

Subject: FW: Local Government Act Requirements

Date: Tue, 18 Dec 2001 09:40:14 -0800

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

To: "FONVCA (E-mail)" <fonvca@fonvca.org>

A message from Ernie Crist;

I am forwarding to you the message (below) from Councillor Denault but without any comment on my part.

Ernie Crist

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

> *From:* Bill Denault

> *Sent:* Tuesday, December 18, 2001 9:10 AM

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

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

> *Subject:* RE: Local Government Act Requirements

>

> *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.*

>

> -----Original 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,*

>

> *Ernie Crist*

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