



ADR
CHAMBERS

Integrity Commissioner Office
for the City of Port Colborne

EDWARD T. MCDERMOTT

Integrity Commissioner
City of Port Colborne
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November 29, 2023

SENT BY EMAIL TO:

Lorie Tokola
Councillor Mark Bagu

Complaint IC-27320-1023 Lorie Tokola v. Councillor Mark Bagu

Dear Ms. Tokola and Councillor Bagu:

This matter involves a Complaint dated October 17, 2023 by the Complainant (Ms. Tokola) alleging Councillor Bagu acted in contravention of “the City’s Code of Conduct and s 1.1.3 of the Municipal Conflict of Interest Act (“MCIA”).”

The nub of the Complaint apparently arose during discussion before Council (on September 26, 2023) of a proposed amendment to the City’s Discharge of Firearms By-Law which would have permitted increased shooting hours for members of the Port Colborne District Conservation Club (the “Club”) as particularized in the Club’s trap and skeet shooting schedule for that Club.

The trap and skeet shooting element of the Club’s portfolio is only a part of the Club’s endeavours, but it is an important element in terms of its presentation and revenue generating components.

During the debate before Council on this matter the Councillor indicated he had, (some 20 years in the past), been a member of the Club and was “very partial” to the Club even though he was no longer a member. He then immediately went on to indicate he could not support the

proposed amendment to increase the shooting hours because he didn't believe the Municipality had the power to regulate the Club's shooting schedule.

On review of the Complaint, there is nothing to indicate or even assert the Councillor had a pecuniary (or financial) interest in the matter before Council. The MCIA only deals with matters where a Councillor has a direct or indirect pecuniary interest in the matter before Council. The Complaint does not assert or provide any evidence or grounds that Councillor Bagu had any such interest.

It should also be noted that s 1.1.3 of the MCIA referred to in the Complaint does not create an offence under the statute but rather recites a general statement of aspirational principles which are endorsed by the Province of Ontario. The section itself provides as follows:

"1.1. Principles

The Province of Ontario endorses the following principles in relation to the duties of members of councils and of local boards under this Act. . .

3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny."

Interestingly the next statement in the statute reinforces the benefits to municipalities when Council Members are active in community associations. Section 1.1.4 provides:

- "4. There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise. 2017, c. 10, Sch. 3, S. 1"

In any event there is nothing alleged or set forth in the Complaint which could found the basis for a contravention of any part of the MCIA.

I must accordingly find that all aspects of the Complaint dealing with the MCIA are dismissed.

The remainder of the Complaint does not assert what it is that he purportedly did to contravene the Code itself. The Complainant suggests he should have recused himself because of his past affiliation with the Club, but a review of the tape of the meeting shows that for the reasons stated above he actually announced he would (and did in fact) vote against the amendment to the by-law (which was being supported by the Club and its representatives who attended at the meeting before Council as well as a Report by staff prepared for this application at the direction of Council). The amendment was however passed by a majority of Council.

In response to this Complaint, the Councillor acknowledged that he misspoke when he used the word "biased" (the words used were really "very partial") in relation to the Club as he meant to say he had "much respect for the Club and its commitment to conservation" when he was a member over 20 years ago in the "80's and "90's". He then went on to say (in the same address to Council) that he could not support the recommendation being advanced by the Club as he was "not convinced Council had the legal authority to impose these restrictions" on private property as set forth in the Schedule.

It should also be noted that the Councillor apologized to the Complainant for his lack of clarity in a telephone call after the meeting and again in his Response to this Complaint when he assured her it wouldn't occur again.

In these circumstances it is difficult to discern how it could be said he had a conflict of interest because of his past membership in, and partiality for the Conservation Club itself when he was a member of it many years ago when he in fact publicly announced in the same address to Council that he would and, in fact, did vote against the amendment to the By-Law governing the Club's shooting schedule which was being advanced and supported by the Club.

While attempts were made by me to resolve this matter short of a decision, such a result did not prove achievable and accordingly I am compelled to conclude that it is my view that the substance of the Complaint as presented does not provide sufficient or any grounds for me to inquire further into this matter which is accordingly hereby dismissed.

Yours very truly,



Edward T. McDermott
Integrity Commissioner, City of Port Colborne