

Subject: [Fwd: Local Government Act Requirements]

Date: Tue, 18 Dec 2001 14:19:33 -0800

From: Brian Platts <brian_platts@telus.net>

To: Corrie Kost <kost@triumf.ca>

Subject: RE: Local Government Act Requirements

Date: Tue, 18 Dec 2001 09:10:13 -0800

From: Bill Denault <DenaultB@district.north-van.bc.ca>

To: Ernie Crist <CristE@district.north-van.bc.ca>, Agnes Hilsen <ahilsen@district.north-van.bc.ca>, "cagebc@yahoo.com" <cagebc@yahoo.com>

CC: Mayor and Council - DNV <Council@district.north-van.bc.ca>, "FONVCA" <fonvca@fonvca.org>

Dear Cllr. Crist,

I would suggest that you go on a "high fibre" diet immediately! Best wishes for the Holidays.

Cllr. Denault

> -----Original Message-----

> *From:* Ernie Crist

> *Sent:* Monday, December 17, 2001 4:00 PM

> *To:* Agnes Hilsen; 'cagebc@yahoo.com'

> *Cc:* Mayor and Council - DNV; 'FONVCA'

> *Subject:* RE: Local Government Act Requirements

>

> *Ms Hilsen:*

>

> *As I was present at that meeting I take issue that the matter under*

> *discussion was in relation to an identifiable individual.*

>

> *As I recall the conversation and the comments made by members of Council*

> *the conversation centered around a general theme. What is more, the*

> *motion passed clearly reinforces this interpretation as no specific name*

> *is being mentioned.*

>

> *Unless you can provide a written record proving the contrary I will*

> *maintain this position.*

>

> *Ernie Crist.*

>

> *iginal Message-----*

> *From:* Agnes Hilsen

> *Sent:* Monday, December 17, 2001 3:15 PM

> *To:* Ernie Crist; 'cagebc@yahoo.com'

> *Cc:* Mayor and Council - DNV; FONVCA

> *Subject:* Local Government Act Requirements

>

> *Councillor Crist:*

>

> *Since you have stated in your December 16 email to Ms Cage that a*

> violation of Section 242.2 of the Local Government Act occurred at the
> December 3 Closed meeting of Council, I am forwarding a copy of your
> email to the members of Council for their information.

>
> Without breaching the confidentiality of the December 3 closed
> meeting, I will once again confirm that the subject matter met the
> requirements for closure under section 242.2(1). That section states that
> the council meeting may be closed if the subject matter being considered
> relates to personal information about an identifiable individual who holds
> a position as an officer or employee of the municipality. This was the
> case at the December 3 meeting.

>
> From time to time, there may be issues discussed at a closed meeting
> which would normally be considered at a public meeting, if the subject
> matter being considered relates to one or more of the topics listed under
> Section 242.2(1). This was the case at the December 3 meeting.

>
> In your email, you state "In the final analysis, it is the duty of
> the Clerk to insure that any particular item discussed meets the criteria
> laid out in Section 242.2 of the Local Government Act.". As I indicated
> in my responses to Mr. Kost and Mr. Sadler on this subject, that criteria
> was met. I would add that I have received a legal opinion in this regard
> which indicates there was no violation of the Local Government Act.

>
> Agnes Hilsen
> Municipal Clerk

>
> -----Original Message-----

> From: Ernie Crist
> Sent: December 16, 2001 11:43 PM
> To: 'cagebc@yahoo.com'
> Cc: Agnes Hilsen
> Subject: Response to your enquiry re Restriction to
> access of information.

>
>
> Dear Ms James:

>
> What prompted me to send an e-mail to Mayor and Council
> with copies going to Fonvca and my community list which among others,
> includes Cage BC, was my concern about an item being discussed and acted
> upon by Council at a closed meeting on Dec. 3-2001 which, in my opinion,
> was in violation of section 242'2 of the Local Government Act.

>
> I see from your enquiry to Ms. Hilsen, the District Clerk,
> with copy to Mayor and Council, that this is also of concern to Cage BC.
> It is also a matter of concern to other community leaders including Mr.
> David Sadler as well as other individuals.

>
> My concern was not merely in relation to the violation of
> the criteria pertaining to this item being discussed in a closed session
> of Council without meeting the requirements of the Act, but also
> regarding the substance of the decision passed by Council at that closed

> meeting.

>

> *As I stated in my subsequent letter to Mayor and Council, "*
> *I wish to register once again my strongest possible objection to the In*
> *Camera Council decision of Dec. 3-2001 pertaining to requests from the*
> *public for information" "This latest action constitutes nothing less than*
> *a blatant attempt to intimidate, harass and prevent the public from*
> *obtaining accurate information and denying the public's right to be*
> *treated with professional respect". In this regard you Ms James have*
> *pointed to at least one such instance where both Council and the public*
> *received incomplete and, in fact, misleading information.*

>

> *When Mr. Sadler, in his e-mail to Ms. Hilsen, voiced his*
> *concern about this issue he stated "It is my understanding that the topic*
> *of request from the public for information does not qualify as a subject*
> *to be discussed in-camera under the Local Government Act. I would*
> *appreciate an explanation".*

>

> *In response, Ms. Hilsen, the District Clerk, wrote the*
> *following: "In accordance with Council's Procedure Bylaw, items dealt*
> *with at a closed meeting of Council are considered confidential until the*
> *decision is released, either by the Mayor or by resolution of Council. I*
> *will not comment specifically on the letter to which you refer, since*
> *neither the Mayor nor Council have released any such decision".*

>

> *Ms Hilsen continued: "In general terms, I will advise that*
> *all items which are discussed at a closed meeting, must meet the criteria*
> *as set out in section 242' 2 of the Local Government Act. A policy issue*
> *such as the one to which your refer could only be discussed at a closed*
> *meeting if it relates to one of the subject matters outlined in section*
> *242.2".*

>

> *This, Ms James, brings us to the crux of the matter. To put*
> *it simply, the criteria as set out in section 242'2 of the Local*
> *Government Act pertaining to this issue were not met. The Act was*
> *violated. The subject matter did not qualify to be discussed in closed*
> *session. It was subsequently my decision to ignore normal protocol under*
> *which I would be compelled not to divulge this information to the public.*
> *Instead I treated Council's decision as ultra-vires and subsequently*
> *irrelevant.*

>

> *This is to say that, in my opinion, the implications of the*
> *matter were so significant to the public interest and the case of being*
> *bound by the requirements not to divulge the decision passed by Council at*
> *this closed session so specious, that I decided to bring this matter to*
> *the public's attention. At the same time I used the opportunity to repeat*
> *my own strong objection to the decision that was being made by Council re*
> *this matter.*

>

> *As a final note I need to point out that, notwithstanding*
> *Ms Hilsen's claim that items discussed at a closed session may not be*
> *released to the public except by Council decision, this only applies if*
> *the criteria as set in the Act are being met, which is indeed the purpose*

> *of this section in the first place. In the final analysis, it is the duty*
> *of the Clerk to insure that any particular item discussed meets the*
> *criteria laid out in Section 242' 2 of the Local Government Act.*

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Yours truly,

Ernie Crist