

TOWN OF CALEDON INTEGRITY COMMISSIONER, DAVID G. BOGHOSIAN

Citation: Complaint re: Councillor David Sheen – DGB-CaledonICI-2024-02

Date: June 24, 2024

REPORT ON COMPLAINT

Introduction

[1] On or about April 30, 2024, I received a complaint from Prabhsimran Singh of the organization United Sikhs concerning a comment made by Councillor David Sheen during a meeting of the General Committee of Council on February 6, 2024 (“the Complaint”). The Complaint alleges breaches of sections 1(a) and 8.1 of the Code of Conduct for Members of Council and Designated Boards (“the Code of Conduct”, “Code” or “COC”).

Complaint

[2] The Complaint alleges that during the meeting of the General Committee of Council which commenced at 2:30 pm on February 6, 2024, in the course of a debate concerning Staff Report 20240036: Proposed Park Washroom Facility Service Levels, Councillor Sheen remarked on "evolving changes in white communities' parks,"¹ implying that these changes were negatively influenced by the different ways parks were being used by the South Asian “community.”

[3] The Complainant asserts that the comment was offensive for the following reasons:

- a. The comments were not only divisive but also reflective of a deep-seated bias that undermines the principle of community harmony;
- b. His comments suggested a segregationist mindset, framing the South Asian community as outsiders and insinuating that their cultural practices were incompatible with the so-called traditional customs of the existing community framework;
- c. Councillor Sheen’s comments not only highlighted but criticized the perceived cultural differences in the usage of park facilities by the South Asian community, portraying these differences as problematic and indicative of a failure to assimilate;

¹ The quotations as well as the words within them are taken directly from the original Complaint, meaning to me that this was being presented as a verbatim quote of what Cllr. Sheen had said.

- d. Councillor Sheen openly challenged the Mayor's representation of diverse community preferences, suggesting a significant and concerning disconnect between the leadership's perspective and the prejudices he articulated, favoring the majority demographic's comfort over minority rights.

[4] The Complaint goes on to assert that Councillor Sheen's statements violated Sections 1(a) and 8.1 of the Code of Conduct, which, he stated, demand that council members act in a manner that is respectful, equitable, and devoid of any bias, promoting a unified community front.

[5] The Complainant's purported quote of what Councillor Sheen said is not accurate. The actual statement, which begins at approximately the 2:34:30 mark of the video of the February 6th General Committee meeting on the Town's website, was as follows:

“We need to recognize that there is an evolving need, err, evolving changes, in the way parks are used, especially with communities that are largely populated by South Asians who use parks differently than what many of us may be accustomed to.”

[6] The comment must also be seen the context of an earlier exchange in which Councillor Sheen stated, commencing around the 2:33:35 mark of the video of the said meeting:

“A lot of division was created in my neighbourhood when the portalet was put in Snell Park. I had a feeling that most people in my neighbourhood didn't want it there. The Mayor had a different opinion about how many people in the neighbourhood wanted it, which was fine...” [the Mayor interjects at this point to object to the reference to her in Councillor Sheen's comments].

Response of Councillor Sheen

[7] On May 6, 2024, I forwarded the Complaint to Cllr. Sheen by email for his response. In it, I also set out the verbatim quote from the video of the meeting as per paragraph [5] above. I sent a follow up email on May 7th with some supplementary questions, including with reference to his statement at paragraph [6] above. Cllr. Sheen provided his Response by email on May 16, 2024.

[8] A synopsis of Cllr. Sheen's Response is as follows:

- He provided examples of Town policies which support, encourage and promote the need for the Town to provide culturally responsive programming specific to the unique needs of each community, although he does not set out what part, if any, he played in contributing to those policies;²
- He recounts a “very illuminating” presentation by Town staff to the General Committee of Council entitled “Community Revitalization and our

² Indeed, most, if not all, of them pre-dated his tenure on Council, which commenced in October 2022.

Growing Population” on June 6, 2023, along with staff report 2023-0250. Specifically, the presentation by staff provided demographic data (as reported by Environics) illustrating the differences among three specific communities within Caledon i.e. Bolton, Caledon East and Mayfield West, as follows: Bolton, 11.3% belong to a visible minority (Black, South Asian, Latin American); Mayfield West, 64% belong to a visible minority (South Asian, Latin American, Black); Caledon East, 18% belong to a visible minority (South Asian, Latin American, Black).³ He remembers this presentation very clearly because it confirmed what he already knew from his own experience as an engaged member of my community for more than a decade: that the population in Mayfield West is home to a much greater proportion of visible minorities, particularly from the South Asian community, compared to many other communities within Caledon. He indicates that this is why he came to the conclusion that the Town and his Council colleagues must not ignore the fact that the Mayfield West community may have culturally different recreational and other service needs compared with other neighbourhoods within the Town of Caledon;

- With respect to the impugned comment he made at the February 6, 2024 meeting of the General Committee of Council, the agenda item he was speaking to was 8.2. Staff Report 2024-0036, which was a staff report proposing a policy with respect to washroom facility service levels in Town parks. That staff report was generated out of a meeting of the General Committee of Council seven months before, on July 11, 2023. In that meeting he had brought forward a Notice of Motion seeking to remove a porta-let which had been installed in Snell Park, at the direction of staff in the Mayor’s office, despite his prior objections. During that meeting, his Notice of Motion was not immediately dealt with but was, instead, referred by Council on a motion moved by the mayor, referring the whole matter to staff and asking them to report back “...on the evolving use of Town parks by the community.” The discussion among committee members and delegates about the Notice of Motion and the subsequent Referral Motion by many council members on July 11, 2023 noted the obvious division in the Anthem neighbourhood on the topic;⁴
- Cllr. Sheen states that he is “very much aware” of systemic racism and cultural intolerance that exists in our communities and that his comments were addressing those in the community, including his fellow councillors, that are resistant to these changing demographics. He indicated that in

³ I reviewed Staff Report 2023-0250 and found no reference to these demographic statistics or any content in the report that would make such demographic statistics relevant. The Report was in fact titled “Proposed Community Revitalization Projects and Caledon East Revitalization Task Force Terms of Reference,” not “Community Revitalization and our Growing Population” as Cllr. Sheen suggests.

⁴ I have omitted some of Cllr. Sheen’s submissions with respect to paragraph [6] of this Report for the sake of brevity as I do not intend to deal with this issue in my Findings.

making the statement he did, he was attempting to speak to his community about opening their minds and their hearts to this reality;

- Contrary to the Complainant's assumptions about his "bias" and "divisive attitude," Cllr. Sheen asserts that the opposite is true and that his track record shows that he is a strong supporter of diversity, equity and inclusion initiatives and policies which support DEI. He asserts that his comments on February 6 are actually trying to address those biases and divisive attitudes within the community, which he recognizes;
- He concludes that accusing someone of being racist, or of holding divisive attitudes or biases toward one racial community over another, is a very serious allegation. He feels the Complainant has taken his comments out of context and that if the Complainant knew of his previously expressed views, or reached out to him to discuss my remarks before filing the Complaint, he would have learned that he very much engaged in representing his community and its rich diversity.

[9] On May 16, 2024, I sent a further follow up email to Cllr. Sheen asking the following questions: what did you mean by saying "South Asians who use parks differently than what many of us may be accustomed to." How do you think South Asians use parks differently than "many of us may be accustomed to" and who are these "many of us"?

[10] Cllr Sheen responded to my May 16th inquiry on May 17th with the following response:

"The comment I'm being questioned about question acknowledges that park usage patterns are evolving, especially in communities with a significant South Asian population who may utilize parks differently than traditional norms. As the mayor's referral motion notes, the Town is experiencing an "evolving" shift in this regard. It is also reflected in the programming currently offered at the South Fields Community Centre and the South Fields Branch of the Caledon Public Library.

When I stated "we need to recognize," I was speaking to the entire community of Caledon, including my council colleagues. I was urging everyone, especially those who may be unaware of the substantial growth in Mayfield West over the past decade, to recognize that our communities are indeed evolving demographically. As communities evolve, so too do their needs, naturally demanding and deserving of programs and services that are culturally responsive and sensitive to the specific requirements of those neighborhoods.

As I said, I am acutely aware of the systemic racism and cultural intolerance that persists in our communities. My comments were respectfully directed at those resistant to these changing demographics, with the goal of directly appealing to them, on behalf of my highly diverse community, to open their minds and hearts to this reality.

Contrary to the accusations of bias and a divisive attitude, the opposite is true. Those familiar with me, since entering politics and long before, know that I actively support diversity, equity, and inclusion initiatives and public policies. My remarks on February 6th were an attempt to address the very biases and divisive attitudes I recognize in others, not an expression of such views myself.”

[11] Finally, I spoke with Cllr. Sheen on June 7, 2024 about a recommendation I was proposing to make, being that Council undergo cultural sensitivity training. I had already put this to the Complainant who, after consulting with the Board of his organization, felt this was an excellent recommendation. Cllr. Sheen indicated that he also supported this recommendation but was insistent in not wanting it to be associated with a finding of breach of the Code of Conduct on his part.

Investigation

[12] According to the Canadian Encyclopedia, the 2021 Federal Census identified prominent ethnic groups within the Town of Caledon as: Italian (23.1 per cent), English (13.5 per cent), Indian (11.9 per cent), Scottish (10.8 per cent), Canadian (10.6 per cent) and Irish (10.3 per cent).⁵

[13] According to Wikipedia, the ethnic breakdown of Caledon over the past 20 years, based on Canadian Census data, has been as follows:⁶

As of the 2021 Census, the largest five ethnic origins of the residents of Caledon are Italian (23.2%), English (13.6%), Indian (12.0%), Scottish (10.9%), and Canadian (10.6%). 66.3% of Caledon residents were white/European, 32.8% were visible minorities, and 0.8% were Indigenous. The largest visible minority groups were South Asian (21.4%), Black (3.6%), Latin American (1.7%), Chinese (1.0%) and Filipino (1.0%).

[14] The Wikipedia page then sets out the following chart:

⁵ See [https://www.thecanadianencyclopedia.ca/en/article/caledon#:~:text=half%20of%20Chinguacousy,Population,Irish%20\(10.3%20per%20cent\)](https://www.thecanadianencyclopedia.ca/en/article/caledon#:~:text=half%20of%20Chinguacousy,Population,Irish%20(10.3%20per%20cent)). The Canadian Encyclopedia is published by Historica Canada, a not-for-profit organization funded by the Department of Canadian Heritage.

⁶ See https://en.wikipedia.org/wiki/Caledon,_Ontario.

Panethnic groups in the Town of Caledon (2001–2021)

<u>Panethnic group</u>	2021^[14]		2016^[15]		2011^[16]		2006^[17]		2001^[18]	
	<u>Pop.</u>	%	<u>Pop.</u>	%	<u>Pop.</u>	%	<u>Pop.</u>	%	<u>Pop.</u>	%
<u>European^[a]</u>	50,450	66.31%	53,195	80.34%	52,820	89.56%	52,385	92.16%	47,710	94.74%
<u>South Asian</u>	16,310	21.44%	6,635	10.02%	1,995	3.38%	1,265	2.23%	700	1.39%
<u>African</u>	2,770	3.64%	1,880	2.84%	1,205	2.04%	860	1.51%	770	1.53%
<u>Latin American</u>	1,310	1.72%	905	1.37%	600	1.02%	480	0.84%	175	0.35%
<u>Southeast Asian^[b]</u>	1,105	1.45%	730	1.1%	495	0.84%	395	0.69%	80	0.16%
<u>Middle Eastern^[c]</u>	1,060	1.39%	495	0.75%	300	0.51%	175	0.31%	255	0.51%
<u>East Asian^[d]</u>	975	1.28%	900	1.36%	620	1.05%	525	0.92%	365	0.72%

[15] What can be seen from the data set out in the Investigation section of the Report is that over the 20 years from 2001 through 2021, the percentage of Caledon residents of European descent dropped from almost 95% to approximately 66% while the percentage of South Asians rose from less than 1.5% to almost 21.5 %, and the overall percentage of visible minorities rose from 5% to 32.8%. I am by no means a social anthropologist; however, it is apparent from the statistics even to a lay person that there has been a fundamental shift in the cultural make-up of the Town over a relatively short period of time. It is also a matter of common sense that such rapid demographic changes can lead to tensions between those who have been in the solid, but now declining, majority for so long and members of the ascending cultural minorities.

[16] Whereas the Town is comprised of residents almost one-third of which are visible minorities (3 out of every 9 residents), the Town's Council is comprised of only 1 visible minority on it out of its 9 Members.

Relevant Legislation

Code of Conduct

[17] The provisions of the Code of Conduct relied on by the Complainant are as follows:

1. Roles and Obligations

1.1 Members must recognize their responsibility to:

a) Represent the diversity of community views in a fair, respectful and equitable manner, while developing an overall strategy for the future of the Town;

8. Conduct at Meetings

8.1 During Council, Committee or any Designated Board meeting, Members shall conduct themselves with decorum and in accordance with the Town's Procedural By-law and/or the approved rules of each Designated Board, and this Code of Conduct. As leaders in the community, decorum requires Members to be held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary.

Procedural Bylaw, BL 2015-108

[18] The Town's Procedural Bylaw contains the following statement regarding conduct of members at Council meetings:

6.1.1 Members of Council shall:

(d) not use offensive words or insulting expressions at any time including speaking in a manner that is discriminatory in nature based on an individual's race, ancestry, place of origin, citizenship, creed, gender, sexual orientation, age, colour, marital status, family status or disability;

[19] Although, unlike in many other municipalities' codes of conduct, the terms of the Procedural Bylaw are not incorporated by reference into the Code such that a breach of that Bylaw constitutes a Code of Conduct violation,⁷ I view this passage as instructive in informing the meaning of "decorum" as used in s. 8.1 of the Code of Conduct.

⁷ While the Procedural Bylaw is mentioned in the Code as another document governing the conduct of Members, there is no language indicating that a breach of the provisions of the Procedural Bylaw are deemed to be a breach of the Code, as I find there would need to be in order for a breach of the Procedural Bylaw to amount to a breach of the Code.

Findings

Was Section 1a) of the Code of Conduct Breached?

[20] I find the intent of s. 1.1 of the Code to be confusing. It is not well drafted. It appears to be suggesting that in making decisions affecting the Town’s future, councillors should be cognizant of the diversity of the community. I regard this section, on its plain meaning, to deal with future planning matters, such as future housing expansion. I do not think fashioning a policy on how to decide when portalets are installed in parks to be a matter of future planning that the framers of the Code of Conduct had in mind when they incorporated this provision into the Code of Conduct. Having said that, I believe that the philosophy of “represent[ing] the diversity of community views in a fair, respectful and equitable manner” permeates the intent of the Code and informs many of its provisions, including s. 8.1.

Was Section 8.1 of the Code of Conduct Breached?

What is the Meaning of “Decorum”?

[21] The Cambridge University Dictionary defines “decorum” as “behavior that is socially correct, calm, and polite.”⁸ Wiktionary defines “decorum” as: “appropriate social behavior.”⁹ The Britannica Dictionary defines the word to mean “correct or proper behavior that shows respect and good manners.”¹⁰

[22] In *Singh v Sprovieri*,¹¹ a different IC held that a councillor breached a Code provision requiring “decorum at all times” when he sent an e-mail to CityNews telling “people of all races, colour and creeds” to “learn the values of the white people.” The IC found that crediting “white people” for values and developing a system in which people can live peacefully were not proper or in good taste and contravened the decorum requirement. In *McConnell v Ford*,¹² another IC held that even actions done without the intent to harm or with a purportedly commendable motive can still lack decorum and contravene the Code.

Application to the Facts of this Case

[23] I find both of the aforementioned decisions to be highly informative in the circumstances of this case. Creating an “us:them” dichotomy between white ethnic stock and others as Cllr. Sheen’s comment did is not “socially correct” or “appropriate social behaviour,” such that it

⁸ Cambridge Academic Content Dictionary © Cambridge University Press)

⁹ See <https://en.wiktionary.org/wiki/decorum>.

¹⁰ See <https://www.britannica.com/dictionary/decorum>.

¹¹ 2018 ONMIC 20 (CanLII).

¹² 2015 ONMIC 4 (CanLII).

breached the rules of decorum; furthermore, it does not matter if Councillor Sheen had a commendable motive for making them in determining whether they met the decorum standard.

[24] I accept Councillor Sheen’s explanation that his comment was not intended to be culturally insensitive. I accept that he intended to support a policy to allow more portalets to be placed in parks, even neighbourhood parks, for the benefit of all users of parks. Unfortunately, that is not how it was heard by some of his fellow residents, in the context of an almost all-white Council, which interpretation was reasonable in my opinion. Ultimately, councillors are responsible for how their words will be reasonably perceived. When one states “especially with communities that are largely populated by South Asians who use parks differently than what many of us may be accustomed to,” there are too many unfortunate negative interpretations that this could reasonably give rise to. Is the manner in which South Asians use parks somehow wrong given that it is apparently different “than what many of us [ie? the majority] may be accustomed to” and if so, in what way(s) is it wrong? Does every resident of Caledon of South Asian descent really use parks the same way? Do all residents of Caledon of white descent use parks differently than how Cllr. Sheen thinks South Asians do? I highly doubt that any of these statements would be found to be accurate if an empirical study were carried out but that is what Cllr. Sheen’s comment implies.¹³

[25] In my opinion, councillors need to be more sensitive to the feelings of minority groups within their community than what Councillor Sheen demonstrated in the impugned comment on February 6, 2024. I note that not one other Member of Council voiced any objection or concern about the comments at the time, which, to my ears, were clearly and unequivocally offside. I do not fault the Mayor for not doing so given her own minority status on Council such that any objection she might have raised may well make her look unduly sensitive to racialized remarks and an attempt to deflect the debate at hand from the merits of portalets in parks by raising a highly charged collateral issue.

Conclusion Regarding s. 8.1 of the Code

[26] For all of the foregoing reasons, I find that Councillor Sheen breached s. 8.1 of the Code in failing to act with the exemplary degree of decorum in terms of socially acceptable commentary expected of councillors.

Appropriate Relief

[27] I regard this Complaint as creating a “teachable moment” rather than an opportunity to mete out punishment. Having said that, I believe some acknowledgement of the inappropriateness of the Councillor’s statement is necessary and for that reason, I recommend that Councillor Sheen be asked to make a public apology to the South Asian community about the insensitivity of his remarks.

¹³ There are a number of international, peer-reviewed, empirical studies about the use of public parks based on ethnicity which do not appear to substantiate such stereotypes: see <https://www.tandfonline.com/doi/full/10.1080/02614367.2024.2316164>; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6181824/>; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9027594/>

[28] I further recommend, pursuant to s. 15.4 of the Code of Conduct which permits me to recommend corrective actions in addition to imposing sanctions as set out in s. 18 of the Code, that Council arrange for all of its members to jointly undertake cultural sensitivity training from the standpoint of understanding and promoting “the diversity of community views in a fair, respectful and equitable manner.”¹⁴ In this regard, I recommend that this training be provided by Ruth Bhasin of the firm Bhasin Consulting Inc. The firm’s webpage can be found at <https://bhasinconsulting.com/>.

Conclusions Regarding the Complaint

[29] I find that Councillor Sheen breached s. 8.1 of the Code of Conduct and I recommend that he be asked to publicly apologize to the South Asian community about the insensitivity of his remarks.

[30] I further recommend that all Members of Council undergo sensitivity training together with a view to bridging unconscious cultural and ethnic prejudices and fostering mutual respect and understanding.

[31] This concludes my investigation.

Respectfully Submitted,



David G. Boghosian,
Integrity Commissioner,
Town of Caledon

¹⁴ By this I do NOT mean generalized Equity Diversity Inclusion (EDI) training but specific, targeted training related to cultural competency.