

Disclosure of Confidential Information

Location: Ontario

Topic(s): Council Ethics

Please describe the situation.

I was on a conference call with a local Board (I participated as an ex officio member) and the Chair quoted what was said in a recent solicitor-client closed session of Council. This agency had made a FOI request and was threatening to sue the municipality and the closed session was related to how the municipality should approach the situation. I immediately spoke up and asked the Chair to stop speaking and advised him that what he was saying is confidential information from a closed Council session. He was a private business owner and did not understand municipal governance and rules of order. He replied by identifying that the Mayor had told him this information and he wanted to share it with the whole Board. Thankfully he stopped providing details but the damage was done. I was participating on the conference call with another Councillor who was extremely angry that the Mayor broke confidentiality and passed on our litigation strategy to our opponent.

What was the current political environment? What factors led to the situation? What were the events that unfolded in this particular scenario?

The Mayor was a member of the agency Board and had more of an allegiance to the agency than to the municipality. He often forgot "which hat he was wearing". In my opinion, the Executive Director of the Agency made it a practice to use the Mayor to manipulate outcomes/votes of Council.

How did you respond to or address the situation?

I immediately contacted the Deputy Mayor to advise him of the situation and told him that I intended to contact our solicitor as well as call a special Council meeting to advise Council of what transpired on the conference call. I was mindful of the fact that, as CAO, I report to Council as a whole body. I requested that the solicitor join me for the closed session, in part to provide Council with further legal advice given that the other side now knew our strategy and also to ensure that I delivered the information in a manner that was not insubordinate. My intent was to stick to the facts of what I knew based on the conference call and not make assumptions or accusations.

Obviously, the Mayor was very upset with me for advising Council. I asked to meet with him one on one afterward and explained to him that I had a responsibility to tell Council what I knew. Our relationship was strained following that but I gained the respect and trust of the rest of Council.

What lessons did you learn from this scenario?

I am happy with how I handled the breach of confidentiality once I was aware of it. I have many more years of experience now and in hindsight, I wish I had done more to help prevent the Mayor from creating this problem for himself in the first place. Many people recognized the Mayor's misplaced allegiance to the agency. I wish I had taken him aside sooner to educate him on the perception of his allegiance and the risks involved. I am not sure he would have listened to me but at least I could have tried.

What advice would you give to someone going through a similar situation?

CAOs need to be diligent and remember that they report to Council as a body and not just the Warden or Mayor. Do not let uncomfortable situations keep you from doing what is right. Do not sacrifice your respect and integrity for "being liked". It was very difficult to sit next to the Mayor and advise Council of what had happened, but I remind myself that I do not get paid to be comfortable or to be liked by everyone, I get paid to serve my Council.