

November 29, 2011

Mr. Jim Roman, Clerk-Treasurer
The Corporation of the Township of Larder Lake
P.O. Box 40
Larder Lake ON P0K 1L0

Dear Mr. Roman,

Re: Ombudsman review of complaint regarding the Township's September 1, 2011 meeting

I am writing further to our telephone conversation of November 23 regarding the results of the Ombudsman's preliminary review of a complaint made to our Office. The complainant alleged Council held a meeting on September 1, 2011, for which no notice was provided to the public.

As part of our Office's review we spoke with you and reviewed relevant sections of the *Municipal Act, 2001* (the Act) and the Township's procedure by-law (By-law No. 1345-11). We also reviewed the meeting materials for the September 1 meeting.

The September 1 Meeting

You advised our Office that the September 1 meeting was an "emergency" meeting of Council, to discuss a plot of municipally owned land that was recently purchased by a citizen of the Township. On August 31 it came to the attention of the Mayor that this citizen intended to place a mobile home on the land, and that the mobile home would be arriving shortly. The Mayor believed this violated the conditions of sale, as the land was not zoned for trailers.

On August 31 the Mayor called an emergency meeting to be held the following day, to discuss the sale of the land and the possible zoning infraction. Notice of the meeting was provided to Council by telephone, and to the purchaser of the property in question. Notice was not provided to the public. You advised our Office that it was necessary to have the meeting on an emergency basis, as the Mayor did not want a trailer to be moved onto the property, only to be immediately removed.

In attendance at the September 1 meeting were all members of Council as well as you and the purchaser of the property. You advised that this was intended to be a closed meeting, as it involved personal matters about an identifiable individual and disposition of municipal land, which are exceptions to the open meeting requirements outlined in s. 239 of the Act. You did not take minutes during the meeting, but prepared a summary following the meeting. During the meeting, Council discussed criteria the purchaser would have to satisfy to ensure that any structures on the land were compliant with the zoning by-law. No votes were taken during the closed session.

The Township's Procedures

The procedure by-law states that all members of Council shall receive notice of regular meetings the Thursday prior to the meeting. Agendas are to be made available to the public at the same time, and are posted on the Municipality's website.

The calling of emergency meetings is outlined in s. 3.4 of the by-law, which states that the head of Council may call an emergency meeting without written notice "to deal with an emergency or extraordinary situation, provided that an attempt has been made by the Clerk-Treasurer to notify the Members about the meeting as soon as possible and in the most expedient manner available." You advised that it is not the municipality's practice to provide notice to the public of emergency meetings, and this is not required under the procedure by-law.

Analysis and Suggestions

When we spoke we discussed that, even in cases of urgency, basic procedural requirements should be observed. This would include providing notice to the public of emergency meetings as soon as possible. Although there may be some instances where a matter is of such urgency that time will not permit notice to be provided in advance, you agreed that in this case notice could have been posted on the municipality's website when the meeting was scheduled.

We also noted that, although the subject matter of the discussion at the September 1 meeting may have been appropriate for discussion in closed session, the procedural requirements for an *in camera* meeting were not followed. According to s. 239(4) of the Act, prior to holding a meeting or part of a meeting that is to be closed to the public, Council must state by resolution the fact that a closed session will be held, and the general nature of the matter to be considered at the closed meeting. In the future, Council should ensure that a resolution is passed prior to any closed session.

Finally, we discussed that the Township's current procedure by-law does not provide for notice to the public of special and emergency meetings. We noted that according to s. 238(2) of the Act, the procedure by-law must provide for notice to the public of all meetings, including special meetings. When we spoke on November 23, we suggested that Council update its by-law to bring it into compliance with s. 238(2) of the *Municipal Act*.

You expressed general agreement with the observations and suggestions made by our Office. We requested that you discuss our review and suggestions publicly with Council, and notify our Office when you have had the opportunity to do so. We will also notify the complainant of the results of our informal review.

I would like to take this opportunity to thank you for the cooperation our Office received during this review.

Sincerely,

Joane De Varennes
Early Resolution Officer