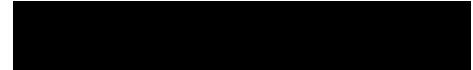


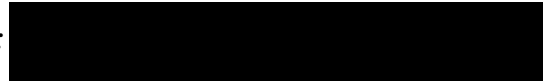


October 29, 2026

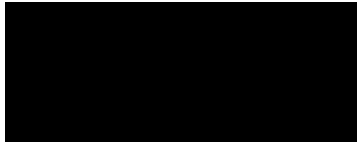
Darren Leung



VIA EMAIL:



Town of Botwood Council



Dear Mayor and Council

Re: Recording policies for open town council meetings

Charter Advocates Canada is a registered charity and civil society organization with the purpose of upholding Canada's constitutional freedoms, civil rights and human rights. We litigate across Canada to defend the constitutional rights of Canadians.

We are writing on behalf of Mr. Elmo Hewlett to warn the Town of Botwood Council ("**Council**") that its rules and practice of prohibiting members of the public from making recordings of open Council meetings is unconstitutional and must cease immediately. Failure to do so may result in legal action being taken against you.

BACKGROUND

Mr. Hewlett is a resident of Grand Falls-Windsor. Since his retirement, he has started a social media page called "the Voice of Grand Falls" to report on matters of public interest in both Grand Falls and the surrounding area.

Mr. Hewlett heard that a protest was occurring at the October meeting of Council, and went to Botwood on October 13, 2026 to find out what was happening and to report on it. After approaching the door to the Council Building, Mr. Hewlett saw that there were signs which stated recording was prohibited. Mr. Hewlett often records council meetings of towns in the area to post on to the Voice of Grand Falls. He brings a tripod for his phone to record these meetings. The recording set up is non-intrusive and emits no noise. He had intended to record the October 13, 2026 meeting as well.

When he rang the bell to enter the Council building, the person who answered the door immediately advised that no recording was allowed. Mr. Hewlett asked whether there was a law against recording Council meetings and the man closed the door on him.



Following this incident, Mr. Hewlett requested via email a copy of the Town's bylaw that prohibits recording of Council meetings. The response he received was that a copy of the Town's bylaw would incur a charge.

According to section 4.1 of Resolution No. 26-179, the Rules of Procedure for Town Council Meetings, it provides that:

4.1 Recording Meetings

Meetings may be recorded by the town or by authorized media representatives, provided that such recordings are made in a manner that does not disrupt the proceedings. All recordings, whether audio or visual, must be identified at the beginning of the meeting, and individuals present must be made aware that the meeting is being recorded.

COUNCIL HAS A DUTY TO RESPECT THE *CHARTER*

To the extent that the Town has any bylaws or rules prohibiting members of the public from recording, such bylaws are unconstitutional. Recording and broadcasting has been held by the Supreme Court of Canada to be expressive activity protected by section 2(b) of the *Canadian Charter of Rights and Freedoms*.¹

Government-owned places can be expected to host constitutionally protected expressive activity when those places do not conflict with the purposes of section 2(b) and serves to enhance (1) democratic discourse; (2) truth finding; and/or (3) self-fulfilment.² To answer whether a public place expects constitutional protection for expression, the following 2 factors must be considered: (a) the historical or actual function of the place and (b) whether other aspects of the place suggest that expression within it would undermine the values underlying free expression.³

Council chambers is the most public place in town. It is the heart of local democracy, where the community can gather to watch important decisions be made. Journalistic activities, such as taking notes and recording meetings for publication later has historically been a core feature of any town council meeting. Therefore, it is constitutionally expected that these types of expressive activities are protected within a town council meeting.

Further, town council meetings are required by the *Towns and Local Service Districts Act*⁴ (“**Act**”) to be open to the public, subject to a few exceptions that were not applicable for the October 13, 2026 meeting. As such, the public must be able to observe, report and discuss these meetings. Any privacy concerns must be viewed in the context that councillors are in the most public position in Town and ought to expect a degree of publicity when they serve on Council, especially when they are sitting in Council chambers. Any constraint on expressive activities surrounding open Council meetings must be minimal and crafted to invite public engagement rather than stifle it.

Further, the Town does not even appear to follow its procedural rules, as the signs outside of the Council building simply states there is no recording allowed. Mr. Hewlett's purpose in

¹ *Canadian Broadcasting Corp v Canada (Attorney General)*, 2011 SCC 2 at paras 40-41.

² *City of Montreal v 2952-1366 Quebec Inc*, 2005 SCC 62 at para 74.

³ *Ibid*.

⁴ *Towns and Local Service Districts Act*, S.N.L. 2023 c. T-6.2 at s. 40. [“*TLSDA*”]



recording is to publish a record of Council's meeting. This is journalistic activity, and he ought to have been considered "media" under the rules of procedure. In any event, a rule restricting recording to "media" (however it is defined) is an overbroad restriction and is unconstitutional.

THE TOWN CANNOT CHARGE FOR COPIES OF BYLAWS

The Town cannot charge any member of the public when copies of bylaws are requested. Pursuant to section 12(2)(a) of the Act, a copy of all bylaws passed by a town council must be available for public viewing during normal business hours and (b) posted on the town's website, where it has one.⁵ The Town has no authority to charge Mr. Hewlett for a copy of the bylaw, especially when he requested it in an electronic format. Further, the Town's website does not have any bylaw posted on it, which is required in the Act.

CONCLUSION

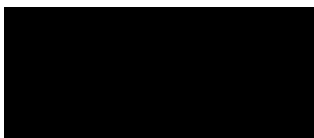
The *Charter* applies to the Town of Botwood. Any bylaws, rules or policies which prohibit Mr. Hewlett, or any member of the public, from non-intrusive recording of open Council meetings is a violation of the freedom of expression. Such violations are not justifiable under section 1 of the *Charter*.

We invite Council to conduct meetings in a manner that respects *Charter* rights. We request that section 4.1 of the Rules of Procedure be amended to allow the public to record in a non-disruptive manner, and that the Town remove its signs stating that recording of open meetings is prohibited. Further, we request that the Town provide Mr. Hewlett the bylaw he requested free of charge (in an electronic format), and to post all passed bylaws on its website, in accordance with section 12(2)(b) of the Act.

Yours Truly,

CHARTER ADVOCATES CANADA

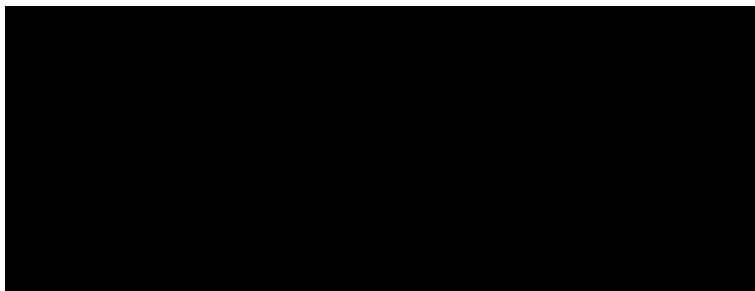
Per:



Darren Leung

Staff Lawyer

CC:



⁵ *TLSDA*, at s. 12.

