

Councillors set Fall Guy up for Criminal Charges

Aug 14, 2007

Last week councillors were told to "Beware" by the county lawyer. What exactly are they to 'beware' of is not completely clear since the letter has not been made public. The Ministry of Municipal Affairs warned the Council to seek legal advice, but again it is not completely clear why since council stopped the Mayor as she was reading it out.

I know some residents have sent out emails questioning whether such a motion by council could result in criminal charges against council members. The following email was sent to council by a resident of Haldimand County.

You may or may not be aware but Part VI of Bill C-46 Invasion of Privacy in the Criminal Code of Canada could easily be used to prosecute any attempt to intercept emails sent to the Mayor. In case you are not familiar with this section of the Criminal Code I will include the link here for you http://laws.justice.gc.ca/en/showdoc/cs/c-46/bo-ga:l_VI/en#anchorbo-ga:l_VI. Before you vote "Yes" to this resolution you may want to take a look at this piece of legislation in the Criminal Code. To help you understand this section of the Criminal Code read the following:

"private communication" means any oral communication, or **any telecommunication (I would suggest this can include emails)**, that is made by an originator who is in Canada or is intended by the originator to be received by a person who is in Canada and that is made under circumstances in which it is reasonable for the originator to expect that it will not be intercepted by any person other than the person intended by the originator to receive it, and includes any radio-based telephone communication that is treated electronically or otherwise for the purpose of preventing intelligible reception by any person other than the person intended by the originator to receive it;"

"184. (1) Every one who, by means of any electro-magnetic, acoustic, mechanical or other device, wilfully intercepts a private communication is guilty of **an indictable offence and liable to imprisonment for a term not exceeding five years.**"

"184.2 (1) A person may intercept, by means of any electro-magnetic, acoustic, mechanical or other device, a private communication where either the originator of the private communication or the person intended by the originator to receive it has consented to the interception and an authorization has been obtained pursuant to subsection (3)."

You see gentlemen this has nothing to do with the Mayor but rather has everything to do with the protection of the privacy of the residents of this County. Would you like to test this law in court?

The new improved resolution by council was to remove them from the list of people intercepting the Mayor's email.

Now I am not saying that these possible charges would hold up in court nor am I saying that a local council has the authority to override the Criminal Code of Canada. What I am suggesting is that council suddenly wanted their names off the list of people 'intercepting' the Mayor's email.

Let the new guy have to deal with residents who will lay criminal charges.