



J. Paul Dubé, Ombudsman

BY EMAIL

December 13, 2021

Council for the Town of Wasaga Beach
c/o George Vadeboncoeur, CAO
30 Lewis Street
Wasaga Beach, ON L9Z 1A1

Dear Council for the Town of Wasaga Beach:

Re: Closed meeting complaint

My Office received a complaint alleging that council for the Town of Wasaga Beach (the “Town”) held a meeting contrary to the open meeting rules under the *Municipal Act, 2001* (the “Act”) on September 22, 2021. The complainant alleged that council improperly held a closed meeting during a ground-breaking ceremony that was not open to all members of the public.

I am writing to share the outcome of my review. For the reasons set out below, I have concluded that there was no meeting of council during the ground-breaking ceremony on September 22, 2021.

Ombudsman’s role and authority

As of January 1, 2008, the Act gives anyone the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public.¹ Municipalities may appoint their own investigator. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own. My Office is the closed meeting investigator for the Town of Wasaga Beach.

¹ *Municipal Act, 2001*, SO 2001 c 25, s 239.1.

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My Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Council members and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of the Ombudsman's previous decisions can be found in the digest: www.ombudsman.on.ca/digest.

Review

My Office reviewed the itinerary for the event as well as a video recording of one part of the ceremony. We also spoke with the CAO and the Mayor.

Background

The Town held a ground-breaking ceremony for its new twin-pad arena/library recreation complex on September 22, 2021. This was an invite-only event. In attendance were the Mayor, the CAO, and all members of council. Contractors and members of the public involved in the fundraising campaign were also invited.

A fundraising video was played by the CAO and a fundraising contribution was announced by the Mayor. The ceremony ended with the symbolic breaking of ground. This was a photo opportunity where all members of council posed with shovels. The council members were otherwise standing with the crowd watching the ceremony.

Analysis

Section 238 of the Act defines a meeting as follows:

“meeting” means any regular, special or other meeting of a council, of a local board or of a committee of either of them, where,

- (a) a quorum of members is present, and
- (b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee²

² *Ibid* at s 238.



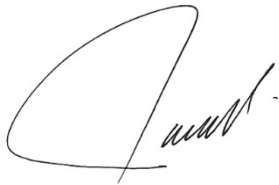
Our review found that all members of council were present at the ground-breaking ceremony, meaning there was quorum. However, the second requirement under the above definition was not met. There is no evidence to suggest that there was a discussion between council members or that municipal business was materially advanced. Therefore, the ceremony was not a meeting under the Act and the open meeting rules do not apply.

Conclusion

Council for the Town of Wasaga Beach did not contravene the open meeting requirements on September 22, 2021 during the ground-breaking ceremony.

I would like to thank the Town of Wasaga Beach for its co-operation during my review. The CAO confirmed that this letter will be included as correspondence at an upcoming council meeting.

Sincerely,



Paul Dubé
Ombudsman of Ontario

Cc: George Vadeboncoeur, CAO, Town of Wasaga Beach

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