

January 31, 2011

An open submission to Council regarding “public question policy”

It has come to my attention that this council is being accused of breaching sections of the Municipal act with regards to the creation of a policy document that I will refer to as the “ public question policy” document.

Council has been accused of holding a “meeting” behind closed doors, in a manner that does not allow for the participation of the public, which is in violation of the Municipal Act, 2001.

The impetus for this document arose from the belief of Council that a policy document was needed to lay out the conditions by which questions from the public would be answered. That is to say, which questions would be answered there and then by Council or staff, which would be referred to our professional staff for more in depth or written answers and which would have to be submitted through the Municipal Freedom of Information and Protection of Privacy Act for reasons found in that act.

Once it was determined a policy was needed, the Mayor asked all Council to consider what they would like to see in such a policy so that a formal policy could be created. Ideas of individual councillors were circulated through email and a draft policy began to emerge. Through this exchange of ideas, a draft document was created and brought to Council at our January 20, 2011 meeting. At that meeting the draft document was read out loud to the gallery and the whole of council, a motion was prepared to accept this document as policy, the motion was read aloud, an opportunity for discussion followed, and then the vote was called for by the Mayor. This vote was unanimous to accept this document as policy. It should be noted that the vote to adopt this policy happened after question period during which there was only one question regarding this policy and it was to find out when council had voted on this policy. The answer to this question was that council had not voted on it yet. I noted during discussion surrounding the document that all Councillors submitted input and agreed with the policy. Members of the gallery assumed this to mean that we as a Council voted on and accepted this document over the phone which is simply not what was said, or what happened.

There was no meeting, telephone or otherwise, during which a policy was adopted or the matter passed. These communications between different members of Council took place over a number of days during which ideas were submitted resulting in the creation of a “DRAFT” document which was subsequently passed in open council after an opportunity for discussion

and a formal motion. There was no intent to hide anything, no intent to mislead the public and certainly no intent to pass a motion without the public present.

The procedure by which this document was created simply was not a meeting and does not fall under the rules by which meetings are to be held, open, closed or otherwise. This matter is comparative to the mayor asking staff to create a policy for the same purpose. The staff would have submitted ideas, some would be discarded, some would be modified through email and phone calls, etc, and the result would be a draft document that would be brought before council and voted on.

The sole difference here is that members of council brought forward the ideas and not staff. This is comparable to any board or ad hoc committee submitting a report or recommendations that they would create. There were no actions taken by Council behind the scenes *"for the purpose of exercising the power or authority of the Council or doing the groundwork necessary to exercise that power or authority."*

No meeting took place, no decisions were made, simply ideas were exchanged over internet which resulted in the formation of a draft document. In fact the only phone call was made to a Councillor who does not use the internet, and was therefore not able to be reached by email.

I have subsequently spoken with a representative from MMAH and I was told that this scenario as I have relayed it does not seem to breach any rules, and that it does not seem to be a violation of the Municipal Act 2001. This opinion is however not a legal opinion and only that of a rep from the Ministry.

I do not feel that I broke any rules, and I believe the same of council. I believe that an investigation by the Ombudsman's office would validate my opinion.

Submitted respectfully,

Darren White, Deputy Mayor for Melancthon Township