
CITY OF NORTH BAY INTEGRITY COMMISSIONER, GUY GIORNO

Citation: Amyotte v. B. Vrebosch, 2022 ONMIC 12

Date: May 30, 2022

INQUIRY REPORT

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COMPLAINT

1. The Complainant, Mr. Frank Amyotte, alleges that the Respondent, Councillor Bill Vrebosch, contravened section 9.3 of the Code of Conduct for Members of Council of the Corporation of the City of North Bay and Certain Local Boards, Schedule “A” to By-Law No. 2019-16.
2. Section 14.2 of the Code requires that I “report to Council respecting each complaint given to the Integrity Commissioner.”
3. This report sets out the findings and conclusions of my inquiry.
4. As Council Members and residents are aware, two Councillors have the same surname. To avoid confusion, when it mentions either of them, the report also includes the first name or initial.

SUMMARY

5. The Complainant, an arena employee, alleges that Councillor Bill Vrebosch violated the Code by speaking disrespectfully about the Complainant to another arena employee, whom I refer to as the Co-Worker.
6. The Complainant further alleges that Councillor B. Vrebosch was attempting to intimidate and to discourage the Complainant from political commentary.
7. I find that the Respondent did not intend to intimidate the Complainant, and that Councillor B. Vrebosch’s words could not reasonably be interpreted as intimidating. I find that the brief words spoken by the Respondent were not disrespectful. The words were not contrary to the Code.

BACKGROUND

8. The Complainant was a City employee working at Memorial Gardens.
9. On March 1, the Complainant received an email from the City’s Manager of Sports and Events in reply to the Complainant’s question about a work-related matter.
10. The Complaint responded by making reference to an unnamed Council Member. The email exchange then continued over the next 48 hours. The relevant portions of the email discussion were as follows:¹

¹ My standard practice in these reports is to edit direct quotations to correct spelling, grammar and names, and to achieve uniformity in punctuation and capitalization.

Complainant (March 1): ... Just want to give you a heads up, there was an issue with a City Councillor making an inappropriate comment to an event staff in late September, early October. ... You can contact [Co-Worker] about it.

Complainant (March 2): ... Please advise if you've read the entire content of the email I sent to you yesterday. I would like this followed up on. Thank you.

Manager (March 2): Yes, I reviewed the entire email. This should have been brought forward when it occurred.

Complainant (March 2): When I bring it forward is up to me, because the comment was made about me. Please don't try to sweep this under the rug. I am requesting that this be looked into.

Manager (March 3): You can call me to discuss at my office. ...

Complainant (March 3): I would prefer to communicate via email. Thank you.

Manager (March 3): You need to tell me what occurred and I will decide what steps to take.

Complainant (March 3): In late September/early October, a Councillor brought his [minor relative] in for hockey tryouts. [Co-Worker] was working when he approached [Co-Worker]. The Councillor asked [Co-Worker] where that Amyotte guy was. [Co-Worker] told him I wasn't working that day. The Councillor proceeded to tell [Co-Worker] that I had a hard on for him and his daughter. Other event staff are also aware of what the Councillor said as [Co-Worker] told them about it.

This comment is total inappropriate and is completely counter to the respectful workplace policy the City has adopted.

Manager (March 3): Who is the Councillor?

Complainant (March 3): The Councillor is Mr. Vrebosch.

Manager (March 3): I will take this through the proper process.

11. The email exchange was forwarded to me, and I treated it as a Code of Conduct complaint.

PROCESS FOLLOWED

12. In operating under the Code, I follow a process that ensures fairness to both the individual bringing a Complaint (the Complainant) and the Council Member responding to the Complaint (the Respondent).

13. This fair and balanced process begins with me issuing a Notice of Inquiry that sets out the issues in the inquiry. The Complaint, including any complaint materials, is attached to the Notice. The Respondent is given the opportunity to respond, and then the Complainant receives the opportunity to reply to the Response. The Respondent is made aware of the Complainant's name. I do, however, redact personal information such as personal phone numbers and email addresses.

14. I received the Complainant's emails to the Manager, including the allegations about Councillor B. Vrebosch, on March 16. On March 21, the Complainant provided additional clarification that I had requested. Specifically, the Complainant clarified that he was alleging that the Respondent's conduct was disrespectful and an attempt at intimidation. The Complainant stated that because the allegation involved a single incident, he is not alleging harassment. The Complainant also stated that he does not allege discrimination.

15. The clarification and the original emails together constitute the Complaint. The official Complaint date was March 21, the date of clarification.

16. I determined that I would conduct an inquiry into whether section 9.3 of the Code had been contravened. On March 21, I issued a Notice of Inquiry. The Notice of Inquiry included the email exchange between the Complainant and the Manager of Sports and Events.

17. Councillor Bill Vrebosch provided a Response to the Complaint on March 26.

18. The Complainant replied on April 2.

19. On April 2, I issued a delegation under subsection 223.3 (3) of the *Municipal Act* to Paul Burbank, a lawyer who works with me, authorizing him to conduct interviews. He subsequently conducted interviews with two witnesses and interviewed both the Complainant and Respondent. The interviews took place in April.

20. Both parties were asked to identify any other individuals who might potentially possess relevant information. The Complainant provided the names of two additional individuals whom he believed had heard, from the Co-Worker, about the Respondent's comment. An Integrity Commissioner may accept hearsay evidence but, under the circumstances, I decided that it was unnecessary for the inquiry to receive second-hand versions of the Co-Worker's recollection, when the Co-Worker had already been interviewed directly.

21. I have also reviewed and taken into account the City's Workplace Violence, Harassment, and Sexual Harassment Policy, and By-Law No. 2019-17, the Council-Staff Relations Policy.

22. I have also reviewed and considered publicly available social media content that both parties acknowledge is part of the context of the Complaint.

POSITIONS OF THE PARTIES

Complainant's Position

23. The Complainant's position is that the Respondent came to the arena, and sought to identify him, in order to intimidate him. The Complainant speculates that the Respondent knew of the Complainant because the latter is a frequent commenter on social media about civic politics, and makes many critical comments about City business.

24. The Complainant believes that it was unnecessary and inappropriate for the Respondent to attend the Complainant's workplace and to ask a mutual connection to identify him. In the Complainant's words:

Since Mr. Vrebosch is familiar with Facebook, he also knows that he could have reached out to me via a personal message if he had issues with me personally. There was absolutely no need to go through my co-worker to contact me.

25. The Complainant states it was his understanding that Councillor B. Vrebosch's words were meant to indicate that the Complainant harboured "a grudge" against Councillor B. Vrebosch and his daughter, Deputy Mayor Tanya Vrebosch. The Complainant characterizes the situation as "not a really complicated thing," and observes that the Respondent's comment was "odd and out of place."

26. As I have noted, the Complainant does not allege either discrimination or harassment.

Respondent's Position

27. Councillor B. Vrebosch acknowledges that he initially became aware of the Complainant through the latter's comments on social media. In the Respondent's words:

Mr. Amyotte has repeatedly made negative, false and sometimes abusive comments about myself and my daughter (Tanya Vrebosch, Deputy Mayor) on public Facebook pages, such as *Baytoday* and the *Nugget* (our local newspaper).

28. The Respondent acknowledges that he spoke to the Co-Worker about the Complainant when they encountered each other at Memorial Gardens in October 2021.

29. Councillor B. Vrebosch points out that he did not attend the arena to seek out the Complainant in order to intimidate him; he attended the Arena along with his daughter, and two other family members. When he encountered the Co-Worker, he recalled asking "Who is this Frank Amyotte guy?" He explained that his intent in asking this was only to identify the Complainant out of curiosity, not to harass or intimidate him.

30. The Respondent explains that the attempt to identify the Complainant reflected his “personal approach with residents who express concerns” that he developed during more than forty years in municipal politics. Concerning his intention, the Respondent states:

It was not and has never been my intention to disrespect or intimidate Mr. Amyotte either as an employee of the City or as a citizen; I made inquiries to [the Co-Worker] about Mr. Amyotte, meant solely to identify Mr. Amyotte so that I could eventually introduce myself and discuss any issues and/or grievances he may have with me personally, so as to diffuse the tone of his online posts.

31. Councillor B. Vrebosch maintains that he does not believe he would ever use the phrase “hard on” in any context. He does, however, acknowledge that he cannot recall the exact comments he made to the Co-Worker.

32. Councillor B. Vrebosch remains prepared to speak to the Complainant to listen to his concerns, if that is something the Complainant wishes to consider.

FINDINGS OF FACT

33. Findings are based on the evidence, according to the standard of the balance of probabilities.

34. I find as a fact that the Complainant had made critical comments about the Respondent on social media, including comments prior to the Respondent’s conversation with the Co-Worker. Examples include an online comment telling the Respondent, then 78 years old, “Have a nap, Bill.” Another comment was, “If you don't like North Bay, we'll gladly return you to East Ferris.” (Prior to moving to North Bay, the Respondent lived in East Ferris where he had served as Mayor and Deputy Mayor.)

35. To be clear, the social media comments were an exercise of the Complainant’s right to freedom of expression, and the Complainant was perfectly entitled to voice these sentiments. In a democracy, people have every right to criticize elected officials. At the same time, given the nature of the Complainant’s comments, I find as a fact that it was unsurprising and unremarkable that the Respondent was aware of, and remembered, them.

36. As mentioned above, the Respondent acknowledges speaking to the Co-Worker about the Complainant but cannot recall the precise comments he made or the questions he asked.

37. The Co-Worker recalls Councillor B. Vrebosch saying he believed the Complainant had a “hard on” for him and his daughter. The Co-Worker recalls that both he and Councillor B. Vrebosch laughed during the discussion and that Councillor B. Vrebosch

was not angry or aggressive in any respect. The Co-Worker's recollection is that both he and Councillor B. Vrebosch perceived his comments as a joke.

38. On a balance of probabilities, I find as a fact that the Respondent asked the Co-Worker whether the Co-Worker could identify the Complainant at the arena and I find as a fact that the Respondent said that the Complainant had a "hard on" for Councillor B. Vrebosch and Deputy Mayor T. Vrebosch.

39. I find as a fact that the Respondent's comment was intended to convey that the Complainant harboured a grudge against the Respondent and his daughter.

40. Further, I find that Councillor B. Vrebosch was not aggressive or angry when he made the comments to the Co-Worker. I also find that Councillor B. Vrebosch did not intend to intimidate the Complainant by making these comments to the Co-Worker.

41. It is unnecessary for me to make a finding about whether Councillor B. Vrebosch knew that the Complainant was a member of the City's staff. A factual finding on this point is not necessary to dispose of the Complaint.

ISSUE AND ANALYSIS

42. I have considered the following issue: Did Councillor Bill Vrebosch contravene section 9.3 of the Code in speaking with the Co-Worker about the Complainant at the arena?

43. No.

44. Section 9.3 of the Code reads: "Each Member shall show respect for Staff, and for their professional capacities and responsibilities."

45. First, I find that the brief conversation between the Respondent and the Co-Worker was not disrespectful of the Complainant. The Respondent asked whether the Co-Worker could identify the Complainant. That question, either in isolation or in context, was not disrespectful of the Complainant. The Respondent then commented to the effect that the Complainant felt some hostility toward, that is, held a grudge against, the Respondent. In the context of the Complainant's social media criticism of the Respondent, I find that this comment to the Co-Worker was an understandable, unremarkable observation. The comment was not disrespectful of the Complainant.

46. Second, while there is no deadline to file a Complaint under the Code of Conduct (except the election-year deadline established by the *Municipal Act*), I find it relevant that the Complainant waited several months to raise the issue. The delay supports the conclusion that the Respondent's comment was not particularly significant. Clearly, the Complainant did not feel matter was serious enough to warrant prompt attention.

47. Third, the circumstances of the Respondent's visit to the arena support a finding that the Respondent was present for a reason other than to comment on, or intimidate, the Complainant. The Complainant's March 2 email states that the Respondent was accompanying a young relative to hockey tryouts. The Complainant's Reply states that the young relative was there for a practice. The Respondent's recollection is that the family was present for a North Bay Battalion game. Regardless of whether he was present for a tryout, a practice, or a game, it is clear that the Respondent came to Memorial Gardens for a personal purpose other than seeking out the Complainant. The facts do not support the allegation that the Respondent went to the Complainant's place of work in an effort to intimidate him.

48. Fourth, I find that the Respondent did not intend to intimidate the Complainant, and that the Respondent's words could not reasonably be interpreted as intimidating.

49. Given these conclusions, whether the Respondent knew that the Complainant was employed by the City is irrelevant.

CONCLUSION

50. I find that Councillor Bill Vrebosch did not contravene the Code of Conduct.

CONTENT

51. Subsection 223.6 (2) of the *Municipal Act* states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

Respectfully submitted,



Guy Giorno
Integrity Commissioner
City of North Bay

May 30, 2022

APPENDIX: EXCERPTS FROM CODE OF CONDUCT

9.2 No Member shall maliciously or falsely injure or impugn the professional or ethical reputation of any Member of Staff.

9.3 Each Member shall show respect for Staff, and for their professional capacities and responsibilities.

...

14.1 A person who believes that a member has contravened any provision of this Code of Conduct may give to the Integrity Commissioner the person's complaint which must be in writing and must set out the particulars of the alleged contravention.