

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

CONFIDENTIAL

February 11, 2026

SENT BY EMAIL TO: kcostello@smithsfalls.ca

Mayor and Council
c/o Kerry Costello, Clerk

Dear: Mayor and Council

**RE: Code of Conduct Complaint – Report – Councillors Brennan and Robinson
Our File No. 24529-55**

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.

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

00498072.DOCX:

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

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

- January 20, 2026, complaint received
- January 22, 2026, complaint package sent to both members
- January 22, 2026, response received from Member Robinson
- January 22, 2026, response received from Member Brennan

Summary of Complaint

A complaint was received by our office on January 20, 2026, alleging that Councillor Jay Brennan ("Member Brennan") made inappropriate comments about an identifiable individual at the January 5, 2026 Council meeting.

The same complaint also alleged that Councillor Stephen Robinson ("Member Robinson") made an inappropriate comment at the same meeting.

Since the incident was captured in a "hot mic" moment at the conclusion of the meeting, the Integrity Commissioner conducted a joint investigation and prepared a joint report about both members of Council.

The nature of the comments made by Member Brennan are well known and public and need not be repeated in this report. Suffice it to say that they were entirely inappropriate and offensive. The comment made by Member Robinson was by way of text to Member Brennan only. Had Member Brennan not stated out loud at the meeting what Member Robinson texted him, no other person would be privy to that comment. As with Member Brennan's comment, Member Robinson's comment is well known at this point and was equally inappropriate and offensive.

The facts are not in dispute as the comments were captured in the audio recording and have been reported in the media. Neither Member disputed making the statements.

Code of Conduct

The Code of Conduct provides:

General Conduct

9. 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.

10. 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. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.

...

Conduct at Meetings

12. Every Member shall conduct themselves with decorum and professionalism at all Council, Committee, Board and other meetings in accordance with the provisions of the applicable Procedure by-law, this Code, and other applicable law.

Findings and Recommendations

The comments of both Members were undisputably offensive and contrary to sections 9, 10 and 12 of the Code of Conduct.

We considered the fact that Member Robinson's comments were not intended to be shared with the member of the public that they related to, but we are guided by the language of the Code of Conduct that states that members of Council must treat people respectfully. This includes making comments to others about an identifiable person, and not just making comments directly to the person who is the subject of the comment.

Member Robinson acknowledged the inappropriateness of his comments and apologized in his written submission during this investigation; we are not aware of any public apology from the Member. Member Robinson was sanctioned by Council with a 15 day suspension of the right to attend meetings.

Member Brennan has publicly apologized and was been sanctioned by Council by being suspended from attending meetings for 45 days.

Section 61 of the Code of Conduct allows an Integrity Commissioner to recommend an apology as part of sanctions. In this case, because Member Brennan has already issued a public apology, no further apology is necessary in the circumstances.

We are not aware of any public apology by Councillor Robinson, and as such we recommend that Council direct Member Robinson to issue a public apology for his behaviour.

In recognition of the Council sanction of both members and the public apologies (one existing and one recommended), the Integrity Commissioner recommends that Council further suspend the pay of both Members as follows:

- a suspension of pay for 15 days for Member Brennan.
- a suspension of pay for 5 days for Member Robinson.

The foregoing recommendations reflect the seriousness of the comments but acknowledge that certain sanctions have already been imposed.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP

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

Tony E. Fleming, C.S.
LSO Certified Specialist in Municipal Law
(Local Government / Land Use Planning)
Anthony Fleming Professional Corporation
TEF