

# The Hamilton Spectator

## Integrity watchdog raps Clark

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The city's integrity commissioner has reprimanded Councillor Brad Clark, saying he was seeking political gain when he circulated a recording of the mayor having an off-the-record conversation.

George Rust-D'Eye dismissed Clark's claim that he was a "whistleblower" in the so-called Tape-gate scandal.

In a 29-page report, the interim watchdog ruled Clark's actions "involved a primarily political motivation with no foreseeable or calculable public interest objective or public benefit."

The city released the report yesterday after "further legal review." It was initially marked as confidential, an apparent contravention of the Municipal Act.

Council will receive the findings next Thursday.

In a public statement, Clark said he accepts the public reprimand as a sanction but does not agree with all the findings.

The Stoney Creek councillor, who is the first politician to be investigated under the city's new watchdog bylaw, disputed the commissioner's "narrow interpretation that there was no public interest in this matter."

He pointed to a recent judge's ruling that allowed a Nova Scotia newspaper to publish tapes of federal minister Lisa Raitt discussing confidential information.

"The courts have found that there is compelling public interest in the scrutiny of government," Clark said.

He declined to comment further.

Mayor Fred Eisenberger said "the report speaks for itself."

"I'm glad we can get this behind us and get back to governing," he said.

Last summer, Clark gave a Hamilton Community News reporter and two councillors a recording of the mayor disclosing confidential information in an off-the-record conversation with Spectator columnist Andrew Dreschel.

The conversation, which was taped by Eisenberger's former communication staffer Ian Dovey, related to legal advice about a city employee.

Rust-D'Eye, a lawyer, previously ruled Eisenberger broke council's code of conduct but found he was acting in the public interest to clarify misinformation. He recommended no sanction.

In contrast, Rust-D'Eye found Clark's objectives appear to have been "more political in nature."

Clark told the commissioner he felt it was important the public know the mayor disclosed confidential information when he had admonished council for past leaks.

When asked why he didn't take the tape to staff or council, Clark said there was no process, such as an integrity commissioner, to deal with such concerns at the time.

The integrity probe was delayed while police investigated if the tape was stolen from the mayor's office. The force concluded in February that there was insufficient grounds to lay charges.

In his report, Rust-D'Eye concluded Dovey did not have legal authority to remove the recording from City Hall. Consequently, he found Clark did not have the right to circulate the material and should have returned it to the city.

Clark disagrees that the conversation was a municipal record.

Dovey's lawyer David Skuy said he wants to read the report before commenting.

The integrity commissioner, who has the authority to dole out punishment, chose not to impose a financial penalty on Clark because the information he leaked had already been reported.

In his statement, Clark suggested changes to the process, saying he found it "troubling" that he was not privy to witness testimony and there was no opportunity for cross-examination.

"The entire proceeding was in essence an ex parte hearing."

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