

*Request for Decision      United Townships of Head, Clara & Maria Council*

Type of Decision									
Meeting Date	Friday, April 8, 2016				Report Date	Thursday, March 31, 2016			
Decision Required		Yes	x	No	Priority	X	High		Low
Direction		Information Only		x	Type of Meeting	X	Open		Closed
Clerk's - Report #08/03/16/801									

**Subject: Bill 8 AMCTO Training**

1. Bill 8- 2014 - An Act to promote public sector and MPP accountability and transparency by enacting the Broader Public Sector Executive Compensation Act, 2014 and amending various Acts
2. Although Public Library Boards are municipal boards they have been exempted from this legislation. It seems they were simply missed; ultimately exempt.
3. Session provided by AMCTO - presenters Rick O'Connor, CMO, Certified Specialist: Municipal Law and City Clerk and Solicitor City of Ottawa and Laura Pettigrew, General Counsel, Office of the Ombudsman of Ontario
4. Bill 8 Training - Suggestions for amendments to procedure by-laws to adapt to the Ombudsman's rules for closed sessions
  - a. A meeting shall be closed for MFIPPA discussion where the municipality is the "head"
  - b. New – to review preliminary reports from the Ombudsman's office when investigations are taking place. Offers the municipality an opportunity to review the preliminary report and provide feedback, suggest changes, offer new information, request clarification etc. before the Ombudsman issues his final report. The final report then is to be made public asap.
5. All other issues listed in the Municipal Act under section 239 as exemptions to open meetings are "**discretionary**". Some municipalities still immediately go to closed session if the issue might be an exemption; even when not warranted. There are only the three reasons there must be a closed session. (The first two above, the third is for emergency management plans/appendices where info must remain confidential.)
6. **Supreme Court of Canada recently decided that information about a member of council, while acting in their council capacity is not considered "personal information" and is to be discussed in open council.**
7. **The Information Privacy Commissioner has determined that emails on council members and/or staff private computers where council or municipal business is**

**discussed ARE public records and copies should be provided to the Clerk for safekeeping like all other emails. More on this in the fall...**

8. Ombudsman's Office focus is to investigate and make recommendations on the administrative conduct of organizations.
  - a. Investigate decisions, omissions, and actions.
  - b. Statements made in investigations cannot be used in any other proceedings; remain confidential.
  - c. Most complaints result in early resolution vs. investigation and recommendations.
  - d. There is no right to a hearing – not a hearing process but an investigation.
9. Physical and Electronic record retention.
  - a. Requirement to have auditor review the retention list periodically.
10. Social media? Questions about what employees or members of the public post.
  - a. On personal pages – don't comment on public postings.
  - b. On your page – don't engage, but post correct information.
  - c. On personal pages – employees should be careful. Loyalty to the corporation – **the Supreme Court has determined that the higher you get in a corporation, the more loyalty you owe it.** Lose your right to complaint. In smaller municipalities, all employees might fit in this category.
11. Recommendations:
  - a. Codes of Conduct refer complaints about members of council to external investigators, that Council should not be involved in review, etc.
  - b. That a pre-determined list of persons to use as Integrity Commissioners or investigators is created prior to need.
  - c. That procedure by-laws be updated to include Ombudsman's closed meeting requirement.
  - d. That all emails be electronically and physically archived except for temporary or transitory emails – what time are we meeting? Where are you etc.?
  - e. That instant messaging not be used to conduct any type of municipal business.
  - f. That in addition to the records retention by-law a policy which details how to proceed is created and adopted.
  - g. That a formal complaints resolution process be created and advertised.
    - i. A complaint is a huge opportunity to change a person's perspective or point of view.
    - ii. The importance of heartfelt apology and the admission of error if that is the case. Education and information resolve a large number of conflicts.
  - h. That for purposes of the Ombudsman's office investigations as well as the Municipal Freedom of Information and Protection of Privacy Act that Council delegate authority to the Mayor who would then delegate all responsibilities of the "head" to the Clerk for ease of administration.

## New Brunswick Ombudsman

"Why is it wrong to admit you were wrong?"

In the history of language, have there ever been three words as hard to say aloud as "I was wrong"? We all understand in the abstract that mistakes happen, but to look at them squarely and take ownership is humbling, at best. Even when we apologize, it's tempting to say, "I'm sorry, but..." and tack on a justification to soften the blow to our egos.

Governments, departments, and agencies will always be made up of human beings. That guarantees mistakes will be made. The Bard of Scotland, Robert Burns, reminded us that "the best laid plans of mice and men often go awry." Putting mice and men on the same level gets to the heart of it. Perhaps we might do well to pat ourselves on the back a little less when things are going well, and kick ourselves a little less when things have not worked out as we hoped.

In today's New Brunswick, governments and their agencies are tackling significant challenges, financially and socially. The answers aren't easy – service providers struggle to match up the public's desire for services with our willingness to pay. New technology, new circumstances, or new learning can cause us to realize that what was good enough in the past no longer suffices. Organizations which refuse to recognize that truth can soon find they have become inefficient, obsolete, even counter-productive to their stated goals.

The greatest mistake many organizations make is refusing to admit their mistakes, leading them to ignore mounting evidence of problems and sapping the morale of employees. It can also severely erode public trust and co-operation, two elements which are critical to success.

Sometimes in our dealings with government, we as citizens don't feel respected. We are tempted to try and pull those working in government down to level the playing field. If we indulge in "gotcha" public exercises whenever governments change their policies, we are encouraging our leaders to choose ideology over evidence, stubbornness over flexibility, and secrecy over openness. If on the other hand we want our government to be open, innovative, and responsive, we need to encourage a mature dialogue about the challenges which today's New Brunswick faces. The responsibility is on all of us to make our contribution to public discourse respectful and reasoned.

When a government agrees to "press the reset button", as the current provincial government did on its plans for seniors assets and nursing homes, we might do well to keep this in mind. If we attack those who change their minds, we should not be surprised to find ourselves surrounded by closed-minded people. In a democracy, the government will ultimately reflect the people.

The Office of the Ombudsman is in the business of taking complaints from citizens, investigating, and making recommendations to government. We also investigate allegations of wrongdoing brought forward by whistleblowers. Of necessity, our work sometimes makes us a public critic, but it should be understood that our goal is to make government better: fairer, more efficient, more open, more responsive, more reflective of our shared goals as New Brunswickers.

What we witness in our day to day interactions with government are human beings who are trying to do the best they can with the best of intentions. It is not our aim to embarrass them, either personally or professionally, but to work with them to do better. Our office has no order-making power, so our ability to effect change depends on dealing with an organization mature enough to admit its mistakes. Making disputes personal or sensational only lessens organizations' willingness to change. If we sometimes miss our goals, we're human, too, and not immune to mistakes.

An organization which cannot admit its mistakes has stopped learning. A society which cannot admit its mistakes is writing its own obituary. Please give us a government wise enough to know there is always more to learn, and brave enough to change when change is needed."