

REGULAR COUNCIL MEETING MINUTES

Held on Tuesday, June 7, 2022 at 5:00PM Closed Session and 6:00PM Open Session
Held via WebEx Video, Teleconference and; In-Person

COUNCIL MEMBERS PRESENT		STAFF PRESENT
Mayor:	Ted Lojko	Shellee Fournier, CAO
Councillors:	Dave Anderson	Penny Kelly, Clerk/CEMC
	Adrian Haird	Melanie Kirkby, Treasurer
	Matt Harper	David Armstrong, Manager of Public Works
	Mike Kench	Brenda Guy, Manager of Planning and Development
	David Osmond	Doug Wark, Manager of Community Services
		Scott Gee, Chief of Police Gord Howard, Fire Chief
Regrets:	Dennis O'Connor	

1.	Call Meeting to Order
	Mayor Lojko called the meeting to order at 5:00 PM, with the following Council Members present: Deputy Mayor Anderson, Councillor Harper, Councillor Kench and Councillor Osmond.
2.	Disclosure of Pecuniary Interest & General Nature Thereof
	1. Mayor Lojko declared a pecuniary interest with respect to Report Council-RDS-2022-10 – Award of Contract – Detail Engineering Design Arthur Street – Request for Proposal, as the street he resides on abuts Arthur Street.
	2. Councillor Kench declared a pecuniary interest with respect to Report Council-PD-2022-11 – Deeming By-law – Kench, as the he is the owner of the property / lands being considered.
3.	Closed Meeting of Council (Beginning at 5:00 PM)
	Move into Closed Session
	Moved by Councillor Osmond that the Council of the Town of Gananoque, in accordance with Section 239.2 of the <i>Municipal Act</i> , moves into Closed Session at 5:00 PM for the purpose of discussing two (2) items under Personal Matters Concerning an Identifiable Individual, Including Municipal or Board Employees. CARRIED – by those present
4.	Move Out of Closed Session at 5:24 PM
	Council resumed the Open Session at 6:00 PM
5.	Matters Arising from Closed Session
	A Closed Meeting was held. Council discussed two (2) items under Personal Matters Concerning an Identifiable Individual, Including Municipal or Board Employees. Council considered the following.
	Integrity Commissioner Report – Councillor Dennis O'Connor **Moved by Councillor Kench and Seconded by Deputy Mayor Anderson that the recommendation be amended to remove the words “ AND FURTHER THAT A LETTER OF REPRIMAND BE ISSUED TO COUNCILLOR O’CONNOR. ” DEFEATED – 3 Ayes, 3 Nays

	<ul style="list-style-type: none"> • The Chair advised that under the Development Permit By-law, comments may be made by the public, however, once a Permit has been approved the only party able to appeal to the Ontario Land Tribunal is the Applicant. • The Chair asked if any member of the public had any questions or comments – None
	<ul style="list-style-type: none"> • The Chair asked if the Applicant / Owner have any additional questions or comments <ul style="list-style-type: none"> • The Applicant / Owner were not in attendance.
	<ul style="list-style-type: none"> • Council considered the following recommendation.
	<p>Motion #22-099 – Development Permit Application – DP2021-23A – 425 Fourth Street – Horizon Legacy</p> <p>Moved by: Councillor Osmond Seconded by: Councillor Harper</p> <p>AS RECOMMENDED BY THE PLANNING ADVISORY COMMITTEE (PAC), BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE APPROVES DP2021-23A HORIZON LEGACY FOR THE PROPERTY LOCATED AT 425 FOURTH STREET BE AMENDED TO ALLOW THE OVERALL BUILDING SITE PLAN TO INCLUDE FIVE (5) STRUCTURES, PROVIDED ALL CONDITIONS AS SET OUT IN THE NOTICE OF DECISION DATED MARCH 7, 2022, ARE MET AND THAT THE APPLICANT INCORPORATE AND EXTEND A NATURAL PATHWAY TO FOURTH STREET, AS PRESENTED IN COUNCIL REPORT PD-2022-10.</p> <p style="text-align: right;">CARRIED – UNANIMOUS</p>
13.	Correspondence
	1. Accounts Payable – May 11 to May 30, 2022
	2. TI Taxi – Request to Review Taxi Fares / Rates
	<p>Motion #22-106 – TI Taxi – Request to Review Taxi Fares / Rates</p> <p>Moved by: Councillor Osmond Seconded by: Councillor Harper</p> <p>BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE DIRECTS STAFF TO BRING BACK A REPORT FOR JUNE 21, 2022, REGARDING TI TAXI'S REQUEST TO REVIEW TAXI FARES / RATES.</p> <p style="text-align: right;">CARRIED – 5 Ayes, 1 Nay</p>
	3. Artefact Oversight Committee – Proposal to Use Third Floor at Town Hall
	<p>Motion #22-107 – Artefact Oversight Committee – Proposal to Use Third Floor at Town Hall</p> <p>Moved by: Councillor Kench Seconded by: Councillor Osmond</p> <p>BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE RECEIVES AND ACCEPTS THE ARTEFACT OVERSIGHT COMMITTEE'S PROPOSAL TO USE THE TOWN HALL THIRD FLOOR FOR ADDITIONAL STORAGE SPACE FOR SMALL OBJECTS IN THE CIVIC COLLECTION.</p> <p style="text-align: right;">CARRIED – UNANIMOUS</p>
	4. Scott Ewart – Request to Amend Lease Agreement
	<p>Motion #22-108 – Scott Ewart – Request to Amend Lease Agreement</p> <p>Moved by: Councillor Harper Seconded by: Deputy Mayor Anderson</p> <p>BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF GANANOQUE RECEIVES MR. SCOTT EWART'S PROPOSAL DATED MAY 31, 2022,</p> <p>AND FURTHER DIRECTS STAFF TO BRING BACK A COUNCIL REPORT FOR JUNE 21, 2022, AMENDING THE LEASE AGREEMENT TO ALLOW THE 15 FOOT BOAT TO BE PERMANENTLY LOCATED ON THE KAYAKING DOCK, AND THAT THE 25 FOOT BOAT BE RELOCATED TO THE CORNER DOCK.</p> <p style="text-align: right;">CARRIED – UNANIMOUS</p>
	5. Minutes – Police Services Board (PSB) – Thursday, April 21, 2022

23.	Next Meeting – Tuesday, June 21, 2022
24.	Adjournment
	<p data-bbox="321 344 737 379">Moved by: Councillor Harper</p> <p data-bbox="321 384 1406 459">Be it resolved that Council hereby adjourns this regular meeting of Council at 9:06 PM.</p> <p data-bbox="1154 459 1536 494" style="text-align: right;">CARRIED – UNANIMOUS</p>
<p data-bbox="228 634 477 674">_____ Ted Lojko, Mayor</p>	<p data-bbox="857 634 1240 674">_____ Penny Kelly, Clerk / CEMC</p>



Cunningham Swan

LAWYERS

• EST 1894 •

Tony E. Fleming
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CONFIDENTIAL

May 18, 2022

SENT BY EMAIL TO: clerk@gananoque.ca

Penny Kelly, Clerk
Town of Gananoque
30 King Street East
P.O. Box 100
Gananoque, ON K7G 2T6

Dear Ms. Kelly:

**RE: Application for Inquiry to the Integrity Commissioner – Councillor Dennis O'Connor
Municipal Code of Conduct
Our File No. 16418-159**

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. If Council requires the attendance of the Integrity Commissioner when the report is dealt with by Council, please advise.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP

Tony E. Fleming, C.S.
LSO Certified Specialist in Municipal Law
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May 18, 2022

BY E-MAIL: clerk@gananoque.ca

Mayor and Members of Council
c/o Penny Kelly, Clerk
Town of Gananoque
30 King Street East
P.O. Box 100
Gananoque, ON K7G 2T6

Dear Mayor and Members of Council:

**RE: Application for Inquiry to the Integrity Commissioner – Councillor Dennis O’Connor
Municipal Code of Conduct
Our File No: 16418-159**

On March 2, 2022, a complaint (the “Complaint”) was received alleging that Councillor Dennis O’Connor voted during the March 1, 2022 Council Meeting despite a conflict of interest. Specifically, it was alleged that Councillor O’Connor voted in favour of the development permit application DP2022-01 related to the Home Hardware operated by Councillor O’Connor’s brother.

This matter was investigated under the Code of Conduct only as the *Municipal Conflict of Interest Act* does not consider the pecuniary interests of siblings as creating a conflict of interest for a member.

The Complaint was provided to the Integrity Commissioner on March 2, 2022 and we sent a letter to the named member on March 8, 2022 requesting that Councillor O’Connor provide a written response to the Complaint. The Councillor responded on March 8, 2022. The
00707765.DOCX:

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Councillor's response was forwarded to the Complainant and we received the Complainant's further response on March 24, 2022. This further response was sent to the Councillor on March 25, 2022 and we received the Councillor's response on April 5, 2022.

The Integrity Commissioner has conducted an investigation and finds:

- Councillor O'Connor voted on the Development Permit Application DP2022-01;
- The Application pertained to the expansion of the Home Hardware operated by Councillor O'Connor's brother, Ken O'Connor;
- Councillor O'Connor did not declare a conflict of interest or recuse himself from the vote.

In his response, Councillor O'Connor indicated that he has severed his association with his brother and further, that his brother does not own the land or the building but merely rents it.

The Code of Conduct provides:

4. General Integrity

- Members shall avoid the improper use of the influence of their office and shall avoid conflict of interest, both apparent and real.

As noted by the Honourable Justice Bellamy in her final report on the Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry:

An apparent conflict of interest exists when someone could reasonably conclude that a conflict of interest exists. In other words, it is a matter of public perception.

Public perceptions of the ethics of public servants are critically important. If the public perceives, even wrongly, that public servants are unethical, democratic institutions will suffer from the erosion of public confidence.¹

As such, even where a real conflict of interest may not exist, an apparent conflict of interest may exist based on what a member of the public would reasonably conclude.

Conclusion/Recommendation

The Integrity Commissioner finds that Councillor O'Connor had an apparent conflict of interest when voting on development permit application DP2022-01. While Councillor O'Connor indicates that his relationship with his brother who operates the property that was

¹ The Honourable Madame Justice Denise E. Bellamy, Report on the Toronto Computer Leasing Inquiry-Toronto External Contracts Inquiry, Volume 2, "Good Government", 2005, Toronto, p. 39-40.

the subject of the application is severed, this would not be known to a member of the public. A member of the public could reasonably conclude that a conflict of interest existed.

Further, although Councillor O'Connor's brother may not own the land, this does not negate the appearance of a conflict of interest as an expansion of the store is likely to create a financial benefit to Councillor O'Connor's brother. A member of the public could reasonably make this conclusion.

The Integrity Commissioner recommends that Council issue a reprimand to Councillor O'Connor to demonstrate that Council expects its Members to avoid both real and apparent conflicts of interest when voting on matters at Council meetings. In the circumstances, a more significant penalty is not deemed necessary given that the Councillor cooperated fully with the investigation and was very candid about the reason for his participation in the vote. While the fact that the Councillor felt that his personal relationship with his brother was severed was not relevant to the matter of the public's perception, it does speak to motive and mitigates somewhat the conflict of interest.

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

From: Barbara Fisk
Sent: Monday, June 6, 2022 12:57:05 PM
To: Ted Lojko <tlojko@gananoque.ca>; Shellee Fournier <SFournier@gananoque.ca>
Subject: Water Fountain - Rotary

Good afternoon Ted and Shellee,
Ted, thank you for the phone call just now to review the situation.
I am following up on the note you sent earlier regarding a shared costing for a new Rotary water fountain in Sculpture/Confederation Park.
Our board met on Saturday and although we don't have the club ratification of this yet, we are confident that our decision will be supported.

The Gananoque Rotary club is willing to commit to a maximum of \$15,000 as a joint cost with the BIA, TIAP, TAP, and the Town to cover the cost of a new water fountain.

We do have a couple of additional conditions.

1. That every effort be made to secure the overall funding for the project from the RTO9, as was initially suggested (or through another grant should it be necessary).
2. That should the RTO9 funding (or other grant) not be forthcoming, that payment of the Rotary commitment would be subject to negotiated payment terms over several years.
3. That the Town will continue to be fully responsible for ongoing maintenance, repairs, operational costs, and annual storage of the fountain.
4. That the fountain remain named as the Rotary Fountain, along with the plaque currently on the bridge.

We fully understand and appreciate that all of our groups are working together to beautify the Town and make it as pleasant as possible for our residents, as well as our annual tourists.
Thank you for expediting this project.

Yours in Rotary,

Barbara

Barbara Fisk, President 2021-2022 & 2022-2023
Rotary Club of Gananoque

D7040 – Grants Stewardship Committee 2019-2023
D7040 – Polio Plus Chair 2021-2024
D7040 – District Rotary Foundation Chair – 2022-2025

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