



ADR
CHAMBERS

Integrity Commissioner Office
for Township of Rideau Lakes

ELLEN FRY

Integrity Commissioner
Township of Rideau Lakes
E-mail: integrity@adr.ca

February 19, 2025

Sent By Email To:

The Complainants

And To:

Councillor Jeff Banks

And To:

Mary Ellen Truelove, Township Clerk

Re: Investigation Report for Complaint IC- 35304-1124, against Councillor Jeff Banks

This is the investigation report of the Integrity Commissioner concerning a complaint brought against Councillor Jeff Banks under the Rideau Lakes Code of Conduct for Members of Council, Local Boards and Select Committees (the "Code of Conduct").

Pursuant to Section 223.3(1) of the *Municipal Act, 2001* and the Statement of Duties and Responsibilities of the Integrity Commissioner in Schedule "A" to the Code of Conduct, the Integrity Commissioner is responsible for the application of the Code of Conduct and for determining, when requested, whether a Member of Council has contravened the Code of Conduct.

A. The Complaint

The Complainants filed a written complaint dated November 18, 2024. The complaint alleges that Councillor Jeff Banks and other Councillors contravened the following provisions of the Code of Conduct: sections 1.1, 1.2(ii)(iii) and (iv), 5.3(i) and (ii), 6.8.1, 6.10.1 and 7.1. This is the investigation report concerning the complaint against Councillor Banks. I have addressed the complaints against the other Councillors in investigation reports concerning each Councillor individually.

The Complainants have summarized some key elements of their belief concerning their grounds of complaint against Councillor Banks as follows:

[Councillor Banks has shown] a pattern of disdain and disrespect for anyone who did not agree with [his] position.

[Councillor Banks] constantly interrupt[s] or speak[s] over other Councillors and the Mayor when they do not agree. There is a tremendous level of disrespect for the role and authority of the Mayor in both tone and behaviour.

From disrupting the business of Council by refusing to approve an agenda, to voting on an RFP with direction and then denying direction was given; through the evolution of publicly accusing a consultant for delays caused by [C]ouncil changes in direction and even more egregious, not even understanding or accepting accountability for passing a motion with unintended – or more realistically unconsidered consequences; along with the never-ending disrespect and disdain for the Mayor in his efforts to bring order to chaos, Councillor [Jeff Banks] [has] brought both the Municipality and Council into disrepute.

The Complainants also believe that Councillor Banks has displayed a conflict of interest because he “[appears] to be attempting to discredit the current consultant IDEA, and further advocating for their preferred consultant, Altered Roots, whose bid was significantly higher than IDEA”.

The Complainants have provided specifics of the conduct being complained of that in their view occurred at the Council meetings on April 2, May 13, August 6, October 15, October 28, November 4 and November 12, 2024.

The Complainants have also provided information concerning a November 25, 2024 Committee meeting. However, since this conduct occurred after the complaint was filed, I did not consider conduct at the November 25 meeting in investigating this complaint.

B. Investigation Process

The investigation process is set out in the Code of Conduct. In accordance with this investigation process, I gave the parties the opportunity to submit the following written materials, which I reviewed:

- The Complaint
- The response to the Complaint by the Councillor
- The reply by the Complainants to the Councillor’s response
- The response by the Councillor to the Complainants’ reply

I also reviewed the relevant portions of

- The Code of Conduct

- The Procedural By-Law
- The portions of video referred to by the Complainants from the meetings in 2024 held on April 2, May 13, August 6, October 15, October 28, November 4 and November 12.

The portions of meetings referred to by the Complainants comprised approximately 3 and a half hours of video.

Only one of the Complainants wished to be interviewed. I conducted a telephone interview with that Complainant and with Councillor Banks.

Before I finalized this report, I sent a draft copy of the report to Councillor Banks for comment.

C. Analysis of Complaint Allegations

Sections 1.1, 1.2(ii)(iii) of the Code of Conduct

These provisions state as follows:

ii.3 The Township of Rideau Lakes is strategically focused on ‘progressive rural governance’. Progressive governance calls for the highest standards of conduct from elected officials and those appointed by Council to local boards and committees that exercise direct authority under any Act. Their conduct must be transparent, ethical, accountable, and always in the best interest of the community as a whole. This standard of conduct will further serve to protect, maintain and enhance the Township of Rideau Lakes’ reputation and taxpayer’s confidence in the corporation and Council’s decisions.

1.2 The key statements of principle that underline this *Code of Conduct* are as follows:

...

ii. Members of Council shall be committed to performing their functions with integrity and to avoid the improper use of the influence of their office;

iii. Members of Council shall perform their duties in office, and arrange their private affairs, in a manner that promotes public confidence and will bear close public scrutiny; and

iv. Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the laws and policies adopted by this and other Municipal Councils.

These provisions are statements of principle that can be an aid to interpreting the Code of Conduct but do not independently establish specific responsibilities that Councillors are required to uphold. It was not necessary for me to refer to these statements of principle in investigating this complaint.

Delegation at the November 4 Council Meeting

The Complainant believes that Councillor Banks behaved inappropriately by turning his back when Wendy Alford made a delegation presentation to Council at the November 4 meeting.

The video of the meeting shows that immediately before Ms. Alford began her presentation, the Mayor sat at the head of a boardroom table and all of the Councillors sat around the table, facing the inside. Ms. Alford made her presentation at the foot of the table, facing the Mayor.

From their positions facing the inside of the table, all of the Councillors would have had sideways views of Ms. Alford during her presentation. However, when Ms. Alford began her presentation, Councillor Banks and four other Councillors turned their chairs so that their backs were facing Ms. Alford. All five Councillors maintained this position throughout the presentation by Ms. Alford.

The Complainant alleges that it was inappropriate for Councillor Banks to turn his back on Ms. Alford.

Sections 6.8.1 and 6.10.1 of the Code of Conduct state as follows:

6.8.1 During Council meetings, members shall conduct themselves with decorum. Respect for deputations and for fellow members and staff requires that all members show courtesy and not distract from the business of Council during presentations and when other members have the floor.

6.10.1 All members of Council shall treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation.

By turning his back on Ms. Alford, it would normally be considered that Councillor Banks did not “show courtesy” during Ms. Alford’s presentation, as required by section 6.8.1, and did not treat Ms. Alford, as a member of the public, “appropriately” as required by section 6.10.1.

In the Procedural By-Law, Council has given the Mayor the responsibility to take action he considers appropriate to preserve order at the meetings he chairs. For example, section 10.0 of the Procedural By-Law provides the following under the heading “Duties of the Mayor and Committee Chair”:

10.2 Preserve order and decide questions of order

10.7 Inform the Council and enforce when necessary, the rules of order and decorum among the Members

10.11 Order any individual or group in attendance at the meeting to cease and desist any behaviour which disrupts the order and decorum of the meeting and order the individual or group to vacate the Council Chamber where such behaviour persists.

The Chair shall:

10.17 ...preside over the conduct of a meeting, including the preservation of good order and decorum, ruling on points of order and deciding all questions relating to the orderly

procedure of the meetings, subject to an appeal by any member from any ruling of the Chair. The Chair shall call meeting participants to order for behaviour that breaches the rules of decorum in accordance with the provisions of this By-Law. Where circumstances warrant, the Chair may recess or suspend a meeting until order is restored and/or request any participant persisting in a breach of decorum to leave the meeting.

In presiding over Council and Committee meetings, the Chair may be called upon to exercise his authority to address possible issues of order and decorum on multiple occasions. If an issue concerning order and decorum arises, the Chair needs to decide immediately whether to take action concerning the issue. The Chair will make this decision based on his view (whether arguably right or wrong) of what is appropriate in the context of the meeting. If a Councillor considers that a ruling by the Chair is incorrect, section 10.17 provides a mechanism to appeal the ruling.

Considering these factors, I do not consider that it should normally be the role of the Integrity Commissioner to second guess the Chair's exercise of discretion in addressing possible issues of order and decorum. However, in this instance I have addressed the issue because I consider what occurred to have been a significant breach of good order and decorum.

Councillor Banks states that the reason he turned his back of Ms. Alford was that he was afraid she would spit at him. Councillor Banks indicates that he had been subject to a constant barrage of attacks in media by Ms. Alford and her residents group; that there was a past incident in which he was spit on by a member of Ms. Alford's group; and that he was also aware of what he considered to be erratic past behaviour by Ms. Alford. Given these factors and the fact that he was sitting close to Ms. Alford, he was apprehensive that Ms. Alford would spit at him if he faced her.

Given this explanation, I do not consider that Councillor Banks contravened the Code of Conduct by turning his back on Ms. Alford.

November 12 Meeting

At the November 12 meeting Councillor Banks had an exchange with the Mayor concerning the November 4 incident. Councillor Banks told the Mayor that he would swing his chair to put his back to a delegation if he wanted to, and that he would challenge the Mayor if the Mayor told him to leave the meeting as a result.

Councillor Banks views his remarks as a challenge to the Mayor that he believes should have been permissible.

Under section 10.11 of the Procedural By-Law, the Mayor has the authority to order Councillors to cease turning their backs on a delegation if he considers that this disrupts the order and decorum of the meeting. Section 10.11 gives the Mayor the authority to order Councillors to leave the meeting if behaviour that disrupts order and decorum persists. Under section 10.17 of the Procedural By-Law, Councillors have the right to appeal any ruling of the Chair.

Accordingly, if the Mayor ruled that Councillor Banks should leave a meeting as a result of swinging his chair, Councillor Banks would have the right to challenge this ruling. The mechanism to do so would be to appeal the ruling as provided for in section 10.17 of the Procedural By-Law.

However, in communicating the fact that he would challenge a ruling by the Mayor on this issue, Councillor Banks should have done so in a way that complied with section 6.10.1 of the Code of Conduct. In my view, the way in which Councillor Banks communicated this showed a significant lack of respect for the Mayor's role as established by Council under the Procedural By-Law and hence did not treat the Mayor appropriately. Accordingly, I consider that Councillor Banks contravened section 6.10.1 of the Code of Conduct.

I also consider that in the way he communicated his challenge, Councillor Banks contravened section 5.3(ii) of the Code of Conduct. Section 5.3(ii) provides as follows:

5.3(ii) Members shall refrain from engaging in conduct that would bring the Municipality or Council into disrepute or compromise the integrity of the Municipality or Council.

Although the Code of Conduct indicates that section 5.3(ii) is a general principle, rather than a specific obligation on the part of Councillors, section 5.2 provides that section 5 "shall also be used to determine issues not specifically addressed in this *Code of Conduct*". Accordingly, if Councillor Banks engaged in conduct that would bring the Municipality or Council into disrepute, as believed by the Complainants, this would be a contravention of section 5.3(ii).

I consider that because Councillor Banks' communication conveyed publicly a significant lack of respect for the Mayor's function as Chair as established by Council in the Procedural By-Law, it constituted conduct that would bring the Municipality or Council into disrepute, in contravention of section 5.3(ii).

Taking these factors into account, I recommend that Council request Councillor Banks to make a public apology to the Mayor. I believe that a public apology will both address the issue of treating the Mayor appropriately and help to remedy any public perception of disrespect for the Mayor's function in chairing Council meetings.

Other Conduct at Council and Committee Meetings

Concerning other conduct by Councillor Banks, I have reviewed carefully the approximately 3 and half hours of video of Council and Committee meetings that the Complainants have referred to in support of their complaint.

At the meetings referred to by the Complainants, Councillor Banks has put forward his views assertively. On a number of occasions he has put forward views that disagreed with those of the Mayor and has been an active participant in spirited discussions involving the Mayor and other Councillors. He also has been an active participant in Council discussion concerning the views of the public concerning the Township offices project, including the proposal to hold a referendum concerning the project.

Councillor Banks was entitled to express his views and to discuss them assertively when he disagreed with the Mayor or other Councillors.

Whether in doing so he demonstrated disrespect for the Mayor, discourtesy to the Mayor or other Councillors or disdain for the views of the public, as believed by the Complainants, were possible

issues that were to be addressed via the Mayor's discretion under the Procedural By-law as Chair of the meetings. As indicated above, I do not consider that it should normally be the role of the Integrity Commissioner to second guess the Chair's exercise of discretion in addressing possible issues of order and decorum.

Alleged Conflict of Interest

Section 5.3(i) provides as follows

5.3 (i). Members of Council shall uphold a high standard of ethical behavior to ensure that their decision making is impartial, transparent and free from undue influence.

If Councillor Banks demonstrated a conflict of interest, as believed by the Complainants, this could be considered to be undue influence in his decision making and hence a contravention of section 5.3(i).

As indicated above, the Complainants believe that Councillor Banks displayed a preference for one consultant (Altered Roots) over another (IDEAS) because of a conflict of interest.

Councillor Banks indicates that he does not have any personal or financial connection to Altered Roots. He indicates that the reason for his preference is disappointment with the work of IDEAS and the fact that Altered Roots had a positive track record.

The Complainants have not provided any information to indicate that Councillor Banks has any personal or financial connection to Altered Roots.

Accordingly, the information available does not indicate that Councillor Banks had a conflict of interest in this regard, and accordingly does not indicate that in this regard he contravened section 5.3(i) of the Code of Conduct.

Other Alleged Violations of Section 5.3(ii)

The Complainants believe that Councillor Banks has brought the Municipality and Council into disrepute by "disrupting the business of Council by refusing to approve an agenda", denying that a past vote of Council occurred, failing to understand the reason for delays in the Township offices project, passing a motion with unintended or unconsidered consequences, and demonstrating "the never-ending disrespect and disdain for the Mayor in his efforts to bring order to chaos".

The video shows a number of instances in which the way Councillors voted meant that Council's progress in addressing the issues before it was slower than might have been hoped. These votes included voting on whether to approve a Council agenda. In these votes, Councillor Banks was part of a group of 5 Councillors who normally voted as a bloc.

Councillor Banks was entitled to vote however he considered appropriate on any matter before Council, whether it was approval of an agenda or any other matter. Although his votes may have contributed to slowing down the business of Council, it cannot be considered that he disrupted the

business of Council by exercising his right to vote as he was entitled to do. Consequently I do not consider that this conduct contravened section 5.3(ii) of the Code of Conduct.

I did not investigate whether the Complainants are correct in believing that Councillor Banks recalled past Council action incorrectly, misunderstood the reason for delays in the Township office project or voted to pass a motion that was ill-advised. Whether or not Councillor Banks had correct recollection or understanding or voted appropriately, he was entitled to take whatever positions he considered appropriate on the issues before Council.

Section 7.1 of the Code of Conduct

Section 7.1 of the Code of Conduct provides as follows:

7.1 Members of Council must respect the integrity of the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner, Clerk, Chief Administrative Officer or anyone else tasked with investigating a Municipal matter, including violations of this Code of Conduct or any other matter, is therefore prohibited. It is also a violation of the Code of Conduct to obstruct an investigation, for example, by the destruction of records or unnecessary interference with an investigation.

The Complainants believe that Councillor Banks has contravened section 7.1 of the Code of Conduct because in their view “the repeated dismissal of IC recommended penalties against any one of the [5 Councillor voting bloc] appears to be a lack of respect for ‘the integrity of the Code of Conduct and investigations conducted under it’”.

When an Integrity Commissioner concludes that a complaint is valid, the conclusion of the Integrity Commissioner’s investigation report is a recommendation to Council concerning the penalty that the Integrity Commissioner believes should be imposed by Council on the Councillor in question. Councillor Banks, like every other Councillor, was entitled to vote however he considered appropriate on whether or not to adopt the Integrity Commissioner’s recommendation. If he considered that he was not in favour of more than one recommendation by the Integrity Commissioner, he was entitled to vote accordingly.

Accordingly, I do not consider that voting against recommendations of the Integrity Commissioner was a violation of section 7.1 of the Code of Conduct.

D. Conclusion and Recommendations

As indicated above, there is one ground of complaint raised by the Complainants that I consider to be valid.

This is the complaint that in his public communication on November 12 Councillor Banks did not treat the Mayor appropriately, contrary to section 6.10.1 of the Code of Conduct and engaged in

conduct that would bring the Municipality or Council into disrepute, contrary to section 5.3(ii) of the Code of Conduct.

As discussed above, I do not consider that any of the other grounds of complaint raised by the Complainant are valid.

Sections 14.2 and 14.3 of the Code of Conduct sets out the penalties that I am authorized to recommend to Council for violations of the Code of Conduct.

As discussed above, I recommend that Councillor Banks make a public apology to the Mayor. As indicated above, I believe that a public apology will both address the issue of treating the Mayor appropriately and help to remedy any public perception of disrespect for the Mayor's function in chairing Council meetings.

Dated this 19th day of February, 2025



Ellen Fry, Integrity Commissioner