



## **SUMMARY OF INVESTIGATION**

### **Rural Municipality of North Qu'Appelle No. 187**

#### **COMPLAINT**

A ratepayer complained to us that he was treated unfairly by the RM of North Qu'Appelle No. 187, when it refused to let him speak as a delegate at a council meeting and then banned him from speaking at future meetings.

#### **FACTS**

In 2014, the RM and the Resort Village of Fort San renewed an agreement to share the cost of administrative services. Under the agreement, Fort San paid a specific share of the RM office's administrative costs and received administrative services in return. The agreement required the RM to provide the services of three administrative positions.

In December 2014, the RM administrator resigned and the assistant administrator became the acting administrator. The RM decided not to refill the assistant administrator position, so the RM office only had two positions. As the mayor of the resort village, the complainant wrote the reeve to ask if the council intended to hire an assistant administrator, and if not, asked that the resort village's share of the costs under the agreement be recalculated accordingly. The reeve replied that the RM did not want to renegotiate the agreement and the resort village could terminate it if it wanted. The complainant raised the issue as a delegate at the RM council's July 14, 2015 meeting. The RM council made no decision on the matter.

The complainant resigned as the resort village's mayor in September 2015. He submitted a brief to the RM council asking to appear at its February 23, 2016 meeting. The office manager told him the RM was unable to grant his request, but gave no reason. He was told he was welcome to attend since it was a public meeting, but he would not be allowed to speak. Although his request to speak was denied, the service agreement between the resort village and the RM was put on the meeting agenda.

At the meeting, the RM council went *in camera* for one minute. When it came out of the *in camera* session, it passed a resolution that the complainant would not be permitted to appear as a delegate if the subject was at all related to Fort San or the services agreement. It also decided that the complainant could not appear as a delegate unless the RM council approved.

The complainant wrote to the reeve on March 14, 2016 asking what legislative authority allowed the council to discuss his brief *in camera* and to ban him from speaking about the service agreement. He asked for the resolution banning him to be rescinded. The RM council

acknowledged his letter at its March 22, 2016 meeting, but took no further action. Since he had not received a response, the complainant wrote the RM council again on April 6, 2016.

The reeve responded on April 13, 2016, advising him that the RM would no longer respond to him on any matters pertaining to Fort San business, and that the council would only be dealing with the current Fort San council on issues related to the service agreement. The reeve also indicated that if the complainant wished to appear as a delegate at an RM council meeting, he could forward a request to council stating the subject, and if it was for a matter other than Fort San business, it would most likely be approved.

## **ISSUES AND FINDINGS**

### **WAS THE COUNCIL'S DECISION TO DISCUSS THE COMPLAINANT'S BRIEF *IN CAMERA* IN ACCORDANCE WITH *THE MUNICIPALITIES ACT*?**

*The Municipalities Act* requires councils to conduct their meetings in public. They can close all or part of their meetings to the public if the matter to be discussed is within one of the exemptions in Part III of *The Local Authority Freedom of Information and Protection of Privacy Act* or concerns long-range or strategic planning.

Under the RM's Council Procedures Bylaw, a resolution to move into a closed session must state, in general terms, the topic of discussion. The meeting minutes must record the time the *in camera* portion began and ended, the names of the parties present, and the legislative authority relied upon to close the meeting to the public.

The February 23, 2016 meeting minutes record that an *in camera* session was moved and carried at 10:05 a.m., but do not state what the topic of discussion was, the names of the parties present, nor the legislative authority used to close the meeting to the public. After one minute, council moved back into a public session and banned the complainant. The RM did not provide us any evidence to suggest the council went *in camera* for any of the reasons that it was allowed to under legislation. Therefore, we found that the council breached its own bylaw and *The Municipalities Act* by not properly documenting why it was going *in camera* and the legislative authority relied upon to go *in camera*.

### **WAS THE DECISION TO DENY THE COMPLAINANT'S REQUEST TO SPEAK AT THE COUNCIL MEETING FAIR AND REASONABLE AND IN ACCORDANCE WITH *THE MUNICIPALITIES ACT* AND ITS COUNCIL PROCEDURES BYLAW?**

All municipalities are required to have a bylaw setting out general procedures for conducting business at council meetings. The bylaw must include "rules respecting delegations, presentations and submissions."

The RM's Council Procedures Bylaw says a person wanting to speak to council on a matter that is not on the agenda has to notify the administrator in writing, including the subject matter to be discussed and the request being made of council. If the request is received before the agenda deadline, it is to be included on the agenda. The administrator can refuse the request if the council has already heard from the person and dealt with the same matter by resolution or bylaw within the last 6 months.

The complainant's request to be a delegate at the upcoming February 23, 2016 meeting was received on February 16, 2016 – according to the administrator, before the agenda deadline. The following day, he was told his request was denied, but was not given an explanation. The RM's bylaw says the only reason a request to speak may be refused is if the council had, within the past 6 months, already heard from the person and dealt with the same or substantially the same matter by resolution or bylaw. This reason was inapplicable (he last raised it at the council seven months prior and the council did not resolve to do anything about it) The administrator told us his request was denied due to its policy that only one delegate be allowed at a meeting, since a delegate was already slated for the February 23, 2016 meeting. However, the Council Procedures Bylaw in place at the time did not include this policy. Further, the complainant was not given this explanation when he was told he could not appear as a delegate.

Therefore, we found that the RM's decision not to allow the complainant to appear as a delegate at the February 23, 2016 meeting was not in accordance with its Council Procedures Bylaw. The RM had no authority to refuse the complainant's request to speak at the council meeting. According to its Bylaw, he should have been allowed to speak. The RM did not treat the complainant fairly or reasonably.

### **WAS THE DECISION TO BAN THE COMPLAINANT FROM SPEAKING AT FUTURE COUNCIL MEETINGS FAIR AND REASONABLE AND IN ACCORDANCE WITH THE MUNICIPALITIES ACT AND ITS COUNCIL PROCEDURES BYLAW?**

The RM's Council Procedures Bylaw dealt with the conduct of the public and delegations. The public is to maintain quiet and order, and to refrain from disturbing the proceedings. Delegations are to speak respectfully and not use offensive words, shout or use an immoderate tone, or use profane, vulgar or offensive language. The reeve may ask any person in the public gallery who disturbs the meeting or acts improperly to leave. If the person refuses, he or she will be removed, the reeve may recess the meeting until the person leaves, or the reeve may adjourn the meeting to another day. The bylaw makes no mention of the ability to ban a person from speaking to council because of the subject they want to raise. It only says it can refuse a delegation that appeared before council in the last 6 months to raise the same subject *and* it was dealt with by council by way of a resolution or bylaw.

The complainant conducted himself as required under the bylaw at the February 23, 2016 council meeting until the council carried its motion banning him. He then stood up, said, "Shame on you. Shame on you" and left the meeting. There is no suggestion the council banned him to address any inappropriate behaviour. It appears the council did not think it was his place to advocate on behalf of the resort village since he was no longer on the resort village council.

We found the RM council had no authority to ban the complainant from speaking to it about the agreement. It did not follow its own bylaw. Just because the council did not agree with what the complainant was saying and had no intention of doing anything differently with regard to the service agreement does not mean he did not have the right, like any other ratepayer, to apply and, as long as he met the criteria in the bylaw, to be placed on the agenda as a delegation.

We found that the decision to ban the complainant from speaking at future council meetings was neither fair or reasonable, nor was it in accordance with its *Council Procedures Bylaw* or *The Municipalities Act*.

We also noted that the council should consider having more specific guidelines to follow when banning someone from council meetings, so that it can be applied consistently, using a fair process. A fair process would include giving a person reasonable warning that it intended to ban a person, providing details of the unacceptable behaviour, and providing the person with an opportunity to respond to the allegation before making a final decision. The banning should be time limited and banned persons should know what they must do to have the ban lifted.

## **CONCLUSIONS AND RECOMMENDATIONS**

We found that the RM did not treat the complainant fairly and it did not follow legislation or its bylaw when deciding to discuss the complainant's brief *in camera*, when denying the complainant's request to speak as a delegate at the council meeting, and when banning him from speaking at subsequent council meetings.

We recommended that:

- 1. The RM of North Qu'Appelle No. 187 ensure that all decisions to close sessions to the public are properly documented in the meeting minutes, including the topic of discussion, the time that the *in camera* portion of the meeting started and ended, the names of the parties present, and the specific legislative authority relied upon to close the meeting.**
- 2. The RM of North Qu'Appelle No. 187 rescind resolution number 16-080 banning the complainant from speaking as a delegate.**

## **RESPONSE TO DRAFT INVESTIGATION REPORT**

Under *The Ombudsman Act, 2012*, if there are sufficient grounds for making a report that may adversely affect any entity or person, we must give the entity or person an opportunity to review our investigation's findings and conclusions.

We gave the RM an opportunity to review our draft investigation report and provide us with written representations about it, specifically about our findings and recommendations, before we finalized it.

The RM accepted our recommendations. It also advised that it passed resolution 18-171 to rescind motion 16-080, under which it had banned the complainant.

This investigation is now closed.