

## **FAQs: REGARDING CLOSED MEETING INVESTIGATOR**

### **What does “in camera” mean?**

The term “in camera” means “in private”. A meeting, or a portion of a meeting, which is closed to the public is referred to as being held “in camera”.

### **Why are some meetings held in camera?**

While municipal governments must be accountable to the public and transparent in their actions, there are circumstances which require that meetings be held in camera, without the public present. The Provincial government has set out rules which dictate when meetings may be closed to the public including:

- 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; or
- Education and training provided that no member discusses or deals with a matter in a way that materially advances the business or decision-making of the Council or local board.

These rules are identified in Section 239 of the *Municipal Act, 2001*.

### **What is a meeting?**

Generally it is quite clear when a meeting is taking place: notice has been given, an agenda has been prepared and the meeting takes place in compliance with the Town’s procedural by-law. However, what happens if a number of Councillors get together to chat. Is that a meeting?

The Ontario Ombudsman had to consider the definition of a “meeting” in a Closed Meeting Investigation which took place for Sudbury. As part of the investigation, the Ombudsman had to decide if a gathering of a quorum of Members of Councillors fell into the definition of a “meeting” subject to the open meeting requirements or if it was an informal discussion which would therefore fall outside of the *Municipal Act, 2001*. The Ombudsman noted that,

“While any gathering of individuals having a discussion might be considered a meeting in the colloquial sense of the word, in order to constitute a “meeting” subject to the Act, something more is needed.”

The Ombudsman reasoned that the main power held by Council is a policy-making power while staff's role is to administer Council's policies and carry out other assigned duties. Politicians naturally interact with staff to ensure that policies are properly implemented. It would not be feasible or desirable to require every such get-together to be held openly and with notice. As a result, the Ombudsman defined a meeting as occurring when

“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.”

As a result, even though quorum requirements may or may not have been met and the public excluded from the discussion, unless the “meeting” is for the purpose of *exercising the power or authority of Council or for the purpose of doing the groundwork necessary to exercise that power or authority* the Ombudsman felt that such a gathering did not constitute a “meeting” pursuant to the closed meeting requirements of the *Municipal Act, 2001*.

### **What is a Closed Meeting Investigator?**

In accordance with requirements of the *Municipal Act, 2001*, effective January 1<sup>st</sup>, 2008, all municipalities in Ontario were required to appoint a Closed Meeting Investigator whose role is to provide an independent investigation as to whether the municipality or local board has complied with the closed meeting rules. The findings of the investigation are then publicly reported through a report to Council and accessible through the municipality.

The Town entered into an agreement with Amberly Gavel through the Association of Municipalities of Ontario's Local Authority Service program for the provision of Closed Meeting Investigator services.

### **Which types of meetings are subject to review by the Closed Meeting Investigator?**

Town Council meetings and meetings of the Town's advisory committees are subject to review by the Closed Meeting Investigator.

The Library Board is governed by the *Public Libraries Act* and is therefore exempt from the requirements of the *Municipal Act, 2001*.

**If I suspect that a Closed Meeting has been improperly held, how do I request an investigation by the Closed Meeting Investigator?**

Inquiries may be submitted using the attached form or by way of written request. Please ensure that your request includes the following information which is necessary for the investigation process:

- Requestor's name, mailing address, telephone and email address (if applicable);
- Date of closed meeting under consideration;
- Reason for inquiry (please provide as much information as possible in order to explain the nature and background of the particular occurrence (i.e.: reasons provided for closed meeting session; reason for inquiry; to whom did you speak with at the municipality and municipal explanation); and
- Original signature.

All inquiries must be submitted to the attention of the Town Clerk in a sealed envelope marked "Private and Confidential".

**What will Council do with recommendations of the Closed Meeting Investigator?**

The Town is committed to continuous improvement and as a result, should the Closed Meeting Investigator's report contain recommendations, the Town will give the recommendations due consideration. Council, after considering any recommendations made by the Closed Meeting Investigator, is ultimately responsible for taking any actions it deems appropriate.