

## BY EMAIL

September 20, 2023

Council for the Municipality of Callander  
c/o Mayor Robb Noon  
280 Main Street North, P. O. Box 100  
Callander, ON P0H 1H0

Dear Members of Council for the Municipality of Callander:

### **Re: Closed meeting complaints**

My Office received complaints about meetings held by four bodies in the Municipality of Callander (the “Municipality”). The bodies include the Committee of Adjustment; the Culture, Heritage and Tourism Committee (the “Tourism Committee”); the Events Committee; and the Implementation and Beautification Advisory Committee (the “Beautification Committee”). The complaints raised various concerns, including about how and when notice has been provided for meetings of these bodies and that there was no option for members of the public to attend virtually.

I am writing to confirm the steps my Office has taken to review these complaints, and the steps the Municipality has taken to address these concerns. In light of this, my Office has determined that it is unnecessary to proceed with an investigation of these complaints.

### **Ombudsman’s role and authority**

As of January 1, 2008, the *Municipal Act, 2001*<sup>1</sup> (the “Act”) gives anyone the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public. Municipalities may appoint their own investigator. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own. My Office is the closed meeting investigator for the Municipality of Callander.

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<sup>1</sup> SO 2001, c 25, s 1.

My Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Council members and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of the Ombudsman's previous decisions can be found in the digest: [www.ombudsman.on.ca/digest](http://www.ombudsman.on.ca/digest).

## Review

My Office spoke with the Municipal Clerk/Treasurer (the "Clerk"). We reviewed relevant documents including the procedure by-law in place at the time of the meetings<sup>2</sup>, a by-law to amend the procedure by-law with respect to electronic participation in council meetings<sup>3</sup>, the terms of reference for each of the four committees, and the Municipality's website.

### *Public notice*

The complaints raised various concerns that the Committee of Adjustment, Tourism Committee, Events Committee, and Beautification Committee did not provide sufficient public notice of their meetings, including for meetings held in February, March, and April 2023.

Section 238(2) of the Act requires that all municipalities pass a procedure by-law governing the calling, place, and proceedings of meetings, which must also provide for public notice of meetings.<sup>4</sup>

The Clerk told us that the Municipality considers these four bodies to be committees of council that are subject to the *Municipal Act*, as well as the open meeting rules in the procedure by-law. Each of the four is governed by terms of reference that state that notice of their meetings is to be posted on the Municipality's online meeting portal (the "online portal"). The Committee of Adjustment's terms of reference state that the Municipality shall post its agendas to the Municipality's website five business days before a meeting. The

<sup>2</sup> This procedure by-law was repealed in May 2023: Municipality of Callander, by-law No 2019-1630, *Being a By-Law to establish rules governing the proceedings of Council, the calling of Meetings and the conduct of Members, Staff and the Public* (December 2021), online: <<https://callander.civicweb.net/document/109441/>>.

<sup>3</sup> Municipality of Callander, by-law No 2020-1648, *Being a By-law to amend Procedural By-law 2019-1630 with respect to Electronic Participation in Council Meetings during a Provincial or Municipal states of Emergency* (24 March 2020), online: <<https://callander.civicweb.net/document/94828/>>.

<sup>4</sup> s 238(2.1).

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other three committees' terms of reference state that they are required to follow the procedure by-law for providing notice of meetings, which requires notice to be posted at the municipal office and on the municipal website at least 24 hours in advance.<sup>5</sup>

With respect to the complaint about the Committee of Adjustment, the Clerk acknowledged that, due to an oversight, notice of a specific training session was not provided in accordance with the procedure by-law and terms of reference. However, notice was posted to the online portal on the day of the meeting. The Clerk told us that the Municipality has since posted a calendar at the municipal office that provides notice of this Committee's meetings.

The Clerk also acknowledged that various pages on the Municipality's website contained inconsistent and sometimes inaccurate information about the times and locations for meetings of the other three committees. Following inquiries from my Office, the Municipality has amended its website to remove outdated information and correctly reflect when these bodies meet. It has also begun consistently posting notice of meetings on its online portal and at the municipal office.

The Clerk told us that following her initial discussions with my Office, she provided training to appropriate staff members on the notice requirements for committee meetings. The Municipality has also adopted a new procedure by-law that amends the former by-law's notice requirements. Specifically, the new by-law states that the Municipality shall post a meeting schedule of regular council meetings and meetings of committees "that meet on a regular schedule" at the municipal office and on the municipal website.<sup>6</sup> The Clerk told us this has now occurred. However, unlike the previous procedure by-law, the new procedure by-law does not state that the Municipality shall provide at least 24 hours' notice to the public of committee meetings.

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<sup>5</sup> In May 2023 the Municipality adopted a new procedure by-law that amends these notice requirements: Municipality of Callander, by-law No 2023-1832, *Being a By-Law to govern the meetings and proceedings of Council and its committees and to repeal By-law 2019-1630, as amended* (May 2023), online: <<https://callander.civicweb.net/FileStorage/DEEBE657883F4B1C8197A9AD70DBEF90-2023-1832%20-%20Procedure%20By-Law.pdf>>.

<sup>6</sup> *Ibid* s 6.1.



## Agendas

The complaints also alleged that the Municipality did not publish agendas for meetings of the Tourism Committee, Events Committee, or Beautification Committee.

The *Municipal Act* does not specify the content of the notice to be given to the public, and there is no requirement in the legislation to post meeting agendas in advance. However, the Municipality's terms of reference and procedure by-law provisions relevant to these committees state that their meeting agendas will be posted on the online portal at least three days prior to a regular meeting, and as soon as is practical for a special meeting. The Clerk told us that the Municipality previously did not post the meeting agendas for these committees to the online portal, but will do so going forward.

## Method of holding meetings

With respect to the concern that the public could not attend meetings of these bodies virtually, the *Municipal Act* does not require that municipalities livestream meetings to the public. While broadcasting in-person meetings increases the accountability and transparency of municipal decision-making,<sup>7</sup> the open meeting requirements in section 239(1) of the Act are satisfied if the public can attend meetings in person. The Clerk confirmed that members of the public were able to attend all meetings for these bodies.

## Conclusion

In light of the steps that the Municipality has taken to address the concerns raised in the complaints to my Office, I have determined that it is unnecessary to proceed with an investigation. I applaud the Municipality's commitment to improving the accountability and transparency of its meeting practices, and its prompt response to the issues identified by my Office.

All members of committees and local boards in the municipality are encouraged to familiarize themselves with the open meeting rules. My Office has resources available, including our Open Meeting Guide for Municipalities, which can be accessed on our website here. You can also contact us directly to order copies at [info@ombudsman.on.ca](mailto:info@ombudsman.on.ca).

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<sup>7</sup> Letter from the Ontario Ombudsman to the Township of Stone Mills (22 December 2020) at 4, online: <<https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/municipal-meetings/2020/township-of-stone-mills>>.

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I would like to thank the Municipality of Callander for its co-operation. The Municipal Clerk/Treasurer confirmed that this letter will be included as correspondence at an upcoming council meeting.

Sincerely,



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Paul Dubé  
Ombudsman of Ontario

cc: Cindy Pigeau, Municipal Clerk/Treasurer, Municipality of Callander

*Cette lettre est aussi disponible en français*

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