

Mar. 11, 2020

Mayor and Council,
Town of Pelham,
20 Pelham Townsquare,
Fonthill, Ont.,
L0S 1E0

Re: Several Municipal Issues

Dear Mayor Junkin and Council;

It is with reluctance that I write this letter as I am sure I will be accused of merely throwing mud and of practicing sour grapes given my former position on Council and my defeat in the last election but I decided to write anyway because I felt that as a private citizen and tax payer I have every right to comment on issues impacting this Town; its reputation and my tax dollars. So here it goes!

I watched the meeting of Mar 2, 2020 as several items on the agenda were of interest to me; namely the issues surrounding the Cannabis matter and the issues surrounding the continued spending of unbudgeted funds.

At the outset, I would like to say how much I appreciate the hard work which the Cannabis Committee has put forward on behalf of the Town and my remarks are not in any way intended to be critical of them. This Town functions as well as it does because of the great work that our many community volunteers do. My comments are directed at what I see as an unbelievable divide between this committee and the Senior Planning Staff. Council seems unsure of which group to support. Till the meeting of the past Monday, this divide was for the most part behind the scenes; although somewhat apparent if one thoroughly read the various reports and watched the various presentations. This obvious discord provides fuel to the Cannabis industry producers if they choose to appeal any changes made to the various bylaws and Official Plan. It may also provide key witnesses for them from our own Town staff. What took place on Monday; was in my opinion unseemly and unprofessional. To have the type of open discord and disagreement between the Town's Professional Staff and a volunteer committee was unbelievable to me. These types of discussions should have taken place at a meeting convened by the CAO and the Mayor and a resolution arrived at and presented in a unified manner to the public and the opponents of the contemplated legislative amendments and bylaws. To have had the types of discussions seen; only adds fuel to the fire of the complainants.

As I continued to view the meeting; I was amazed at the report from the CAO concerning the public meeting issue and the discussion surrounding it. This report further pointed out the disagreement between the parties. It took no sides; when again in my opinion the CAO should have supported his staff. This support should have come about by way of a thorough and complete discussion with staff around their position on the matter. Any massaging of their position should have been done at the staff level and any disagreement sorted out there. Although the CAO could argue that he was relying on the opinion of outside Counsel, I question that that opinion argued in anyway against another public meeting. It merely pointed out that Council has the right to forgo this step if it is of the opinion that the changes proposed are not substantial. It further goes on to support; however, a public open house,

which I would argue would still require that proper notice be given to the public. Apparently at this open house; the Town would undertake to receive public input. Kind of sucking and blowing at the same time if you ask me. Our CAO is a lawyer and I am certain he could provide sound practical advice to this Council that goes beyond mouthing the words of the Act. Could he not interpret these words in a real world and factual situation? To argue over semantics at this point in the process seems counter-productive to me. We know that the industry is going to challenge the Town regardless of the changes made. They have made this clear. Why not reduce their arguments. This Council and Mayor ran on openness and transparency but here we have an issue where staff is recommending a statutory public meeting and for whatever reason this Council (on the wishes of the committee) are pushing back. If one looks at all the arguments for and against; I believe a public meeting serves several purposes. Firstly it removes the argument that the Cannabis growers did not have a fair and equitable opportunity to review the proposed changes, to evaluate the impacts on their businesses and to provide input in a formal way. Secondly by providing this opportunity; the Town and Staff will be made aware of the planning, business and legal challenges which the industry might mount on appeal and would have an opportunity to respond to those challenges either by way of prepared arguments or by way of amendments to the changes accomplished through negotiation. This opportunity could head off the appeal to the changes which could prove to be long and costly for both parties. I point out that the industry has far more funding than the Town. Lastly it would provide an opportunity for others in the public; growers of other crops and citizens alike; an opportunity to hear all the arguments for and against the changes and to provide their input. To Council; I say practice what you so loudly preached; openness and transparency should be your course of action and a formal public meeting will satisfy this regardless of the degree of changes proposed.

I realize that there will be those that read the above; who will say that I am merely an apologist for Senior Staff. Trust me that is not the case and never has been. Look at my record. There was no one who was harder on staff and demanded more from them than I. I was never afraid to ask tough questions but I tried to do these things without being insulting and derogatory. After reading staff reports; ask your questions of staff in the days leading up to the meeting. Give them a heads up that questions are coming at Council. It's a long 4 years when you are in an adversarial environment and it will limit what you will be able to accomplish.

I would like to make one further comment on the Cannabis matter. I am shocked that this Council is having the Committee respond to the letters put forward by legal teams for the various growers of Cannabis. These matters represent serious legal challenges to the Town and the response should only come from the Mayor and Council after a thorough vetting from legal. To direct a volunteer committee to deal with these matters is beyond the pale. I wonder who holds legal liability with respect to their response. Are the committee members insured against such matters? The minute there is a legal challenge or a hint of one; the matter should rest with Mayor and Council; Senior Staff and the Town's Legal advisors; not with a Volunteer Committee.

Now on to the spending of unbudgeted funds. This Council has constantly cried poor and stated that there is no money for anything. They developed a budget which showed a substantial increase to all citizens and yet every time one turns around, they are passing motions to spend more money. Money not budgeted for and therefore not provided for.

At the meeting which I am commenting on Council spent money of budget when it approved another \$30,000 for outside legal advice for the Cannabis Committee. It was only 2 weeks previous that \$50K was approved. I think the Council has now spent or authorized in excess of \$100K on this matter; much

of which was unbudgeted. This represents another approximate 1% on the levy to the tax payer. When will this end or is there an open account here. Would it not have been prudent to have obtained a fixed contract price to complete the work necessary to bring forward the changes necessary? Further; would it not have been prudent to have had staff involved in the discussions? How much staff time has been spent and therefore money; on developing reports that appear for the most part to be ignored? If the Town is going to rely on the outside experts then why has staff spent their time on reports? There is plenty for them to do without writing reports which basically go ignored. Lastly; was the procurement policy of the Town followed with respect to the hiring of the planners and legal firm?

The Gypsy Moth issue is another example where Council considered going off budget. The budget set aside \$150,000 to address the problem this year and yet a substantial amount of time was spent debating increasing the taxation on the public by another half percent, a move that would increase the area sprayed but would not cover all the areas needed. A great deal of time was spent arguing with staff on how this should be done despite staff advising on numerous occasions that it could not be done the way Council envisioned. Kind of "getting' in the weeds" don't you think? Eventually rational thought won out and a motion to proceed as budgeted moved forward; however with a proviso that the issue could be revisited. The Town should look after the Town lands (as was planned when the budget was struck) and provide information to the public on how they can take care of their own properties. This is the only fair and equitable way to proceed other than spraying the entire Town (more than 1 million dollars). The lessons learned last year with respect to spraying private property and then trying to collect the amount fronted by the Town should be a lesson well learned.

Creating the position of in-house Counsel is another example of off the books spending. While I like the idea of shared services and I can see a business case which could be made to bring some matters in-house, I would think that the legal issues which cost the most money will still need to seek outside expertise. The responsibility of taking on a new employee is significant. It is all too easy to hire and not so easy to remove an employee. Have the issues which could realistically be handled in-house been identified and quantified in terms of hours and then dollars. I question whether the Town can hire an experienced Municipal lawyer or for that matter even an experienced generalist for \$75-\$90 dollars. In fact; if you do hire at \$90/hr this amounts to substantially more when you add the costs of all benefits and liabilities. Would the legal liabilities of the Town increase by doing our own work in house as opposed to relying on outside Counsel to whom the Town could claim against if an issue went off the rails? Is there a contract with the current outside firm? Has any thought be given to looking at hiring a paralegal to handle the simple and mundane matters. I would argue that this would be a great deal more cost effective. Certainly with the expertise of the CAO overseeing such matters; this might be a viable alternative. This direction represents more unbudgeted money to be spent. Will the taxes be further increased? If not what services might be cut to offset the expenditures?

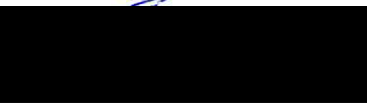
I would also like to comment on the hiring of a Policy Planner. I realize that the hire has already been done and I wish the new planner well and I am sure she will work hard for the Town but I do worry about these types of long term commitments. I certainly understand that the Zoning Bylaw is very outdated (the past Council was virtually at the point of having public input into the new bylaw) and that the OP needs review but again I wonder about the wisdom of taking on another full time employee. Will this position become redundant once these issues are resolved and the period of rapid growth and development passes? Contracting may have proved cheaper and more efficient with less long term liability to the Town. Was this option even evaluated? What were the results?

My last observation of concern; which I would like to draw to the attention of the Mayor and Council is a breach in the Code of Ethics and Confidentiality which occurred during the meeting and went completely unrecognized and unchallenged by the Chair. Legal advice given in camera is to be kept confidential as its revelation may in fact hurt the legal position of the Town at some point. I will not name the Councillor involved but I believe if the video of the meeting is reviewed it will become abundantly apparent when the breach occurred. The Chair should have stopped the speaker in his tracks, spoken to him regarding the breach and not allowed him to proceed with his quoting of the advice. Councillors have been removed from meetings for less. It begs the question; if this can occur in an open meeting of Council without recognition; what information gets revealed over a coffee or in a social setting or to the press without actually realizing that a breach has occurred. Perhaps a review of these issues should occur.

I realize Council has many challenges in front of them but I also realize the importance of having a committed Staff which knows it is appreciated for its expertise. I think your actions need to reinforce this. Being supportive of staff does not preclude a hearty discussion and question and answer period but at the end of the day there needs to be a realization that they are the professionals who carry out the policy direction of Council. It is not up to Council to run the day to day operations of the Town. Councillor Kore said in the meeting that he felt he got elected to make the tough decisions. Sometimes the toughest decisions are to support staff and to say no to the Public even if they are hard- working volunteers or tax payers in your ward. You; as Council are to be the informed on the issues at hand and need to act as such. Make the hard decisions for the entire Town!

Thanks you for your time and your service to the community.

Yours truly;

A black rectangular box redacting the signature of G.E. Accursi.

G.E. Accursi; DDS, MSc.