Member may not attend that portion of the closed session where that matter is discussed.

Code of Conduct Findings

The Member has a shop in the Davidson Courtyard and is a member of the group known as the Davidson Courtyard Shops. This is a loose association of shop owners; the group is not incorporated and there is no formal membership within the group and no membership fee to participate in the group.

The Member does not open her shop on Monday nights when the events for which the grant was obtained were scheduled to occur. The Member was aware that the grant provided by the Town did not cover the whole cost of the proposed events. The Member was not aware of how the shortfall was made up; the Member did not contribute to the short fall and was not asked to do so by the group.

The Integrity Commissioner finds that there was no pecuniary interest created when the Town awarded the grant to the Davidson Courtyard Shops because the Member did not benefit financially from the grant. Although the group benefitted, the group is so informal that it does not qualify as a group for purposes of the *Municipal Conflict of Interest Act* and this investigation proceeded solely under the Code of Conduct.

The test under the Code of Conduct is whether, “an objective, reasonable observer would conclude that the Member is exercising their duties objectively and without undue influence”. The Code of Conduct then goes on to list a series of guidelines to assist members of Council in understanding what this requires. Section 16 provides:

- 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;

The other shop owners in the Davidson Courtyard fall within the category of friends or business colleagues with respect to the Member and her obligations under the Code of Conduct.

The Code of Conduct directs that the phrase conflict of interest be interpreted broadly.

Given that the Member is affiliated with the Davidson Courtyard Shops group and operates her business with the other owners who did directly benefit from the grant, the grant creates a conflict of interest for the Member. This is not a situation where the Member can simply take the position that she has no direct financial benefit because her business was closed on the "Industry Nights" when music was offered and therefore she is not in a conflict.

The Code of Conduct is clear that the Member must place the interests of the Town before the interests of friends and business colleagues. In this circumstance, the Integrity Commissioner finds that a reasonable person, apprised of all of the relevant facts, would find that the Member could not be impartial when making this decision. It is reasonable to assume that an objective observer would conclude that the Member could not make an objective decision given the influence of her fellow shop owners.

As such, the Integrity Commissioner finds that the Member breached section 16.

The Integrity Commissioner then considered section 17 to determine if the benefit in question was one of general application that would entitle the Member to an exception. In this case, the benefit was very specific to the Davidson Courtyard Shops and is not exempted from the Code of Conduct.

Recommendation

The conflict of interest sections of the Code of Conduct are intended to give the public confidence that members of Council are making decisions impartially and with the best interests of the taxpayers in mind. In this case, any member of the public who knew that the Member operated a shop in the Davidson Courtyard could reasonably have questioned whether the Member was being impartial, or whether they were voting to give public money to her friends and colleagues.

To avoid this perception, the Member ought to have declared a conflict of interest and not participated in the vote on the Davidson Courtyard Shops grant.

In order to assure the public that Council takes its obligations seriously and does not condone members of Council acting in conflict, the Integrity Commissioner recommends that Council suspend the remuneration of the Member for a period of 2 weeks.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



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(Local Government / Land Use Planning)
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TEF