



To: Mayor and Council  
From: Kerry Costello, Town Clerk  
Date: May 16, 2023  
Committee of the Whole Date: May 23, 2023  
Title: Integrity Commissioner Annual Report

☐ For Direction  
☒ For Information  
☐ For Adoption  
☒ Attachments 3 Pages

---

**Recommendation:** THAT the Council of the Corporation of the Town of Smiths Falls receive the Integrity Commissioner Services-Annual Report-2022; prepared by the Town's Integrity Commissioner, Tony Fleming of Cunningham Swan as per Section 223.6(3) of the Municipal Act, as amended.

---

**Purpose:** The purpose of this report is to ensure compliance with the Municipal Act, S.O. 2011, c.25 that denotes:

**Report to council**

**223.6** (1) If the Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned. 2006, c. 32, Sched. A, s. 98.

**Report about conduct**

(2) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

**Publication of reports**

(3) The municipality and each local board shall ensure that reports received from the Commissioner by the municipality or by the board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 98.

**Background:** Council passed Bylaw 10430-2023 on March 6<sup>th</sup>, 2023, authorizing an agreement with Cunningham, Swan, Carty, Little & Bonham, and to appoint them (Lead: Tony Fleming) as the Town's Integrity Commissioner until March 31, 2028.

As per the legislation, this report is prepared annually and summarizes the services provided by the Integrity Commissioner to the Town of Smiths Falls in 2022, in accordance with section 223.6 (1) of the *Municipal Act*.

In 2022, there were no complaints under the Code of Conduct or Applications for Inquiry under the *Municipal Conflict of Interest Act* submitted to the Integrity Commissioner for the Town of Smiths Falls. Full report attached as Appendix A.

**Analysis and Options:** THAT a resolution be passed to formally receive the Integrity Commissioner Services-Annual Report-2022.

**Link to Strategic Plan:** N/A

**Existing Policy:**

- Municipal Act, S.O. 2011, c.25
- Bylaw 10430-2023 which authorized an agreement with Cunningham, Swan, Carty, Little & Bonham, and to appoint them (Lead: Tony Fleming) as the Town's Integrity Commissioner until March 31, 2028.
- Code of Conduct for Elected Officials and Local Boards

**Consultations:** N/A

**Attachments:** Integrity Commissioner Services-Annual Report-2022

Respectfully submitted by:

Approved for agenda by CAO:

*Original Copy Signed*

*Original Copy Signed*

Kerry Costello  
Director of Corporate Services/Clerk

Malcolm Morris, CMO  
Chief Administrative Officer

Tony E. Fleming  
Direct Line: 613.546.8096  
E-mail: [tfleming@cswan.com](mailto:tfleming@cswan.com)

May 8, 2023

**SENT BY EMAIL TO:** [kcostello@smithsfalls.ca](mailto:kcostello@smithsfalls.ca)

Town of Smiths Falls  
c/o Kerry Costello, Clerk  
77 Beckwith Street North  
Smiths Falls, ON K7A 2B8

Dear Mayor and Members of Council:

**Re: Integrity Commissioner Services - Annual Report – 2022**  
**Town of Smiths Falls**  
**Our File No. 24529-10**

Background

In 2018, Tony Fleming of Cunningham Swan in Kingston, Ontario, was appointed as the Integrity Commissioner for the Town of Smiths Falls in accordance with section 223.3(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25 (the “Act”).

This report summarizes the services provided by the Integrity Commissioner to The Town of Smiths Falls in 2022, in accordance with section 223.6 (1) of the *Act*.

Role of the Integrity Commissioner

The Act mandates that the Integrity Commissioner is responsible for providing the following functions:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.

01014799.DOCX:

TEL: 613-544-0211  
FAX: 613-542-9814  
EMAIL: [INFO@CSWAN.COM](mailto:info@cswan.com)  
WEB: [WWW.CSWAN.COM](http://WWW.CSWAN.COM)

2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* (“MCIA”) to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the MCIA.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality’s codes of conduct for members of council and members of local boards and about the MCIA.<sup>1</sup>

#### Integrity Commissioner Activity re: the Town of Smiths Falls

If Council requires ongoing training under the Code of Conduct and the MCIA, Mr. Fleming is available upon request. Individual members may request advice from the Integrity Commissioner at any time. Council or members may contact Mr. Fleming in the following ways:

- 1) Council may pose a question to the Integrity Commissioner in writing regarding the broad obligations of all members (not specific to any one member);
- 2) Individual members may request advice in writing from the Integrity Commissioner in accordance with the Act.

#### Requests for Advice

We received one request for advice from a member of Council related to obligations under the Code of Conduct and the *Municipal Conflict of Interest Act* provisions. These are the most common areas for which we provide advice as Integrity Commissioner.

We encourage members of Council and Local Boards for The Town of Smiths Falls to contact us in writing should they find themselves unsure of their obligations under the Code or the *Municipal Conflict of Interest Act*. If a member requests and follows our advice, that advice may

---

<sup>1</sup> *Municipal Act*, section 223.3(1).

be relied on should there be a complaint to the Integrity Commissioner on the same facts in the future.

#### Complaints/Applications for Inquiry

There have been no complaints under the Code of Conduct or Applications for Inquiry under the *Municipal Conflict of Interest Act* submitted to the Integrity Commissioner for the Town of Smiths Falls.

In accordance with section 57. of your Code of Conduct, we wish to advise of the following:

1. Costs associated with Advice provided was \$226.00.
2. Costs associated with Complaints was \$0.00.

#### Closing Remarks

We thank The Town of Smiths Falls for the opportunity to act as its Integrity Commissioner. We remind members that the Integrity Commissioner is available to provide advice in accordance with the Act regarding a member's obligations under the Code of Conduct and the MCIA. We note that this service provides members with the proactive ability to avoid potential complaints by requesting and acting on advice which may apply to the circumstances of the member.

Members are held to the highest standards of office in their elected positions, and we thank members for their continued attention to the ethical obligations expected of them.

Please contact us with any follow-up questions.

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:mj