

WHY DO MUNICIPAL COUNCILS AND LOCAL BOARDS HAVE MEETINGS OR PORTIONS OF MEETINGS THAT ARE CLOSED TO THE PUBLIC?

Municipal councils, local boards and their committees must meet behind closed doors on occasion to deal with some matters. For example, if a municipality is being sued or if council is considering purchasing a piece of land or if council must deal with a labour relations issue then it is appropriate that it be able to do so at a closed meeting. The purpose of such a closed meeting is to receive information or give direction.

Local government in Ontario must be transparent and accountable. To this end, the Province has set the rules for a council, local board or a committee to go into a closed meeting. These rules are found in section 239 of the *Municipal Act, 2001, as amended*. They must be strictly followed.

The permitted reasons for going into a closed meeting are:

- ✓ The security of property of the municipality or local board;
- ✓ Personal matters about an identifiable individual, including employees;
- ✓ A proposed or pending acquisition or disposition of land;
- ✓ Labour relations or employee negotiations;
- ✓ Litigation or potential litigation;
- ✓ Advice that is subject to solicitor-client privilege;
- ✓ A matter authorized by another provincial statute;
- ✓ Information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown Agency of any of them;
- ✓ A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- ✓ A trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- ✓ A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.
- ✓ If the subject matter relates to a request under the *Municipal Freedom of Information and Protection of Privacy Act* or is an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman or the Closed Meeting Investigator.
- ✓ The meeting is held for educating and training and no member discusses or deals with a matter in a way that materially advances the business or decision-making of the council, local board or committee.

That is the entire list. Thus, for example, there is no specific authority to undertake strategic planning at a closed meeting. Only those aspects of a strategic planning process that might fall within the closed meeting list can be dealt with at a properly called closed meeting. All other matters relating to the strategic plan must be deliberated by council or a committee at an open meeting.

Before council, a local board or a committee begins the closed meeting, it must pass a resolution at a public meeting indicating that a closed meeting is being held and what the general nature of the matter to be considered is. A closed meeting shall not be held by council, a local board or committee before this resolution is passed.

Any person has the right to request an investigation as to whether the municipality, local board or committee complied with the closed meeting rules established by the Province or the Procedure By-Law of the municipality or local board. A request must be in writing and should be directed to the municipal clerk unless there is provision for it to be sent directly to the municipality's Investigator.

If you have any questions about these closed meeting rules, contact the Municipal Clerk at:

(705)435-3900 Ext. 1226

Email: clerk@newtecumseth.ca



Municipal Closed Meeting Investigator Section 239 – Municipal Act, 2001, as amended

Any person may request that an investigation be undertaken to determine whether a municipality or local board has complied with Section 239 of the Municipal Act or its Procedure By-Law in respect of a meeting or part of a meeting that was closed to the public. The Town of New Tecumseth (the “municipality”) is committed to ensuring that any request for an investigation under Section 239 of the Municipal Act, 2001, as amended (the “Act”) is dealt with in a fair, open and expeditious manner.

The municipality commits to full co-operation including the provision of all information requested by the Municipal Closed Meeting Investigator (“Investigator”), either written or through interviews, to assist the Municipal Investigator in his investigations.

In accordance with Section 239.2(11) of the Municipal Act, 2001, the Town of New Tecumseth shall ensure that any reports received from the Municipal Closed Meeting Investigator by the municipality are made available to the public.

The municipality commits to including any report received from the Investigator related to an investigation under the *Act*, on a public agenda and to considering such report in an open public session of Council or a Standing Committee of Council.

Any questions can be directed to the Clerk’s Department, Town of New Tecumseth, 10 Wellington Street East, Alliston, ON L9R 1A1 or by contacting the Clerk’s Department at 705-435-3900 or through e-mail to clerks@newtecumseth.ca

This procedure applies to all Local Boards and Committees that have at least 50 per cent of the members as Council members or Local Board members. This procedure or legislation does not pertain to the Police Services Board and the Public Library Board.

Background

A by-law passed by Council authorized the appointment of Local Authority Services and Amberley Gavel Ltd. as the Municipal Closed Meeting Investigator and authorized them to conduct investigations upon receipt of a complaint in respect of meetings or part of meetings that are closed to the public to determine compliance with the *Act* or the Municipal Procedure By-law and to report on the results of such investigations.

Procedures – Request for Investigation

Prior to submitting a request for investigation, members of the public, including corporations, are encouraged to discuss their concerns or inquiries with the Municipal Clerk.

Members of the public, including corporations, may submit requests to the Investigator relating to compliance with the *Act* or the Municipal Procedure By-law for meetings or part of meetings that are closed to the public.



All requests will be treated confidential by the municipality and the Investigator, unless authorization is given by the requestor to release his or her identity.

Request forms may be downloaded from the municipality's website or are available in the Clerk's Department.

Requests may be submitted on the Request Form or otherwise in writing to:

- The Clerk in a sealed envelope clearly identified as a complaint under Section 239 of the *Municipal Act*

Town of New Tecumseth
10 Wellington Street East
Alliston, ON L9R 1A1

- By mail directly to:

Amberley Gavel Ltd.
35 Ambleside Drive
London, ON N6G 4M3
1-866-535-8079

- All complaints must contain:
- Name of municipality
- Requestor's name, mailing address, telephone number and e-mail address (if applicable)
- Date of closed meeting under consideration
- Nature and background of the particular occurrence
- Any activities undertaken (if any) to resolve the concern
- Any other relevant information
- Direction with respect to release of identity
- Original signature

When requests are submitted directly to the Clerk, the Clerk shall follow the following procedures:

1. Ensure that the requests remain confidential;
2. Assign a file number and record a file number on the envelope;
3. Log the file number together with the date and time received;
4. Forward, forthwith to the Municipal Investigator by regular mail.

For all requests the municipality shall supply forthwith to the Investigator the following or any other information or documentation as requested by the Investigator related to a complaint:

- Certified copy of Notice of Meeting
- Certified copy of the Agenda
- Certified copy of the Minutes of meeting
- Relevant resolutions
- Municipal contact list
- Other



Timeframe:

The Investigator will commence his investigation within two weeks of receipt of a request.