

July 12, 2011

Ms. Susan Boonstra, Clerk
The Corporation of the Township of Georgian Bay
99 Lone Pine Road
Port Severn, Ontario
L0K 1S0

Dear Ms. Boonstra,

Re: Our File No. 239481-001

I am writing further to our telephone conversation of July 5, 2011 regarding the results of the Ombudsman's preliminary review of a complaint made to our Office about a January 30 meeting of the Georgian Bay Association (the Association), which all of Council attended. The complainant described the Association as a local lobby group, and claimed that it was inappropriate for Council to meet with this group in the absence of the public.

As part of our Office's review we spoke with you and members of Council, as well as the Executive Director of the Georgian Bay Association. We also reviewed relevant sections of the *Municipal Act, 2001* (the Act), and the Association's minutes from the January 30 meeting.

The information provided to our Office indicates that the Georgian Bay Association is a not-for-profit umbrella group representing approximately 20 resident associations in the Georgian Bay area. According to the Association's website, its mandate is: "To be an advocate for cottager interests and lobby various levels of Government."

Most members of Council with whom we spoke recalled being present at this meeting. The information provided to our Office indicates that the Georgian Bay Association provided notice of this meeting to its members, as well as members of other similar associations, by personal invitation. Members of Council advised our Office that they were invited to and attended the meeting in their capacity as Councillors, as opposed to as members of the Association.

The Association kept minutes of the January 30 meeting, which our Office reviewed. The minutes describe the meeting as a "Stakeholder Meeting", and list 35 people being in attendance, including you; all members of Council; the Township's communications coordinator; and the CAO. Also present were members of the Georgian Bay Association and various other associations.

According to the minutes, the Mayor gave a speech at the beginning of the January 30 meeting. In his speech the Mayor thanked the members of the Association for "engineering this get together among a number of associations from all corners of our Municipality." He advised that those attending the meeting would be "presented with a lot of information with regards to our (Council's) accomplishments to date." The Mayor updated the group on a list of "accomplishments" including: amending the procurement policy; amending the procedure by-law; and contracting a new treasurer to assist Council with financial matters. The Mayor also updated the attendants on 24 other items.

After the Mayor's speech members of Council and staff provided further information to the attendees. In part: Councillor Edwards handed out copies of the Township's Consolidated Financial Statements and provided an update on the development of the 2012 budget; The CAO provided an update on the Township's Official Plan review; and Council provided information, answered questions and received comments about various municipal services (garbage; water testing; communication with the public). The minutes note that a further meeting with Council and the associations would be scheduled toward the end of September.

When we spoke on July 5 we discussed that the Ombudsman has provided the following definition of what constitutes a "meeting" for the purpose of the open meeting requirements:

Members of council (or a committee) must come together for the purpose of exercising the power or authority of the council (or committee), or for the purpose of doing the groundwork necessary to exercise that power or authority.

The information provided to our Office indicates that all of Council attended the January 30 meeting of the Georgian Bay Association to provide information about present and future Council initiatives, and also to receive feedback and suggestions from Association members. In doing so, it appears that all of Council came together for the purpose of laying the groundwork for future Council decision-making. As such, the January 30 meeting constituted a meeting of Council, which was held in contravention of the open meeting requirements. Furthermore, the fact that Council met behind closed doors with a self-described "lobby" group likely would create suspicion in the eyes of the public.

When we spoke on July 5 you noted that, because Council considered this gathering to be solely a meeting of the Association rather than a Council meeting, notice was not provided to the public in accordance with the requirements of the Act and the Township's procedure by-law. You also advised, however, that it was your understanding that any member of the public could have attended this meeting upon request. Although the Association confirmed with our Office that it did not turn anyone away from the meeting, it is apparent that notice of the meeting was only provided to Association members by personal invitation. Members of the general public who were not members of the Georgian Bay Association or another invited association likely would not have been aware that this meeting was taking place, or that they could attend. Accordingly, this meeting effectively was closed to the general public.

We suggested that, in the future, Council should ensure that meetings between Council and such groups are conducted in accordance with the requirements of the *Municipal Act*. It is the responsibility of all members of Council to be vigilant in adhering to their individual obligation to ensure that Council complies with its responsibilities under the Act and its own by-law.



We requested that you share our comments with Council publicly, and that you notify our Office when you have had the opportunity to do so. We will also provide the complainant with the outcome of our review.

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

Sincerely,

Michelle Bird
Ombudsman Ontario