

# Council Policy

## Closed Meeting Compliance Investigations

EFFECTIVE: December 16, 2019

APPROVED BY COUNCIL: December 16, 2019

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### 1. Purpose

- 1.1. The primary purpose of this policy is to ensure that the Township of Scugog is committed to conducting actions and making decisions in an open and transparent manner. This policy details the steps in processing a request for Investigation of a closed meeting of Council/Local Board/Committee.
- 1.2. This policy applies to the Council of the Corporation of the Township of Scugog, all Local Boards and Committees of the Municipality including the Downtown Port Perry Business Improvement Association but not the Police Services Board or the Public Library Board.

### 2. Objective

- 2.1. Under the *Municipal Act, 2001* (the Act), all meetings of council, local boards, and committees of council must be open to the public, unless they fall within prescribed exceptions.
- 2.2. As of January 1, 2008, the Act gives citizens the right to request an investigation into whether a municipality has properly closed a meeting to the public. Municipalities may appoint their own investigator or use the services of the Ontario Ombudsman. The Act designates the Ontario Ombudsman as the default investigator for municipalities that have not appointed their own.

### 3. Policy Statement

- 3.1. The Council of the Township of Scugog acknowledges that it is responsible to adhere to closed meeting requirements as set out in section 239 of the Act, and shall ensure that requests for investigations are dealt with in a fair, open and expeditious manner.
- 3.2. The Township of Scugog shall ensure any report received in relation to an investigation under the Act, is placed on an agenda for consideration during an open session of Council. Council shall ensure that any such report is made available to the public.
- 3.3. This policy shall be posted on the municipality's website and shall be available from the Clerk's Office.

#### 4. Definitions

In this policy:

- 4.1. **“Accountability”** is the principle that the Township will be responsible to its constituents for decisions made and policies implemented as well as its actions or inactions.
- 4.2. **“Act”** shall mean the Municipal Act, 2001, S.O. 2001,c. 25, as amended or replaced from time to time.
- 4.3. **“Closed Meeting” or “In-Camera”** shall refer to a Meeting, or part of a Meeting of Council, which is closed to the public in accordance with Section 239 of the Municipal Act, 2001, as amended.
- 4.4. **“Council”** shall mean the Council of the Corporation of the Township of Scugog.
- 4.5. **“Local Board”** shall mean a local board as defined by the *Municipal Act, 2001*, as amended.
- 4.6. **“Meeting”** shall have the same definition as found within the Act.
- 4.7. **“Municipal Act”** shall mean the Municipal Act, 2001, S.O. 2001, c.25, as amended or replaced from time to time.
- 4.8. **“Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)”** shall mean the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.
- 4.9. **“Municipality” or “Township”** shall mean the Corporation of the Township of Scugog.
- 4.10. **“Ombudsman”** shall mean an independent officer of the Ontario Legislature who investigates complaints from the public about Ontario public sector bodies, including municipalities, within his jurisdiction, recommending improvements for governance and resolving individual issues.
- 4.11. **“Procedure By-law”** shall mean the procedures and rules established to govern meetings of Council and Committees as set out by By-Law.
- 4.12. **“Transparency”** is the principle that the Township actively encourages and fosters constituent participation and openness in its decision making processes. Additionally, transparency means that the Township's decision making process is open and clear to the public.

## **5. General Background**

### **Closed Meetings**

- 5.1 Under the Act, all meetings of council, local boards, and committees of council must be open to the public, unless they fall within prescribed exceptions.
- 5.2 Municipal councils, local boards and their committees may meet behind closed doors to deal with certain matters. The purpose of the closed meeting is to receive information or give direction.

### **Closed Meeting Investigation**

- 5.3 As of January 1, 2008, the Act gives citizens the right to request an investigation into whether a municipality has properly closed a meeting to the public.
- 5.4 If a municipality has not appointed a meeting investigator, the Ontario Ombudsman will conduct a meeting investigation.

### **Role of the Ombudsman**

- 5.5 The role of the Ombudsman is to enhance governance by promoting transparency accountability and fairness in government and the public sector.
- 5.6 Most of the Ombudsman's work involves receiving and assessing complaints in an impartial manner and resolving them informally whenever possible. The Ombudsman does not advocate for complainants and investigations are undertaken only when matters cannot be otherwise resolved. Investigations – including those that may involve broad systemic issues – are evidence-based and objective. When appropriate, the Ombudsman makes recommendations for constructive change.

## **6 Procedures (as set out in section 239 of the Act)**

### **Request for Investigation**

- 6.1 If a member of the public believes that a meeting or part of a meeting has been closed improperly, they may request that an investigation be conducted by a meeting investigator.
- 6.2 Prior to submitting a request for investigation, a person (complainant), is encouraged to discuss their concerns or inquiries with the Township Clerk.
- 6.3 All requests shall be received by the Township within 6 months of the adoption of the minutes of the meeting being investigated.

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- 6.4 A complainant may request an investigation of any meeting of Council or its Local Boards. Section 239.1 of the *Municipal Act, 2001*, provides that a person may request an investigation into whether a municipality or local board has:
- 6.4.1 Complied with section 239 of the Act (which sets out the open meeting requirements); or
  - 6.4.2 Complied with the municipality's procedure by-law in respect of a meeting or a part of a meeting that was closed to the public.
- 6.5 If a person believes that a meeting of Council or a Local Board was unlawfully closed to the public, a request for an investigation may be submitted to the Office of the Ombudsman of Ontario who can be reached at:
- Website: [ombudsman.on.ca](http://ombudsman.on.ca)
  - In person, by appointment 1-800-263-1830
  - E-mail to [info@ombudsman.on.ca](mailto:info@ombudsman.on.ca)
  - Fax to (416) 586-3485
  - Mail to:  
Office of the Ontario Ombudsman  
483 Bay Street  
10<sup>th</sup> Floor, South Tower,  
Toronto, ON  
M5G 2C9
- 6.6 Upon receiving notice of a complaint the Township Clerk shall provide to the Ombudsman, as soon as is reasonably possible the following:
- 6.6.1 A copy of the agenda;
  - 6.6.2 A copy of the minutes of the meeting;
  - 6.6.3 A copy of the Procedure By-law;
  - 6.6.4 A contact list for all persons present at the meeting including members of Council;
  - 6.6.5 Any other information that the Clerk deems relevant; and
  - 6.6.6 Any other information requested by the Ombudsman.

### **Complaints Procedures**

- 6.7 Complaints to the Ombudsman are confidential, and the identity of complainants is not released in any case without consent. The complainant's identity is not usually relevant to a closed session meeting investigation, which focuses only on whether or not the meeting was closed according to law.
- 6.8 The Investigator shall investigate the complaint and file a report with Council or the applicable local board or committee and the complainant of the results of his/her investigation within 90 days of receiving the complaint.
- 6.9 The Investigator shall have all the powers, rights and duties as set out in the Act.

### **Report and/or Recommendations**

- 6.10 The written report shall provide the Investigator's opinion and the reasons for the opinion and shall make any recommendation that the Investigator deems appropriate.
- 6.11 Any report received from the Investigator related to an investigation under the Act, is placed on a public agenda and that consideration of such report is conducted in an open public session of Council and/or Committee.
- 6.12 The Act requires a municipality or local board to pass a resolution stating how it intends to address a report provided by a meeting investigator, where the investigator reports that a meeting appears to have been closed contrary to the open meetings provisions of the Act or a procedure by-law. This may include amending the Procedure By-law or policies and procedures.