

Subject: [Fwd: Local Government Act Requirements]

Date: Mon, 17 Dec 2001 18:57:23 -0800

From: Brian Platts <brian_platts@telus.net>

To: Corrie Kost <kost@triumf.ca>

Subject: RE: Local Government Act Requirements

Date: Mon, 17 Dec 2001 16:00:01 -0800

From: Ernie Crist <CristE@district.north-van.bc.ca>

To: 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>

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.

>

> Yours truly,

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> Ernie Crist

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