

# Principles *Integrity*

## Municipality of Kincardine

### Code of Conduct Complaint Against Councillor Bill Stewart

#### Recommendation Report

May 5, 2025

[1] This report results from complaints from three members of Kincardine Council and a member of the public against Councillor Bill Stewart for his conduct as Councillor for the Municipality of Kincardine.

#### Executive Summary

[2] The Councillor made public statements to the Kincardine Record that undermined the work of Council on a decision already made.

[3] The Councillor shared confidential information intended for a closed session meeting, without authority to do so, and for the sole purpose of undermining Council's decision to decommission the Secord Monument.

[4] The Councillor did not have a statutory conflict of interest in the matters giving rise to this report, nor did he have a non-pecuniary interest under the Code of Conduct.

#### The Complaint

[5] Principles *Integrity* received the complaints which are the subject of this report between September 24<sup>th</sup> and 26<sup>th</sup>, 2024, regarding the conduct of Councillor Bill Stewart during the discussion of the decommissioning of the Secord Monument.<sup>1</sup>

[6] It was alleged that after the decision was made to decommission the Monument, Councillor Stewart, the lone dissenting vote, refused to accept the decision of Council.

[7] Councillor Stewart is further alleged to have inflamed public sentiments on the issue by twice sending letters to the editor of the Kincardine Record that were inappropriate and inflammatory.

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<sup>1</sup> Councillor Stewart had filed an access request in September 2024 directly related to the decommissioning and destruction of the Monument and subsequently filed an appeal respecting the Municipality's decision to extend the time for making its decision on the request. His position was that he required the requested information in order to prepare a response to the complaints. He abandoned that position towards the end of January 2025.

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[8] Councillor Stewart shared a confidential letter referencing potential litigation that was sent to the Mayor, Members of Council, and the CAO, by a law firm. During a Closed session on September 25, 2024, Councillor Stewart confirmed he had shared the letter with his lawyer and other persons.

### Process Followed for the Investigation

[9] In conducting this investigation, Principles *Integrity* applied the principles of procedural fairness. This fair and balanced process includes the following elements:

- Reviewing the Complaint to determine whether it is within scope and jurisdiction and in the public interest to pursue, including giving consideration to whether the Complaint should be restated or narrowed, where this better reflects the public interest
- Notifying the Respondent of the Complaint and seeking his response
- Reviewing the Kincardine Code of Conduct, relevant legislation, by-laws, resolutions, archived meetings, minutes, and other relevant documents
- Interviewing relevant witnesses
- Providing the Respondent with time to pursue an information request under the *Municipal Information and Protection of Privacy Act* which he believed relevant to his response to the allegations
- Providing the Respondent with an opportunity to review and provide comments regarding the draft findings of the Integrity Commissioner and considering those comments prior to finalizing this Recommendation Report.

### Background:

[10] The Respondent is a Member of Council for the Municipality of Kincardine.

[11] The Secord Monument in question (taking the form of a sun dial, with an inscription) is one of two monuments dedicated to Dr. Solomon Secord, a family physician who practiced in the region for many years. It had been erected shortly after Secord's death in 1910, had been removed from its public location during road construction in the spring of 2023, and was put into storage.

[12] The issue with the Monument was the dedication, which reads, "To Solomon Secord, 1834-1910. Our family physician for 50 years. This memorial was erected by his loving friends. Served as surgeon with the Southern Army during the American Civil War. All that lived he loved, and without regard for fee or reward, he did his work for love of his fellows."

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[13] Many members of the public took issue with the reference to Secord's work with the Southern Army during the Civil War, as this was the force fighting for the continued use of enslaved peoples.

[14] There had been requests of previous Councils to remove the statue.

[15] The current Council decided to run a public consultation process to determine whether the Monument should be returned to its original home once construction was completed, moved to another location, or decommissioned. The consultation process took place over several months and was run by Dr. Laura Mae Lindo.

[16] Dr. Lindo provided her findings to Council in a report, which included data from surveys, public meetings with constituents, and one-on-one conversations with residents.

[17] The Lindo report, in its 78 pages, contained a thorough review of the issues surrounding the question of removing the Secord Monument. The comprehensive report helped to inform Council on the matter, including community sentiment. The report can be found here: [Lindo Report](#).<sup>2</sup>

[18] While there may have been potential educational value in retaining the statue, that value was superseded by the potential harm it could cause, and that it could glorify slavery. On September 11, 2024, Council voted to decommission the Monument.

[19] Councillor Stewart was the only Member of Council who voted against the decommissioning.

[20] In the days after the September 11<sup>th</sup> meeting, Councillor Stewart twice (on September 18, 2024, and September 20, 2024) wrote to the Kincardine Record in support of the Monument and asking if council had the right to decommission it.

[21] On September 18<sup>th</sup> he wrote:

I am very sad to report that part of our history, the Secord Monument, has been destroyed already, without ceremony or councillors being present.

I was working on litigation to protect our history but the staff at the municipality worked faster than my lawyers.

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<sup>2</sup> For those reading this report in hard copy, the address for the report is <https://pub-kincardine.escribemeetings.com/filestream.ashx?DocumentId=31970>

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This is a sad day for our community

Bill Stewart  
Kincardine Councillor

[22] On September 20, 2024, he wrote:

In the six years of representing the Municipality of Kincardine, I have never been so ashamed of being a councillor.

This handwritten letter arrived in my mailbox this week with no name attached to it. It came from an 88-year-old resident who has lived in our community all her life.

Please post this letter, so the community might understand how some of our long-time residents feel about the decision of the council, decommissioning/destroying the Secord Monument.

Bill Stewart  
Councillor  
Municipality of Kincardine

*To Whom it May Concern*

*I am an 88 year female have resided all my life in this municipality. I am no longer on the local voters list. Why! Yes I can vote federally or provincially.*

*I lost ALL respect for council this week at Sept 11 meeting. The officials seem to have no respect for the past history re Dr. Secord. I recently read Kincardine Town History Book re Dr. Secord.*

*I may not be the Best Christian but I was always taught to respect the dead. It almost happened that the decommission of Dr. Secord was preplanned and History lost.*

*I can be thankful I am not eligible to vote.*

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- [23] Comments associated with the respective postings (including by Councillor Stewart<sup>3</sup>) tended to inflame the public discourse.
- [24] On September 23, 2024, eight Members of Council and the executive assistant to the CAO received a solicitor's letter from a law firm based in Alberta.
- [25] The letter was marked 'With Prejudice', which indicates that the sender may attempt to introduce it and rely upon it should there be litigation on its subject matter in the future. It was not marked 'confidential', however given it contained an express threat of litigation, it was treated as such by staff.
- [26] A closed session was called on September 25, 2024. Mayor Craig asked members if anyone had an interest (conflict) to declare – none were declared.
- [27] Legal counsel for the municipality was present via Zoom to discuss the letter and Council's response.
- [28] Councillor Stewart interrupted counsel's presentation to inform Council that he had already shared the letter with his personal lawyers and that this was why he was opposed to the decommissioning of the Monument.
- [29] Councillor Stewart was invited to consider whether he had a 'conflict of interest' in the matter, and was given another opportunity to declare an interest, which again was declined.
- [30] Councillor Stewart interrupted legal counsel several times during the presentation, challenging the legal advice given and asserting contrary opinions.
- [31] It is not necessary to recite the details of the discussion on legalities for the purpose of this report.
- [32] It is important to note that during the discussion Councillor Stewart stated that he had shared the letter from the Alberta law firm with members of the public as well as with his own lawyers. Legal counsel advised Council that releasing solicitor-client letters to the public was inappropriate and could be a violation of the Code of Conduct.

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<sup>3</sup> For example Councillor Stewart posted, misleadingly, "Fact: Turns out that the Monument wasn't own by the Municipality...not on our asset sheets..we just destroyed a public owned Monument...we should have taken the time to check the facts..."

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[33] At the close of the meeting, Councillor Stewart stated that since there was no actual litigation pending, the previous discussion should not have been undertaken in closed session.

[34] Councillor Stewart maintains that he was acting in the interest of the public as “senior Councillor,” and giving the public a voice when he went to the media with his dissenting views about the decommissioning of the Secord Monument, and that he knew the issue would “divide our community.”

[35] Councillor Stewart confirms he shared the letter from the Alberta law firm with members of the public and his lawyers, saying both that he had the permission of the letter-writers and that he believed that Council simply wanted him to stop speaking publicly about their decision. He also stated that the letter was not confidential until the closed session on September 25, 2024; he released it on September 23, 2024.

[36] Councillor Stewart believes he had a right to share the letter with his own lawyer because it was addressed to him as well as the other Members of Council.

### Relevant provisions of the Kincardine Code of Conduct

[37] The provisions of the Municipality of Kincardine Code of Conduct which are most relevant to the facts alleged in the complaint are as follows:

#### General Obligations:

4.1 A Member shall make every effort to:

(b) not make statements that are or ought to be known to be false or with the intent to mislead or misinform Council or the public;

(d) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Municipality’s Procedure Bylaw or other applicable procedural rules and policies

#### Confidential Information:

8.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes ... information received during closed meetings of Council or local boards. Examples of types of information that a Member must keep confidential, unless expressly authorized by Council, or as required by law, or the information is in the public realm, include, but are not limited to:

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(a) matters related to ongoing litigation or negotiation, or that are the subject of solicitor-client privilege;

8.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, from a closed meeting. A Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.

8.4 A Member shall not misuse confidential information in any way or manner such that it may cause detriment to the Municipality, Council or any other person, or for financial or other gain for themselves or others.

8.6 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.

### Discrimination and Harassment:

9.1 A Member shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

### Conflicts of Interest:

11.1 A Member shall recognize that they must comply with the requirements of the Municipal Conflict of Interest Act with respect to obligations relating to pecuniary interests. A contravention of the Municipal Conflict of Interest Act by a Member shall not constitute a breach of the Code of Conduct but may be enforced in accordance with the provisions of the statute and section 223.4.1 of the Municipal Act, 2001.

11.2 A Member shall also avoid any conflict of interest that is a non-pecuniary interest in order to maintain public confidence in the Municipality and its local boards. If a Member has a non-pecuniary interest, the Member should declare the non-pecuniary interest and then leave the meeting at which the matter is being considered. Under no circumstance shall the Member participate in any discussion or vote on the matter or attempt to influence the voting on the matter in any way, before during or after the meeting.

### Communications and Media Relations:

14.1 In order to foster respect for the decision-making process of Council, Members shall fairly and accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with

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Council's ultimate determinations and rulings. Members may publicly express the reason for voting differently than the majority but shall always do so in a respectful manner that supports the decisions of Council.

14.3 Members shall refrain from making comments of a disparaging nature about Members, staff or persons that relate to the business of the Municipality.

Social Media:

15.1 Members using social media shall:

- (a) ensure that all posts are accurate before uploading content to the internet; Municipality of Kincardine
- (c) follow the same principles and guidelines as for other forms of communication by employing sound judgment and common sense, by acting with respect, dignity, courtesy and empathy; and
- (d) ensure that [it is] noted that communications that are Member and constituent-related do not necessarily reflect the existing or future opinions, views or decisions of the Council.

[38] Though the provisions of the *Municipal Conflict of Interest Act* had been raised in the closed session meeting of September 11, and were referenced in the complaints submitted, the absence of a pecuniary interest for the Councillor in the matter under discussion made that Act inapplicable. The Code reference to non-pecuniary interests remained a relevant consideration, however, noting the contents of section 11.2 of the Code.

[39] We are guided in our interpretation of the relevant Code provisions by the Statement of Principles appearing at the beginning of the document:

### 2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Municipality by its Members as duly elected and/or appointed public representatives of local boards to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.

2.2 The principles set out in Sections 2.1 and 2.2 are intended to facilitate an understanding, application and interpretation of the Code of Conduct – the principles are not operative provisions of the Code of Conduct and are not intended to be enforced independently as such.

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All Members shall:

- serve and be seen to serve the public in a conscientious and diligent manner;
- observe and act with the highest standard of ethical conduct and integrity; avoid the improper use of the influence of their office and act without self-interest;
- perform their functions with honesty, integrity, accountability and transparency;
- perform their duties of office and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
- be cognizant that they are at all times representatives of the Municipality and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Municipality; and
- uphold the spirit and the letter of the laws of Ontario and Canada and the laws and policies adopted by Council.

### Analysis:

[40] The full factual record underlying the review of this matter was substantially set out in the complaint documents and in Councillor Stewart's response to the complaint.

[41] The various elements of the complaints can be summarized as follows:

1. Did Councillor Stewart disclose confidential information contrary to section 8 of the Municipality's Code of Conduct?
2. Was Councillor Stewart's behaviour in fomenting public opposition regarding Council's Monument decision, in social media and otherwise, contrary to sections 4, 9, 14 and 15 of the Municipality's Code of Conduct?
3. Did Councillor Stewart have a non-pecuniary conflict of interest when he engaged in Council discussions regarding the Monument?

All of which are to be determined not only with reference to the noted Code section numbers, but the Statement of Principles set out in section 2.

### Disclosure of Confidential Information:

[42] The central issue is whether the letter received by Members of Council from the Alberta law firm constituted confidential information. If it did not, then there would be nothing to constrain Councillor Stewart from sharing it in the manner he did.

[43] Had the letter been first distributed in closed session, unauthorized disclosure would have represented a clear breach of the Code of Conduct.

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- [44] The fact that the letter was not marked 'confidential' is not sufficient to discharge Councillor Stewart's responsibility to protect it from disclosure. Though individually addressed, the letter was clearly a letter to all members of Council, and therefore intended for Council itself.
- [45] A plain reading of the letter indicates the inherent threat of litigation within it. No member of Council can make the unilateral decision to release such a letter without, at a bare minimum, exercising due diligence in checking to determine whether it may be disclosed to the public.
- [46] The disclosure of the letter to a member of the public is a clear breach of the Councillor's obligation to protect the confidentiality of the Municipality's information.
- [47] The Councillor has argued that the disclosure of the letter to his own lawyers was appropriate. It is clear, that at the time that the Councillor shared the letter with his lawyer, there was no exposure to personal legal liability for the Councillor.
- [48] Though the letter at the time of disclosure was not yet incorporated into the legal advice to later be provided by the Municipality's legal counsel, it was fair to assume that it would be. On this basis the letter should have been treated as part of the Municipality's solicitor-client privilege. If it was not privileged, it would be fairly interpreted as relating to 'on-going litigation'
- [49] In *Fallis v. City of Orillia*, 2022 ONSC 5737, the Divisional Court on a judicial review application regarding Council's adoption of recommendations from the City's Integrity Commissioner, in circumstances where both the City's solicitor-client information and other confidential information relating to an RFP process was disclosed to the respondent councillor's own lawyers, the Divisional Court found:

*[36] While the Applicant justifies his disclosure of the City's solicitor-client privileged advice on the proper execution of his duties as a councillor, he has identified no exception available at law that permitted the disclosure in the circumstances of this case. There is no recognized exception that generally permits disclosure of solicitor-client privileged advice by a city councillor, or other representative of an organization, to a lawyer personally retained by them, in the absence of a joint or common interest privilege. Nor does the law currently provide an exception to solicitor-client privilege that enables someone other than the privilege holder to disclose solicitor client privileged advice, provided that such disclosure it is made to a lawyer.<sup>1</sup>*

<sup>1</sup> Rule 3.3-6 of the Law Society of Ontario's Rules of Professional Conduct provides an exception that allows a lawyer to disclose a client's confidential

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*information for the purposes of obtaining advice: “[a] lawyer may disclose confidential information to another lawyer to secure legal advice about the lawyer’s proposed conduct.” This existence of the rule suggests that in the absence of an explicit rule, the law does not recognize an exception that would permit a lawyer to disclose a client’s privileged information to another lawyer.*

[50] In the same decision, the Divisional Court found:

*[56] The Integrity Commissioner’s finding that the Applicant breached the Code of Conduct, in relation to the confidential RFP information, is also reasonable. The Applicant lacked the authority to unilaterally decide to disclose the confidential information, even if such disclosure was only to his own lawyers. Again, the disclosure could have led to problems, for example, if one of the firms the Applicant consulted represented an RFP proponent. The unauthorized disclosure also exposed the City to the risk of litigation for breach. In fact, when it became aware of the Applicant’s disclosure of the confidential RFP information, the City sent a litigation hold letter to the Applicant in anticipation of potential claims against the City.*

[51] Accordingly, since the law firm letter constituted confidential information of the Municipality, and likely constituted solicitor-client privileged information, or information relating to on-going litigation, Councillor Stewart is found to have breached his obligation to protect the confidentiality of the Municipality’s information pursuant to section 8.1 of the Code of Conduct.

[52] We are guided in our conclusion by the high standard of behaviour and general obligations set out in section 2.0 of the Code.

### Inappropriate Behaviour

[53] The context for assessing the allegations concerning Councillor Stewart’s behaviour is important. The Monument decommissioning generated strong emotional responses from various segments of the Kincardine community, and beyond.

[54] The Council meeting at which the decision to decommission was made (September 11, 2024) was such that additional security was brought in, in the interest of protecting the safety of participants.

[55] Section 4.1 (a) of the Code requires that Councillors not make statements that are or ought to be known to be false; and are not to make statements with the intent to mislead the public.

[56] Neither of the Councillor’s postings of September 18<sup>th</sup> or September 20<sup>th</sup> were false, and so we find there has been no breach of section 4.1(a).

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[57] Section 4.1 (b) of the Code requires that Councillors conduct themselves with ‘integrity, courtesy and respectability at meetings. In Councillor Stewart’s post of September 20<sup>th</sup>, he expresses that he has “never been so ashamed of being a councillor” which suggests wrongdoing on the part of his colleagues on Council.

[58] Though the expressed conclusion can be regarded as ‘discourteous’, we find that the statement falls short of being in breach of section 4.1(b).

[59] However, a plain reading of the two postings results in a breach of the Code’s provisions on Communications and Media Relations, repeated here:

14.1 In order to foster respect for the decision-making process of Council, Members shall fairly and accurately communicate the decisions of Council and respect Council’s decision-making process even if they disagree with Council’s ultimate determinations and rulings. Members may publicly express the reason for voting differently than the majority but shall always do so in a respectful manner that supports the decisions of Council.

14.3 Members shall refrain from making comments of a disparaging nature about Members, staff or persons that relate to the business of the Municipality.

[60] The decision on a highly controversial matter already having been made at the September 11<sup>th</sup> meeting of Council, Councillor Stewart’s postings a week later were disparaging of staff and his colleagues, disrespectful and inflammatory.

[61] Properly expressed, elected officials may disagree with the decisions of their councils. Though the Councillor’s posts to the Kincardine Record were on their face factual, they suggest that Municipal staff were somehow working against Councillor Stewart (by working faster than his lawyers to prevent litigation he intended to commence), and that Council had made a decision that was somehow shameful. This does not express dissent “*in a respectful manner that supports the decisions of Council*”.

[62] We therefore find that Councillor Stewart was in breach of his obligations under Section 14, respecting Communications and Media Relations. Though the statements (in a somewhat modified form) could have been properly made in advance of a Council decision respecting the Monument, following the decision they had an inflammatory impact.

[63] Section 15.1, respecting Social Media, requires that Members act with respect, dignity, courtesy and empathy. For the reasons cited above, the Councillor’s disrespectful comments were in breach of this provision as well.

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### Non-pecuniary Conflict of Interest

[64] As noted above, the absence of a pecuniary interest in the matter before Council means that the provisions of the *Municipal Conflict of Interest Act* do not apply. That said, the Code of Conduct provides that Members, in order to maintain public confidence in the Municipality, must avoid non-pecuniary conflicts of interest.

[65] A non-pecuniary interest is defined under the Code as:

[1] a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member's decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity

[66] The existence of non-pecuniary conflicts of interest is determined on the basis of the 'reasonable person test' – what would a reasonable person, reasonably well aware of all the relevant facts and circumstances, thinking the matter through realistically and practically, conclude about an elected official's ability to separate their personal interest from their public duty to make decisions based only on the public interest?

[67] It should be no surprise that this analysis is closely similar to the test for 'reasonable apprehension of bias'. Indeed, Councillor Stewart's single-minded approach to the Monument issue, including his persistent questioning of the Municipality's counsel when the Alberta law firm letter was discussed in closed session, are indicators less so of a conflict of interest, but as bias – the state of one's mind being closed to change regardless of the persuasiveness of arguments to the contrary.

[68] Seeking to retain his own lawyer despite the Municipality having its own counsel is an indicator of his lack of openness to alternative points of view. Positioning himself as having special responsibilities given his tenure on Council, characterizing his actions being about giving the community a voice in the Monument matter (despite the extensive consultation which had taken place) are indicia of a closed mind.

[69] In some other municipalities, Codes of Conduct provide that it would be a breach of the Code to seek to undermine a Council decision. In those cases, where a Council member has had the privilege of being part of a decision-making process, it is considered improper for the member to, in essence, litigate against the resulting decision. To do so undermines the effectiveness of Council deliberations,

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for the debate becomes constrained in fear of disclosing pieces of information that might be turned against the municipality later on.

[70] The Kincardine Code does not contain such a provision. It does, however, set a high standard, to be used in assessing compliance with the Code. In particular, the Statement of Principles recognizes the high standard of conduct Members must adhere to, and requires that all Members:

- serve and be seen to serve the public in a conscientious and diligent manner;
- **observe and act with the highest standard of ethical conduct and integrity;**  
avoid the improper use of the influence of their office and act without self-interest;
- perform their functions with honesty, integrity, accountability and transparency;
- perform their duties of office and arrange their private affairs in a manner that **promotes public confidence** and that will bear close public scrutiny;
- **be cognizant that they are at all times representatives of the Municipality and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Municipality;** and
- uphold the spirit and the letter of the laws of Ontario and Canada and the laws and policies adopted by Council.

(the most salient provisions are emphasized)

[71] With all of this said, there appears to be no personal interest for Councillor Stewart in the Monument matter aside from the Councillor's strident opposition to its decommissioning. His media communication, behaviour in meetings, breaching his obligation to maintain confidentiality, and seeking to litigate against the Municipality, may collectively fail to promote public confidence and trust, but they do not amount to a breach of his obligation to avoid non-pecuniary interests.

[72] Were the Statement of Principles to be independently actionable a finding of breach might possibly be supportable in the circumstances. However, given that the Code has defined a non-pecuniary interest as being a private or personal interest, and no such interest is apparent, no finding of breach can be made.

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## Recommendations and Concluding Remarks

### Council's Disciplinary Role

[73] When it considers this report Council will be in a Disciplinary Mode. Regardless of Members' previous relationship with or views of Councillor Stewart, good, bad, or indifferent, they must set that relationship aside. Council must its judgment based upon how the recommendations in this Report relate to its findings, and on what is heard during deliberations when the Report is considered.

[74] This report that represents the culmination of a process established by the *Municipal Act* in which a complaint about an elected official is brought to the attention of the municipality's Integrity Commissioner, who in accordance with the *Municipal Act* is to conduct an independent, fair, and confidential investigation, and report findings, along with recommendations, to a municipal Council for a determination based on those findings and recommendations.

[75] Council's role, quite clearly, is not to conduct an investigation. That has been done. In fact, it is not possible for Council to conduct or review the details of the investigation because it does not have access to the witnesses and the information which are the evidence that led to the findings in this Report.

[76] The *Municipal Act* requires the investigation to be completed by a municipality's integrity commissioner, an independent party, and this Report signifies that that investigation has been conducted and concluded. What Council wishes to do with the recommendations in this Report is Council's prerogative.

### Summary of Findings:

[77] Based on the above, we find that Councillor Stewart's behaviour in the circumstance fell below the high standard of behaviour expected of elected officials.

[78] Councillor Stewart's letters and comments in the Kincardine Record fell below that standard, in that they undermined a decision made by Council that had been carefully undertaken and that followed extensive public research and consultation.

[79] The decision on a highly controversial matter already having been made at the September 11<sup>th</sup> meeting of Council, Councillor Stewart's postings a week later were disparaging of staff and his colleagues, disrespectful and inflammatory, in contravention of sections 14 and 15.1 of the Code of Conduct, respecting Communications and Media Relations, and Social Media, respectively.

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[80] Furthermore, his statements inferred that Council's behaviour was in some manner both rushed and underhanded, when in reality it was neither, as is demonstrated by the fulsome evidence in the Lindo Report. Councillor Stewart is within his right to disagree with the majority decision, however in our view, the manner in which he did so was inappropriate.

[81] More significantly, we further find that Councillor Stewart shared confidential information (the letter from the Alberta law firm) without authority to do so.

[82] While Councillor Stewart's name was on the letter from the Alberta law firm, it is clear that the letter was addressed to Council as a whole. On no reasonable analysis could it be said to represent a threat to Councillor Stewart in his personal capacity. Thus, Councillor Stewart should have reasonably understood that the appropriate course of action was at minimum to seek advice from staff as to the status of the letter before sharing it with outside parties including his own legal counsel.

[83] The *Municipal Act* contemplates sanctions constituting a reprimand or the suspension of pay for up to 90 days. In recommending a sanction, integrity commissioners seek to identify a proportional remedy which both serves to recognize the level of seriousness of a breach and discourage similar conduct in the future.

[84] In our conversations with Councillor Stewart he recognizes his assertive (self-described as "bull-headed") manner and that while he felt he was dealing with fundamentally important issues, he is now aware that his behaviour crossed a line. With this acknowledgment he has committed not to make the same disclosure in the future.

[85] This acknowledgment influences our decision on sanction.

[86] However, breach of confidentiality is the kind of transgression that should attract a significant monetary sanction because the action fundamentally undermines the trust required for Councils to function properly and for the public to maintain respect for Council's adherence to ethical standards. Similarly, contraventions of Code media and communications provisions, particularly when associated with an inflammatory topic such as was the subject of this report, can fracture a Council's ability to move past hard debates and move on with taking care of the business of the municipality.

### Recommendations:

[87] Accordingly, it is recommended:

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1. That Council adopt the following resolution:

That having been found to have breached the Code of Conduct, the remuneration of Councillor Stewart be suspended for a period of one week (equivalent to half of a pay period).

[88] We wish to conclude by publicly thanking everyone who was asked to participate in our investigation. We express genuine appreciation for the sharing of time, knowledge and opinions by everyone concerned. Our task would have been much more difficult had there been a reluctance to contribute.

[89] We will be pleased to be in attendance when this report is considered to answer any questions Council may have relating to its contents.