

June 29, 2018

Via email

Council for Front of Yonge Township
1514 County Road 2
P.O. Box 130
Mallorytown, ON
K0E 1R0

Dear Members of Council for Front of Yonge Township:

Re: Closed Meeting Complaint, April 16, 2018

My Office received a complaint that some members of council for Front of Yonge Township (the “township”) may have violated the open meeting rules by meeting informally after a regular meeting of council held on April 16, 2018 and deciding to use grant money to purchase two recycling bins.

I am writing to advise you that my investigation has determined that an improper informal meeting did not occur after the April 16, 2018 meeting of council. Nonetheless, to assist in preventing potential future complaints, I am providing you with best practice suggestions to improve the township’s record keeping practices.

Closed meeting investigator

As of January 1, 2008, the *Municipal Act, 2001*¹ (the Act) gives citizens 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 or use the services of the Ontario Ombudsman. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own.

The Ombudsman is the closed meeting investigator for Front of Yonge Township.

¹ SO 2001, c 25, s 239.1.

Review

My Office reviewed the minutes of the council meeting on April 16, 2018 as well as the minutes of the Community Development Committee's meetings on March 22 and April 26, 2018. We also reviewed email correspondence sent by Mayor Roger Haley and Councillor Richard Marcoux on April 17, 2018 and May 16, 2018. We spoke with members of council and staff.

Revitalization grant

My Office was told that the township is the recipient of a provincial revitalization grant. At the time of the April 16, 2018 council meeting, the township, through the Community Development Committee, was collecting a wish list to spend the grant money on. We were told that only council can decide how the grant money will be spent.

April 16, 2018

Individuals my Office interviewed told us that during the regular council meeting on April 16, 2018, a councillor suggested using the grant money to buy recycling bins from a local vendor for various locations in the township. He provided council with a diagram of the proposed recycling bins. We were told that council came to a general consensus that the design and the cost of the recycling bins were satisfactory and that the recycling bins should be forwarded to the Community Development Committee to be added to the grant wish list for further consideration. Council did not formally vote on the matter.

The recycling bin matter was not included as an item on the meeting agenda and council's discussion was not captured by the meeting minutes.

After the meeting finished, we were told that three members of council remained in the meeting room. The complaint alleged that these council members continued to discuss the recycling bin matter and decided to purchase the recycling bins.

Members of my Office spoke to these three council members. Two could not recall if they remained behind after the meeting. The third told my Office that he may have stayed behind with a councillor to assist the Clerk with cleaning and locking up the meeting room. All three individuals were adamant that they did not discuss the recycling bins or any other township business after the meeting finished.

The Clerk told my Office that she was the last person in the meeting room that night to clean and lock up. She recalled that while one or two members of council remained in the meeting room after the meeting finished to help her, there was no discussion about the recycling bins.

April 17, 2018

The next day, the Mayor sent an email to the chair of the township's Heritage Committee. The local vendor of the recycling bins, members of the township's Heritage Committee, and two councillors were copied on the email. In the email, the Mayor stated that the vendor would need to build two recycling bins and that the Community Development Committee had decided to place a recycling bin at a specific location in the township.

The Mayor told my Office that when he sent the email he was under a mistaken belief that the Community Development Committee had approved the purchase of a recycling bin.

The Mayor provided my Office with emails that he and a councillor subsequently sent to the local vendor apologizing for the mistake. The emails also explained that only council had the authority to purchase the recycling bins and the township would be in contact should council approve the purchase.

Analysis

The complainant believed that an improper informal meeting occurred when three council members stayed behind after the regular council meeting on April 16.

The *Municipal Act, 2001* defines a meeting as

any regular, special or other meeting of a council, of a local board or of a committee of either of them, where,

- (a) a quorum of members is present, and
- (b) members discuss or otherwise deal with a matter in a way that materially advances the business or decision-making of the council, local board, or committee.

All three council members told my Office that they did not discuss the recycling bins after the April 16 council meeting. The Clerk, who was the last person in the meeting room that night, told my Office that she did not hear any discussion about the recycling bins after the meeting.

With respect to the email that the Mayor sent the day after the council meeting, I accept his explanation that he mistakenly believed that the Community Development Committee had approved the purchase of the recycling bins. The subsequent emails sent by the Mayor and a councillor clarified that only council has the ability to purchase the recycling bins.

Procedural issues: Minutes

The minutes for the April 16 council meeting do not record council's discussion about the recycling bins or the diagram of the recycling bins provided to council.

The Clerk told my Office that it is the township's practice to only record formal motions and votes of council in its meeting minutes. Since the recycling bin discussion did not result in a formal vote, only a general consensus of council, the minutes do not record that council's discussion took place.

My Office has made best practice recommendations to improve the record keeping practices of municipalities. While the *Municipal Act, 2001* prohibits notes or comments from being included in the official record of a meeting, this does not mean that the subjects discussed at a meeting should not be captured by the minutes. In order to ensure complete and accurate record, all substantive and procedural items discussed at a meeting should be recorded.

Conclusion

My Office's review found that an improper informal meeting did not occur after the April 16, 2018 meeting of council.

I would like to thank the township for its co-operation during my investigation. You indicated to us that this letter would be included as correspondence at the next available meeting of council.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Dubé', written over a horizontal line.

Paul Dubé
Ombudsman of Ontario