

2018-35 Town of Pelham vs The Voice of Pelham

June 29, 2018 – *for immediate release*

The National NewsMedia has dismissed four complaints and upheld one complaint raised by a municipal official against The Voice of Pelham.

The complainant, Darren Ottaway, Chief Administrative Officer for the municipality of Pelham, stated that the Voice of Pelham broke CAJ ethics guidelines for transparency and fairness by using anonymous sources and failing to give opportunity to respond to allegations.

The complainant referenced the CAJ code of ethics, which the news organization cited as the code it follows.

Breach of transparency was cited in terms of quotes from unnamed sources in the articles; lack of rationale for withholding identity of the sources; lack of indication the sources had appropriate knowledge to speak on issue; and no apparent attempt to corroborate the information from the sources.

The complaint about fairness centred on lack of opportunity to respond to allegations and accusations from anonymous sources. The complainant said the allegations were based on a limited or lack of understanding of the topics presented in the articles.

The Voice of Pelham responded by stating it took concerns raised by two sources directly to the Town of Pelham in January 2018. After discussion with the town and failure to receive information, it filed an FOI in February. The news organization stated that it asked for comment from the firm overseeing the tendering process, but got no response. It also noted the article quoted a former town staffer about town documents.

The Voice of Pelham stated that the May 10 2018 article is about an unfulfilled FOI request and the town's failure to produce requested documents. It said the focus was not the FOI or tendering processes themselves.

The newspaper also noted there was no allegation of factual errors, and that a link to its ethics guidelines, including use of unnamed sources, is published every week. It said a clarification added on May 24 did not change the guidelines.

The complainant cited five specific complaints:

1. The complainant stated that unnamed sources were used with no reason for anonymity or qualification of sources; there was no approach to the winning contractor or other sources; and the story alleged wrong-doing in the process and by the winning bidder.

The news organization responded by citing its guidelines on use of sources, including ensuring the credibility of the case and the source. It said the use of sources was fair, the comments were

contextually appropriate, and the public interest was evident. The paper said it attempted to get comment from the overseeing firm and spoke with a former staffer.

The NNC dismissed this complaint. The article identified the sources as “employees of a Niagara construction firm” and having experience in submitting project proposals, and another source as “a former Town staffer”. These descriptors are useful indicators of the qualifications of the anonymous sources.

The NNC recommends as best practice that the paper tell the reader, at first introduction of the anonymous sources, as much as possible about qualifications and the reason for withholding names. Providing this information in concise fashion, at the story’s outset, helps the reader assess the decision to give anonymity and safeguard the news organization from criticism.

The NNC found the news organization followed standard journalistic practice by seeking comment from the overseeing firm and a former municipal employee, and by reporting the results.

The NNC noted the winning bidder has not filed a complaint about the article, and declined to comment on that aspect of the complaint.

2. The complainant stated it had no opportunity to respond to the source’s comment about apparent absence of process around tendering, and that the tender process was not defined for the reader.

The news organization responded that the story was not about the tendering process, but about the town’s failure to fulfill an FOI request.

The NNC dismissed this complaint. It found the article described both the municipal tendering process and the FOI request related to tender information. The article defined tendering, quoted the town’s policy and, via FOI info, stated the tendering instructions from the contract. The comment on apparent absence of process was the view of the source, identified as a construction firm employee, and was supported by the reported and uncontested facts. The NNC believes this overview gave the reader sufficient information to assess whether there was a variation from process in this case.

3. The complainant stated there was no reason to use an unnamed former staffer, and that the paper could have consulted FOI experts. It said requests take longer to process than the source indicated, and that the report was one-sided and damaging to the town.

The news organization responded by stating the story is about an unfulfilled FOI, not an analysis of the FOI process.

The NNC dismissed this complaint. The paper followed widely accepted journalistic standards by seeking sources, such as the former staffer. The source cited the time needed to physically generate the information in question while the complainant cited the time involved in the FOI process. The NNC noted no evidence was presented about ‘damage’ to the town because of this reporting.

4. The complainant said the comment from an anonymous source that the town is ‘pushing everything off til the election’ is a cheap shot, and that the wrong staff authority was cited in relation to FOIs.

There was no direct response from the news organization to this portion of the complaint.

The NNC upheld this complaint. While the complainant acknowledged the information requested by the newspaper has still not been provided, we find the comment in question is the opinion of the source, and that no information was provided to support the opinion. In this view, we found the statement was speculation that should have been tested, and a breach of journalistic standard.

The NNC found the complaint about consulting the wrong staff authority to be immaterial to the general thrust of the article.

5. The complainant objected to the quotes about “hiding”, “no checks & balances” and “no paper trail”, and stated that the town, bidder, and company were not given opportunity to respond. The complainant also stated that it does not reveal tender prices, and that the FOI is a de facto paper trail.

The news organization rejected the implication that the town should be asked for comment on an ongoing basis. It stated it took the concerns raised by the sources “directly to the Town of Pelham in January 2018”, and that the town clerk had opportunity to comment when giving notice about the FOI deadline extension notification. It said the onus is on the town to explain delays, and that the town had nearly 90 days to comment. The newspaper also noted the overseeing company did not acknowledge questions from reporters.

The NNC dismissed this complaint. The news organization set out the facts and the tender process, met journalistic standards by seeking comment from knowledgeable sources and the overseeing company, and reported their response or decision not to respond. The NNC viewed the statements in question as the opinion of the source, tested against their knowledge of the usual procedure as stated by the town policy and the source’s experience, and assessed against the uncontested deviation from process in this case.

The NNC noted that best practice is to allow opportunity to respond, and recommended that the news organization would strengthen its story and credibility with readers by putting the statements from the sources directly to the municipality and reporting its response.

The NNC also noted that the town has posted information online for a number of accepted bids, and suggest it is not reasonable to state there is a paper trail via the FOI if the information requested is not delivered.

In reviewing this article, the complaint, and responses submitted, the NNC supported the news organization’s use of anonymous sources, and recommended best practice in use of anonymous sources and giving opportunity to respond.

In dismissing four complaints, the NNC noted the complainant did not allege factual errors; that it is undisputed that an FOI was filed and not fulfilled at the time of the complaint; and that the winning contractor has not registered a complaint about the article. The NNC upheld the complaint about the comment by one anonymous source.

The complainant objected to what it called changing ethical guidelines. The NNC supports the prerogative of a news organization to set reasonable guidelines that reflect community standards and needs. In this case, the news organization followed best practice by making those guidelines readily available to readers.