



ONTARIO'S WATCHDOG
CHIEN DE GARDE DE L'ONTARIO

BY EMAIL

July 12, 2019

Council for the Township of Springwater
c/o Renee Chaperon, Clerk
2231 Nursery Road
Minesing, ON L9X 1A8

Dear Council for the Township of Springwater,

Re: Closed meeting complaint

I am writing further to my telephone conversation with Clerk Renee Chaperon on July 11, 2019. As discussed during the call, our Office received a complaint regarding the April 29, 2019 closed meeting of council for the Township of Springwater. The complaint alleged that council's discussion did not fit within the "litigation or potential litigation" closed meeting exception in the *Municipal Act, 2001*. The complaint also alleged that the Clerk refused to add a specific piece of correspondence to the meeting agenda contrary to council's procedural by-law.

Closed meeting investigator

As of January 1, 2008, the *Municipal Act, 2001* (the Act) gives citizens the right to request an investigation into whether a municipality or its local boards have complied with the Act in closing a meeting to the public.

Municipalities and local boards may appoint their own investigator or use the services of the Ontario Ombudsman. The Act designates the Ombudsman as the default investigator for municipalities and local boards that have not appointed their own. The Ombudsman is the Township of Springwater's closed meeting investigator.

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In addition, the *Ombudsman Act* provides that our Office has the authority to conduct impartial reviews and investigations of other types of complaints about the administrative conduct of Ontario's public sector organizations, including municipalities.

To assist municipal councils, staff, and citizens, we have developed an online digest of open meeting decisions that contains summaries of the Ombudsman's open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's past 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 a matter should or may be discussed in closed session, as well as issues related to open meeting procedure. Summaries of all previous Ombudsman decisions may be consulted in the digest at www.ombudsman.on.ca/digest.

Review

Our Office reviewed the agenda, meeting minutes, and various closed session materials from the April 29, 2019 special meeting. We also spoke with the Clerk and reviewed other documentation, including the procedural by-law and the correspondence that the municipality declined to include on the meeting agenda.

April 29, 2019 meeting

The meeting minutes for the April 29, 2019 meeting indicate that council moved into closed session for a "Review and Discussion of Legal Letter." Council relied on section 239(2)(e) of the Act, which allows closed session discussions about "litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board."

Our discussion with the Clerk, as well as the closed session minutes, a staff report, and other materials put before council, indicate that council considered litigation or potential litigation against a named individual during the closed session. We understand that council ultimately decided to pursue a different approach. In reaching this decision, council also discussed personal matters about an identifiable individual. Section 239(2)(b) of the Act allows a municipality to proceed in camera to discuss "personal matters about an identifiable individual, including municipal or local board employees."

Refusal to add a letter as correspondence

The complaint also alleged that the municipality refused to add a specific piece of correspondence to the agenda of the May 1, 2019 council meeting. This is the same piece of correspondence that was before council at the April 29, 2019 closed session.

The procedural by-law states that the Clerk will not distribute to council or publish any correspondence items deemed inappropriate by their nature or content. The by-law also states that delegations related to personnel matters are not permitted.

We reviewed the by-law and the email correspondence related to this matter. We also spoke to the Clerk and the complainant about the refusal to add the correspondence to the agenda. The Clerk told us that the correspondence was not included on the agenda because it was deemed to be inappropriate (it related to personal matters), and that the Clerk communicated this determination to the complainant. Our review confirms that the correspondence dealt with personnel matters and accordingly, we will not be taking further action on this complaint.

Conclusion

Our Office would like to thank the municipality for its co-operation with our review. Under these circumstances, our Office will not be taking any further action with respect to these complaints. If you have any questions about this letter, you are welcome to contact us at 1-800-263-1830.

The Clerk indicated to us that this letter would be included as correspondence at the next council meeting, August 7, 2019.

Sincerely,



Robin Bates
Counsel

cc: Don Allen, Mayor